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ADOPTION REUNION REGISTRIES AND SCREENING OF ADULTS WORKING WITH CHILDREN

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

JUNE 11, 1998

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ADOPTION REUNION REGISTRIES AND SCREENING OF ADULTS WORKING WITH CHILDREN

THURSDAY, JUNE 11, 1998

HOUSE OF REPRESENTATIVES,
HOUSE WAYS AND MEANS COMMITTEE,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room B–318, Rayburn House Office Building, Hon. E. Clay Shaw, Jr. (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
June 4, 1998
No. HR-13

CONTACT: (202) 225-1025

Shaw Announces Hearing on Adoption Reunion Registries and Screening of Adults Working with Children

Congressman E. Clay Shaw, Jr., (R-FL), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on adoption reunion registries and screening of adults working with children. **The hearing will take place on Thursday, June 11, 1998, in room B-318 of the Rayburn House Office Building, beginning at 10:00 a.m.**

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include Members of Congress, a representative of the Administration, a State coordinator of adoption information, experts in adoption law, child welfare practitioners, and private individuals. Any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

FOCUS OF THE HEARING:

The hearing will focus on two main issues. First, the Subcommittee will hear testimony about policies that promote the exchange of information between adult adoptees and birth parents. Second, witnesses will discuss existing State practices and Federal guidelines for the screening of persons who care for children.

BACKGROUND:

Adoption Reunion Registries. Although the Federal Government provides funds for adoption and establishes standards, it does not play a direct role in adoption. Most adoptions occur at the State level and are regulated by State statute. Under most State laws, when an adoption takes place, the records providing information about the birthparents and circumstances surrounding the birth are sealed to protect the confidentiality of all the parties: the birthparents, the child, and the adoptive parents.

To provide opportunities for the voluntary exchange of information between adult adoptees and birthparents, almost all States (48) have some procedures in place; 34 States maintain a mutual consent adoption registry that allows persons involved in adoption to register and exchange identifying information. However, States vary substantially in both the procedures used to exchange identifying information and in determining who has access to the information.

To attain uniformity in State adoption laws, in 1994 the National Conference of Commissioners on Uniform State Laws drafted and adopted the Uniform Adoption Act which provides for the establishment of voluntary mutual consent registries. On November 8, 1997, the Senate passed S.1487, the "National Voluntary Mutual Reunion Registry," which would allow the establishment of a Federal voluntary mutual consent registry, and was referred to the Committee on Ways and Means. This legislation is designed to make it easier for adult adoptees and birthparents to exchange information.

(MORE)

Screening of Adults Working with Children. The "National Child Protection Act of 1993" (P.L. 103-209), "Megan's Law" (P.L. 104-145), which amended the "Violent Crime and Law Enforcement Act of 1994" (P.L. 103-322), and the "Adoption and Safe Families Act of 1997" (P.L. 105-89), call for examining criminal records to reduce the exposure of children to abuse by care providers. In April 1998, the U.S. Department of Justice reviewed the different State screening practices including criminal background checks and child abuse registry checks as well as Federal FBI criminal records to develop screening guidelines.

In announcing the hearing, Chairman Shaw stated: "The Subcommittee is holding this hearing to expose Members and the public to a broad range of opinions about two distinct but very important issues. The first issue is the procedures currently used to balance the confidentiality rights of adoptees, birthparents, and adoptive families with the needs of some adult adoptees to exchange information with birthparents. The second issue is the adequacy of local, State, and Federal data bases and practices for the screening of criminal records of individuals who work with children."

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format, with their name, address, and hearing date noted on a label*, by the close of business, Thursday, June 25, 1998, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B-317 Rayburn House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette WordPerfect 5.1 format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://www.house.gov/ways_means/".

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

*****

Chairman SHAW. Good morning. One of my personal goals as Chairman of the Subcommittee, is to make adoption easier and to help find loving families for hundreds of thousands of children in need. Our Committee has an extensive legislative history of support for adoption.

In 1996, we passed a $5,000 tax credit to help defray the cost of one-time adoption expenses. At the same time, our Subcommittee wrote legislation that ended racematching policies in adoption that had resulted in minority children remaining in foster care on average more than twice as long as white children.

In 1997, the Adoption and Safe Families Act which originated in this Subcommittee, provided financial incentives to the States to move more children out of foster care and into permanent, loving, adoptive families.

Today's hearing brings attention to two distinct issues that were raised last year during the consideration of the Adoption and Safe Families Act. The first issue is the role that Government should play to make it easier for adult adoptee and birth parents to exchange information. The second issue is State and Federal Government systems designed to check the criminal background of adults who work with children.

We welcome, this morning, Senator Levin, a longtime advocate for increasing the Federal role in facilitating the exchange of information between adoptees and birth parents and also, of course, the brother of my colleague to my left. I am also very pleased that the Co-Chairs of the Congressional Coalition on Adoption, Senator Larry Craig, Congressman Tom Bliley, and Congressman Jim Oberstar are here to share their views on this important issue. In addition, I am informed that Senator Robert Bennett will stop by later this morning. I also understand that Representative Mark Souder will also be joining us later in the morning. He has a particular interest in the screening of persons working with children.

After we hear from these distinguished members, our first panel will focus on how adoption reunion registries work on the State level; what safeguards are in place to maintain confidentiality, and the strengths and weaknesses of current policies to facilitate reunions and to protect the privacy interests of all concerned. I am especially pleased to welcome the coordinator of the Florida Adoption Reunion Registry, Ms. Josette Marquess, who will walk us through the mechanics of a State reunion registry.

Our second panel will examine existing State practices and Federal guidelines for identifying potential abusive individuals. Members of our subcommittee will recall that in the Adoption and Safe Families Act, a provision was included that required States to perform criminal background checks for prospective foster and adoptive families. Although States could opt out of this requirement, none have yet done so. This panel will provide an overview of the State and Federal systems currently available to check the records of any adult working with children and how these different systems interact to ensure the safety of children.

Today, I encourage our members and interested observers to listen carefully to the statements made by our witnesses. The topics we are considering are highly sensitive, emotionally charged, and hotly debated. It is my hope that this hearing will not only bring

attention to these issues but will create the kind of calm and reasoned atmosphere that will allow a serious and thoughtful analysis of whether the Federal Government should take legislative action on either of these issues.

[The opening statement and attachments follow:]

Opening Statement by the Honorable E. Clay Shaw, Jr.
Chairman of the Subcommittee on Human Resources
Committee on Ways and Means
Hearing on Adoption Reunion Registries and
Screening of Adults Working with Children
June 11, 1998

One of my personal goals, as Chairman of the Subcommittee, is to make adoption easier and to help find loving families for hundreds of thousands of children in need. Our Committee has an extensive legislative history of support for adoption. In 1996, we passed a $5,000 tax credit to help defray the cost of one-time adoption expenses. At the same time, our Subcommittee wrote legislation that ended race matching policies in adoption that had resulted in minority children remaining in foster care on average more than twice as long as white children. In 1997, the Adoption and Safe Families Act which originated in this Subcommittee, provided financial incentives to the states to move more children out of foster care and into permanent, loving adoptive families.

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To assist us in this analysis, Congressman Camp and I asked the Congressional Research Service (CRS) to examine the issues involved in establishing a national adoption registry. I am inserting three CRS memos dated April 30, May 4, and May 28, 1998 in the record at this time.

Mr. Levin, would you care to make an opening statement?

Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7410

April 30, 1998

TO : Honorable Dave Camp

FROM : American Law Division

SUBJECT : Preemption

This memorandum is in response to your request for an analysis of the nonpreemption provision of S. 1487, 105th Congress. Briefly, the bill would authorize the Secretary of Health and Human Services, at her discretion, to establish a National Voluntary Mutual Reunion Registry at the federal level in the Department of Health and Human Services. The Registry would be a computerized program containing such information that would facilitate the voluntary, mutually requested exchange of identifying information that has been mutually consented to by an adult, adopted individual who is 21 years of age or older with any birth parent of the individual or any adult sibling of the individual. The information necessary to facilitate a match between the adopted person and the others would be included.

The bill contains a "no preemption" clause: "Nothing in this section invalidates or limits any law of a State or of a political subdivision of a State concerning adoption and the confidentiality of that State's sealed adoption record policy."

It may be possible to identify many or most of the state laws that would interfere in the process of building a registry with sufficient and adequate information, such as requirements that official birth and adoption records be closed and other such requirements. But, in the absence of any survey, it can be said that regardless of what the bill, if enacted into law, would require to be made available to the Registry, because of the "no preemption" provision any state law forbidding the revelation of any such record would take precedence over the federal law and would prevent implementation.

In *Gibbons v. Ogden*, 9 Wheat. (22 U.S.) 1 (1824), the Supreme Court, speaking through Chief Justice Marshall, held that New York legislation that excluded from the navigable waters of that State steam vessels enrolled and licensed under an act of Congress to engage in the coasting trade was in conflict with the federal law and hence void. The result, said the Chief Justice, was required by the supremacy clause of the United States Constitution, which proclaimed not only that the Constitution itself but statutes enacted

pursuant to it and treaties superseded state laws that "interfere with, or are contrary to the laws of Congress. . . . In every such case, the act of Congress, or the treaty is supreme; and the law of the State, though enacted in the exercise of powers not controverted, must yield to it." Id., 211. The supremacy clause of the Constitution is at Article VI, cl. 2.

Although preemption is basically constitutional in nature, deriving its forcefulness from the supremacy clause, it is in reality more like statutory decisionmaking, inasmuch as it depends upon an interpretation of the act of Congress in determining whether a state law is ousted. E.g., *Douglas v. Seacoast Products, Inc.*, 431 U.S. 265, 271-72 (1977); *Swift & Co. v. Wickham*, 382 U.S. 111, 120 (1965). "[T]he question whether a certain state action is pre-empted by federal law is one of congressional intent. The purpose of Congress is the ultimate touchstone. To discern Congress' intent we examine the explicit statutory language and the structure and purpose of the statute." *Gade v. National Solid Wastes Mgmt. Assn.*, 505 U.S. 88, 96 (1992)(internal quotation marks and case citations omitted). "Absent explicit pre-emptive language, we have recognized at least two types of implied pre-emption: field pre-emption, where the scheme of federal regulation is so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it, and conflict pre-emption, where compliance with both federal and state regulations is a physical impossibility, or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." Id., 98 (internal quotation marks and case citations omitted).

Thus, Congress could expressly preempt any state law that impaired the effectiveness of its Registry system. Congress could be silent with respect to preemption, and under the "conflict preemption" standard any state law that stood as an obstacle to the accomplishment and execution of the objectives of Congress would have to be judicially challenged to be declared preempted.

But, while it does not often provide for no preemption, for, in other words, the principle that state law prevails over federal law, Congress sometimes does so declare. For example, in the Labor Management Relations Act, Congress conferred on management and labor unions the authority by collective bargaining to include within their contracts union-security provisions, but it also provided that state laws on the subject, prohibiting union-security agreements, could override the federal law on union security arrangements. 29 U.S.C. § 164(b). The Court upheld state laws outlawing union-security agreements in the acting States. *Lincoln Federal Labor Union v. Northwestern Iron & Metal Co.*, 335 U.S. 525 (1949); *AFL v. American Sash & Door Co.*, 335 U.S. 538 (1949). When, subsequently, Congress amended the Railway Labor Act, 45 U.S.C. § 152, Eleventh, to provide that the federal law on union security in the rail and airline industry was to override contrary state laws, the Court sustained that action. *Railway Employees' Dept. v. Hanson*, 351 U.S. 225 (1956).

Although it is not common for Congress to authorize state law to supersede federal law on the same subject, the LMRA union-security provision does not stand alone. In the Volunteer Protection Act of 1997, P. L. 105-19, 111 Stat. 218, 42 U.S.C. § 14501 *et seq.*, in order to promote volunteerism for nonprofit public and private organizations, Congress legislated immunity from liability for volunteers for conduct on behalf of the organization or entity under particular circumstances. However, the Act also provided, § 3, 42 U.S.C.

§ 14502, that it would not apply to any civil action in a state court in any action in which all parties are citizens of the State if the State enacts a statute "(1) citing the authority of the subsection, (2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and (3) containing no other provisions." See also § 514 of the Employment Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1144(a), 1144(b)(2)A), 1144(b)(2)(B)(broadly preempting state law but preserving some areas of state law from preemption).

Congress may, therefore, permit state laws to interfere with or to prevent the implementation of federal statutes. To what extent state laws would prevent the implementation of the federal Registry law would require an analysis of state laws, which might not, because of interpretive difficulties, reveal all such laws.

Johnny H. Killian
Senior Specialist
American Constitutional Law

Congressional Research Service • Library of Congress • Washington, D.C. 20540

Memorandum May 4, 1998

TO : House Ways and Means Committee
Attention: Cassie Bevan

FROM : Karen Spar
Specialist in Social Legislation
Education and Public Welfare Division

SUBJECT : **State Adoption Registry Laws**

As you requested, I've prepared the following comparison of laws in selected states regarding voluntary mutual adoption registries or other provisions to enable the exchange of information among adult adoptees and their birth parents, birth siblings, or other relatives. Please note that this is a very *general* comparison and that state law in this area is complex. While states may have generally similar provisions in some areas, the details may actually be very different.

As you know, there is considerable variety among states in this area. Some of the provisions that may vary among states include:

- who may register or participate in information exchanges (i.e., adoptees, birth parents, birth siblings, other family members);
- at what age are adoptees or other participants considered adults or otherwise allowed to receive information;
- if one birth parent consents to information disclosure and another does not, are there special provisions to protect the identity of the non-consenting parent;
- does the state require a confirmed match before identifying information may be disclosed;
- what information may be disclosed (i.e., name and address only, whatever information the participants submit, copies of original birth and adoption records, etc.);
- how aggressive is the state allowed to be in soliciting or encouraging individuals to consent to information disclosure;
- are participants required to receive counseling before information is disclosed to them;
- does the registry or other information exchange include information only adoptions or births that occurred within the state?

I have primarily based this comparison on a review of each state's law, as well as information compiled by the National Adoption Information Center (NAIC) and information from state web sites where available. Our American Law Division has already sent you

copies of the state laws, and I have sent you the information from NAIC. Information from the state web sites is enclosed with this memorandum.

Please note that the comparison does not address provisions regarding the release of non-identifying information or of medical information. You will also note that the type of information provided for each state is not necessarily consistent with all other states, and that not all of the types of information identified above are included for each state. State laws are written very differently and vary in the degree of specificity. For example, while it can be assumed that most state registries contain information only on adoptions that occurred within the state, that information was not explicit or obvious in every state law.

I hope this comparison is useful to you. Please contact me at 7-7319 if you need anything further.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
California	Passive registry.	Adult adoptees age 21 or older, birth parents of adult adoptees age 21 or older, adoptive parents of child under age 21 if justified by medical necessity or other extraordinary circumstances, biological siblings age 21 or older. Limited to California adoptions.	The state is required to make it publicly known that the registry exists as a mechanism for arranging reunions. However, the state (nor any licensed adoption agency) may not solicit the written consent of any party to participate in the registry. The name and most current address of a birth parent may be disclosed to an adult adoptee, upon request of the adult adoptee, if the parent has filed a written consent; likewise, the name and most current address of an adult adoptee may be disclosed to a birth parent, upon request of the birth parent, if the adoptee has filed a written consent. Names and addresses of adult birth siblings may be released to one another if both siblings have filed written requests for contact with siblings whose existence is known to them and the adopted person has filed a waiver of their rights with regard to release of information to the sibling.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
Florida	Passive registry.	Adult adoptees age 18 or older, birth parents, and adoptive parents of adoptees under the age of 18. Anyone entering information with the registry must designate to whom such information may be released, including: the adoptee, birth mother, birth father, adoptive mother, adoptive father, birth siblings, maternal and paternal birth grandparents. Limited to Florida adoptions.	Prior to termination of parental rights, the state (or intermediary or licensed adoption agency) must inform birth parents of the existence and purpose of the voluntary registry. Likewise, prior to placement, the adoptive parents must be informed of the existence and purpose of the registry. Upon the petition of an adult adoptee and the showing of good cause, the court may appoint an intermediary or licensed adoption agency to contact a birth parent who is not registered and advise them that the registry is available. The state also must make counseling available (for a fee) to anyone using the registry, and must inform all parties of the availability of counseling.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
Idaho	Passive registry.	Adult adoptees, birth parents, adult birth siblings, relatives of deceased adult adoptees or birth parents. However, no match may be made between an adoptee and a birth parent without the consent of the other birth parent, unless there is only one birth parent on the birth certificate, the other birth parent is dead, or the other birth parent cannot be located.	The state must regularly review the lists of individuals who have consented to the release of identifying information about themselves and any other nonsealed administrative files to determine if a match exists. If it appears that a match exists, the state may confirm the match through sealed records. When the match is confirmed, the state must notify each party prior to the actual exchange of information. The state (nor local government, agency or institution) may not solicit any consent to the release of identifying information.
Illinois	Passive registry.	Adult adoptees age 21 or older and adults age 21 or older who were surrendered for adoption as children (or, if 18-21, with consent of adoptive parents or guardian), birth parents, adult birth siblings age 21 or older (or, if 18-21, with consent of adoptive parent or guardian). Limited to adoptees who were born in Illinois.	The state must obtain a statement from birth parents, indicating whether they would desire to share the names and addresses with an adopted or surrendered child at a later date, or whether they would not want such information shared, or whether they have not made a decision. Such statements may be changed at any time. Any birth parents, adoptees, or surrendered children interested in sharing information (including with birth siblings) must be informed of the voluntary registry and assisted in recording their names.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
Iowa	Affidavit system.	Adult adoptees age 21 or older (or married) birth parents, adult birth siblings. Applicable to Iowa adoptions.	Adult adoptees age 21 or older (or married) may request the court to reveal the names of one or both birth parents or birth siblings. In determining whether good cause exists to grant the petition, the court may consider any affidavits filed by the birth parents or siblings, requesting that the court reveal or not reveal their identities. Names of biological siblings may not be revealed until they have reached the age of majority. In addition, if a birth parent and adult adopted child have placed written consent to disclosure of their identity in the adoption record, then the state, court or adoption agency that made the placement may open the record and reveal the identity of the birth parents to the adult adoptee or vice versa.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
Louisiana	Passive registry.	Adult adoptees age 18 or older, birth mother, birth father (if he legitimated or acknowledged the child or voluntarily surrendered the child or consented to the child's adoption regardless of whether parental rights were terminated or surrendered), and birth siblings age 18 or older. Adult adoptees may not be permitted to register until any biological sibling who was adopted by the same adoptive parents has reached age 18.	The state must regularly monitor affidavits filed by registrants, to determine whether affidavits have been filed by an adopted person and his or her birth parents. If there appears to be a match, the state must notify the parties and inform them that they must participate in no less than one hour of counseling with a board-certified social worker or a social worker employed by a licensed adoption agency. The state then must provide the details of the match to the social worker or adoption agency that provided the counseling, who must then contact the parties and give them the information necessary to contact each other. If there is doubt as to whether there is a match, the state must advise the parties to petition the court to open sealed records, if there is a compelling reason to verify the match. Adult adoptees who register must be informed, if it is known that one or both of their birth parents are dead.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
Michigan	Passive registry.	Adult adoptees age 18 or older, birth parents, and adult birth siblings age 18 or older who know the birth name of the adopted person. In addition, direct descendants of adult adoptees may receive and request the same information that would be available to the adult adoptee, if the adult adoptee is dead. Applicable to Michigan adoptions.	At the time of termination of parental rights (TPR), each birth parent must be informed that they may file a statement with the adoption registry, either consenting to or denying the release of identifying information about themselves. Each birth parent must be informed that if no statement is filed denying the release of information, then their consent will be presumed. In cases where TPR occurred before May 28, 1945, or after September 12, 1980, and the birth parents have not filed a denial to release information, the adult adoptee may be given information necessary to obtain a copy of his or her birth certificate. Information about birth parents may be released to adopt adoptees if the parents are dead, notwithstanding a denial filed before the parent's death. If a request for information is received from an adult adoptee's birth parents or adult birth sibling, and the adult adoptee has not filed written consent to the release of such information, the adult adoptee's name and address may be given to a confidential intermediary.

State	Voluntary Registry or Other Provision to Enable Reunions?	Who May Participate?	State Role in Facilitating Information Exchange or Reunion
New York	Passive registry.	Adult adoptees age 18 or older, and birth parents. Limited to adoptees who were both born and adopted in New York.	Once a party registers, the state must search the registry to see if all other parties have registered (the adult adoptee and both birth parents). Once the parties give final consent, identifying information (names and addresses) may be released either directly to the registrants or through the court that handled the adoption. The state may not solicit or request the consent of any party who is not registered.

State	Voluntary registry or other provision to enable reunions?	Who may participate?	State role in facilitating information exchange or reunion
Pennsylvania	Search and consent provisions.	Adult adoptees age 18 or older, and adoptive parents of adoptees under the age of 18.	If petitioned or requested by an adult adoptee or the adoptive parents of a minor adoptee, the court or adoption agency may attempt to contact the birth parents, to obtain their consent to the release of identifying information. If both parents consent, information on both parents may be released. If only one parent consents, then only information on that parent may be released. Information may be released on a parent who is dead. The court or adoption agency may refuse to release information if there is concern that persons other than the birth parents would learn of the adoptee's existence and relationship to the birth parents. In addition, birth parents may file written consent to the disclosure of information on the adoptee's original birth certificate or other identifying information, at any time after the adoptee turns 18 or to the adoptive parents of a minor adoptee. If only one parent consents, only the information on that parent may be released.

State	Voluntary registry or other provision to enable reunions?	Who may participate?	State role in facilitating information exchange or reunion
Texas	Passive registry.	Adult adoptees age 18 or older, birth parents (including alleged fathers who acknowledge paternity but who are not otherwise considered the legal birth father), and adult birth siblings age 18 or older. Applicable to Texas adoptions.	If necessary, the adoption registry may request confirmation of possible matches from the bureau of vital statistics, adoption agencies, courts, hospitals, or other knowledgeable individuals. When a match is confirmed, registrants are notified, prior to the release of confidential information, and required to sign a written consent to disclosure, and to participate in at least one hour of counseling with a social worker or mental health professional with expertise in post-adoption counseling. Identifying information may be released without consent if a registrant is dead and had authorized such release before death. Identifying information about a dead birth parent may not be released until each surviving child is an adult or their parent or guardian has consented to the disclosure.

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Memorandum May 28, 1998

TO : House Ways and Means Committee
Attention: Cassie Bevan

FROM : Douglas Reid Weimer
Legislative Attorney
American Law Division

Karen Spar
Specialist in Social Legislation
Education and Public Welfare Division

SUBJECT : **Proposed Legislation to Establish a National Adoption Registry**

As you requested, we have prepared a detailed summary of S. 1487, which would authorize a National Voluntary Mutual Reunion Registry within the Department of Health and Human Services (HHS). Following the summary is a discussion of certain policy and implementation issues that may be raised by the legislation, which you had asked us to analyze. The Registry would be a computerized program intended to facilitate the voluntary, mutually requested exchange of identifying information between an adopted individual who is 21 years of age or older with any birth parent or adult sibling of the adopted individual.

We hope this information is useful to you. If you need anything further, please contact Douglas at 7-6413 or Karen at 7-7319.

Summary of Legislation

The bill provides that part E of title IV of the Social Security Act (42 U.S.C. 670 *et seq.*) would be amended by adding a new section at the end, which would establish the Registry and outline its operation. The bill would authorize the Secretary of HHS, at his/her discretion, and provided that there is no net cost to the federal government, to use the facilities of the Department to facilitate the voluntary, mutually requested exchange of certain birth related identifying information. The disclosure of such information would have to be mutually consented to and it would be available for exchange between an adult adoptee who is 21 years old or older [1] with: 1) any birth parent of the adoptee; or 2) an adoptee's adult

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[1] The bill specifically uses the following language: "an adult adopted individual who is 21 years of age or older...." It is presumed that this language is used so as to clarify that an "adult" for the (continued...)

sibling who is 21 years of age or older. The bill requires that at their own initiative, all of the persons involved in such a transfer of information must have consented by a signed and notarized statement to the exchange of such identifying information.

The bill would place responsibilities upon the Secretary to set certain requirements in the establishment of the Registry.[2] The Registry would be required to provide a central nationwide capacity for the deposit and transfer of the identifying information mentioned above. The Registry would be required to utilize appropriate computer and data processing methods so as to insure the privacy of the information contained in the Registry. It is further required that the Registry would not intrude on any other data system maintained by the Department.

The bill provides for certain specific safeguard procedures to be established by the Secretary which must be followed. The Registry would only contain the information necessary to make an identifying match and the Registry would not attempt to make contact with any individual not participating in the Registry for the purposes of facilitating a reunion. It would be required that to the maximum extent possible, the privacy rights and interests of the participating parties in the Registry would be protected. Any information relating to any person that is maintained in connection with any activity undertaken related to the Registry would be confidential and would not be disclosed for any other purpose without the prior, written, informed consent of the individual.

The bill provides that "reasonable fees" may be collected for the use of the Registry's facilities. The amount of the "reasonable fees" is to be determined by taking into consideration, and not to exceed, the average charge of comparable matching services offered by the various states. Presumably, an appropriate fee structure could be established by regulation or by Departmental administrative practice after examining the fee policies of the various state services. However, it must be remembered that the bill requires that the Registry must be operated at "no net cost to the Federal Government." Therefore, the requirement for "reasonable fees" must co-exist with the requirement that the Registry be operated at no net cost to the federal government.

Penalties for violation of the confidentiality of the Registry are provided for in the bill. An individual or an entity that is found to have disclosed or to have used confidential information in violation of the bill's provisions would be subject to a fine of $5,000 and imprisonment for a period not to exceed one year. The bill is silent concerning the issue of

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[1](...continued)
purposes of this legislation is 21 years old.

[2] By establishing a governmental entity within HHS, instead of relying on existing private sector agencies, it would appear to allow the Secretary to control the policy and operation of the Registry, the promulgation of rules, and the day-to-day operation of the program in a manner which might not be possible when contracting with existing agencies.

intent.[3] The penalty provisions of 18 U.S.C. 3571[4] are explicitly exempted from application to this legislation. The bill is silent concerning the issue of civil remedies which may be available to injured parties.[5]

The final section of the bill specifically states that none of the bill's provisions would preempt any law of a state or a political subdivision of a state which concerns adoption and the confidentiality of the state's sealed adoption record policy.[6]

Implementation and Policy Issues

The following section examines certain implementation and policy issues that may be raised by the proposed legislation, which you had requested us to analyze, in addition to the legal question regarding civil liability raised in the previous section and the issue of the bill's preemption provision, which was addressed in Mr. Killian's memo. For example:

- What information would be included in the Registry?
- How would HHS protect the privacy of individuals, particularly those choosing not to participate in the Registry?
- What would be the mechanics of operating such a centralized, nationwide data collection system?
- Is it possible to operate such a system at no net cost to the federal government, while maintaining user fees at a reasonable level?

S. 1487 would require that only information "necessary" to facilitate a match between an adult adoptee and a birth parent or sibling would be included. However, the bill does not define the identifying information that may be necessary to make a match. In addition, the bill does not specify whether information could be released only if a match is confirmed (as is the case in some state registries), or in any case where there is a possibility of a match. The bill also does not specify any procedures or requirements for determining the authenticity of information included in the Registry.

Presumably, these issues could be addressed by the Secretary through regulations, or they could be decided on a case-by-case basis. It also is possible that some clarification might be added by language contained in a future published legislative history of the

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[3] Presumably, the bill would be applicable in situations where there existed the specific intent to disclose confidential information. However, as drafted, the bill might be applied to situations which involve the unintentional disclosure of confidential information.

[4] The provisions of this section deal with the imposition of fines under federal law.

[5] Questions may arise as to the possible civil liability of persons who disclose confidential information obtained through the Registry. Another potential legal issue is the possible civil liability of the Registry and its personnel for the unauthorized disclosure of confidential information.

[6] At your request, Johnny H. Killian, Senior Specialist in American Constitutional Law, has prepared and delivered to you a memorandum concerning the issue of preemption in relation to this bill.

legislation. However, because adoptions occur at the state level and the federal government plays no direct role, HHS probably would be unable to confirm matches or to verify the authenticity of information, without seeking the involvement of state agencies and/or state courts. The bill is silent with regard to the maintenance and opening of sealed birth and adoption records, which is generally a function of state law. Thus, it is most likely that only minimal information would be included, such as names and addresses, which could potentially result in information exchanges between adult adoptees and individuals who may turn out *not* to be their birth parents or siblings. In many cases, individuals participating in the Registry would still need to obtain information at the state level, which may or may not be available to them, depending on their state, to confirm a match.

The bill would safeguard the privacy rights of interested parties by requiring them to knowingly and voluntarily apply to the Registry before any match may be facilitated. However, the bill does not address the situation where one birth parent of the adult adoptee has consented to the release of information but the other birth parent has not. The bill specifically states that information can be exchanged between the adult adoptee and "any birth parent of the adult adopted individual ... ." It is possible that in obtaining information about a consenting birth parent, the adult adoptee may be able to obtain the identity and other information about the nonconsenting birth parent, thereby violating the legislation's mandate for confidentiality and informed consent. A safeguard against such violations would be to allow the release of identifying information *only* if both birth parents consent, although this could potentially limit the usefulness of the Registry to interested parties.

The proposed legislation does not address the mechanics of the Registry, other than to require that it provide a centralized, nationwide capacity for facilitating the exchange of information, that it use appropriately designed computer and data processing methods to protect the privacy of information, and that it not intrude on any other data system maintained by the Department. Presumably, the Secretary would determine the design of the system, including procedures for obtaining, storing, and transferring information to participating individuals, and for receiving notarized consent statements. The legislation also does not provide guidance regarding the federal government's role in making the Registry's existence known to the general public, although it would prohibit the Registry from attempting to contact any individual who is not participating in the Registry for the purpose of facilitating a reunion. The proposal also does not address the relationship of the Registry with comparable registries and information exchange systems operated by states and private organizations, including other systems that operate on a nationwide basis.

As noted above in the summary of the legislation, S. 1487 would allow HHS to collect "reasonable fees" for use of the Registry, which may not exceed the average charge of comparable matching services offered by the various states. At the same time, the bill requires that the Registry must be operated at "no net cost to the Federal Government." It is possible that these two requirements may not be concurrently achievable, depending on the design and scope of the national Registry.

Chairman SHAW. Mr. Levin.

Mr. SANDER LEVIN. Thank you, Mr. Chairman, and thank you very much for holding this hearing. We discussed it last year, and there was a feeling that this hearing would be held, and it's very timely. You know, often, in these hearings we state our position in advance of the testimony of witnesses, and the chairman hasn't done that today, and I will not either. I think it would be especially questionable in review of the fact that one of the first witnesses is my brother, Senator Carl Levin. But I must confess that I know of his activity.

My brother has been working on this issue for more than a decade, and I have admired his interest and his tenacity. I'm not sure of the source of his interest. I am aware of the source of his tenacity. I think it's just that he's a very caring individual and came to view this is an important matter for lots of people in this country. So, I welcome him. I think this is the first time I've ever had him testify before a subcommittee, and I intend to question him very intensely. I would also like to welcome Senator Craig, a former colleague and present, also distinguished colleague, Tom Bliley. So, Mr. Chairman, I'll put my statement in the record and why don't we just launch into the hearing.

[The opening statement follows:]

Opening Statement
The Honorable Sander Levin
Hearing on Adoption Issues
June 11, 1998

Last year, in the Adoption and Safe Families Act, we enacted several changes which we hope will make adoption a more frequent solution for children in the child welfare system who are unable to return home. As we worked on that law, we gained renewed appreciation of adoptive families and those who work with them. We also came to realize that the fields of adoption and permanent placements for children are rich and complex. Because of this growing realization, we incorporated more child welfare demonstration projects and a kinship care advisory board into the Adoption and Safe Families Act to help us learn the state-of-the-art in the arena of permanent placements.

Today's hearing is a part of our ongoing effort to learn more about the best practices in adoption. We are going to take up two issues that came to our attention during the crafting of the 1997 law.

The first issue is one in which I have been interested for many years: a National Voluntary Mutual Reunion Registry. If established, a national, voluntary registry could be an invaluable resource for adult adoptees or birthparents who are seeking to find each other. A national registry would be especially helpful when family members have relocated over the years, making it more difficult for a State adoption registry to help.

This proposal has raised a keen interest on the part of Members, several of whom have joined us today to share their views. The National Voluntary Mutual Reunion Registry been championed over the years by Senator Carl Levin, who is with us today. In addition, we would like to welcome Senator Larry Craig and Representatives Bliley and Oberstar, of the House adoption caucus, who are here to share their expertise on the matter.

We will hear from a number of outside experts on what the States are currently doing in this arena so that we can place the proposal in context. We are especially fortunate to be joined by two adult adoptees who have been willing to share their stories with us, so that we may better understand the serious personal impact of adoption policies.

The second issue that we will consider is the issue of background checks for people involved in aspects of the child welfare system. The Adoption and Safe Families Act required States to perform background checks on foster and potential adoptive parents, but allowed States, upon their examination of the issue, to choose not to implement the provision. Thus far, the U.S. Department of Health and Human Services indicates that no State has opted out of the provision.

Today, the Department of Justice joins us to describe their guidelines for performing background checks. We also are pleased to have an expert from the Child Welfare League of America to explain more about background checks in the context of the child welfare system.

The point of today's hearing is to allow us to stay at the forefront of developments in the child welfare field and to continue to consider policies that will have a positive impact on families. I thank the Chairman for giving us this opportunity.

Chairman SHAW. All right. Our first panel is already in place, and, with that, I think you've been introduced, Senator Levin. You may proceed. We have each of your full statements which will be made a part of the record, and you may summarize as you see fit, and we do have a five minute rule over here, Mr. Levin. [Laughter.]

Something that is somewhat foreign, I know, to the other body. Senator.

STATEMENT OF HON. CARL LEVIN, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator CARL LEVIN. Mr. Chairman, members of this subcommittee, first, thank you, Mr. Chairman for holding the hearing on a topic which has been the subject of a great deal of discussion in the Senate over the years where we've passed this bill a number of times; where we've had hearings a number of years ago, indeed, on this subject at great length.

There are millions of people who are adopted in this country, and a significant part of them are searching for their biological parent, usually the mother. We have a significant number of the biological mothers who gave up their child for adoption who are seeking to find those children. We know the numbers are significant—there's different estimates—but we know there are large numbers of people who seek to find each other, and this bill only addresses people who are trying to find each other, and its purpose is to facilitate people who are searching for each other, sometimes desperately to find each other. It does not seek anybody out who does not want to be found. It is a passive registry based on two adults searching for each other, helping to find each other. It does not open records; it specifically prohibits that. It does not in any way preempt State registries or in any way override or affect State registries. It explicitly says it does not do that. It is a very simple bill in a lot of ways. Its purpose is that at no net expense to the Federal Government it authorizes HHS to maintain this registry where adults—it has to be adults; the adopted child must be 21 years or older—is seeking to find a birth parent or a sibling.

So, what is the need for this registry? Many States have registries, different varieties: some are passive, some are so-called search and consent where one party puts the name in and then the registry seeks the other party. That is not what this is. This is a passive registry. But what's the need, then, for this registry if most States have one form or another of registry?

There are a number of reasons why a national registry will facilitate, but one of the main reasons is that many adopted children do not know the State in which they were born. Their birth certificate does not identify the State in which they were born, and for many biological mothers, the birth mother, they do not know the State in which the adoption took place. The child could be adopted in a different State from the State in which he was born.

So, one of the reasons why people have difficulty using the State registries—and I think all our States just about have registries; there's a few that don't—but one of the reasons is that you have that gap in information where the adopted child is not certain what State he or she was born in, and the birth mother doesn't know

what State the child was adopted in. The child knows what State it was adopted in but not the State in which it was born.

There's another reason: when siblings look for each other, and we have letters here from siblings from five, six, seven different States with no idea what State in which they were born or in which their sibling lives. There's other identifying information, however. It's actually called non-identifying information, but in simple terms there's other information which will permit a match to be made, and it is that type of information which the registry uses, a passive registry uses, to make these matches. For instance, age of birth parents; description of general physical appearance; race, ethnicity, religion of birth parents; facts and circumstances relating to the placement; age and sex of other children. There is other information which permits the match other than the name of the parent or the child and even other than the location of the birth. It is that so-called non-identifying information—because it doesn't identify the name of the parent or the child or even the location of the birth—which makes matches possible.

The fundamental question is this: If State registries have had no problems in terms of violations of privacy with these one-parent matches or reunions—and we don't know of States that have had problems; we have letters, for instance, from the State of Louisiana saying there's been no problems, and most of the States that have these passive registries have the one-parent reunion where you don't have to get approval of the other parent, and we've not had problems as a result—if the registries and the States that have passive registries have done so successfully, but if there are limits to their capabilities to facilitate people searching for each other, why not do that for people? Why not allow people searching for each other to find each other?

Michael Reagan, adopted son of President Reagan, came to my house one night and told me how important this bill was to him—and I have a letter from him which I'll submit for the record, Mr. Chairman—and told me that he really never realized that his father, who was then President of the United States, even loved him until his father told him he would help him find his birth mother. That's how important it was to him, and that's how important it is to many, not all—we don't know the percentage—many adopted children.

If they don't want to find their birth mother, fine; that is their right. If the birth mother doesn't want to be found, I believe that is okay too; that is her choice. But where two adult human beings are searching for each other and where there are limits on State registries because of the reasons I've given and others and where they're searching desperately for their sibling and where privacy has not been invaded of the other birth parent who doesn't want to be found, in the experience of these passive registries, the haunting question seems to me, the humane question is, why would we not want to facilitate that if we can do so protecting the privacy of the person who does not want to be found? It is not an open record. It does not displace State law.

Now, misinformation has been circulated about this bill over the years, and I won't go into that for a number of reasons not the least the limitations of time. I want to focus on the positive. What

this bill is is a humane way of allowing people to find each other without invading the privacy of others. It is not an open records bill; it is not a search and consent bill.

My time is up, and I thank the Chair, and I, again, appreciate—I'll just say how appreciative we are, those of us, including Senator Craig who will speak for himself and Senator Landrieu who is an adoptive mother; Senator McCain who is an adoptive father, who are co-sponsors of this bill. We appreciate that you're giving us the chance to be heard on this subject.

Chairman SHAW. Thank you, Senator.

Senator Craig.

STATEMENT OF HON. LARRY E. CRAIG, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator CRAIG. Chairman Shaw, thank you very much, Congressman Levin, members of the committee. Like Senator Levin, thank you for giving us an opportunity to speak to this legislation this morning and for your interest in it.

As you know, last year, we worked together and passed landmark foster care reform law, the Adoption and Safe Families Act. I believe now we must complete the process, and I think this legislation is a very important part of that. My comments will be brief this morning. I understand your time limits—Senators can be brief. I grew up in the House. I learned that lesson. But also there's another item on my schedule that has to be tended to.

Let me say at the outset, I was slow to come to this idea. I listened to both sides for a time, but I recognize the importance of doing this; it is a national and is a human rights issue. I listened to Senator Levin, and he was also cooperative in allowing me to work with him to shape the legislation. So, now I strongly support a national, voluntary, mutual reunion registry for adoptees largely because of the experience I've just related to you but also because of my own family experience.

You may already know, I'm an adoptive father. My children had issues to resolve with their birth father even into their adulthood and beyond, and I believe that this option could have helped them. When two adults choose to search for one another, out of the most fundamental and powerful of human motives—the need to better understand themselves and their relationship with others—then we ought to have the ability to help, and I think this proposal gives us that opportunity.

It is within our power to make this registry a reality, and provide these individuals with a tool for undertaking the impossible challenge of searching the Nation for one another. I hope that the subcommittee shares my support for what I think is a very legitimate goal.

I realize that the focus of today's hearing is not on the justification of this program but on how it works, and I think Senator Levin has spelled that out very clearly. He's the expert in the field. He's spent a long time, as his brother has related to us, looking at this and working on it. I'm a relative newcomer to the issue, but I understand the importance of it.

Our legislation, S. 1487, is very specific about what a national registry—and I believe this word is important—what a national

registry cannot do, but it is deliberately vague about what it can do and how it might work, and it allows the greatest of flexibility in designing the system, but it is important that we say what it cannot do, because I think it alleviates the fears of others who argue some issues that I think are—at least from my opinion—not as valid.

For my part, I envision a simple system in which interested individuals supply information that is matched via computer. This information would be verifiable with publicly available data, not through any kind of open records mandate, and that's important. My State of Idaho has a closed system. In fact, our bill specifically states that it does not preempt any State's sealed record or records policy, and we know some States' registries are able to match people without resorting to sealed records. Surely, we can achieve as much at the Federal level.

As the subcommittee considers the national registry, I hope unreasonable burdens wouldn't be placed on the system. It doesn't have to guarantee that every union will be a happy one; we shouldn't do that. It doesn't have to provide blood kinship with the accuracy of a DNA test before a reunion is facilitated. It's worth pointing out that the State registries, the privately-operated Soundex system, and private detectives don't make such guarantees today. Others here today know much more, as I have said, about this, and Senator Levin is one of them, but I believe this is something we ought to do. The Senator has clearly explained how it works and why it should be a national registry.

When you're dealing with adults—and we're not dealing with States' rights here; we protect them—our Constitution is very clear on the right of citizens, and in dealing with adults, we're talking about the rights of citizens. We're not stepping on the toes of any of those who are responsible for juveniles, because we talk about adults and adults only and the need for them to come together.

I think it's an important piece of legislation. I think it completes very successfully the process we started a year ago to help in this country not only facilitate adoptions of children who need permanent loving homes but once mature and in search of their identity and many are, then this, I believe, completes the extension of what we've offered and we continue to support. Thank you, Mr. Chairman.

[The prepared statement of Senator Craig follows:]

Testimony of Senator Larry E. Craig
Before the Subcommittee on Human Resources
House Committee on Ways and Means
June 11, 1998

Mr. Chairman, Congressman Levin and members of the Subcommittee, thank you for holding this hearing to address two issues remaining open from last year's enactment of the landmark foster care reform law, the Adoption and Safe Families Act.

As you know, the bill that Senator Levin and I and others helped pass in the Senate, S. 1487, would allow the federal government to facilitate voluntary, mutually-requested reunions between adult adoptees and other adult family members. This is not the first time that such a measure has passed the United States Senate, but none of these measures managed to clear the House of Representatives. It's my hope that today's hearing will help to answer some of the questions that may be responsible for the reluctance of the House to move ahead.

I support the national, voluntary, mutual reunion registry concept in part because of the experience of my own family. You may already know I am an adoptive father. My children had issues to resolve with their birth father even into their adulthood, and I believe this option would have helped them.

Some might say that as the adoptive dad, I stand to lose from a reunion – but how could any father, adoptive or birth, not want to help his children find answers to fundamental questions that will shape their lives? And I can tell you, Mr. Chairman, this is one adoptive dad who gets pretty frustrated when other people claim the right to decide what's best for his kids, such as who they should or shouldn't have the opportunity to meet. I can well understand the frustration of adult adoptees or birth families who are told that even if there is a mutual desire for a reunion, a third party will control the decision whether that reunion can take place or if the tools will even be available for these individuals to find one another.

Today, it is within our power to make these tools available. It is within our power to make this registry a reality. It is within our power to help thousands of adult Americans who have chosen to search for one another, out of the most fundamental of human motivations -- the drive to better understand themselves and their relationships with others.

I hope the Subcommittee shares my strong belief that allowing the government to facilitate such reunions is an important and legitimate goal. I realize that justifying the registry is not the focus of today's hearing. However, individuals who agree on the importance of these goals will work together to find ways of making the registry work, instead of looking for excuses to kill the idea. I appreciate the Chairman's sincere desire

to have a constructive and helpful session today and only hope all of our colleagues are equally willing to find ways to satisfy any outstanding concerns about the proposal.

I've been asked why not just leave the registry idea to the states, or why not just be contented with the Soundex system operated in the private sector. One part of the answer is mathematical. Only a fraction of the individuals participating in any registry system will ever be matched, so the larger the pool of potential matches from which the system draws, the larger the number of matches. A state's pool is, of course, smaller than a national pool. The Soundex system is still relatively unknown and incapable of widely disseminating its message, while the federal government has the ability to make its programs known to most U.S. citizens. Furthermore, there are no guarantees that the privately-operated Soundex will still be in operation when today's adopted children become adults. Let me also point out that anyone who is concerned about how a national registry operates should prefer a federal system because it is one over which Congress has some control and oversight.

As you know, we deliberately wrote the bill to set out specifically what the system could ***not*** do, but allow maximum flexibility in designing how it ***could*** operate. For my part, I envision a very simple system, in which interested individuals supply information that is verified with publicly-available data and matched via computer. Others may have different ideas. There are people in this room who know a lot more than I do about what is possible and workable, and I'm sure the Subcommittee will benefit from their suggestions.

It's my hope a review of available models and alternatives will convince the Subcommittee that the concerns raised by our opposition can easily be satisfied. For instance, we don't need a national "open records" mandate for this system to work – in fact, I would oppose an open records system, and S. 1487 specifically states that it does not pre-empt any state's sealed records policy. Furthermore, it's my understanding that at least one state registry, and maybe others, doesn't use sealed records in order to make a match. Surely we can achieve as much at the federal level.

As the Subcommittee considers the national registry, I also hope that unreasonable burdens won't be placed on this system. It doesn't have to guarantee that every reunion will be a happy one. It doesn't have to prove blood kinship with the accuracy of a DNA test before a reunion is facilitated. It's worth pointing out that state registries, Soundex and private detectives don't make such guarantees today. Furthermore, none of those entities guarantee that two reunited individuals won't talk about other relatives who may have no desire for a reunion.

In short, requiring a national registry to meet impossible standards would condemn the system to inevitable failure.

The people who want this registry are looking for a tool to help with the unimaginable challenge of searching the entire nation for a relative. I believe we should

and can provide them with that tool, and I believe we can fashion a workable system that will stay within the parameters of S.1478.

I look forward to continuing to work with the House in developing ideas that will help guide the Administration in establishing this system. Again, I would like to thank the Chairman for the opportunity to share my views.

Chairman SHAW. Thank you, Senator.

Mr. Bliley.

STATEMENT OF HON. TOM BLILEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BLILEY. Thank you, Mr. Chairman and Congressman Levin, other members of the committee. I appreciate this opportunity to testify today. I am opposed to this bill. My wife and I are adoptive parents of two children. I think family law is best left to the States. Forty-eight States currently have a system in place to satisfy the needs of adoptees and birth parents who wish to meet. I am concerned about the potential outing of a birth mother. A mother who made a mistake and had a child out of wedlock and offers that baby up for adoption. She goes on and lives a new life, and what I fear is an unwelcome knock on the door. I think that's something that we cannot overestimate the danger of in this bill. It says, "any birth parent." It's not defined. It could have the unintended affect of a birth father outing, birth mother or vice versa, and I think that would be a terrible tragedy.

We talk about confidentiality of the records. We've seen just recently as June 6th that a hacker broke into the Army computers. You're going to have sensitive information, and there's a great risk. I think the State system is working well, and I think, basically, it should to be left that way. I have a long statement. I ask unanimous consent to put it in the record.

[The prepared statement of Mr. Bliley follows:]

TOM BLILEY
7TH DISTRICT, VIRGINIA

CHAIRMAN, COMMITTEE ON COMMERCE

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Statement
of
U.S. Representative Tom Bliley (R-VA)
House Ways and Means Subcommittee on Human Resources
Hearing on Adoption Reunion Registries
June 11, 1998

Dear Mr. Chairman:

I appreciate the opportunity to testify today about adoption records and more specifically, the National Voluntary Mutual Reunion Registry legislation sponsored by Sen. Larry Craig and Sen. Carl Levin.

Sen. Craig and I have worked well together on many issues, especially adoption issues, since he and I were elected to Congress in 1980. As a fellow Co-chair of the Congressional Coalition on Adoption, it is not often he and I disagree on adoption issues. However, today we differ. Friends will agree to disagree at times and this is certainly one of those times.

While I know the sponsors of this legislation only have the very best of intentions, I have several questions about this legislation. It is important to note this is the first hearing in the U.S. House of Representatives on adoption reunion registries. In the intervening years since Sen. Levin first introduced the Adoption Identification Act, a version of his legislation has passed the Senate on three different occasions but no House action was ever taken.

I strongly objected to this legislation being included in the Promotion of Adoption, Safety, and Support for Abused and Neglected Children or the PASS act last year because there was no debate in the House on the reunion registry. Indeed, in order for the reunion registry to pass the Senate last year, it had to be taken out of the PASS act, re-introduced as S. 1487, and passed by voice vote with few Senators on the floor during the final weekend of the First Session of the 105th Congress. We all know why this legislative procedure was used -- several Senators objected to the reunion registry and had vowed to hold up the PASS Act if it included the reunion registry.

I am an adoptive parent. I am Co-Chair of the Congressional Coalition on Adoption. I strongly support one's right to privacy in all adoption matters. This is not a matter I take lightly. I have experienced the joys of adoption -- much like many of our colleagues in Congress. At the end of the day, after much passionate debate on both sides of the issue, Congress must carefully study this issue and do no harm at the very least.

I have several questions and my first question pertains to the lack of clarification regarding the "any birth parent" language in the bill. If this measure allows one birth parent to contact their birth child without the consent of the other birth parent, this would have the unintended effect of a birth father "outing" a birth mother or vice versa. I believe placing a child for adoption is one of the most loving acts a birth mother and/or birth father can ever do in their lifetime. This lack of privacy accorded to any birth parent is wholly unacceptable to me.

I recognize the bill would safeguard the privacy rights of interested parties by requiring them to knowingly, and voluntarily apply to the reunion registry before any match may be facilitated. However, this safeguard does not work in the instance I just described. Adoption search groups and celebrity activists and journalists may vilify me for my position because they think I demand "an impossible standard." I want it clear for all to understand: I stand here today to protect the privacy and confidentiality of all birth parents, especially the single, unwed birth mothers contemplating adoption. No women should fear a future knock on the door which would instantly violate their privacy and confidentiality. That is the unintended result of this legislation if it ever became law.

Additionally, what guarantees are there that an adult sibling won't disclose information invading the privacy of either the birth mother or birth father to the adult adoptee? The $5,000 fine provided in the bill for disclosing confidential information cannot repair the emotional and life-wrecking experience if one's privacy is invaded. I note there is a maximum 1 year jail sentence for disclosing confidential information. States rarely prosecute this offense and when they do, it is a mere slap on the wrist.

How can the federal government ensure the security of a centralized databank? Adoption records are sealed by the States to ensure privacy. Of course, the same security risk exists in the 48 States that have some sort of reunion registry. However, I can guarantee the members of this committee that my home city of Richmond, the Capital of Virginia, does a better job ensuring the confidentiality and privacy of adoption records than the HHS or the federal government would ever do. We all know a national registry is an attractive target for computer hackers because of all the sensitive and personal information a national reunion registry would contain. For example, on Saturday, June 6, 1998 an Army spokesman confirmed that computer hackers had entered U.S. Army computers. If hackers can break into U.S. Army computers, they can certainly break into any computer system run by HHS.

The language "only information necessary" needs to be defined. The bill does not define the identifying information that may be necessary to make a match. In addition, the bill does not specify whether information could be released only if a match is confirmed or whether there is a possibility of a match. Will the registry require the long birth certificate or the short birth certificate? For the purposes of this bill, Congress should define "only information necessary" and not let the Secretary of HHS, whether it is Secretary Shalala or a Republican HHS Secretary, define this term.

The Craig-Levin bill also states, "to the maximum extent feasible, the confidentiality and privacy rights and interests of all parties participating in the Registry are protected." Again, if Senators Craig and Levin want the reunion registry addressed by the federal government, what are the procedures to ensure confidentiality? Congress must set the policy, not the HHS.

Will state agencies comply with HHS requests for the maintenance and opening of sealed birth and adoption records? Without the involvement of State agencies and courts, how will HHS confirm matches or the authenticity of information? In other words, if there was a national registry, it appears very likely that individuals participating in the reunion registry would still need to obtain information at the state level.

The "no preemption" of State law provision forbids the revelation of any such record to the federal reunion registry if a State law conflicts with the new federal law. If State law takes precedence over the federal law, it conceivably prevents implementation of the federal reunion registry. Let me repeat that: the "no preemption" provision would take precedence over federal law and would prevent implementation.

This legislation also needs to define "reasonable fees". Are the sponsors calling for user fees? If they are, let me inform them that the House of Representatives on June 5, 1998 by a vote of 421 to zero rejected H.R. 3989, a bill to provide for the enactment of user fees proposed by President Clinton in his budget submission for fiscal year 1999.

It also needs to define "no net cost" to the federal government. It is important to note the requirement for "reasonable fees" must co-exist with the requirement that the reunion registry be operated at "no net cost" to the federal government. Expanding the size of government is unachievable in the current political climate.

As a proud holder of the Congressional seat first held by James Madison, I remind this committee what James Madison wrote in Federalist 45, "The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State Governments are numerous and indefinite....The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people."

As a Virginian, I have adopted this same philosophy throughout my Congressional career. I do not see the role of the federal government in reunion registries. Currently, 48 states have some system in place for exchanging this information and the intrusion of the federal government in this state matter is unwarranted. I also feel that if any version of a national registry is enacted into law, it will catch Potomac Fever. After catching Potomac Fever, the reunion registry would eventually expand its powers far beyond the goals of this current legislation and would closely resemble legislation advocated by others who claim the Craig-Levin bill does not go far enough.

Chairman SHAW. Thank you. As I said earlier, the full statement of all the Members will be placed in the record.

We're now joined by Senator Bennett.

Senator Bennett.

STATEMENT OF HON. ROBERT F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH

Senator BENNETT. Thank you, Mr. Chairman. I apologize for coming in late. I appreciate your willingness to allow me to make a few comments about this bill.

It passed the Senate by unanimous consent which is the way we get most things done in the Senate, but, occasionally, that exposes a lack of diligence on the part of Members of the Senate, and I should have registered some of these complaints at the time that it moved through the Senate, and I appreciate the opportunity to register them here.

My main concern with S. 1487 is that it does not provide details on how it will work, and since its passage, I have been contacted by the Church of Jesus Christ of Latter Day Saints, an organization to which roughly 70 percent of the constituents in my State belong and which is involved in adoption of children. This has a very strong personal impact on me, because it is through the church's social services that my latest grandchild came into being. A delightful young boy, a gorgeous baby who was made available to my daughter through the adoption process that the church manages.

And the leaders of the church are concerned that S. 1487 will open the door to a federalized registry in a way that does not adequately protect privacy and that this may very well have a chilling effect on adoption. The unclear language could create some harmful situations, and I will provide for the committee some highlighted provisions in the bill which in the opinion of the church's legal authority produce the kind of uncertainties that they are concerned about.

Now, the purpose of the legislation is to reunite people separated from each other by the adoption process, and in many cases this is a very desirable thing. It's a choice on the part of the individuals and should be available to them. However, if the reunion is desired by the involved parties, they can take advantage of the systems that are already offered in the States. Virtually, every State has sort of system in place that people seeking identification may use. And, again, if I may be personal, I have a brother and sister-in-law who were unable to have children; have adopted four children. Three of their four children decided they wished to make some kind of contact with their birth parents; the fourth did not. All three were able to do so without any difficulty under the present system and did not find it necessary for this kind of legislation to be in place in order for them to fulfill their desire.

Existing State laws provide what each States deems appropriate for dealing with the rights and interests of the adoptee and their adoptive parents, and it's more logical when dealing with personal and confidential family matters such as these to work within the framework of the States instead of opening it up to the Federal

Government, and superimposing a duplicate, regulatory procedure, in my view, would cause confusion and open up more problems.

Many involved in the adoption process were promised that their identity would be protected and honored by all parties associated with this for their entire lives. Again, if I may be personal, one of my nephews had a disease which the doctors decided should be traced to some kind of genetic background, and for this purpose and this purpose only he went about trying to find his birth parents. He had previously had no interest in so doing. He did achieve his goal and had a conversation with his birth mother. It was preceded by a phone call where he asked if such a woman were at home; was told yes; then asked did she have a child 21 years ago. There was silence on the other end of the phone, and the individual said, "I don't know." He then spoke to her; achieved the medical information that he was after, and then she said this has created a very interesting and difficult situation for me. "My husband does not know that I was pregnant with you. No member of my family had any previous knowledge that I had had another child, and your phone call will produce some challenges for me in my situation."

So, we need to pay attention to the desire of people to keep certain aspects of their lives private, and Federal legislation could lead to a perceived problem with this kind of privacy. If it causes less adoptions, again, speaking very—and more abortions—speaking very personally, I would have one less grandchild.

For these reasons, Mr. Chairman, I appreciate the opportunity of speaking with the committee and will file further information with the committee in written form.

Chairman SHAW. Thank you, and I thank all of the witnesses for your testimony.

Mr. Camp, you may inquire.

Mr. CAMP. Thank you, Mr. Chairman, and I want to thank the Senators and Chairman Bliley for coming, and, Senator Levin, thank you for all your hard work on this. We've visited about this and I think this is an opportunity to try to have a public discussion about this legislation, and I certainly am sympathetic to the idea of trying to unite two adults who would both like to be reunited.

Because your legislation is silent on the mechanics, which I understand why it may be, there is some question about how the authenticity of the information; how it's guaranteed that the identifying information is authentic. You've heard the testimony about whether or not only one birth parent may not have consented or may not have desired to be reached or a sibling for that matter. How would the rights of people who do not wish to be identified—how would they be protected under this legislation?

Senator CARL LEVIN. The passive registries in the States require that both parties place the information into the registry. It's only if both parties want to find each other is there a match. There's no search provision in this bill. It's very explicitly not a search bill, so the answer would come, I think to your question, by looking through the processes of the State registries which have not had a problem. I mean, we have letters from State registries. For instance, we have a letter from the Louisiana registry, for instance, which says that the single—Louisiana has not encountered any problems with one-parent reunions with an adoptee, and we don't

know of any registry that have these one-parent reunions which has had problems with that.

So, the HHS, if they followed this, would follow the kinds of procedures in terms of information which would be in their registry and that would be matched with each other, that the passive State registries would have.

Mr. CAMP. Which would—and I apologize for being a little bit late to your testimony—which would be mainly possible place of birth, age, or estimated age; those kinds of identifying factors that you might——

Senator CARL LEVIN. Ironically enough, it's called non-identifying information which I think is the accurate name but a confusing name, because it doesn't identify the name of either the biological parent or of the child. It doesn't even necessarily identify the birth place. They may not know the birth place. For instance, in the case of the adopted child, they may not know the birth place. In the case of the birth mother, for instance, she may not know where the child was adopted; it may have been taken to a different State for adoption.

This information, typically, is the following—and this is what I gave before, but let me give you some examples; it's called non-identifying information—age of the birth parents, description of general physical appearance, race, ethnicity, religion of birth parents, facts and circumstances relating to adoptive placement, age and sex of other children of the birth parents at the time of adoption, occupations, interests, skills of birth parents. Those are the kinds of non-identifying information which these passive registries then use to match two people who are looking for each other, and only if there's match do they make it.

Mr. CAMP. Well, assuming there are other siblings, for example, that were in the same family that were adopted. You have one sibling that has a desire to find his or her birth mother that wants to find her child, but the others don't want to be found and don't want to find their parents. You potentially expose them to being found out if the two connect and they find there are other children, do you not?

Senator CARL LEVIN. The registries, the passive registries, in about 20 States have not had that problem. I think the best answer is the experience of the registries, the passive registries, and that's what we have checked. We have checked with those registries to see whether or not there has been a problem of the invasion of privacy of somebody who doesn't want to be found, and the answer is there has not been. So, the HHS would follow the procedures of the passive registry States.

Mr. CAMP. And I don't know if I'll have enough time, but one last question: For example, in Michigan, you cannot get this identifying information if the adoption occurred before September 12, 1980—between May 28, 1945 and September 12, 1980. There is no release of information. Those are completely closed adoptions. So, you're going to have this patchwork quilt, so you would only be talking about adoptions after 1980, for example, in Michigan.

Senator CARL LEVIN. In Michigan now?

Mr. CAMP. Yes, and it would require that the parents have not filed a statement refusing to disclose information. So, if they filed

one of these statements or if they failed to do that, it's presumed that they can get information at least to locate a birth certificate.

Senator CARL LEVIN. There wouldn't be a match in that case. In other words, if that information is not available for the registrar, you wouldn't have the match.

Mr. CAMP. Well, I realize you have a non-preemption clause for a very good reason in your bill, but would that, on the same hand, the non-preemption clause prevent the implementation of this national registry because of that?

Senator CARL LEVIN. No, it would just mean that in those cases that you just identified, between 1945 and 1980, there would not be a match if that was a Michigan birth. There's not going to be a match in every case where people want to find each other. It seems to me what you're saying is very true; that you could have situations where people want to find each other where there is no match, because there's not enough information in the registry to permit the match occur, and I think that's very possible that will happen. But why where there is enough information available to people finding each other that the match can be made would we not want to facilitate two adults who want to find each other, find each other, just because in other cases there's not enough information to make the match for two adults who seek to find each other which is your case?

Mr. CAMP. Thank you very much.

Chairman SHAW. The gentleman's time has expired.

Mr. Levin.

Mr. SANDER LEVIN. Mr. Camp, you referred to kind of the patchwork, and I don't understand, really, the resistance to this, because what we now have is a total patchwork, because people who are looking for each other, if they don't know where to look, essentially, are thwarted, and that's the craziest patchwork of all, it seems to me.

So, Senator Bennett, welcome, and we're glad you're here. Let me take the case that you gave of the genetic problem. In many cases where a person, a young man, I think it was, is in need of finding out some information, if that person doesn't know where to look even if his mother also wants to find him, that match may be impossible. There is no system that allows people from one part of this country to find someone in another part of the country. In your case, the young man was lucky, because he had some hunch where to look. Where you have a country of 250 million, 3,500 miles across, taking a match may be impossible. What this proposal does is take State registries and put them into a system so people can find each other. How do you answer the person with the genetic problem who can't find his mother or father, because he doesn't know where to look?

Senator BENNETT. My concern is not with the concept that we ought to facilitate situations where there is a legitimate and proper reason for people to get together. My concern is with the language of the bill that I consider to be unclear that could create situations where someone who has very legitimate reasons not to be found can have that privacy violated.

Mr. SANDER LEVIN. Can't we, though—first of all, there has to be two people looking for each other, but if there is some concomi-

tant problem of confidentiality, I assume that we can handle that. As I understand the laws in both of your States—and I'm not an expert on this—for example, in Virginia, there's a search and consent system for someone over 18. This bill doesn't even go that far. Both parties have to have said they want to find each other. In Virginia's case, if someone who is adopted wants to look for their birth parent, they can obtain the information that is involved in this bill, and then the person who is found has to say yes or no. That's the law of Virginia. This bill says, "No, we're not even going to assist someone who is looking if the other person hasn't already consented." Now, I don't understand what the issue is in view of the fact that most of the States, or a good number of them, already have either what is in this bill, a passive registry, or something that goes beyond it.

Mr. BLILEY. Well, I don't think there's a need for this bill. It doesn't preempt the States. It's just like Dave Camp pointed out regarding Michigan; prior to 1980, those records are sealed. The reason they were sealed is to protect the privacy of people who don't want to be found.

Mr. SANDER LEVIN. But then they wouldn't be in the system. The law, I think, in Michigan is if it occurred before 1945 or after 1980—but I'm not an expert, and I don't think it matters. I think Mr. Camp's point, essentially, his question is salient. And the answer is there wouldn't be that system in operation then. There's a uniform code suggestion, uniform State law, that essentially says that if one birth parent and an adoptee register a willingness to disclose their identities, the identifying information must be disclosed. They want every State to do that. The problem is it's like support laws, Mr. Chairman. We've had to have a national system working with the States, not obliterating State law, because people could not find each other in the sense that the mother usually could not find the father who had escaped a state's jurisdiction. In this case, you have two people looking for each other. They're looking for each other, but State law won't be adequate unless you enable states to coordinate with each other somehow.

Mr. BLILEY. Well, it seems to me, that the State law is there. If the State law says that this is sealed, you're not going to get the information anyway.

Mr. SANDER LEVIN. That's true, but this is where State law—and I'll finish—doesn't seal; it allows people to obtain this information where the——

Mr. BLILEY. But it's not necessary.

Mr. SANDER LEVIN. Because you don't know where to look, Mr. Bliley.

Mr. BLILEY. People who adopted the child know where the child came from, and they——

Mr. SANDER LEVIN. But the person who was adopted is an adult, and that information is not available to that person. It may not always be available to the person who adopted either, and that isn't always available. And the question is where you have two consenting adults looking for each other, why not help them?

Chairman SHAW. Mr. McCrery.

Mr. MCCRERY. Gentlemen, I have real mixed emotions about what's before us today. On the one hand, I feel for those people who

genuinely want to find their birth parent or birth sibling. On the other hand, I want to encourage adoptions as much as possible in this country, and I do share Senator Bennett's fear that this could, at least at the margin, discourage people from having their baby and putting it up for adoption. So, I have real mixed feelings about this.

Let me ask just a couple of questions to try to clear up some things. I never did get a good answer, Senator Levin—or at least, I never heard a good answer—to Mr. Camp's question about non-consenting parents being exposed, if you will. You have two parents to a child that was put up for adoption, and let's suppose that at the time those parents decided to put that child up for adoption they agreed never ever to expose their identity to the child, and for whatever reason, one of the parents changes his mind 20 years later or 21 years later and puts his name on one of these registries, or our registry, and, sure enough, the child is wanting to find out, so he puts his name on the registry. They find each other, and the one parent says, "Oh, by the way, your other parent is Ms. X." Is there anything to protect a non-consenting parent or sibling?

Senator CARL LEVIN. Experience proves that that has not been a problem. That's the most direct answer that we can give. The alternative would be to require a sign-off by the other person which then would require a search. The person may have disappeared; may be dead; may not be available. So, the choice that the State registries have had to make is, do we try to make very clear and carefully make the match and then see whether or not there's a problem of this kind—and they've found no problem of this kind—or do we require the consent of the other parent which is frequently not obtainable and then would destroy the possibility, since you can't obtain that in many cases where the person has disappeared or died, of making the match. But it's experience which is my answer to you. Talk to the registries——

Mr. MCCRERY. Yes, I heard that answer earlier.

Senator CARL LEVIN. Well, let me—if I could just read the Louisiana letter, for instance. Louisiana has not encountered any problems with one-parent reunions and an adoptee.

Mr. MCCRERY. What does that mean?

Senator CARL LEVIN. That means there have been no problems of invasion of privacy of the other parent.

Mr. MCCRERY. Oh, that's a specific reference to that problem, that potential problem?

Senator CARL LEVIN. That is what we asked them about.

Mr. BLILEY. But there is no guarantee.

Mr. MCCRERY. Yes, that was my next question. There's nothing in your bill, though, that requires consent of the other parent or——

Senator CARL LEVIN. We follow the State registry in that regard. In other words, the State passive registries——

Mr. MCCRERY. Well, in Louisiana, for example, if I'm not mistaken, they require an hour of counseling with somebody who's name goes on the record, the registry, and I'm sure in that counseling they probably go through, "Do you know who the other parent is? Did you have some agreement? Does he have an objection?"

Something like that; that's my guess that they would go over those things. So, that could lead to fewer problems.

Senator CARL LEVIN. I think that's right.

Mr. MCCRERY. But you're legislation doesn't have any of that, does it, of counseling?

Senator CARL LEVIN. Well, we leave the HHS to implement this by regulation the way they implement a lot of our laws by regulation, and that would surely be proposed as part of——

Mr. MCCRERY. So, HHS could counsel everybody who wants to join the national registry? And this is supposed to have no cost?

Senator CARL LEVIN. They could require counseling the way other registries require counseling. No cost means you've got to pay a fee which covers the cost, and if the counseling costs, for instance, in any States' registry, there's a cost.

Mr. MCCRERY. So, you anticipate charging a fee to put your name on the registry that would cover all administrative costs?

Senator CARL LEVIN. That is correct.

Mr. MCCRERY. What about the potential problem of people supplying information to the national registry and that information is not authentic? It's not accurate; it's made up; it's not authentic. In the States' case, they have the records, so they can go into the records and verify, authenticate, information that's provided by a person. We're not going to have that ability, are we, because we can't force the States to divulge their records to us? So, how do we solve that problem at the national level that the States solve by going into the records?

Senator CARL LEVIN. I'd have to check out my answer on this question, because I'm not sure that I'm right, but I don't believe that most States with passive registries go into records. I think those records are sealed, and the match has got to be made on the basis of information which is available to the registry without going into the sealed records, but I'd have to double check that to give you a sure answer to your question.

Mr. MCCRERY. Well, we're going to have some folks, I think, from the States in a later panel, so we can maybe get the information from that panel.

Senator CARL LEVIN. Yes, they could give you a more certain answer. If I could, Mr. Chairman, for the record, If I could put in a letter from the organization called Adopt a Special Kid, addressing the abortion issue, indicating in their letter, in their statement, that there's no data whatsoever to support the claim that there will be any increase in the number of abortions?

Chairman SHAW. Without objection, it will be made a part of the entire record.

[The information follows:]

A NATIONAL MUTUAL VOLUNTARY ADOPTION REUNION REGISTRY DOES NOT INCREASE ABORTION

Some people have tried to assert that providing adoptees and birth parents with an opportunity to make contact will increase the number of abortions. There is no data whatsoever to support this claim. In fact, studies show just the opposite.

Kansas and Alaska are the only states where adult adoptees have, for decades, been able to see their birth certificates, on request. A comparison of adoptions and abortion rates in Alaska and Kansas with rates for the entire U.S. and with rates in the four states that adjoin Kansas (Colorado, Missouri, Nebraska and Oklahoma) show that adoptions are far more frequent and abortions **less** frequent in Alaska and Kansas that in the U.S. as a whole. Kansas also has a Search and Consent system.

Adoption and Abortion Rates*

State	Adoption Rates**	Abortion Rates***	
	1992	1987	1992
Unites States	31.2	26.7	25.8
Alaska	53.5	21.5	19.4
Kansas	48.4	13.4	12.7
Colorado	26.0	21.1	21.9
Missouri	27.5	19.6	17.0
Nebraska	42.4	15.5	13.9
Oklahoma	47.6	14.7	12.7

Some have attempted to explain Kansas' abortion rates away with a parental notification statute passed in 1992. They are unable to explain, however, lower abortion rates in 1987 which long predate the parental notification statute. Furthermore, they have no explanation for Kansas' high adoption rates. One witness attempted to explain away Alaska's figures by pointing out that only one hospital in the state is currently performing abortions. She did not say when the other hospitals ceased. It is apparent from 1987 figures, however, that Alaska had fewer abortions than the U.S. as a whole.

* 1992 is the most recent year for which all data are available.
** Adoptions per 1,000 live births.
*** Numbers of abortions obtained by residents, per 1,000 women residents of child bearing age (15-44).

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Chairman SHAW. Mr. Cohen?

Mr. Watkins?

Mr. WATKINS. I've been sitting here trying to wrestle through this. I'm an adoptive dad. I have an adopted daughter. I know we can come up with all the different things that might happen. My adopted daughter's biological mother was a drug addict and an alcoholic. I'm trying to figure the link or what the situation would be of protection of the young ladies—I shouldn't just say the young ladies—but there are many cases out there where young ladies are given up because of abuse, sexual abuse, and many other things. How do we prevent—I know it's supposed to be, I guess, one parent—how do we prevent that possibility of maybe the other parent that was abusive from being linked up some way?

Senator CARL LEVIN. Are you assuming that the child and one parent want to find each other?

Mr. WATKINS. That's the case——

Senator CARL LEVIN. In your case?

Mr. WATKINS. Yes, in this case, I won't use that as a person but as a situation—I know there's probably case after case like that out there, and I know probably the most difficult thing I've ever done is to go and to ask that biological mother to give up her daughter, and the question I have is how do we prevent the young ladies from having to go through that turmoil again?

Senator CARL LEVIN. But I want to be real clear that in your question, the young lady wants to find the biological mother.

Mr. WATKINS. Right, and only the biological mother.

Senator CARL LEVIN. Only. Okay, but wants to find the biological mother, and she's an adult. The adopted child is now an adult. That's your case?

Mr. WATKINS. That's the case.

Senator CARL LEVIN. Then she wants to find her biological mother, and if her biological mother wants to find her, that's the case that we're talking about? The question is should we help them find each other? That's the question, and the answer, I believe, is yes, and you're saying what about the possibility, then, that the father who she doesn't want to find?

Mr. WATKINS. She was living in a home there. The parents may or may not still be living together or they have the complications there, and that turmoil that could occur again in the life of that young lady.

Senator CARL LEVIN. I think that that's Congressman McCrery's question, although——

Mr. WATKINS. I started to say he was coming close to it.

Senator CARL LEVIN. Yes, and the State registries follow—have the same question. They face the same question, and they have decided that they will allow two adults who want to find each other to find each other, and they will help two adults who want to find each other to find each other and face that same question, what about that second biological parent, though? Isn't there a possibility somehow they will find out? Now, through counseling or other means, the State registries have not had a problem in this regard that we can determine, but that's best checked out with the State registries. They have not had a problem, but then you must weigh the need of people who are looking for each other to find

each other against that possibility which is not proven to be a reality in experience. That's the answer which I think the State registries will give to you, but that's the experience of the State registries. It's the same challenge that they face.

Mr. WATKINS. Senator, if you've ever dealt with such an abusive environment, there is a tremendous amount of manipulation that takes place in the minds of some people who either have an alcoholic or drug situation or many other problems that They will manipulate any way, shape, form, or fashion to take advantage and they could put the name on that registry along with the other parent, and it's concerning, to say the least. How do you protect that person that maybe would like to try to find that mother to a certain extent, but they don't want to have anything to do with an experience that they have a real problem about today.

Senator CARL LEVIN. And I think your State registry could give you the way in which that person has not been "outed"—the word that's been used here—has not had their privacy invaded in the practice and reality of State registries that are passive registries. It has not proven to be a problem. To not allow, not facilitate, two adults who want to find each other to find each other because of the possibility that you raised which has not proven to be a reality, it seems to me, is the wrong solution to a real problem of adults who seek to find each other.

Chairman SHAW. The time of the gentleman has expired. Go ahead, do you one quick one?

Mr. WATKINS. First, quickly, what do you consider an adult ought to be. Have you ever dealt with these kind of people?

Senator CARL LEVIN. Yes.

Mr. WATKINS. The manipulation that comes about?

Senator CARL LEVIN. Yes.

Chairman SHAW. Mr. Jefferson?

Mr. JEFFERSON. I can see both sides of the question, and I know what you're trying to do with the nationalizing of this effort to make sure that people who aren't in the same State have access to information from people across other parts of the country as Sander said, and I think that probably is a reasonable idea. The bill permits for siblings who are looking for each other to register here, not just parents and children, right?

Senator CARL LEVIN. Correct.

Mr. JEFFERSON. You've said that problems haven't arisen in various States concerning questions which McCrery and which Watkins raised a few minutes ago, and you said pretty emphatically—and, perhaps, it's true—but how do you know that—because of each one of these passive laws is a little bit different. The one in Louisiana is a little different from the one you proposed here, and what reports have you gotten about what really happens with respect to these issues they've raised? I mean, how certain are we about the answers you've given? You may have nothing available to you to show that there are problems, but that doesn't mean there aren't any, and how do we make sure that we have some way to deal with it in this legislation?

Senator CARL LEVIN. I think that the witnesses that support the bill will be testifying will address that issue in terms of their research. That is a matter of research. We've done research in our

office talking to all the registries, but that doesn't help you satisfy yourself for me to tell you that we've done that research. You would have to hear, I think, from your own registries on that question, and, perhaps, those of you who have these registries could check with your own registries in your own States. I think that would be the best evidence that you could get.

Chairman SHAW. Our registers here, so I'm going to be able to do that in just a few minutes.

Mr. JEFFERSON. Are there any complications that arise with the siblings who are looking for each other and who have the good fortune to find each other with parents who are involved but don't want to be found? Anything like that going on? Is there any difference between a parent and a child looking for each other and siblings looking for each other and the complications and implications that result with respect to that?

Senator CARL LEVIN. Not that we are able to determine. In terms of our survey of registries. We have the experience with these registries in most States, and the issue is since they can't do the job under the circumstances which we've identified, should we then be able to do the same thing State registries do and fill in that gap, but the experience of the State registries in this area, it seems to me, should be reassuring to us that we're not creating a new animal here. We're just simply patterning this over the most modest of the registries which are the passive registries.

I think the best answer that would come from the registries of the States—and I can't tell you that there's never been a problem with any match in any registry; I doubt that that would be an accurate statement, but I can tell you that I don't believe this has proven to be a problem with the registries, and they would tell you that these passive matches have worked very well, and they may have a few wrinkles or problems, but, generally, they have.

Mr. JEFFERSON. Thank you.

Chairman SHAW. Thank you. I want to thank this panel. We're going to have to—by the way, this is a very complex issue that's full of fish hooks and a lot of problems that we're going to have to try to deal with.

Senator CARL LEVIN. Mr. Chairman, may I also add to the record just a couple additional letters including the——

Chairman SHAW. Yes, the gentleman may add anything he wishes to the record.

Senator CARL LEVIN. Thank you.

[The information follows:]

State of Louisiana
Department of Social Services
OFFICE OF COMMUNITY SERVICES
333 LAUREL STREET
P. O. BOX 3318 - PHONE - 504/342-2297
BATON ROUGE, LOUISIANA 70821

M. J. "MIKE" FOSTER, JR.
GOVERNOR

MADLYN B. BAGNERIS
SECRETARY

June 9, 1998

The Honorable Carl Levin
United States Senate
Washington, D.C. 20510-2202

Dear Senator Levin:

We wish to comment on the proposed National Voluntary Mutal Reunion Registry which is scheduling for hearing in the House Ways and Means Subcommittee on June 11, 1998.

Louisiana has had a passive match registry, the Louisiana Voluntary Registry, since 1982. We have had 189 matches, with approximately 856 adopted adults and 385 birth parents waiting who have completed the registry process. It appears that we are now having about 30 reunions a year. Louisiana recently added siblings to the registry during the 1997 legislative session and have completed two sibling matches from 15 siblings that are registered.

Louisiana has not encountered any problems with one-parent reunions with an adoptee. We were advised in 1991 that the Louisiana state statue, although similar to the National Committee on Adoption's Model Act, mandates notification of a match between a registered adopted person and a registered biological parent. Concerns about invading the privacy of an unregistered biological parent must be addressed through the careful and confidential manner in which the registered parties are given the information necessary to contact each other, which is also mandated in our law. We were told our greater liability was in failing to disclose a match.

We feel the Louisiana Voluntary Registry is working fairly well, however, the national registry may be able to alleviate two major problems. The first is that many birth mothers do not know where their child's adoption was finalized; they know they surrendered their child in Louisiana, but do not realize that the adoption could have

occurred in another state, and usually, if this occurs, do not know which state. Secondly, birth parents of international adopted adults may also meet the same problems of knowing which state to contact if/when they search.

Thank you for allowing us to make these comments. If you have any further questions or comments please do hesitate to contact us.

Sincerely,

Ada K. White
Adoption Program Manager

AKW/akw

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February 18, 1998

Rep. Sander M. Levin
House Subcommittee on Human Resources
2209 Rayburn HOB
Washington, D.C. 20515-2212

Re: S. 1487 National Voluntary Mutual Reunion Registry

Dear Congressman Levin:

The American Academy of Adoption Attorneys strongly supports passage of S. 1487 which would establish a national voluntary mutual reunion registry. We respectfully urge you and your colleagues to pass this much-needed legislation.

The Academy is a national association of attorneys who practice in the field of adoption law. There are more than 300 members of the Academy from around the country. The Academy's work includes promoting the reform of adoption laws. As such, the Academy supports legislation which is of benefit to those whose lives have been touched by adoption. S. 1487 is such legislation.

If the Academy can assist you and your colleagues by serving as a resource during your consideration of this important legislation, please call upon us.

Very truly yours,

Mark T. McDermott

Mark T. McDermott
Legislative Chair

cc: Sen. Carl Levin
Sen. Larry E. Craig
Sen. John McCain
Sen. Mary L. Landrieu

MICHAEL EDWARD REAGAN

October 6, 1997
15260 Ventura Boulevard
Sherman Oaks, California 91402

The Honorable Carl Levin
U.S. Senate
Room 459 Russell Building
Washington, D.C. 20510

Dear Senator Levin:

Once again, I would like to convey my strong support for the National Voluntary Reunion Registry which you are proposing along with Senators Craig, McCain and Landrieu. I believe wholeheartedly in your humane approach to facilitating the desires of adult adopted persons, birth parents and separated siblings who seek to know one another.

As you know, I am an adoptee who has had the great privilege of meeting my biological brother and sister and learning about the life-time of loving and caring by my birth mother, who died several years prior to my reunion with my siblings. As we discussed during our meeting at your home a few years ago, my adoptive father, Ronald Reagan, supported my desire to meet my birth mother and helped me in my early efforts. When my father helped me, it was the greatest gift he ever gave to me.

It is my hope that this compassionate legislation will be appropriately included in the final Foster Care and Adoption Promotion bill enacted into law. I would have used such a registry myself, and it has become apparent to me that my birth mother would have also.

In closing, I'd also like to commend you for your insightful efforts in all aspects of adoption, particularly, your co-authorship of the 1980 law establishing the Foster Care Adoption Subsidy and the 1981 law you authored creating the first ever adoption expense tax deduction for special needs adoptions.

With all good wishes.

Sincerely,

CATHOLIC HUMAN SERVICES, Inc.
1000 HASTINGS ST. • TRAVERSE CITY, MI 49686 • (616) 947-5110 • FAX: (616) 947-3527

June 1, 1998

Senator Carl Levin
459 Russell Senate Office Bldg.
Washington DC 20515-6351

RE: National Mutual Reunion Registry

Dear Senator Levin,

Greetings from a fellow Michigander! I am writing to encourage you to press ahead with your work on the federal adoption registry. It is good to see "our own" lead the way on a proposed bill that is of great interest to me and countless other citizens of our good state.

Before I go further, allow me to briefly introduce myself. I have worked in the field of adoption for more than 24 years and am presently the Child Welfare Supervisor for Catholic Human Services, Inc. I am the editor of *Adoption Without Fear* and am the author of a recently published book entitled *The Spirit of Open Adoption*. Over the years I have organized six national conferences on adoption which have been held in Traverse City. With the assistance of colleagues I am in the process of organizing the American Association of Open Adoption Agencies.

I view your proposed registry as modest yet important and necessary step forward in the field of adoption. We who labor to do this work ethically need the help of our political leaders to improve the image of adoption. I am deeply saddened by the fact that many people--adoptive parents and birthparents alike--steer clear of adoption because they view it as bureaucratic and inflexible. If adoption is to be credible, it needs get serious about serving the "best interests of children." I have long marveled over the fact that, while the Michigan Adoption Code explicitly states that in the event of a conflict of interests among the parties involved the interests of the adoptee shall be "paramount," we routinely deny their reasonable inquiries *even when they are adults!* That leads me to think that not only does the institution of adoption need a credibility boost, the laws themselves need a credibility boost. If we

want adoption to thrive, it must have the flexibility to meet individual needs.

The need you are addressing is formidable. Although we are a modest-sized agency, hardly a week goes by without a call from a birthparent or adopted person expressing interest in the people on the other side of the adoption equation. Rest assured these are not peculiar people on the brink of bizarre behavior. Hardly. I find that they are well-meaning, average people expressing a normal, understandable interest in the people who are part of their life stories. I am pretty sure that if you or I wore their shoes, we would have the same sort of reasonable curiosity and concern about our genetic relatives.

Although the issues of adoption seem to have remarkable powers to stir the emotions, your bill strikes me as one of those pleasing situations where inflammatory politics can be put aside and common sense can prevail. Earlier I called the idea of a national registry "modest," and I mean that. As you well realize, your bill is far from a radical proposal. The fact that the registry idea draws criticism from very conservative and very liberal groups suggests to me that it resides right in the sweet spot of effective compromise.

Senator, I have dedicated all of my professional energy and creativity to making the adoption system more responsive to the needs of the people it serves, and I would be very disappointed if we lost this opportunity to serve people in need. I know this bill has a long history. Frankly, given the sensible nature of your proposal, I find the resistance you have encountered very surprising. Despite the frustrations of the process, I sincerely hope you will persevere and see this honorable effort through to fruition.

Thank you for considering my thoughts.

Sincerely,

James L. Gritter, MSW
Child Welfare Supervisor

Chairman SHAW. We have a vote on the floor. We're going to recess for approximately 15 minutes, and then we'll look forward to the second panel.

[Recess.]

Chairman SHAW. I apologize to those in attendance, and particularly our next panel. We had three votes. And that was the—three 15-minute votes, so that's where it was.

Our next panel is already seated. Josette Marquess, who is the coordinator of the Florida Adoption Reunion Registry and the Post Adoption Services Unit, Department of Children and Families in Tallahassee, Florida; Naomi Cahn, who is the associate professor of Family Law at George Washington University Law School; Jo-Anne Swanson, who's director of Post-Adoption Support Services, Wetmore Michigan; Robert Robinson, who is the commissioner, National Conference of Commissioners on Uniform State Laws, from Portland, Maine; David Wilson, who is an adult adoptee from Arlington, Virginia, and Carol Sandusky, who is an adult adoptee from Doylestown, Pennsylvania.

Welcome, all of you. We have your full statement, which will be made a part of the record. And we invite you to summarize.

Ms. Marquess.

STATEMENT OF JOSETTE MARQUESS, COORDINATOR, FLORIDA ADOPTION REUNION REGISTRY AND POST ADOPTION SERVICES UNIT, DEPARTMENT OF CHILDREN AND FAMILIES, TALLAHASSEE, FL

Ms. MARQUESS. Mr. Chairman and distinguished members of the subcommittee, good morning and thank you for the invitation to testify before this committee on the Florida Adoption Reunion Registry and the possibility of the establishment of a National Reunion Registry.

My name is Josette Marquess, and I am the Coordinator of the Florida Adoption Reunion Registry. Our registry is located within the Florida Department of Children and Families.

The Florida Adoption Reunion Registry was established in 1981 and became operational in Fiscal Year 1982. The registry was originally located with the Florida Bureau of Vital Statistics and was moved to the Florida Department of Children and Families in 1985.

The Florida Adoption Reunion Registry is a confidential, cross-referenced file of people who are or were the principal parties in an adoption. This includes adult adoptees, birth parents, siblings, grandparents and adoptive parents of minor and adult children. Our registry is passive in that we wait for a match. We do not actively search out either the adoptee or the birth parent to encourage one of the other to register with us. It is the only method that we have in Florida to reunite adult adoptees with members of their birth families without either having to take court action.

The success of the Florida Adoption Reunion Registry rests primarily on our ability to carefully verify all information submitted to us before we enter an applicant into the registry database. All applicants to the registry are required to provide proof of identification when they submit their registry application. Once we receive a completed registry application it is sent to the Office of Vital Statistics for verification of the birth and of the adoption. The applica-

tion is then returned to us with notice of verification and only at that time is an individual listed in our registry.

When we have a match, we determine that there is a match between an adult adoptee and the birth parent by matching several factors: the maiden name of the birth mother at the time the baby was born and subsequently placed for adoption; the date and place of the birth of the child; and, in Florida, the birth registration number shown on the original birth certificate and on the amended birth certificate are shown to be identical. And, if warranted, we will look at various other social factors from the adoption record that they may be needed to confirm the identity of the birth mother.

Each registrant in the Florida Adoption Reunion Registry has voluntarily indicated that they wish to have their identities revealed and made known to other parties involved in the adoption in the event that there is a match. If a particular registrant does not wish to have their identity immediately known, they have the option of naming another person, agency, or attorney to act as their agent in the event that there is a match.

As of April of this year, there were 5,600 people in the Adoption Reunion Registry. The breakdown is: 3,133 adult adoptees; 2,165 birth parents; 74 grandparents; 147 siblings; and 149 others. "Others" are generally the people who have been named as an agent, for an adult adoptee or birth parent.

We have had approximately 135 matches since the inception of the registry, the majority of these matches occurring since 1992. We average two to three matches per month. We have found, as is the case with most State registries, that as the database grows, the number of matches increases. We have a number of people in the registry that we realize there probably will never be matched. These are older adoptees and older birth parents. However, for us, hope springs eternal, and we continue to keep these applications active. There is always the possibility that we may be able to make a match between siblings or another family member at some later time.

The cost of the operation of the Florida Adoption Reunion Registry is approximately $16,500 a year. That's the annual salary for a part-time employee, who happens to be an MSW student, who has the responsibility for processing checks, verification of the birth and adoption information with Vital Statistics, and entering the information into the database.

The position is funded in part by registry fees, which is a $35 application fee for the initial registration, and $10 for the update fee. The remainder of the salary for this position is paid for out of general revenue funds earmarked for social work students.

Florida is a sealed adoptions record State. That means that at the time the adoption is finalized in the court that all records associated with the adoption are sealed by State law. The records may only be unsealed by the court if the adult adoptee or the birth parent or the adopted parent are able to provide to the court sufficient reasoning to unseal the record.

We see records unsealed in Florida primarily because of a documented medical or psychological illness. We do not unseal records in Florida to determine if there is a match. We do, however, have

access to confidential birth and adoption information from the Florida Department of Health, Office of Vital Statistics. This cooperative agreement is allowed for by the statute that created the registry, and it allows us to assure the veracity of the birth and adoption information. When we make a match, we are reasonably certain that we have connected the right adult adoptee with the correct birth mother or member of the birth family. Because of our verification process, we have assured ourselves, and more importantly we have assured the people involved in the adoption, that this is a correct match based on factual information. And yet, almost without fail, when we notify a registrant that there has been a match in the registry, the first question they ask is: "are you sure?"

I was asked to review and consider S. 1487. I believe that without verification of information from both the adoptee and the birth parent, the possibility of identifying the wrong person is very great. And it can be heartbreaking for both the adoptee and the birth parent when they finally find out they have been in touch with the wrong person.

Within the last six months, our office has been contacted by approximately 20 people who have found each other on the Internet. All were sure that they had finally found the right person that they were looking for. However, when we have taken them through our registry process, we were only able to verify two matches.

As I understand S. 1487, it states that no State's laws regarding adoption and confidentiality would be pre-empted by this legislation. My concern, then, is how do you put two people in touch with each other for the purpose of effecting a reunion if you don't know for sure that you are reuniting the right two people?

Finally, in my consideration of this legislation, I have some thoughts that I'd like to take a minute to share with you about adoption reunions. Not every reunion is happy. Not every reunion is good for the adoptee, the birth parent, or for the adoptive family. I have spoken with birth mothers, adoptees, and adopted parents who have told me they wished they had not pursued an adoption reunion. I've also spoken with birth mothers who have kept their secret for all of their adult lives; that for 25, 35, 45 years they have never uttered a word to anyone that they had a child out of wedlock and placed that child for adoption. These women are fearful today that their adult children would not understand that husbands would leave and that their worlds would be shattered. Many of these birth moms signed to consent for adoption of their baby hoping and praying that they had made the correct decision, but also expecting that the adoption agreement they entered into would be honored for all of their entire lives.

As I told you before, I am also court ordered to search for birth moms to obtain medical information and to determine if they wish to have contact with their adult children. Within the last four years, a full 40 percent of the birth moms that I have been court ordered to search for and contact have declined to have a reunion with their birth child.

My final concern in having a national registry with no method of verification has to do with the possibility of creating a cottage industry of private searchers, investigators, agencies, groups, and

individuals who are waiting in the wings to verify—to provide verification that adoptees and birth mothers and families desire. They are in the search business for financial gain. This is a lucrative business and one that, for the most part, is entirely unregulated. Adult adoptees and birth parents searching are among our most emotionally vulnerable, and they will pay almost anything to get the answers they want. As I stated earlier, I am court ordered to search for both adoptees and birth parents, and a successful search usually can be conducted for less than $400. Yet it is not unusual for me to hear from birth parents and adult adoptees who have paid thousands of dollars for an unsuccessful search.

I would suggest that instead of the establishment of a national registry that advocates for more openness in adoption and the sharing of adoption information work instead with their individual State legislators to move toward more openness and sharing of information in the individual State adoption process.

Mr. Chairman, I hope that this information has been helpful to you, and I thank you and your colleagues in consideration of this very important matter. I thank you for the invitation and the opportunity to testify before this distinguished committee.

[The prepared statement follows:]

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

June 11, 1998

TESTIMONY OF JOSETTE P. MARQUESS

Coordinator, Florida Adoption Reunion Registry and Post Adoption Services Unit
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700
(850) 488-8000, Ext. 103

Mr. Chairman and distinguished members of the Subcommittee: Good morning and thank you for the invitation to testify before this committee on the Florida Adoption Reunion Registry and the possibility of the establishment of a National Reunion Registry.

My name is Josette Marquess and I am the Coordinator of the Florida Adoption Reunion Registry. Currently the Registry is located within the Florida Department of Children and Families, Family Preservation Unit.

The Florida Adoption Reunion Registry was established by the Florida Legislature in 1981, and became operational in state fiscal year, 1982. From 1982 through 1985 the registry was physically located with the Florida Bureau of Vital Statistics, Vital Records Section in Jacksonville, Florida. The Registry was moved to the Florida Department of Children and Families , Post Adoption Services Unit in 1985.

The Florida Adoption Reunion Registry is a confidential cross-referenced file of people who are or were the principal parties in an adoption. Certain close relatives may also be included if the degree of relationship can be determined. The Registry is available to adult adoptees, birth parents, siblings, grandparents and the adoptive parents of both minor and adult children. It is the only method that we have in Florida at the present time to reunite adult adoptees with members of their birth families without either having to take court action. Membership in the Florida Adoption Reunion Registry is entirely voluntary for both parties. The Registry is also passive in that under current operating procedures we have to wait for a match. We do not actively search out either the adoptee or the birth family to encourage one or the other to register with us.

The success of the Florida Adoption Reunion Registry rests largely with our ability and care to verify all information submitted before we enter an applicant into the registry data base. For birth parents, that means getting a copy of their driver license and another piece of identification that clearly identifies who they are. Adult adoptees are also asked to provide proof of their identity and a copy of their Amended Birth Certificate when they apply to the registry. The completed Registry application is then sent to the Office of Vital Statistics for the verification of adoption. The application is returned to us with notice of verification and only at that time is an individual listed in the Registry.

All of the people in the Florida Adoption Reunion Registry have voluntarily indicated that they wish to have their identities revealed and made known to other parties involved in the adoption. In the event that a particular registrant does not wish to make their identity immediately known they have the option of naming another person, agency, attorney to act as their agent in the event that there is a match.

The registry application fee is $35.00. The registry update fee is $10.00. The fees collected from the registry applications support and pay the staff who carry out the day to day operation of the Registry. We will waive the fee for people who are on public assistance, food stamps, unemployment compensation, incarcerated or who receive some kind of disability payment. The fee waiver is granted only after a written request has been made and the applicant provides proof as to their current financial situation.

As of April, 1998 there were approximately 5,666 people in the Florida Adoption Reunion registry. The breakdown is 3,133 (55.3%) adult adoptees, 2,165 (38.2%) birth parents, 74 grandparents, (1.3%) 147 siblings (2.6%) and 149 (2.6%) others. Since the inception of the registry we have had approximately 125 matches. The majority of the matches have occurred since 1992. We average 2-3 matches per month. We have found as is the case with most state registries that as the data base grows the number of matches increases.

We do have a number of people in the registry that probably will never be matched. They are older adoptee and / or older birth parents. However, hope springs eternal and we continue to keep those applications active. There is always the possibility that we may be able to make a match between siblings or another family member at some later time.

The Florida Adoption Reunion Registry determines that there is a match between an adult adoptee and the birth parent by matching several factors. i. e. the NAME of the birth mother at the time the baby was born and subsequently placed for adoption; the DATE and PLACE of the birth of the child; the Birth Registration Number shown on both the original birth certificate and the amended birth certificate are shown to be identical; and various other social factors that may be obtained by the adult adoptee when they secure their non-identifying information from the state adoption program or from the private adoption agency that was actually involved in their adoption.

When we have a match in the Registry, for us it is a truly joyous occasion. We contact the first person registered by telephone. We advise them that there has been a match and ask if in fact they want to have their identifying information released. (It has not happened very often , but we have found that sometimes people register with us, hoping that there will be match and yet when it actually happens, they are not sure that they want to proceed with a reunion). We then contact the second party registered and determine if they want to proceed with a reunion. Both have to agree again at the time that we determine there is a match that they want to have their identifying information released. Sometimes the registry applicant only wishes to have contact through their designated agent and do not wish to have contact directly.

We have been the recipients of many cards, letters and photographs of happy reunions. We are delighted to have been a part of the process and we take comfort in the knowledge that we have connected two related consenting adults that were separated by adoption. But we have also assured ourselves and the parties involved that it is a correct match, based on factual information and not a match because the people involved want it to be so, or they look like each other or an adoptee somehow hooks up with a birth mother who gave birth to a child in a certain hospital on a certain date.

We do not unseal adoption records in the state of Florida in order to determine that there is a match. We do however access the confidential birth and adoption information that is available to us from the Florida Department of Health, Vital Statistics Section. Having this cooperative relationship with the Vital Statistics Office allows us to assure the veracity of the information that we have and affirm that there is indeed a match.

Under current Florida Adoption Law, adult adoptees are entitled to non-identifying information about their birth families from the sealed adoption record. However, the law has no provision in it to provide birth parents with any information about the adoptee or the adoptive family after the adoption has been finalized and the record has been sealed. We however made an "in-house" policy decision many years ago that we would verify for the birth parent that the child that they released for adoption was legally adopted. Presently we advise birth parents that the adoption of their child was finalized in a court of law, the state that the adoption occurred in and the approximate date of finalization. We do not provide the specific court, the county of finalization or the exact date of finalization as we have found that the provision of this information can be identifying for the adoptive family and we have compromised their confidentiality.

We have heard from adult adoptees who have been reunited in the registry and who have searched for their birth families on their own that the non-identifying information that was provided to them has been helpful in their search and eventual reunion with their birth families.

The cost of the operation of the Florida Adoption Reunion Registry is approximately at $16,500 per year. That is the annual salary of a part time employee,

(MSW student) who is responsible for the processing of checks, verification of birth/adoption information with the Office of Vital Statistics and entering the information into the registry data base. This person is also responsible for contacting the applicants when we have determined that we have a match. This position is funded in part by registry fees. Total fees collected in Fiscal Year 1997-98 are estimated to be $10, 290. The remainder of the salary is paid for out General Revenue funds particularly earmarked for part time student employees.

We hear quite a lot today from adult adoptees and their "right" to any and all information that might be available about their adoption. We are in fact supportive of adult adoptees having access to all available MEDICAL and SOCIAL HISTORY and FAMILY HISTORY that may be available to them under current state adoption laws. In the instances where little or no information is available to adult adoptees in search of this kind of information we have worked closely with them to help obtain the court order needed to search for the birth parents to request the information needed.

As a result of many court ordered searches, and the conversations that I have had with the birth mothers that I have found, many (40%) over the last two years have not been entirely happy that a search had been ordered for them. What I have heard from these birth mothers is that they entered into an agreement at the time that they placed their child for adoption. They expected that their identity would be protected and that it would be honored by all parties associated with the adoption for their entire lives.

I am fairly often (five to ten times a month) court ordered to search for birth parents. I can assure you that not all birth parents are expecting or wanting to be found by the children that they released for adoption. I can tell you from my professional experience that not all adoption reunions are happy, wanted or in the best interest of all who are reunited.

For whatever reasons they might have, many birth mothers have chosen not to share with their older parents, siblings, current husband and children that 25, or 35 or even 45 years ago they had a child out of wedlock and placed that child for adoption. I have spoken to birth mothers who are fearful that husbands would leave them, children would not understand and their lives would be shattered by the knowledge of something that happened many years before.

I also have some concerns about how a National Adoption Registry might be implemented. It is my belief that for such a registry to be successful that certain information would have to be verified. I. e. In Florida, we cannot put anyone into our registry system until we verify that an adoption actually took place.

As far as I know each state adoption law has the responsibility for determining what is necessary in that state for the finalization of an adoption. In addition, once the adoption is finalized the states Office of Vital Statistics has the responsibility for issuing the Amended Birth Certificate. How would states be invited to participate in this process? Would state participation be mandatory or voluntary?

I think that without verification of information both from the adoptee and from the birth parent that the possibility of identifying the wrong person is very great. I have heard enough horror stories about people who have been contacted by someone who is searching when in fact they are not the adoptee or the birth parent that is being searched for. This is happening more and more with people who are "finding" each other on the Internet. We have had approximately twenty requests in the last six months alone where we have been asked to verify through our registry if the two people who have "found" each other are indeed the correct adoptee and the correct birth mother. We have had only two people where we have confirmed that there is a match.

If the advocates for such a registry are correct in saying that they want to make it easier for the people involved in an adoption to be put in touch with each other, I don't believe that you have to go to a national registry to have that happen. Adult adoptees and birth parents in Florida have the option of petitioning the court to obtain additional information and/or to request that a search for the adoptee/birth parent be ordered if the information that they have already obtained is not sufficient to meet their needs.

If in fact it appears that some sort of National Registry might come into being I believe that a great deal of care and consideration would have to be taken in the development of the national registry application form and how that form might be helpful to the parties that might wish to register. Again, I don't believe that you want to have people contacted who were not a part of the original adoption.

In consideration of this and in looking over a copy of S 1487 that was sent to me several months ago the only purpose for this legislation is to effect a REUNION of people who have been separated from each other by the adoption process. I contend that for two consenting adults, there are other ways for this to happen without the federal government getting involved in the adoption process.

Contrary to what we hear from some birth mothers and some adult adoptees, not all reunions are good either, for the adoptee, the birth parent or the adoptive family. I would suggest that if reunion is truly desired by the parties involved in the adoption that they should take advantage of what is already offered in many states with the establishment of reunion registries. Further there continues to be the option of court action for the people involved in the original adoption.

For some adoptive parents, the very thought of an unsolicited reunion between the child that they have adopted and that child's birth parents is enough to make them question the validity of the adoption experience. They find the whole concept of unsolicited reunion between the child that they adopted and the birth parent/family as arejection of them personally and of the parental relationship that they thought they had with the child that they adopted and raised in their family unit.

As a social worker who has been involved in the field of adoptions for many years, I would be interested in knowing who brings what to the adoption table. There are some adoptees who have not had a good family experience. Not unlike some birth children who resided with their birth families who have not had a good family experience. In speaking with adult adoptees who have had this kind of experience, some come to the reunion table with a great deal of anger and feelings of rejection. They are quite often prepared to blame the birth mother for putting them into such a situation when the birth mother in fact had little or no choice about the family that the child was placed with and certainly had no knowledge of the life experiences of the child.

I have also worked with and spoken with birth mothers for whom time stopped. From the moment they signed their Consent, under whatever the circumstances might have been, they have merely observed the life experience. They seek a reunion in the hope that they will find a child to parent. It is not unusual that the child they find is an adult who is not at all interested in having another parent.

Finally, I am also concerned that having a National Registry could spawn another "cottage industry" of folks who will help people on the registry verify their information for a fee. I hear from birth mothers and adult adoptees everyday who are being taken advantage of by private searchers, investigators and other groups/individuals who are in the search business for financial gain. Let there be no mistake about it. This is a lucrative area and one that is unregulated and it is fair to say that some individuals/organizations are charging whatever the market will bear. As I stated earlier, I am often court ordered to search for both the adult adoptees and birth parents. I can tell you that it does not cost thousands of dollars to conduct a successful search and that it usually can be done for three to four hundred dollars. However, I hear from adult adoptees and birth parents everyday complain that they have paid thousands of dollars for a search and have not gotten positive results for their money.

I would much prefer that the advocates for openness in the adoption process involve themselves in the legislative process and work toward more openness in the adoption process, so that the actual or perceived need for this kind of registry would be a mute issue.

Mr. Chairman, I hope that this testimony has been helpful to you and your colleagues in your consideration of this very important matter. I thank you for the invitation and the opportunity to testify before this distinguished committee.

Chairman SHAW. Thank you.
Ms. Cahn.

STATEMENT OF NAOMI CAHN, ASSOCIATE PROFESSOR OF FAMILY LAW, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

Ms. CAHN. Chairman Shaw and Members of the Subcommittee on Human Resources, thank you for providing me with the opportunity to testify before you today on adoption reunion registries. And I also want to thank Senators Levin and Craig for their leadership and vision concerning S. 1487, the National Voluntary Mutual Reunion Registry.

My name is Naomi Cahn, and I teach Family Law at George Washington University Law School here in Washington, where I am an Associate Professor of Law. I am, however, appearing in my individual capacity, and my testimony does not represent the official position of George Washington University. I've written extensively in the Family Law area, including articles concerning adoption.

In addition to my professional experiences, I also have relevant personal experiences. My husband, who is with me here today, was adopted as an infant into a warm, loving, and wonderful family that I, of course, know quite well. My husband had maintained, however, for the first 13 years that he and I knew each other that he had no interest in finding out about his biological parents; and, in fact, he frequently said he didn't understand people who had that interest. He loves his family, and he felt no need to find out more about his past.

When I was pregnant with our first child, he began to search. He found out the name of his birth mother, Dorothy Louise Simpson. He found out that she had been searching for him, too. But he also found out that she had died of a brain tumor. And my husband was quite stunned and devastated to discover that his birth mother had searched unsuccessfully for him.

My husband did find his birth grandmother, still alive at the age of 85 in a small, rural east Texas town. They have made each other so amazingly happy: we'll be going tomorrow to help her celebrate her 90th birthday. Finding his birth grandmother has changed my husband's life in the most wonderful way, and he firmly believes in the importance of allowing adult adoptees, when and if they are ready to do so, to contact their biological parents.

Now the remainder of my testimony in support of the Federal registry will focus on three areas: first of all, the general need for adoption registries; second, the reasons for a specifically federal, as opposed to state, mutual voluntary adoption registry; and third, the methods by which the registry proposed in the Senate bill serves to protect the confidentiality of adoption records.

First of all the need: if both an adult adoptee and a biological parent are looking at the exact same moment, they may never meet each other. If they do meet, it is often only after what will probably be great expense, many frustrations, and many years of waiting; or worse, too late, as happened in the case of my husband. A Federal Mutual Voluntary Adoption Registry, as authorized by the Senate legislation, allows biological parents and siblings to make contact

with each other, but only after they've each independently and voluntarily filed with the registry.

The need for contact between the unknown members of the adoption triangle is very strong. When you read stories by many biological parents and stories by many of their adopted children, you feel an enormous sense of pain that they have been unable to contact each other. Not all, of course, feel that way. For adoptive parents, who care passionately about the emotional health of their children, acceptance of their children's search, if and when the children do decide to search, is important. I have talked to many adoptive parents, and they understand that finding a biological past may be significant to their children. They also understand that, by searching, their children do not seek to replace them.

A very brief history of adoption itself shows that it was not the purpose of adoption reformers to prevent adult adoptees and biological parents from contacting each other when adoption records first became confidential. Indeed, the proposed federal registry is entirely consistent with the history of adoption, which is focused on the child's best interest and letting the adult adoptee, when ready, find about her biological parents and siblings.

Now turning to the federal role, there are, of course, state registries, which function quite well, and there are also a host of other registries, some on the Internet, as well as others that are available that help biological parents and their children, who are adult adoptees meet each other. But there are logistical difficulties with these registries.

First, there's no communication between States with respect to the people in their registries, and Senator Levin—I won't repeat what he said—but he explained quite eloquently the problems given the mobility of our society with someone who might be born in one State, adopted in another State, and have siblings in third, fourth, fifth States. Even if States establish procedures to share information, as proposed by the Uniform Adoption Act, which we're going to hear some testimony about in a minute, this would not solve the problem. States would continue not to collect information uniformly and might establish inconsistent procedures concerning when information could be released.

Second, registration with many State and other types of registries may be expensive. Someone who wants to register with more than registry needs to find out about other registries and may have to pay fees to register with each one. While some may be concerned about the need for a Federal registry in the traditionally State-based area of family law, the Federal registry does not encroach on State autonomy at all. Unlike other federal legislation in the adoption area, or in other areas of family law, it places no obligations on States, nor does it require States to change their adoption practices in any way. It simply serves as a resource for adult adoptees and their siblings and birth parents who want to contact each other. Moreover, as noted historian Rickie Solinger points out in statements submitted to these hearings, "the Federal Government played a significant role in creating and facilitating adoption policy in the United States in the decades since World War II." So the federal government has played a substantial role in adoption in the past.

Finally, let me emphasize that the information that would be available to a registry, and through a registry, would not violate State laws on the secrecy of adoption records.

First of all, the Senate legislation itself provides that it would not preempt State laws on the confidentiality of adoption records.

Second, the information provided to the federal registry would be information personal to the adoptees, their siblings, and their biological parents.

Third, the federal registry provides a legitimate method for facilitating contact, rather than the current system, in which adoptees, birth parents, and siblings may seek to circumvent State laws on adoption by trying, and frequently succeeding, in finding information without the consent of the other party.

Mr. Chairman and members of the subcommittee, I have discussed the proposed legislation authorizing the creation of the Federal Mutual Voluntarily Adoption Registry with many people throughout the country, some of whom are involved in adoption issues, but most of whom are not. They simply cannot believe that there could be any controversy in allowing adult adoptees to contact biological parents or siblings who have also indicated that they too want contact. What the Senate legislation would authorize is simply a mutual and voluntarily registry at no cost to the Federal Government and available only to adults. This can be done, but only if there is the will to do it.

I want to thank you for allowing me to testify on an issue of such public, as well as of such personal, significance.

[The prepared statement follows:]

Statement of Naomi R. Cahn, Associate Professor of Law, George Washington University Law School*

Chairman Shaw and Members of the Subcommittee on Human Resources:

Thank you for providing me with the opportunity to testify before you today on adoption reunion registries. I also want to thank Senators Levin and Craig for their leadership and vision concerning S. 1487, the National Voluntary Mutual Reunion Registry.

My name is Naomi Cahn, and I teach Family Law at George Washington University Law School, where I am an Associate Professor of Law. I have taught Family Law at George Washington University for the past five years; prior to that, I was a Visiting Professor at Georgetown University Law Center, where I taught in a domestic violence clinic. In my work in college, law school and afterwards, I have continually focused on family-related issues. I have written extensively in the family law area, including articles concerning adoption.

In addition to my professional experiences within the adoption system, and to my academic experiences teaching about adoption, I have relevant personal experiences: my husband was adopted as an infant into a warm, loving, and wonderful family. He recently searched for his biological parents, and we will soon be attending (and helping to organize) the 90th birthday party of his biological grandmother.

My husband had maintained for the first thirteen years that he and I knew each other that he had no interest in finding out about his biological parents. He loves his family, and felt no need to find out more about his past. Then, when I was pregnant with our first child, he found part of his biological family. He found out the name of his birth mother, Dorothy Louise Simpson; but he also found out that she had died of a brain tumor while searching for him. She had registered with one organization's registry, but, of course, since my husband had not registered, they never found each other. She had also written to the agency which had handled the adoption, but, again, had received no information about my husband. My husband was stunned to discover that his birth mother had searched unsuccessfully for him.

My husband did find his birth grandmother. He found her, at the age of 85, in a small, rural East Texas town called Toledo Village. They have made each other so happy! There is an article in a recent *Guidepost* magazine authored by his grandmother which describes their joyous reunion. My husband, and our children, are her only surviving direct descendants. She has given us a quilt which now hangs in our house; she had begun stitching the quilt squares in 1930, when her daughter was born, and she had completed the quilt shortly before her first great-grandchild was born in 1994. Finding his birth grandmother has changed my husband's life in the most wonderful way. He firmly believes in the importance of allowing adult adoptees, when and if they are ready to do so, to contact their biological parents.

The remainder of my testimony in support of the federal registry will focus on several areas: (1) the general need for adoption registries because of the importance of facilitating contact between biological parents and adopted children and siblings; (2) the reasons for a specifically federal -- as opposed to state -- mutual voluntary adoption registry that would facilitate reunions; and (3) how the

Senate bill serves to protect the confidentiality of adoption records.

(1) The Need

First, as you know, when a child is adopted, he or she receives a new birth certificate that does not contain the name of the biological parents. No party to the adoption can have access to any information about the adoption. When an adopted child reaches adulthood and seeks information about her biological past, she is unable -- in most states -- to get much information. Or, when a biological parent wants to know whether the child she gave up for adoption is still alive, she cannot get any information. Even if both the adult child and the biological parent are looking at the exact same moment, they may never meet each other. If they do meet, it is generally only after what will probably be great expense, many frustrations, and many years of waiting, or worse, too late (as happened with my husband). A federal mutual voluntary adoption registry, as authorized by the Senate legislation, allows biological parents and siblings to make contact with each other -- but **only after they have each independently and voluntarily filed with the registry.** Because the registry is both voluntary and mutual, it creates the opportunity for a meeting only when both parties want contact.

The need for contact between the unknown members of the adoption triangle is very strong. When you read stories by biological parents, and stories by their adopted children, you feel an enormous sense of pain that they cannot contact each other. When anthropologist Judith Modell, who is an adoptive parent, interviewed birth parents, she found that "Birthparents . . . insisted that a birth bond could not be severed no matter what happened to a birth certificate."[1] Modell found that the birth parents were completely unable to forget the birth of their child, contrary to the advice they had received from adoption experts. She also found, however, that birth parents generally do not want to disrupt the adoptive family, nor do they desire to regain a direct parental role in the child's life; rather, birth parents simply want to know whether the child was placed in an adoptive home, how he or she is developing and whether or not he or she is alive. They want to be available, if the biological child, as an adult, wants to contact them. Many birth mothers say they would rather have a mutually-desired reunion, rather than an approach desired only by one party; they do not want to disrupt the adoptive family. Even at the time of placement, most birth mothers and birth fathers agree to have their identities disclosed if their adult children want to know who they are.[2]

Psychologist Betty Jean Lifton is an adoptee who has written several best-selling books about the complex feelings of adopted children, and has explored their quite desperate searches for their biological parents. She believes that the best interests of the adopted child will only be served when she is recognized as someone who has two distinct sets of parents that provide her with her identity.[3]

When adopted children find their biological parents, they describe a feeling of relief. One reporter for the *Cincinnati Enquirer* recently began the story of his search for his biological family as follows: "For the first time in my life, I delivered two Mother's Day cards this year."[4]

For adoptive parents, who care passionately about the emotional health of their children, acceptance of their children's search is important. All of the adoptive parents with whom I have

discussed this issue recognize that their children may someday want to know more about the parents who placed them for adoption, and all of the adoptive parents have said that they would help their children, just as they have always helped their children. Indeed, many have already done so. They understand that finding a biological past may be significant to their children, but also that their children do not seek to replace them.

I want to digress for a minute and talk about the history of adoption, in order to put the mutual voluntary consent registries into perspective. The first "modern" adoption statutes were enacted around the middle part of the nineteenth century. They were "modern" because they focussed on providing what was in the best interest of the child, rather than merely providing heirs for the adoptive parents.[5] The first state law that required a home investigation on the appropriateness of the adoptive household was actually enacted in Minnesota in 1917. This law also restricted access to adoption court files to the "parties in interest and their attorneys and representatives of the State board of control."[6] While many states soon followed Minnesota in requiring home investigations, few of them enacted the confidentiality restrictions. The purpose of the confidentiality restrictions was not, by the way, to prevent those involved in the adoption from having access to information; it was to protect against the public's seeking access to these files to determine whether a child was born outside of marriage.[7] The statutes made court files confidential, but they did not prevent members of the adoption triad from having access to social service files. Until 1970, adoptees and biological parents could generally use a variety of sources for access to information about each other. Only recently, then, has the confidentiality of adoption information prevented adult adoptees from gaining knowledge about their biological pasts.

I want to be clear -- mutual voluntary adoption registries have absolutely nothing to do with court or agency adoption files. But this very brief history of adoption shows that it was not the purpose of adoption reformers to prevent adult adoptees and biological parents from contacting each other. Indeed, the proposed federal Mutual Voluntary Adoption Registry is entirely consistent with the history of adoption, which has focussed on the child's best interests, and letting the adult adoptee, when ready, find out about her biological parents and siblings.

(2) The Federal Role

Today, according to information provided by the federal National Adoption Information Clearinghouse, more than half of all states have established a "passive and voluntary registry," that is, a registry which allows individuals to register with an agency and then wait for a match to result from another registrant.[8] The registry does not reveal any information until at least two people to the same adoption have filed with it indicating that they are seeking contact. In addition, there are various other passive registries available through the Internet and other media.

While the existence of these various registries is a start in helping biological parents and their adult children meet each other, there are logistical difficulties with their use that could be prevented through the existence of the federal registry. First, there is no communication between states with respect to people in their registries. For example, a child may have been raised in Colorado and the District of Columbia; a biological parent may live in Pennsylvania; a biological sibling may live in

Colorado. Unless the child, birth parent, and sibling each register in the same state registry, there will be no matches made, and they will be unable to find each other. A federal registry overcomes this problem, because it allows people to register only once. They need not know the state in which any other party to the adoption lives; they need not register with every state registry. They need only go through the process once. Even if states establish procedures to share information, as proposed by the Uniform Adoption Act, it would not solve the problem; states would not collect information uniformly, and might establish inconsistent procedures concerning when information can be released. For example, for an adopted child to register in New York, not only must she have been born there, but she must also have been adopted in that state. Other states require counselling when someone registers, something which may be a physical impossibility. Consequently, these state registries may be unable to perform matches that could be facilitated through a federal registry that had uniform standards for collecting information. Moreover, state registries are often overwhelmed by the number of intrastate requests that they receive;[9] interstate cooperation could delay the matching process even further.

Second, registration with many state and other types of registries may be expensive. For people with few financial resources, finding out about and then registering with different registries may be extremely difficult. Not everyone has access to the Internet, for example, which closes off many possible registries to those people. The existence of state registries is often not adequately publicized, much less the existence of registries in other states. Moreover, even for someone with access to all of the information, the sheer number of registries may be daunting as someone begins to search, without enough of a basis to choose among the different ones. And, as a recent *Washington Post* article pointed out, while private registries such as those available on the Internet can be extremely helpful, "the Net also is a mecca for con artists and private investigators."[10] The establishment of a federal Mutual Voluntary Adoption Registry would solve these problems by providing one centralized, well-organized location for searches.

While some may be concerned about the need for a federal registry in the traditionally state-based area of family law, the federal registry does not encroach on state autonomy at all. Unlike other legislation in the adoption area, or in other areas of family law, it places no obligations on states, nor does it require states to change their adoption practices in any way. A mutual voluntary federal registry simply serves as a resource for adult adoptees and their siblings and birth parents who want to contact one another.

(3) Preserving the Confidentiality of the Adoption Process

Let me emphasize that the information that would be available to a registry, and through a registry, would not violate state laws on the secrecy of adoption records. First of all, the Senate legislation itself provides that it would not preempt states laws on the confidentiality of adoption records. Thus, states would not be required to release any information that is sealed and confidential. The secrecy of adoption files remains entirely unaffected by this Senate legislation. We are all familiar with the very few stories in which adoptees or birth parents are contacted and told information that they do not want to hear. But these stories are entirely unrelated to legislation concerning the establishment of a federal mutual voluntary adoption registry which would only allow

contact when two individuals independently and voluntarily file with the registry, and which would also impose penalties for the unauthorized release of information provided to the registry.

Second, the information provided to a federal Mutual Voluntary Adoption Registry would be information personal to the adoptees, their siblings, and their biological parents. For example, my husband might send in the following information: "I weighed 7 pounds, six ounces, and I was born in Good Samaritan Hospital in Cincinnati, Ohio, on April 3, 1956 at 7:00 a.m.; I was adopted in Cincinnati through Catholic Charities later that same month." This is information that he knows, and that he is constitutionally able to reveal, regardless of the existence of sealed records which also contain these facts.[11] Not to allow him to do this could be a violation of his First Amendment rights to freedom of speech. This information, when sent to a federal Mutual Voluntary Adoption Registry, would almost certainly allow the registry to match him with a biological parent who had also registered and provided comparable information.

Third, a federal Mutual Voluntary Adoption Registry provides a legitimate method for facilitating contact, rather than the current system in which adoptees, birth parents and siblings may seek to circumvent state laws on adoption by trying (and frequently succeeding) in finding information without the consent of the other party. The information provided to the registry would be comparatively minimal, especially in light of all of the information already provided to the federal government as a result of other Congressional legislation, such as that involved in the child support area. For example, as a result of recent legislation, employers must provide the names and social security numbers as well as other information to the federal government for all new hires.

There are some who think that the only information that should be available through an adoption registry is medical information because this will provide the most protection to the integrity of the adoption process. That, however, denies the strong psychological need for contact between parent, adult adoptee, or siblings that I talked about earlier in my testimony. While the release of medical information is undoubtedly helpful to the adoptive parents and child, the goal of the federal Mutual Voluntary Adoption Registry is to allow the members of the biological family to find each other.

Mr. Chairman, and members of the Subcommittee, I have discussed the proposed legislation authorizing the creation of the federal Mutual Voluntary Adoption Registry with many people throughout the country, some of whom are involved in adoption issues, but most of whom are not. They cannot believe that there could be any controversy in allowing adult adoptees to contact biological parents or siblings who have indicated that they, too, want contact. What the Senate legislation would authorize is, simply, a mutual **and** voluntary registry at no cost to the federal government, and available only to adults. This can be done, but only if there is the will to do it.

Thank you very much for allowing me to testify on an issue of such public significance.

1. JUDITH S. MODELL, KINSHIP WITH STRANGERS: ADOPTION AND INTERPRETATIONS OF KINSHIP IN AMERICAN CULTURE 90 (1994).

2. Joan H. Hollinger, *Aftermath of Adoption: Legal and Social Consequences, in* ADOPTION LAW AND PRACTICE 13-1, 13-39 (Joan H. Hollinger, ed. 1998).

3. Betty Jean Lifton, JOURNEY OF THE ADOPTED SELF 275 (1994).

4. Richard Green, *Who Am I? A Search for Roots*, CIN. ENQ., May 14, 1995, at E1.

5. Jamil S. Zainaldin, *The Emergence of a Modern American Family Law: Child Custody, Adoption, and the Courts, 1796-1851*, 73 NW. U.L. REV. 1038, 1042-1043 (1979).

6. On the Minnesota law, see E. Wayne Carp, FAMILY MATTERS: SECRECY AND DISCLOSURE IN THE HISTORY OF ADOPTION 21, 40 (1998).

7. Carp, *supra* note 6, at 43.

8. National Adoption Information Clearinghouse, *Access to Adoption Records -- State by State*, http://www.calib.com/naic/adoptinfo/search/acctbl.htm.

9. See, e.g., Sheila Anne Feeney, *Registering a Complaint: Adoptees in Search of Birth Parents have List of Grievances*, N.Y. DAILY NEWS, May 10, 1998, at 43 (discussing the New York state registry).

10. Susan Gervasi, *Unraveling the Adoption Web*, WASH. POST, June 1, 1998, at C4.

11. *See Butterworth v. Smith*, 494 U.S. 625 (1990).

Chairman SHAW. Ms. Swanson.

STATEMENT OF JOANNE SWANSON, DIRECTOR, MICHIGAN POST-ADOPTION SUPPORT SERVICES, WETMORE, MI

Ms. SWANSON. Mr. Chairman, members of the Subcommittee on Human Resources, I do really thank you for this opportunity to speak before you. This issue, this bill has great significance for me both personally and in my work with adult adoptees and with birth parents and adoptive families in my position as Director of Post-Adoption Support Services in Michigan's upper peninsula. I am also a birth mother. I am one of the people about whom many of you are concerned about protecting the privacy, and I really appreciate that. But there are some points about privacy that I'll get into my discussion that may cast a little different light on that.

I'm proud of my State of Michigan. I'm proud that we have some Michiganders here. Senator Levin, of course, co-sponsor of the bill is from Michigan. We also have two of the subcommittee members, Congressman Camp and Congressman Sander Levin from Michigan. I really am glad to be among you today.

I would like to hold up Michigan as an answer to some of the concerns that have been expressed here today. These are all legitimate concerns, and I'm sure they've been asked at the State level, every time that a State has considered a piece of legislation that would establish a mutual consent registry or that would go a step beyond and lay out a plan for confidential intermediaries, or even to give adult adoptees access to their birth records. Those tend to be the three kinds of legislation that are being considered. And Michigan has all three. Perhaps you can look to our State to see how the results of a national registry might impact people in those categories.

In Michigan, there is a mutual consent registry that has been active since 1980. More recently, legislation was considered to establish a confidential intermediary program, and also to release the original birth certificates to adoptees in certain categories, beginning those that were released for adoption prior to a date in 1945. So we have some people who have full disclosure. We have others who have only partial, non-identifying information, and who can use the services of a confidential intermediary. Then we have those for whom, by default—the new adoptees now who turn 18 as of a date in this year, September—will have the access to their birth information unless there would happen to be a denial in the file.

So we have a little bit of everything. I think this is significant because many of the concerns that were brought out this morning have not happened in Michigan. The litmus test for me is that when the legislation was being proposed to take this a step beyond, to go to the confidential intermediary process, and to release birth certificates to this first group of adoptees, all of these concerns certainly would have surfaced at that time. And they didn't. That, to me, is significant because ours is one of the oldest mutual consent registries. All of the potential that has been expressed here this morning for the outing has been here for 18 years. Yet, 15 years later, we were able to take this to the next step, to have a what some people refer to as search and consent. Others call it a confidential intermediary system.

If these issues had been a big problem in Michigan, we would not have been able to get to the next step. Three years after the confidential intermediary system has been in place, we have not yet had a problem. So I think that Michigan can sit pretty high in paving the way for something like this. But I also want to mention that it's not enough. It's not enough to have a strictly State focused avenue for adoptees. I want to mention specifically why.

In my work as a confidential intermediary, I work with people who have no idea what the adoptive process is. Many people don't even know that adoption records are kept at the State level. They have no idea where they're being kept, and so they quite often will look to the Federal level. They say, I wish I could get on Oprah. Maybe I could find my mother.

I just did a case for an adoptee who is 67 years old. We found three full siblings who have known about her since 1972. They could have, at any time, filed a mutual consent form with the State of Michigan, and they could have been reunited—26 years they waited. One of them lived in Colorado, had no idea what Michigan law was like. One lives in Wisconsin—thought that the sister had gone into Wisconsin and hadn't. Another lives in Minnesota—had no idea at all. Twenty-six years this family wasted. Through a national registry they very possibly could have been reunited.

I really feel this is an issue we have to consider as a humane issue for adult adoptees and birth parents. I feel that there's a bit of a smokescreen. I want to just mention in closing the concern for confidentiality, which is a term that is used sometimes, or privacy. In Michigan, I fit into the category in that middle group where my daughter, for example, would have had to have used a confidential intermediary to find me. I'm the group that is being so protected. Yet, back in 1960, my surname was on the adoption decree. So she could have gone searching for me. I could have picked up a newspaper and read an ad in the classified section looking for me. My records are supposedly sealed, so there's a lot of ambiguity there. I would rather she could have found me through a mutual consent registry. I would rather have been able to enter my name. It would have been much safer and much more protective.

I really thank you for this opportunity to speak with you this morning. And I urge your support. I believe it's a worthwhile and a very safe and a very humane bill. Thank you.

[The prepared statement follows:]

Testimony of Jo Anne Swanson
Before the
Subcommittee on Human Resources,
Ways and Means Committee
United States House of Representatives
June 11, 1998
on behalf of
S. 1487, the National Voluntary Mutual Reunion Registry

Mr. Chairman, members of the Subcommittee on Human Resources:

I am indeed pleased and honored to be given the opportunity to present my testimony before you today in support of a bill that has profound significance for me, both personally and in my work with adult adoptees, birth and adoptive parents, and members of their families. My name is Jo Anne Swanson, and I am the director of Post-Adoption Support Services in Michigan's Upper Peninsula. I am also a birth mother, reunited for nearly 14 years.

I am especially pleased that my home state is so well represented here today: Senator Carl Levin, the bill's co-sponsor, Congressman Dave Camp and Congressman Sander Levin, Subcommittee Members.

I would especially like to honor Senator Carl Levin for his valiant efforts to promote adoption throughout his years of service in the Congress. From his co-authorship of the foster care adoption subsidy, and the first ever adoption expense tax deduction for special needs adoptions, to his involvement in the passage of the Adoption and Safe Families Act, Senator Levin has worked to protect the interests of birth families, adoptees and adoptive families.

I welcome the opportunity to add my voice to those speaking in support of S1487, a bill that would establish a National Voluntary Mutual Reunion Registry for adult adoptees and birth family members. The National Mutual Voluntary Reunion Registry is reasonable, non-intrusive and uncomplicated. It does not unseal adoption records. It has been endorsed by birth parents, like me, adoptees like Michael Reagan and Jim Rockwell of Cornell, Michigan and adoptive parents like Jamie Lee Curtis and Cindy Crossley of Texas. It is a vehicle through which two consenting adults can register their willingness to be put in touch with one another. If you don't want to participate, you simply will not register.

My appeal to you, Mr. Chairman, is simple.

I ask that you remember today's date as a milestone of understanding of, and concern for, the plight of adult adoptees and birth family members throughout our nation. When you leave this hearing today, I ask that you take these thoughts with you.

If you can look into the mirror and readily recognize in your reflection the unique features that were endowed in you by your parents and their forbears, remember you are doing something tens of thousands of adoptees cannot do. When you see those same features in your children and grandchildren, know that what you have is a precious gift that is denied those who were adopted. Each time you look in a mirror, remember June 11, 1998.

When you go to your physician or specialist for treatment of a medical problem and are asked to fill out a form listing your family's medical history, remember June 11, 1998. Remember that five to ten million adoptees, given these same forms to complete for proper diagnosis and treatment, must leave this form totally blank, sometimes with fatal consequences.

If you know where your ancestors came from, or you could choose to explore the many branches of your family tree and learn how your predecessors fit into our nation's history, you are truly blessed. Five to ten million American citizens have only one branch on their family trees - themselves. And while you relish your heritage as Irish or Jewish or Italian or French, please remember June 11, 1998.

If you know beyond a shadow of a doubt that the person you married is not your sibling or other blood relative, I ask that you remember the millions of adoptees who are forbidden by law to have this knowledge and this assurance. Imagine the anxiety some adoptees have as they enter a new relationship with someone who bears a passing resemblance to them. A potentially joyous time could become a cause for uncertainty and confusion. Remember June 11, 1998.

If you can leave this building today knowing that the children you brought into this world are alive and well and safe, or that you could quickly put your mind at ease by simply making a phone call, then remember that for five to ten million birth mothers, there is no way to gain any measure of peace of mind. Please remember them, and remember June 11, 1998.

Think of the thousands of unmarried women, many of whom were barely adults, who were held in disgrace and shamed by society. Not only were they not offered support or compassion at a time when they needed them most, their shelter and support was often predicated on the ultimate surrender of their child. Often abandoned by their families, they were easily coerced, browbeaten, deceived or told their babies were dead. [S. Hrg. record "Juvenile Delinquency (Interstate Adoption Practices)" 84th Cong., 1st Sess. p. 203 (July 15 and 16, 1955)]

And while we tend to think of birth mothers as all being young, single mothers many were older, married mothers who lost children to adoption simply because of poverty, abandonment by their husbands, or even widowhood. Due to shoddy and inhumane policies, vast numbers of otherwise viable families were literally torn asunder, their children scattered to the four winds. Parents went to their graves not knowing what became of their children, and thousands of siblings were forever denied contact with their parents and even with one another.

This is how Gladys Crook House remembers the day she, her two sisters and her brother were taken from their mother by welfare officials in Macon County, Ga:

"The thing I most vividly remember is when the court decided to take us they sent the sheriff and two deputies at 5:00 in the morning. My mother was asleep. My grandfather and I had been awakened by a knock on the door. I remember they got Lorene, Lamon and Edwin out of bed first and then the sheriff took me. I screamed, kicked and hollered and my mother woke up. She screamed and begged the sheriff not to take us, but they paid her no mind. I remember her crying and holding out her arms for us. This went with me all through my school years until I found her again."

That was May of 1941. Her mother, Beadie Coley Crook, was widowed and the family's only source of income was the grandfather's government check. Again, in Gladys House's words, "the law took us to the jail, bathed us, put new clothes on us and fed us, and got us ready for the hearing where they separated us, sending three to the Tennessee Children's Home and me to a McKenzie, Tennessee foster home. My half-brother Willard remained at home.

Not all adoptions in the 30's, 40's and 50's in the United States involved the happy, consensual, voluntary placement of healthy babies with happy, well adjusted adoptive families. Many children were literally sold like chattel to the highest bidders while loving birth parents looked on in horror.

Siblings like the Crook children often have the hardest time finding one another. They have vague memories of their siblings, but have no way of knowing whether any or all of them were actually adopted, remained in the orphanage, were sent to live with relatives, or were placed in foster care. The little knowledge these siblings may have about adoption laws in their state gives them little hope, since they don't know how many of their brothers and sisters were actually adopted, and if so, where. Despite the many and varied state laws enacted since a half-century ago, there remain serious problems in transmitting information through the thick wall of adoption secrecy. The National Voluntary Mutual Reunion Registry would provide a secure, discreet vehicle for sibling groups to be possibly matched with one another at a minimal cost emotionally and financially.

Some people will tell you that this is a matter that should be handled on a state level, but from the days of the Orphan trains to today's Internet adoption has, and will always, take place across state lines. One notorious Tennessee baby seller, Georgia Tann, who was investigated by the U.S. Senate in the 50's, admitted that between 1939 and 1950 she placed over a 1,000 babies in states from coast to coast. Those children have no idea where they were born and their birth parents have no idea where they were placed. Without a National Mutual Voluntary Registry they would have to register in all 50 states, an unmanageable and overly burdensome task.

Mr. Chairman, much of the opposition to the idea of a national registry comes from those who would seek to minimize accountability and liability for abuses, which are still being

uncovered. Your colleagues in the Congress have been investigating these abuses, which unfortunately continue even now, for nearly fifty years. I entreat you and the members of your committee: please make this day June 11, 1998, a cause for hope in the adoption community. The National Voluntary Mutual Reunion Registry is truly worthy of your support.

Chairman SHAW. Thank you.
Ms. Sandusky.

STATEMENT OF CAROL SANDUSKY, DOYLESTOWN, PA

Ms. SANDUSKY. Hello, my name is Carol Sandusky, and I wanted to give you some highlights from the paper I prepared and sent in on Friday afternoon.

Thank you for inviting me to come here today. It is rather overwhelming being in front of all these experts and officials, and I'm very nervous. But I will do my best, and try to answer any questions that you have for me.

I was adopted by Jeanne and Tom Sandusky, my parents, who are here with me today, to give me moral support. In my five minutes, I want to talk to you about two things. I would like to tell you my story very briefly, so you will know what can happen to people when privacy is not protected. I also want to give you some problems I encountered, tell you some of the rules I have thought of to take care of some of these problems, and ask you, because of those rules, not to pass Senator Levin's Federal Reunion Registry Law or any other Federal law on adoption records.

I was adopted at the age of 3 from a public agency. My parents were told I was removed because of abuse. As an adolescent, I rebelled. I was very depressed and out of control, and after several hospital placements, a group home placement, and lots of love and therapy from my mother and father, I managed to get back on track. I was just getting settled in 1992 when a social worker from the agency where I was adopted called my parents. She said my older biological sister wanted to contact me and asked for my phone number and address. My parents said no, but they would give me the information and message. They told me my older sister was searching. It was like a bomb had fallen on my family. My parents encouraged me not be scared, and they said they would support any decision I made, including offering to buy a flight ticket to go see her.

I returned the social worker's call, who said my older sister really wanted to see me, and then started telling me all sorts of details. I told her I only wanted my medical history. I had just come through a difficult time, and I needed time to think. When the social worker asked permission to give my sister my phone number, I said no.

Within a week, the social worker called back and gave me even more details. She tried to push me to contact my sister, gave me my birth mother's phone number over the phone. I was very upset, and I repeated that I only wanted medical information. The only medical information she ever gave me was that cancer ran in my family.

I hung up the phone. I was very angry. I called my parents, and we cried together. We just couldn't understand how a social worker could give all this information over the telephone while I was at work. So my family and I called the social worker's supervisor, and we were told the social worker had done nothing wrong, and that my mother and I needed therapy.

Next, we turned to the district attorney. And he had asked that there be—and we had asked that there be an investigation and

criminal charges filed. But he did nothing. A week later, I got a letter from my sister, and you can guess how she got my address. The letter was full of even more upsetting information I had not wanted.

Next, we called other agencies and asked them if they gave out confidential information without permission and they said no. They said this behavior was unacceptable. So then we had to hire an attorney to pay to have letters sent out to these biological family members to tell them to please stop harassing us and to leave us alone.

After that, I got another 17-page letter from my birth mother talking about murder, drug abuse, abandonment, et cetera, et cetera, which was very upsetting. My birth mother's letter had even more names and addresses and numbers of aunts and uncles, and a letter from my birth father was included. I can't begin to tell you the feelings that resurfaced.

Now another letter arrived from my sister telling me not to be upset with the social worker, enclosing newspaper clippings about her success in searching, about how she went above and beyond the law to reunite families; about how she would give information out, and, even if people didn't want it, hoping they would do the "right thing."

Eventually, I decided to hire a lawyer to try to sue. But the social workers are immune from lawsuits if they work for the State. After years of efforts, we did not get any satisfaction from the laws. Pennsylvania hurt me, and they hurt my family.

The situation has now calmed down after six years. I have stopped getting letters and calls, but I've had to make many changes in my personal life to try and restore some small amount of privacy. I did decide, as a result of the experience I had, that I would do whatever I could do to try and prevent the same thing from happening to others, and that is why I have spoken out and gone on shows and given interviews.

The searchers, the social workers, the people who want to change the laws to destroy privacy says no one minds if people come knocking. They just told me to say no. I said no over and over and over again. But no one listened. And the law never once succeeded in stopping them from stalking me and my family.

I am here today to talk about Senator Levin's bill because I hope this important gentleman will understand, now that he has heard my story, that many people are hurt when privacy is invaded. Many of us do not want to be contacted, even by a State social worker. We want to say yes on our own, without pressure, contact, or guilt trips. It isn't because we hate or reject anyone, Senator. We just want to be left alone unless we say yes.

But Senator Levin's bill just says do a National Reunion Registry. And since I support State Reunion Registries as a part of the Uniform Adoption Act, you should ask, what's the difference? The difference to me is that once the Federal Government gets into the picture, even if started out with something to protect privacy, there is absolutely nothing to keep the Federal registry from going little by little, year by year toward opening records.

I have looked at some of the information on the States that started out with safe, decent sounding laws, which now have almost

gone to totally open records. If the legislature in Tennessee can go downhill to open records, so can the Congress. Go Federal, and you set up all the adoptees, all the birth parents, all the adoptive parents in the country for invasion of privacy. And if you think I'm kidding, ask yourselves, why do some of the people who want open records at the State level seem to be supporting Senator Levin's bill. Why do they attack the Uniform Adoption Act? They know Senator Levin's bill is the first step to what they have as their real goal: totally open records of all kinds across America.

I thank you, again, for allowing me to address you, and I will certainly try to answer any questions that you have.

[The prepared statement follows:]

Testimony of Carol Sandusky of Bucks County, Pennsylvania, before the COMMITTEE ON WAYS AND MEANS, U.S. House of Representatives, Washington, D.C. 20515, Subcommittee on Human Resources, E. Clay Shaw, Jr., Chairman

My name is Carol Sandusky and my address is P.O. Box 1527, Doylestown, which is in Bucks County, Pennsylvania. I am here today in response to the June 1, 1998 letter of invitation I received from Mr. Shaw. I do not have a curriculum vitae. I am here as an adoptee. I am married. I work as a sales representative. My parents, Jeanne and Thomas Sandusky, are here with me today not to testify but to show their support for me and what I am saying.

On the paper that was sent to me was something about Federal government grants and contracts and representing people. I have never received any Federal government grants or contracts and I am representing myself.

I want to start by thanking you for inviting me to come here and tell you my story. I also want to tell you that I am not the only person that feels this way. I may be the only person invited here today but the way I feel is supported by others.

You may ask how I know this and that is a fair question. I know this because I have heard from many people in the years since my case became public. I have been asked to be on many news shows and talk shows and so many people know my story. One of the things that happens when you are on a show is that if the show gets letters or calls they forward them to you. So you know what people think of you or your ideas. The letters I received were almost all in support of my viewpoint. Actually I was surprised that nobody really attacked me in these letters because I certainly was attacked on some of the shows and there have been some nasty things said about me on the internet.

Here is what the count was of my letters. I got 118 letters. I got 46 positive letters from adult adoptees. I got 17 positive letters from adoptive parents. I got 27 positive anonymous letters who did not say whether they were adopted or not. I got 9 positive letters from birth mothers. I got 2 positive letters from birth fathers. I got another 11 positive letters from children who were adopted and I mean little children sometimes, like age 12. I got six letters asking how do I search.

So I feel like I am speaking on behalf of lots of people who do not know I am here but know what I stand for and are on my side.

I think the easiest way to let you know what my story is is to give you a copy of the letter that I wrote to the Senators in Pennsylvania when they were considering passing the Uniform Adoption Act. This is a very complete letter which shows all the troubles I have had and how I got my act together and how upset I was when my privacy was invaded. It was what happened to me that made me write the Senators and tell them why I hope they pass the Uniform Adoption Act.

Here is my letter.

Carol A. Sandusky
P.O. Box 1527
Doylestown, PA 18901

Dear Senator

My name is Carol Sundusky and I am writing hoping to be heard. My experience could have been prevented if we had adoption laws that protected the confidentiality of the adopted person.

At the age of three, I was adopted by my parents. When they adopted me, they were told by the agency that my biological parents had abused me, but I was removed from my birth home at 9 months before much abuse had occurred. They also were told that was all the information they had. In fact, I was taken away from my biological parents due to severe abuse and abandonment. The agency did not disclose the severity of abuse or recommend that my parents seek therapy for me, at the time of my adoption, to deal with the feelings I would have because of my abuse.

As an adolescent, I rebelled!! I was very depressed and out of control. I had many issues I needed to work out regarding adoption. After several hospital placements, a group home placement, lots of love and therapy, I managed to get back on track.

After all this time and therapy, I finally learned to leave my past behind and be thankful for being adopted. However, in 1992, a social worker from the agency where I was adopted, telephoned my parents. She told them my older biological sister wanted to contact me. The social worker wanted my phone number and address. My parents refused, but told her they would gladly give me the message. They told me I had an older sister searching for me. I felt like a bomb had fallen on my family. My parents encouraged me not to be scared. They said they would support any decision I made. I returned the social worker's call. The social worker told me I had an older sister who had been searching for me for a very long time. She stated no other family members were involved in this search. I did not ask for this information and I was in a state of shock. The social worker continued to tell me how my older sister had a need to see that I was okay after having to protect me in my infancy. I was completely taken back and told the social worker I was only interested in my medical history. I also stated I needed time to think, since it wasn't so long ago that I had major problems with adoption issues. The social worker asked for permission to give information to my sister regarding my return call. I said "NO." I really needed time to think. The conversation ended on the terms that everything was confidential and I only wanted medical information.

Within a week, the social worker called back. This call concerned unsolicited information on my abuse. She related numerous, graphically detailed instances of the abuse. She continued to insist that I should contact my sister. I was then told about my biological mother. She even gave me my biological mother's phone number. I can't tell you the pain I felt. I told her again that I only wanted medical information and told her my past was very upsetting and I didn't need to hear this. The only medical information that she gave me was to tell me cancer ran in my family. The conversation ended with me being very angry.

I called my parents and we cried about the whole situation since this was also the first time they knew the extent of the abuse. I couldn't understand why a social worker would give this information over the telephone. I knew if I wanted to obtain this information, I would have to petition the court to open my file.

My parents and I couldn't believe what was happening. Didn't I have any rights to my privacy? What happened to the confidentiality of my files? My family and I called the social worker's supervisor. Her supervisor said that nothing was done wrong and that my mother and I needed therapy. We contacted the District Attorney to investigate and press criminal chargs. We, of course, got nowhere.

One week later, I received a letter from my sister. This letter was devastating. The letter stated that the social worker gave her my address. How did the social worker get my address since I did not give it to her. This was a violation of my privacy. The letter of more information of abuse in our childhood along with a picture of herself.

My family and I called other agencies asking if they gave out confidential information with out permission. hey all told us this behavior was unacceptable. We then contacted a lawyer to investigate the state agency's action and to send out letters telling everyone they may not contact me. Needless to say, much money was spent. I would like to point out that public agencies cannot be sued!! Public agencies should be held liable for any wrong going! Taxpayers should not be putting out money that results in citizens being harmed.

Federal tax dollars should not, even in part, be used by state, county, or local social service agencies to invade the privacy of a person they serve.

I then received another letter from my sister along with a 17 page letter that she had received from my biological mother describing terrible abuse, murder, drug use, and abandonment. The envelope also contained the addresses and phone numbers for my biological mother, father, grandparennts, aunt, and sister. A letter from my father was also included. I cannot begin to describe the awful feeling I had and the feelings that resurfaced. I was told things I didn't even remember and did not want to know.

Another letter arrived. It was from my sister giving me reasons why I should not be upset with the social worker. She sent newspaper clippings about how the social worker worked hard to reunite families and how she would use any resource, above and beyond the law, to complete a search. was also told I needed counseling.

I cannot begin to tell you the disruption and anguish this caused my family and me. This situation is still on-going. We need laws to protect the right to privacy. If you want to adopt a child, you have rights. If you want to put a child up for adoption, you have rights. But, if you are adopted, you have no rights.

Therefore, I thank you for introducing the Uniform Adoption Act this year. This is extremely important legislation for all members of the adoption triad, but I, an adoptee, particularly applaud the "mutual consent" and medical records provisions of the legislation. We must have access to non-identifying medical information. But, we also must be sure that we maintain the right to privacy for those adoptee and birth parents who choose not to be identified and contacted.

I feel very positively and very strongly about the mutual consent provisions of the Uniform Adoption Act. This issue is extremely important and I would be very willing to speak with you personally or in a group concerning these issues. I will do whatever you wish to help you push the UAA and its mutual consent provisions forward.

I have enclosed a copy of my letter to Senator Heckler last year which describes the circumstances of my case to preserve my privacy. Ironically, since my privacy has been invaded, I have had to go public to preserve my right to privacy in the future. Most adoptees and birth parents who desire privacy will not speak out publicly on this issue in order to ensure their privacy right now, as well as in the future.

Please enact S.B. 544 quickly, and in the process, please protect the right to privacy for those birth parents and adoptees who, for good reasons, choose it.

Sincerely,

Carol Sandusky
Adoptee

I think there are some problems you need to know about and do something about because of what happened to me and what has happened to others who cannot come here or even write letters because they want their privacy. It happens all the time but it is hidden. And when people try to do something, like me and my parents did and nothing happens then it discourages other people too.

Problem # 1 is that no state employee and no person should be contacting other people unless they want a contact. We have a right to be left alone. Any law like the one in Pennsylvania that allows people to call up out of the blue should be changed. I know that some of what that social worker did was legal. But some of it was not legal. So that is # 1. No contact unless the other person says they want it.

Problem # 2 is that the social worker lied. Officials who lie should be punished at least by firing. The social worker lied when she said no other family members were involved in the search. How could my birth mother not be searching when the social worker gave me the birth mother's telephone number during the second call. # 2 is if someone who is paid by the taxpayer lies then they at least get fired.

Problem # 3 is that when I asked for medical history the social worker told me all kinds of horrible things that I do not think are medical history. The social worker may think so. But to me if someone calls and asks if you want medical history it should be clear what they mean. Some of us adoptees are young when they contact us. What do we know about some of these things at 18 or even 21? So # 3 is it should be made plain what a medical history means before someone gets permission to unload it on the adoptee.

Before I forget it I want you to know that I am saying I understand how birth parents feel. I am not a birth parent. I think I know how some birth parents feel because I have talked to some since my case became public. I have a good idea how adoptive parents feel because I know how this has effected my adoptive parents and our family and even intruded into my marriage. This is very stressful. So the problems I am listing and the solutions I am suggesting are from the adoptee viewpoint only.

Problem # 4. This was my sister searching. This is a sibling search. What happened to me is that under the disguise of my sister searching it was really more than my sister. My sister gave out all sorts of information about other people. I do not know whether she had their permission. The point is that when you allow siblings to search and be given information without having permission of other family members like birth parents you invade privacy. # 4 would be do not allow siblings to search until both birth parents have also agreed that they want to be contacted.

Problem # 5 was that the social worker did not follow my instructions or wishes when I said I needed more time and wanted things to be confidential. Instead of waiting for me to call her the social worker called me back within a week. She was pushing. I told her I wanted time and she did not give it to me. # 5 should be that once a person says to leave them alone so they can think, they are left alone.

Problem # 6 was the social worker changed from asking if I wanted contact to insisting that I contact my sister. That is not the job they have under Pennsylvania law. It is a search and consent system not a search and insist on meeting system. It is almost like people get a commission if they are successful in nagging someone to call the other party. Rule # 6 should be no insisting. The social worker must be neutral and just convey information and if they break this rule they should be fired.

Problem # 7 was that the social worker gave me my birth mother's phone number. That seems to me to be a real violation of the law. It is a search and consent system not a search and give the other party identifying information system. Again, the rule should be clear. # 7 is that anyone who gives out identifying information without mutual consent should be fired.

Let me say here that I do not know what the penalties should be for breaking these laws. I am not a lawyer. I do know that if there is no penalty then people will just go ahead breaking laws. That is the case if it is parking or speeding or using drugs or whatever. So I say let the lawyers say what the penalty should be. In my case, my lawyer asked for money damages. The thinking was that if a state or a employee has to pay a big fine that will keep them from doing the same thing to someone else.

Problem # 8 is that some of these people who are so anxious to push information on you now did not give information when they should have. When I called my parents this was the first time they knew about some of the abuse I had suffered. The state held back from my parents information that they should have had. My lawyer is somewho who sues agencies that lie or withhold information. My parents have not sued. Maybe they should have for the things that all of us went through and that might have been avoided if the state had just given the information. My point is that if the information is going to be

given out after the adoption it sure makes sense to give it out before the adoption because then everyone will know and the state will look like a fool. Rule # 8 is that if there is medical and abuse information that should be shared with the adoptive parents before they decide on adoption. In my case, maybe I should be glad it was not given to them because it might have scared them away from adopting me. But it is not right to keep it back from parents and then give it to the adoptee.

Problem # 9 is that when my parents and I called the social worker's supervisor we were told that nothing wrong was done. Rule # 9 should be that there is no coverup for bad employees who break the law and whoever does the coverup should be fired. In some ways it is even worse when the bosses coverup breaking the law.

Problem # 10 is that the supervisor also told my mother and I that we needed therapy. What an insult! You call someone to complain about breaking a law and invasion of privacy and the social worker puts the blame back on you, calling you mentally unhealthy. I think that sort of behavior is unforgiveable and if a public employee insults taxpayers telling them they need therapy that public employee should be disciplined.

Problem # 11 is that when we called the District Attorney to complain and ask him to investigate and press criminal charges we got nowhere. What this means is that not only do people break laws but the people who are supposed to be enforcing the laws do not do so. If someone breaks into your house and you know who did it you can call the police and the person will be prosecuted. Someone broke into our lives and did something more serious than just taking some money or our television set and they got away with it totally. This means to me that adoptees have no rights at all to their privacy. This means to me that we better be careful about laws if the District Attorney will not look into it. I know they are busy with lots of crimes. But this was a crime too and they did nothing. Rule # 11 should be that there should be some automatic penalties for people who invade other people's privacy and hurt their lives, like that social worker did. The rule should work so that it does not depend on some District Attorney to take action. The rule should allow someone to hire a lawyer and go to court and have the state pay for the costs since the District Attorney will not do his job.

Problem # 12. Next I got a letter from my sister. The social worker had gone ever further and given her my address. This is just plain wrong. Pennsylvania law does not give the state social worker any right to release addresses without permission. Anyone can be stalked once there is an address. How did this sister get my address unless the social worker or someone gave it to her? Rule # 12 should be that whoever gives out addresses or other identifying information without permission should be fired and fined.

Problem # 13. The agency was not acting like other agencies. We called other agencies asking if they gave out information without permission. They said no. We then had to hire a lawyer to send out letters to people telling them to leave us alone. It is terrible to have to spend money to hire a lawyer to defend yourself from government employees and their actions. Rule #13 should be that if you have to hire a lawyer to defend yourself against the state employee and her actions that the state should have to pay for the lawyer fees and all the other costs you run up.

Problem # 14. In some of the other letters that my sister sent she sent newspaper clippings about how the social worker worked hard to reunite families and would use anything above or beyond the law to complete a search. This proves that not only was this social worker breaking the law in my case but the newspapers knew about it and she was doing it all the time. It seems to me that if someone is a habitual lawbreaker, they deserve more harsh punishment. It is like any other crime, where you let off first offenders easier. She was no first offender. Rule # 14 should be that after you do any invasion of privacy more than twice, then the third time you automatically go to jail.

Problem # 15. Laws like those in Pennsylvania that allow people to be contacted by social workers invade the rights of adoptees. We need laws that make sure it is OK with all the parties. That means mutual consent registries. That is why I support the Uniform

Adoption Act being passed in Pennsylvania and all the states, because it sets up a mutual consent registry. Rule # 15 is do away with all laws except mutual consent registries.

Problem # 16. I was adopted when I was three and my parents lost custody of me because of abuse. If it is important that people who were adopted as healthy babies by birth mothers and birth fathers who simply put their children up for adoption because they could not handle being a parent, or because they were not married, or for whatever reason, it is important to protect everyone's privacy. But it is even more important to protect the privacy of those of us adoptees who were abused and removed from our parents. What in the world does anyone think is the normal reaction from an adoptee to be confronted with family members when they were abused? Don't they think about the fear this can cause those of us who were abused? Who wants to be meeting with someone who hurt them and in some cases nearly killed them? What about the high numbers who were taken away because of sexual abuse? Rule # 16 should be: no registry or no other system should work in the case of children whose parents had their children removed from them. That does not mean there should not be some access to non-identifying background information, important medical information. It does mean that once someone abuses a child and they are removed and adopted that's it. The door closes forever. This should also include some of the adoptees who were so hurt and are so sick that they want to get back with their abusers. You can't keep women who were battered from going back to their husbands but you sure can keep from spending government money to help them get back together. In counseling you learn this is enabling behavior. Don't spend taxpayer money on enabling behavior.

Problem # 17. When we finally got to court after a long time and lots of money we found out that you cannot sue the state. I did not know that there is soverign immunity to protect workers from being sued. So taxpayers and citizens that are hurt by state employees have nowhere to turn. You sue and they tell you they are exempt. This must be changed so that no one can hide from the law. No one should be able to be above the law, not even people in Congress. In fact that is something I do not understand, how they can throw out Congressmen if they break the law and get rid of President Nixon but you can't get sue a state social worker. Rule # 17 should be no one should be above the law or being sued, including a state or a state social worker. People should be held accountable for their actions who ever they are.

Now you may say that since Senator Levin's bill sets up a registry that is national why am I not for it. That is a good question. Many reasons came to me.

First of all Senator Levin's bill does not stop the Pennsylvania law from operating. It does not stop any of the laws from operating that are even worse that Pennsylvania's like Tennessee where they opened records. I thought maybe I would come here and ask Senator Levin to change his law to cancel the laws like we have in Pennsylvania and the other states where privacy is not protected. But then I thought that if Senator Levin could force Pennsylvania to be more careful about people's privacy his law could work the other way too. If some state has a law that protexts privacy the federal government could cancel it. That would be very unfair. So I have worries about a federal law on this.

Second I was in New Jersey testifying in Trenton for privacy. I heard the people testifying who were in favor of open records, which they are considering along with a mutual consent registry. The same people who were saying they wanted open records in New Jersey seemed to be supporting Senator Levin's national registry bill. I wondered why that would be until I thought: hey, if it would be easy for a state social worker to get into all the state files and invade the privacy of people it would be really terrible if a Federal social worker could get into every body's file in the whole country. It is bad enough for all that power to be in the hands of a state worker but a Federal worker could cause terrible problems.

Third I looked at Senator Levin's bill and my 16 rules I came up with to protect privacy and the rights of taxpayers. It doesn't seem to me that his bill has these rules. The truth is that his bill doesn't say how it will work except he gives the department of Health and Human Services Secretary the freedom to do what he wants to set it up. I keep thinking

what if the person who is that Secretary is someone like the social worker or the supervisor who mistreated me and my parents, who lied and covered up and who told us we needed counseling because we complained and we refused to be pushed into doing what they wanted. What guarantee is there that this Secretary would not do something as obnoxious and get away with it, like going above and beyond the law? If they can do it in Pennsylvania they can do it anywhere. So I think there needs to be some very strict details put in any law you pass, even if you go against what I am recommending and pass some law to give Federal social workers the right to get into the adoption records business. Make it tight so no loopholes exist. Put in penalties. But I hope you do not pass a Federal law because if it was hard for us to try and get Harrisburg to pay us any attention, just think how hard it would be to get Washington DC to pay us any attention, if we are just ordinary adoptees who are not famous or rich. We would be about as powerless as people are when they come up against the IRS, which you here in Congress have been criticizing for their arrogance and mistreatment of taxpayers.

I now want to close and offer to be of what help I can as an ordinary adoptee who was hurt and who is determined to do everything I can to be sure that nothing like what happened to me happens to anybody else – EVER! I hope you protect our privacy. I hope you prevent people like me and my Mom and Dad from having to cry at the mistreatment. I hope you keep people from having to spend their hard-earned money to hire lawyers to protect their privacy from the government.

Please do not pass Senator Levin's bill. In fact please keep the Federal government out of this altogether.

Thank you very much for allowing me to testify.

Sincerely,

Carol Sandusky,
Adoptee

Chairman SHAW. Thank you.
Mr. Wilson.

STATEMENT OF R. DAVID WILSON, ARLINGTON, VA

Mr. WILSON. Thank you, Mr. Chairman. I was looking at today's date, and I realized it was two years ago that my former boss, Senator Bob Dole, stepped down from the Senate. So I really appreciate the opportunity to come and testify with you here today.

My name is Dave Wilson, and I'm adopted. I hope sharing my personal experiences will help illustrate the importance of establishing a national registry for adoptees and birth parents.

Nearly 31 years ago to this day, I was adopted by my parents, Roy and Ruth Ann Wilson. I have always known I was adopted and have never questioned that the Wilsons, including my three sisters—Tami, Teresa, and Liz—are my real family.

When I decided to seek out my birth parents eight years ago, I never intended to meet them face to face, let alone establish a relationship. I wanted to thank them for giving me a chance by bringing me into this world. To some, a simple thank you might seem silly. To me, however, my birth parents gave me the greatest and most precious gift, the gift of life.

My search began in 1991, when I contacted Lutheran Social Services in Seattle, where I was adopted. I requested what is known as non-identifying information about my adoption. I learned that my birth mother had a brief relationship with my birth father. After discovering she was pregnant, my birth mother showed tremendous courage, strength, and integrity. It seems to me she had a couple of options. She could have hidden the truth by having an abortion, or she could marry my father—birth father, that is.

She chose the latter, which I'm grateful to, and which socially was the most difficult. No doubt about it, this decision was a tremendous personal sacrifice on both their parts, and one that I will always be grateful for. Their marriage lasted only a few months, after which my mother entered the Lutheran Social Services Home for Unwed Mothers, where I was put up for adoption.

After I received that non-identifying information, I was hesitant about moving forward for a couple of reasons. First, I did not want my curiosity to hurt my adoptive family, and I was worried about how they would react. I did not want to cause them any pain or somehow make them feel betrayed. My worries were unfounded. I can still remember my mom telling me and I quote: "I always thought you would find your birth parents. Maybe you don't remember, but when you were a young boy, we used to pray on your birthdays that God would protect your birth mother."

Second, I heard horror stories about adoptees who had spent literally thousands of dollars searching to no avail. This concern also fell on the wayside, as I knew it was the only right thing to thank my birth parents for their precious gift.

In the fall of 1995, I began what I call the second phase of my search by hiring Michele Heiderer. Michele acted as my intermediary, and for those who aren't really familiar with that term, an intermediary is a third party who protects one's privacy until there is mutual consent for contact. At least that's supposed to be the way it works, and, in my case, it did.

Michele quickly found my birth parents and, at last, I was able to say thank you. Since then, I have developed a strong relationship with both my birth parents. Obviously, not everyone is as fortunate as I was. Not everyone can obtain the detailed information I did from Lutheran Social Services. Not everyone knows where they were born. And not everyone can even find their birth parents. For these reasons, I strongly believe in S. 1847, the National registry.

This registry will allow adoptees and their birth parents to share information in hopes of being reunited. From my personal experience, I can tell you how important reunification is for those who seek it. In my case, it allowed me to express my gratitude. Equally important, reunification helped wipe away the guilt and fears that plagued my birth parents for the last 30 years. Imagine the amount of pain my birth parents accumulated over that time, not knowing if they had made the right choice, not knowing if the birth child resents or hates them, not knowing if their child they brought into this world is alive or dead. My birth parents had made such a tremendous sacrifice for me, and they deserved an answer. At least, I felt they did.

I will share one last story to illustrate how important reunification is to those who chose it. And I would like to emphasize that term "chose it." When I first met my birth mother, it seemed to me that she couldn't stop hugging me. I remember wondering why. I mean, was she happy to see me? Was she sad? Or was she just nervous? I have to tell you her answer overwhelmed me; she said and I quote: "I only held you once when you were a baby. I knew if I held you any more than that I could never let you go." Holding me once answered all of her concerns.

Reunification is not the desire of every adoptee. It's a personal choice, and each adoptee's motives are different. A voluntary registry—voluntary—will help adoptees and birth parents to find each other, but only with their mutual consent. That point cannot be stressed enough.

Mr. Chairman, your committee has the power to wash away years of anguish facing tens of thousands of Americans—adoptees and birth parents. A national registry can hold great promise, and I am hopeful that you will support it. I believe the Craig-Levin bill will introduce sanity to perhaps a confusing and costly process, a process which, in the past, has not respected an individual's rights to privacy.

I strongly support this bill because it is voluntary and requires mutual consent. Let me be clear. This registry legislation, as I see it, should not be confused with something that is known as open records policy. While both are intended to bring parties together, their approaches are radically different. A registry specifically designed to respect both parties' privacy, but open records policy does not. This is an important distinction, I believe.

With that said, I support this legislation, as it allows mutually consenting adults to share information in hopes of being reunited.

In closing, I hope my comments prove useful in your deliberations, and I remain open to any questions you might have.

[The prepared statement follows:]

Statement of R. David Wilson, Adoptee
Testimony before the Subcommittee on Human Resources
of the Committee on Ways and Means
June 11, 1998

INTRODUCTION
Mr. Chairman, Mr. Ranking Member, members of the committee, it is a pleasure and honor to testify before you this morning. My name is David Wilson and I am an adoptee. I sincerely hope that sharing my personal experience with you will help illustrate the importance of establishing a national voluntary reunion registry for adoptees and birth parents.

Nearly 31 years ago to this day, I was adopted by my parents Roy and Ruth Ann Wilson. I have always known I was adopted and have never questioned that the Wilsons – including my three sisters, Liz, Tami, and Teresa – are my real family. In fact, when my dad suffered a heart attack last year, my sisters urged me to have MY heart checked out because I may have inherited his congenital heart problem. Momentary lapses like this one exemplify how close my family is, even though we don't share a similar genetic code.

I've always enjoyed a close relationship with my adoptive parents and siblings. When I decided to seek out my birth parents eight years ago, I never intended to meet them face-to-face, let alone establish a relationship. I merely wanted to thank them for giving me a chance by bringing me into this world. To some people a simple "thank you" might seem silly. But to me, my birth parents gave me the greatest and most precious gift – the gift of life.

MY SEARCH
My search began in 1991 when I contacted the Lutheran Social Services agency in Seattle where I was adopted. I requested the allowable non-identifying information about my adoption. What I received from the agency read like a modern Greek tragedy and gave me an even greater desire to thank my birth parents.

You see, my birth mother had a brief relationship with my birth father at a resort where they worked. After discovering she was pregnant, my birth mother showed tremendous courage, strength and integrity. As I see it, she had a couple of options: She could hide the truth by having an abortion or she could marry my birth father. She chose the latter, which socially, was the most difficult. In my eyes, it was a tremendous sacrifice on both their parts and one that demanded my gratitude. Their marriage lasted less than a few months, after which my mother entered the Lutheran Social Services home for unwed mothers, where I was put up for adoption.

THE NEXT STEP
After I received the non-identifying information, I was a bit hesitant about moving forward for two reasons.

First, I did not want my curiosity to hurt my adoptive family and was worried about how

they would react. My dad eased my mind early on and encouraged me to proceed with my search. You see, he also was adopted. His birth father abandoned him when he was still an infant. Although he did locate him in the early 1990s, my dad's many questions went unanswered because his birth father was quite old and mentally dysfunctional. My dad did not want me to face the same predicament simply because I waited too long.

I also worried about my mother. I did not want to do anything to cause her pain, or to somehow make her feel betrayed. She didn't share the same history my dad and I did, and I was not sure she would understand. I could not have been more wrong.

She told me, and I quote, "I always thought you would search out your birth parents. Maybe you don't remember, but when you were a young boy, we used to pray on your birthdays that God would watch over and protect your birth mom."

My second hesitation was that the next phase of my search would be expensive. I had heard horror stories about adoptees who spent thousands of dollars searching to no avail. And, as is the case with most young Hill staffers, I was earning a modest salary. So, a costly – and lengthy – search was not an option.

Over time, the prospect of finding my birth parents began to gnaw away at me. I desperately wanted to say "Thank you for your sacrifice. I have a great life." I decided to proceed.

PHASE II

In Fall 1995, I began the second phase of my search by hiring Michele Heiderer. She acted as my intermediary – a third party who protects one's privacy until there is mutual consent for contact. In other words, it is more diplomatic and responsible to hire an intermediary than to show up on your birth parent's doorstep and say, "Remember me?"

Michele quickly tracked down my birth parents and contacted them on my behalf after gaining the court's permission.

At last I was able to say thank you. Since then, I have developed strong relationships with both birth parents.

SUPPORT FOR REGISTRY

Not everyone is as fortunate as I was. Not everyone can obtain the detailed documentation I did from Lutheran Social Services. Not everyone knows where they were born. Not everyone can even FIND their birth parents. I wish I could say every other adoptee has been as lucky as I have been.

For these reasons, I strongly believe in S. 1487, the National Voluntary Mutual Reunion Registry. This Registry would allow adoptees and their birth parents to share information in hopes of being reunited.

From my personal experience, I can tell you how important reunification is for those who

seek it. In my case, it allowed me to express my gratitude, something I felt I had to do to fill a void in my life. Equally important, reunification has helped wipe away the guilt and fears that have plagued my birth parents for the last 30 years.

Imagine the guilt accumulated by my birth parents over the past three decades. Not knowing if they made the right choice. Not knowing if your birth child resents or hates you. Not knowing if the child you brought into this world is alive or dead. I felt those questions should not go unanswered, especially because I felt my birth parents had made such a tremendous sacrifice.

I will share one last story to illustrate how important reunification is to those who choose it. When I first met my birth mother, it seemed that she couldn't stop hugging me. I remember wondering why this was the case. Was she happy to see me? What was it? As it turns out, I never had to ask. On my second visit, she said, "You know, I only held you once when you were a baby. I knew if I held you any more than that, I could never have let you go." Holding me once again answered all her concerns.

Reunification is not the desire of every adoptee. It's a personal choice and each adoptee's motives are different. Some have no interest; others have a burning desire to find their roots. And some adoptees are concerned about their medical histories. A voluntary registry would allow each adoptee the option of finding out where their birth parents are and if they wish to be contacted.

S. 1487

Mr. Chairman, your committee has the power to wash away years of anguish facing the tens of thousands of American adoptees like me and their birth parents. A national registry holds great promise and I am hopeful you will support this goal. I believe the Craig-Levin bill will introduce sanity to a confusing and costly process, which in the past has not respected an individual's right to privacy. I strongly support this bill because it is voluntary and requires mutual consent.

FEDERAL VS. STATE

Some opponents of the Voluntary Registry have argued that there's no compelling reason for a federal or national perspective on this issue. I would like to share with the committee several observations which suggest that the federal government has played a significant role in adoption and that a national solution is in order:

First, from the late 1930s to the early 1960s, the federal government funded maternity homes on the condition that birth mothers would give their children up for adoption. Between the 1940s and 1950s, adoption increased by nearly 80 percent. Many adoptees were part of that federal program and would benefit greatly from a federal Voluntary Registry.

Second, many adoptions involve more than one state. As these adoptions cross state lines, it complicates reunification efforts because there is not an overarching public or private registry program.

Last, but not least, free and open discourse between consenting adults is a Constitutionally protected right. It is my understanding that some believe this legislation would undermine states' rights. The authors of S. 1487 attempted to address this concern by providing a state preemption provision. It is worth noting that even if such a preemption was not included, this legislation would still pass Constitutional muster. America was founded on the premise of individual rights – not federal or state rights. Protection of individual rights is the basis for the Bill of Rights. Furthermore, the concept of state and federal rights was created to strengthen and protect individual rights, not the government's.

ADOPTION VS. ABORTION

Other opponents contend that this legislation will increase abortions. I have not seen ANY compelling evidence to support this statement, especially since it is a voluntary registry. I am eager to hear from others who might have such information at their disposal. I am pro-life, so I do not take such comments lightly.

I am, however, familiar with information that arrives at the exact opposite conclusion. Kansas and Alaska have the most open record policies in the nation, and yet they boast the highest levels of adoption and some of the lowest abortion rates in the country. These statistics also indicate that Kansas has resident abortion rates that are half the national average.

Let me be clear. I am not advocating an open records policy. I am providing the above example to illustrate that a voluntary registry will not increase the number of abortions. In fact, these statistics indicate that open discourse will lead to a decrease in abortions. With that said, I support legislation that merely allows mutually consenting adults to share information in hopes of being reunited.

CONTRACTUAL AGREEMENTS

Finally, opponents have expressed concern that this legislation will undermine the contractual agreements signed by birth parents and adoptive parents. I believe these agreements should be honored and that the privacy of these individuals should be protected. With that said, however, these agreements largely ignore another party involved in this process – the adoptee. As an adoptee, I was not party to such an agreement, and I am troubled by those who may believe that I have absolutely no rights to any information surrounding my adoption.

I strongly believe that as an American protected by the rights guaranteed to me under the Constitution I have a right to this information and that such contracts do not effectively eliminate these rights. That aside, let us consider again the point of this legislation: It creates a Voluntary registry which requires mutual consent. Assuming for the moment that contractual rights are the issue, the fact that this registry is voluntary should be sufficient to quell any such concerns. My point is simple. People contract everyday to obtain everything from medical and legal services to purchasing a car. At any point thereafter, these same contracting parties have the option to waive certain contractual rights, and often do. If a person registers under this voluntary program, it is tantamount

to such a waiver and authorizes disclosure of relevant information.

In closing, I support the National Voluntary Mutual Reunion Registry and hope that my comments might prove useful in your deliberations. I remain open to any questions you might have. Thank you.

Chairman SHAW. Thank you, Mr. Wilson.

Mr. Robinson.

STATEMENT OF ROBERT ROBINSON, COMMISSIONER, NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, PORTLAND, ME

Mr. ROBINSON. Mr. Chairman, members of the committee, I'm very honored to be asked here today to testify in this matter. My name is Robert C. Robinson. I'm an attorney, a member of the law firm of Robinson, Kriger, and McCallum, practicing in Portland, Maine. I am also a Commissioner on the National Conference of Commissioners on Uniform State Laws, which is a body of 255 to 300 lawyers, judges and law school professors who have as a mission statement the drafting, preparation of laws where uniformity is of value to the several States.

Back in 1976, I was appointed by the Governor of Maine and for the past 21 years, have been reappointed by several other governors.

Now, in 1989, the National Conference decided that there was a very serious issue confronting the States, and that's the level of uniformity with regard to adoption. And so a drafting committee was appointed.

The drafting committee would ordinarily produce a first reading at the end of one year, and a second and final reading at the end of the second year. The nature of the subject matter, however, is so intense and so complicated, and there are so many people throughout the country who are so impassioned about their views in this matter, that it actually took five years in order for the particular adoption act to be completed.

Now, what that means is that the drafting committee would present their drafting product to the committee of the Whole on the annual meeting of the committee of the whole. And 255 lawyers and judges and law school professors, each with a microphone, would undertake to react to a line by line reading in which they would redact, modify, amend, criticize, delete. And the transcript of that was then presented to the drafting committee, and they would go back to the drawing board for 12 more months. And this was done for five successive years. During that period of time, while the debate was inclusive, and the drafting committee invited all of the advisors, all of the individuals throughout the country who had any interest whatsoever, to the committee meeting. They were given a voice. They had no vote, but they were given a voice—whether it be for open records, closed records, open adoption, closed adoption. There's literally no facet of the adoption process that was left undiscussed. It is our feeling, it is the feeling of the Conference that the final Uniform Adoption Act, in its present form, was a very well designed, well crafted, moderate and well balanced Act that was in many instances developed through compromise, and, as a result, is now available to be enacted in the several States.

We are, however, very realistic. We recognize that the history of Uniform Acts is such that States do not automatically come forward and adopt a Uniform Act. But they sometimes choose sections that are applicable. More and more intelligence is brought to bear. More reality and recognition of the value becomes apparent. And

ultimately, we have every reason to believe that the Uniform Act will be adopted in the several States.

Now, in the meantime, it's important to realize that every State in the Union has an adoption act. Every single State in the Union has a system whereby identifying information is made available. The particular acts in particular States, as a result of criticisms and comments that are justifiably made by those who are in authority and know, indicate that all systems are not perfect. And we do not consider that they are perfect. But what we do know and do recognize and accept is that the staff that is undertaking to manage and control the mutual consent registry and who undertaking to control the fundamental substratum upon which adoption is based, which is privacy and confidentiality of records, they take great pride in the dedication that they have to this particular facet of their responsibility. They are dedicated and they comment with anyone who wishes to understand that their intention is fully to protect and secure the privacy of individuals and the confidentiality of records.

Now, adoption is a matter of State law. There is no Federal Adoption Act, and there ought not to be. The fact of the matter is that the various States are operating on a very, very sensitive, individual, family-type situation, which calls for less rather than more. We really and truly do not need the Federal Government to come in and duplicate and do what is already being done. A Federal act in the nature of S. 1487 will cause serious duplication of efforts that are going on throughout the entire country. It will undertake to develop a bureaucracy, a bureaucracy of untold limits that we cannot possibly control. There will be unnecessary effort and expense that is yet to be determined, and it will stifle the spirit of local self-reliance of individuals and also deprive people of the chance to share in the responsibility that they feel so strongly about with regard to maintaining the State system of adoption and mutual consent registries.

Now, the particular act, S. 1487, is fraught with land mines. It is a veritable disaster in so far as the particular language that's contained therein.

First, I would point to eight items.

One, the discretion of the Secretary. "The Secretary in the discretion of the Secretary" shall have the availability of the Department of Human Services. That, in itself, constitutes a wide open area of intelligence that has heretofore been privately maintained with regard to Social Security numbers, with regard to Medicaid applicants, with regard to welfare applicants. So the discretion of the Secretary is a matter of question.

"No net cost to the Federal Government." No net cost to the Federal Government is a statement yet to have a conclusion. There is obviously going to be a great cost, and the question of where that cost is levied and where it is undertaken and by whom is a matter of extreme importance.

The language of "any birth parent." "Any birth parent." Any birth parent has been spoken of here several times today with regard to outing a mother. It is not always necessarily the intention to out a mother, but there may very well be a former putative father who didn't act as a father, who didn't conduct himself as a fa-

ther, whose parental rights have been terminated. If this particular individual's parental rights have been terminated, he certainly does not, is not, should not be entitled to seek identifiable information with regard to a birth mother.

"Any adult sibling" follows the same rationale.

Other data systems that are available—the Social Security, the Medicaid, Medicare—all of these factors and all of this database intelligence which is available is more likely to be available if this is taken into a Federal forum rather than the unique qualifying privacy of the State registries.

Confidentiality "to the maximum extent feasible." That is very, very broad language. It is equivocal language that requires interpretation. Maximum confidentiality to the maximum extent feasible is the language of the Act. It is equivocal language. It needs and must be repaired and amended in order to be effective.

"Reasonable fees" constitute a chilling effect on adopting parents.

"No preemption." The suggestion that there is no preemption of the State in order to undertake to raise and articulate the best interests of the Federal system is somewhat of a SOP, it seems to me. Because it is unusual and very, very strange to find the Federal Government granting "no preemption." And it would appear that if that ever came to pass, that judicial review would be required in order to ascertain precisely why the "no preemption" was given as it was, and what was the reason, and whether or not the States should or should not be granted that consideration.

Now, I think it is very critical and very important for us to take great care to avoid casual attitudes about this process, which gives hope to children and biological mothers. And we must use our best efforts to do no harm, but to bring together those who, in the spirit of good will, can resolve our differences and guarantee to the several States a renewed commitment to continue to improve the adoption process.

Thank you very much, Mr. Chairman, and gentleman. I respectfully request and suggest that the Federal Government, if it undertakes to do the things that are being suggested with regard to bringing consenting adults together, it probably can do it. But it cannot do it as well as is being done by the States, and the various burdens that I have delineated which will be concomitant with this Act would justify, in my opinion, that this Act ought not to pass.

[The prepared statement follows:]

STATEMENT OF ROBERT C. ROBINSON, ESQUIRE

on behalf of

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

Mr. Chairman and other Honorable Members of this Committee:

I am deeply honored to have been given the opportunity to testify here today before this Honorable Committee.

My name is Robert C. Robinson and I am currently a Commissioner of the National Conference of Commissioners on Uniform State Laws, having first been appointed by the Governor of the State of Maine in 1976 and reappointed by several other Governors for the next 21 years.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) was first formed in 1889 by the New York Bar Association which appointed a special commission on uniformity of law. In the next year, the New York Legislature authorized the appointment of Commissioners "to examine certain subjects of national importance that seemed to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation of uniformity in the laws of the states, and especially whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted to approval and adoption by the several states." In that same year, the American Bar Association passed a resolution recommending that each state provide for Commissioners to confer with the Commissioners of other states on the subject of uniformity of legislation on certain subjects. In August, 1892, the first National Conference of Commissioners on Uniform State Laws (ULC) convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association. There have been 105 Conferences since that time.

By 1912, every state was participating in the ULC. In each year of service, the ULC has steadily increased its contribution to state law. Because of that contribution, it very early became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1912, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several persons, later to become Justices of the Supreme Court of the United States, have been members. These men are former Justices Brandeis and Rutledge, and current Chief Justice Rehnquist. Legal scholars have served in large numbers. Examples are Professors Wigmore, Williston, Pound, and Bogart. A great many distinguished lawyers have served since 1892, though their names are not as well known in legal affairs and the affairs of the United States. This distinguished body has guaranteed that the products of the ULC are of the highest quality and are enormously influential upon the process of the law. As it has developed in its 106 years, the ULC is a confederation of state interests. It arose out of the concerns of state government for the improvement of the law and for better interstate relationships.

The National Conference is convened as a body of the whole once a year. It meets for a period of eight to twelve days, usually in the first two weeks of August. In the interim period between the annual meetings, drafting committees composed of Commissioners meet to supply the working drafts which are considered at the annual meeting. At each National Conference, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. No Act becomes officially recognized as a Uniform Act until the National Conference is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

The governing body is the ULC Executive Committee, and is composed of the officers, certain ex-officio members, and members appointed by the President of the ULC. Certain activities are conducted by standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes an amount each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an ongoing basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

In March of 1989, the ULC formed a Study Committee to see if any action should be taken to improve the law of Adoption in the several states. The Study Committee recommended that a Drafting Committee be formed to redraft a new Adoption Act. I served as co-chairman of that Drafting Committee of the Uniform Adoption Act (UAA). After five years of research and intensive debate at which all persons and organizations having an interest were encouraged to participate, NCCUSL completed the Uniform Adoption Act (UAA) at its 1994 Annual meeting. The recently completed UAA was enthusiastically endorsed by the American Bar Association early in 1995.

Adoption is entirely a statutory procedure governed entirely by state laws in all of the several states established for the first time in 1851 in Massachusetts. The subject is one about which everyone has at least some opinion based upon their own participation and

association with their own family. The issues all deal with individuals and intimate human relationships and are complex and the governance, therefore, can be controversial, especially when almost the entire populace have opinions as to what the law should be.

NCCUSL, having over 100 years of experience in creating and drafting state laws, spent five years with the services of 300 lawyers in research, analysis, debate and compromise in drafting an Adoption Act for the several states. This proposed legislation, so carefully crafted, was intended to resolve the many problems associated with adoption and bring to the several states a uniform law that would serve the best interests of children in the creation of new families.

The completed Adoption Act did receive a ringing endorsement from the ABA and is expected, over time (which is the history of Uniform Acts), to be gradually adopted by most of the several states. At the outset, the states will adopt individual critical sections of the Act and gradually will incorporate most, if not all, of the Act as the merit and value of the proposed legislation becomes apparent through gradual use of its parts.

Of the many controversial issues, those that involved the most vigorous and time-consuming debate in the creation of the Adoption Act were whether to preserve the tradition of privacy and confidentiality of records. These specific issues provided the major thrust of the debate over the entire five years. A thoughtful, moderate, middle-of-the-road compromise which received solid support from the Committee of the Whole as well as from the Drafting Committee provided for a mutual consent registry to be established in every state whereby both identifying and nonidentifying information may be made available through the carefully crafted terms and provisions of the mutual voluntary consent registry made a part of the Adoption Act. Hopefully, the Uniform Adoption Act including its letter perfect mutual voluntary consent registry provision will ultimately be accepted in each of the several states.

In the meantime, however, it is to be acknowledged that 48 of the states currently have some form of system in place that people seeking identifying information may use. The District of Columbia, New Jersey (for non-public agency placements) and North Carolina are the exceptions. Not all of the existing laws at the present time are the same, nor are all the laws adequate in every respect, but all do provide what each state currently deems appropriate for dealing with the rights and interests of adoptees and their adoptive parents

in their respective states. Most, if not all, of these systems are set up and governed by thoughtful, conscientious staff. Some are within the Department of Vital Statistics and others are within the Department of Human Services, but all follow strict guidelines commensurate with the governing legislation in their particular State and all but Alaska, Kansas and Tennessee seem proud to preserve the pole star around which the adoption process revolves, i.e., to protect the covenant guaranteed of privacy and confidentiality of records. Some have this assurance to a greater degree than others, but all systems are carefully guarded within the guidelines set out in their respective State statutes.

To superimpose in this network yet another, duplicate regulatory procedure in the form of a federal program for a mutual consent registry cannot be but confusing and a source of frustration for those seeking relief and security.

In its present configuration the "National Voluntary Mutual Reunion Registry" S1487 contains certain terms and provisions which are equivocal at best and harmful at worst. Reference is made to Section 479(A)(a)(1) of the proposed Act as follows:

> (a) EXCHANGE OF MUTUALLY REQUESTED IDENTIFYING INFORMATION - The Secretary, in the discretion of the Secretary and provided there is no net cost to the Federal Government, may use the facilities of the Department of Health and Human Services to facilitate the voluntary, mutually requested exchange of identifying information that has been mutually consented to, by an adult adopted individual who is 21 years of age or older with–
>
> (1) <u>any birth parent of the adult adopted individual</u>; or
>
> (2) <u>any adult sibling who is 21 years of age or older, of the adult adopted individual</u>

I have some personal reservations which are not necessarily those of NCCUSL, concerning the unrestricted use of the "any birth parent" and "any adult sibling" language believing it could set the stage for serious consequences. This "<u>any birth parent</u>" language could produce a disaster under certain circumstances. Consider the problems that would result if a non-consenting biological mother were confronted, post adoption, by the biological father whose parental rights had been terminated or whose conduct or lack of

conduct did otherwise deprive him of status in the triad. The condition produced by this language is the antithesis of the protection and security contemplated by any mutual consent registry system.

In (a)(2), an adult sibling of the adoptee, without qualification other than age, is given unwarranted status in this Act to encroach upon the rights of an unconsenting biological mother by obtaining identifiable information, thus denying said mother from the guarantees as set forth in (B) and (C) herein and further does violence to the covenant of confidentiality offered to the biological mother at the time of her consent or relinquishment of her child for adoption. You can rest assured that the children born to their mother and father, who are full siblings, cannot by mutual agreement access their parents medical records.

There may also be unforseen problems with the following section even though the proposed Act attempts to assuage the States that the Federal Government intends to be friendly.

"(e) NO PREEMPTION - Nothing in this section invalidates or limits any law of a State or of a political subdivision of a State concerning adoption and the confidentiality of that State's sealed adoption record policy."

Ordinarily, a section of a law as set forth above, promulgated by the Federal Government which addresses the same issues set forth in a state statute takes precedence over the state statute which must yield to the Federal law. There is some precedent under unique circumstances, however, for the Federal Government to declare the preeminence of a state statute in a matter in which the Federal Government perceives there to be an advantage to do so. It is rare, however, and probably will require a hearing and an interpretation of the unusual turn of events brought about by this preemption clause proposed in this Act by the Federal Government. It is not entirely clear under these circumstances that the impression being created by this unusual declaration of preemption by the Federal Government would not add substantially to the confusion of this uncharacteristic position taken by the Congress.

In fact, the very act of declaring a no preemption position sets the stage and sends the wrong message creating more confusion to all of those who are seeking order and design

in the protection and security of family rights. They have become accustomed to the standard execution of that order and design under state statutes and regulations which are familiar to them even though the laws may be less than perfect in some respects, because the families have confidence from experience that these familiar laws will be carefully and zealously enforced giving comfort and security to those intended to be benefitted thereby.

There is no Federal Adoption Law in the United States. The law of Adoption in the United States is and has always been since 1851, governed by state statutes and regulation. The several States have always recognized the seriousness of that part of the adoption process that ensures the protection of family life. The states have indeed been loath to come to agreement quickly as to uniformity in all of the terms and provisions of any adoption act. This may seem anomalous but it is not. It sometimes takes many years for a State to come to the realization of the benefits to be derived from carefully crafted legislation. The thousands of Uniform Acts in place in all of the several States over the past 100 years give ringing testimony to this reality.

There is, even now, four years after the creation of the UAA, a considerable difference of opinion about many features of the process described in the Uniform Adoption Act created to develop new families through adoption. But there is almost unanimous agreement in all of the states concerning the value of the security obtained by the governance, order and design in the development, maintenance and preservation of confidentiality and proper adoption records in their respective existing State Laws.

In veritably every state in the United States, even in the absence of Uniform Adoption Act legislation, there is state statutory law with respect to records which is consistent with the UAA's Article of Records, Confidentiality and Access with regard to the following matters: (1) the confidentiality of adoption proceedings; (2) the confidentiality of all records pertaining to the proceedings after an adoption becomes final; (3) the sealing of the court records of adoption proceeding; (4) the basic procedure for sealing an adoptees original birth certificate and issuing a new one to reflect the adoptive parents' legal parentage; and (5) the availability of a limited exception to the general rule of confidentiality through a judicial finding of "good cause".

With respect to non identifying information about an adoptee's medical and social history, most modern state statutes encourage the collection and release of such information to adoptive parents and adoptees at age 18, upon request.

The Uniform Adoption Act, however, is more comprehensive than many of these statutes and establishes careful procedures for compiling, maintaining, releasing and updating nonidentifying information. Certain civil and criminal penalties as well as private actions for damages are authorized under the provision of the UAA for unwarranted failures to disclose information that should be disclosed as well as for unauthorized disclosure of confidential information.

Over half the states in the country, again without the benefit of the UAA, have mutual consent registries and most work rather well. They are carefully observed and followed by dedicated personnel who are deeply committed to preserve the protections and security which their State law provides. Of the very few states that have no registry, or other system that adopted persons and biological parents may use, identities are disclosed only by Court Order for identifying information. Most of the states allow the consensual disclosure of identities through a mutual consent registry established by State Statute. This procedure recognizes and protects the rights of birth parents or adoptees who choose to remain unidentified as well as the interests of those who wish to disclose their identities. If the birth mother and an adoptee at age 18 or older or the adoptive parent of an adoptee under 18 indicates a willingness to disclose their identities, the identifying information must be disclosed. If there is no mutual consent, the UAA allows a suit for disclosure of identifying information for good cause. There are several states which authorize a confidential intermediary to seek out the individual who is the object of a search and request permission for the disclosure of the individual's identity. Some States have two systems.

There are three states which will provide original birth certificates to an adult adoptee upon request unless the birth parent has filed a non disclosure request: Alaska, Kansas and Tennessee.

There are also states which have a search and consent procedure whereby the search and consent generally begins with the request to an adoption agency or state office from an adopted person or birth parent for access to his or her original birth certificate or adoption

records. If the agency already has affidavits on file from the birth parents or adopted person consenting to the release of information, no search is necessary.

If no affidavits are on file, the state or the agency may conduct a search and may have a time limit within which to conduct the search. Once the birth parent or adopted adult has been located he or she then usually has a limited time within which to consent to ordering the release of identifying information. Failure to respond usually results in the records remaining sealed. One state, however, (Nebraska) considered a bill stating that silence constitutes implied consent.

Given the complexity and fragility of the subject matter and the fact that all of the States are gradually improving their respective systems by constant efforts ever to protect these intimate proceedings, it would seem more appropriate to intensify these efforts to improve registries and systems that work. This seems more prudent than to start back at square one to reinvent a new system with all of the problems of a national start up system. Adding one more bureaucracy to the federal system may provide some benefits, but it is not likely to provide the force needed to improve existing adoption services.

Is it not more logical when dealing with personal, confidential family matters to work quietly with those we know and trust rather than to bare our souls to the world at large? Most would opt for the former course with the expectation that their personal interest will be more secure. Does not this private narrow focus preserve a certain anonymity and confidence which is very important to those seeking the protection of the law? This cannot easily be provided by a national federal program. We should be ever vigilant in seeking ways to provide legal safeguards against violations of confidentiality - again this would be most difficult in a national federal program.

We should strive to build on the strengths of our existing systems and the acknowledged value of a carefully crafted and balanced mutual consent registry readily available to each of the several states. That system should include a most important feature which very well may constitute the very substratum of the success we seek. That is the feature to be found in Section 6-106(4) of the UAA as follows:

> "...to cooperate with registries in other states to facilitate the matching of documents filed pursuant to this Article by individuals in different states"

This remarkable feature is a part of the great mutual consent registry section of the UAA. This feature alone answers many of the problems of those states which require residence as well as adoption services to be in the same forum or jurisdiction. The Mutual Consent Registry section as proposed in the UAA has been tested in the crucible of every conceivable technical, legal and practicable alternative by a conference of 300 lawyers, judges and law school professors over a period of five years. It has been completed and delivered after exhaustive analysis and debate as a moderate, well balanced compromise that will satisfy the demands of most everyone.

To insure that the miracle of birth not be denied to so many thousands of desperate but barren couples, we must exercise our best intelligence, compassion and good will to protect and preserve all that is good in the adoption process, with its beauty and wonderment that abides with the childless couple when they finally bring their adopted baby to a new and greater chance of life and happiness.

We must also take great care to avoid casual attitudes about this process which gives hope to children and biological mothers, and use our best efforts to do no harm but bring together those who, in a spirit of good will, can resolve our differences and guarantee to the several states a renewed commitment to continue to improve the adoption process.

Chairman SHAW. Thank you.

Mr. Levin, you may inquire.

Mr. SANDER LEVIN. Thank you, Mr. Chairman.

First, let me give some reassurances to you, Ms. Sandusky. I don't know if the social worker there violated State law.

Ms. SANDUSKY. She did. It was considered a third degree misdemeanor and they let her off.

Mr. SANDER LEVIN. This legislation won't affect that one way or the other. We cannot make up for defaults in the part of State authorities. This proposal says that there has to be mutual consent by a signed, notarized statement. So I just want you to be reassured on that point.

Mr. Robinson,

Ms. SANDUSKY. Can I just say, in the response to that. Even at the Federal level, if you say that all parties must be in agreement to have this happen, if it can happen at a State level, it can certainly happen at a Federal level.

Mr. SANDER LEVIN. Well, but if we go by that rule, though, there would be no laws of any kind. I mean, I have more faith in most prosecutors, State and Federal, and in most committees, State and Federal. The notion that we would pass something, and there would be abuse, and we would let things get totally out of hand, I think, fails to take into account the responsibility of this subcommittee and of this Congress. You know, you can say about anything that there's a foot in the door or nose under the tent. I have a little more faith that this is not, in any way, a step towards open records. In fact, I think it would perhaps discourage such efforts.

Mr. Robinson, the attitude—you know, you talked about the uniform law that you, I guess, helped to draft. It has a provision, does it not, for communication if there's mutual desire between an adoptee and one birth parent, right?

Mr. ROBINSON. Yes, you're absolutely right, Congressman? That is correct. However, you will probably note in my written statement that I have some reservations with regard to that, which I'm not totally sure the National Conference of Commissioners agrees with. I feel——

Mr. SANDER LEVIN. I think they disagree with it.

Mr. ROBINSON. Well, I would say in the incipient stage of development that's true. But that doesn't mean that it's etched in stone; that it's forever. I may be successful in convincing there should be a modification of that. The fact of the matter is——

Mr. SANDER LEVIN. Let me just ask you about your own State, if I might. I think your own State has indicated there's been no problems with this, right? Let me just read to you what is—the letter from the Department of Human Services—you're from Maine?

Mr. ROBINSON. Yes, I am.

Mr. SANDER LEVIN. "I'm sending this letter in response to your inquiry"—this was June 4, 1998—"regarding the Maine State Adoption Reunion Registry. At this time, Maine has not come across any problems regarding the reunion between an adult adoptee and a reunion with one birth parent."

Mr. ROBINSON. Well, Congressman Levin, your brother, the Senator, has made that answer to several of the inquiries that were made to him—that there's never been a problem.

Mr. SANDER LEVIN. No, no, no. He said—look, no one is saying that there will never be a problem when one child—when a child and one parent by mutual consent find each other. No one has ever said that. It's the process of weighing the experiences given to you here today, of Mr. Wilson and Ms. Swanson, and the research on that of balancing the desire, the voluntary mutual desire of two people to find each other who may live in very different places in the country with possible negative consequences, not those mentioned by Ms. Sandusky, where there was a clear violation of State law. There wasn't a case of mutual consent. She objected, and it was reprehensible the way that was handled.

Let me just ask you, if I might. There's this letter——

Mr. ROBINSON. Congressman, may I respond?

Mr. SANDER LEVIN. Is it Ms. Marquess? Let me just——

Mr. ROBINSON. May I respond to that? The points you're making are valid and meritorious, but they don't say it all, Congressman. There is not the slightest question that there are fathers, putative fathers, who don't act like fathers who are ultimately denied their parental rights. And yet, the language that you speak of in the Act suggests that they would have the right to avail themselves of identifying information. I think that's absolutely and totally out of order. It is not——

Mr. SANDER LEVIN. Okay, let me just say——

Mr. ROBINSON. It is not in the spirit of the Act or what is intended.

Mr. SANDER LEVIN. But the Uniform Law is reflected in the legislation that was passed unanimously by the Senate; the Uniform Code proposed by a committee on which you serve. Now, you may disagree with it, but that's been the proposal.

Let me just ask, is it Marquess?

Ms. MARQUESS. Marquess.

Mr. SANDER LEVIN. Marquess. Okay. I wasn't sure. Do you know the Children's Home Society in Florida? Let me just, if I might—and I'll finish up, Mr. Chairman—read this letter from them. They're a reputable organization? And they're very active in this area?

Ms. MARQUESS. In adoption reunion?

Mr. SANDER LEVIN. No, in adoption issues.

Ms. MARQUESS. Yes, the Children's Home Society in Florida is active in adoption.

Mr. SANDER LEVIN. Okay, here's a letter from the senior social worker for adoptions, North Central Division. "I feel even more strongly now that such a registry is needed on a national basis. We in Florida have a statewide registry available to adoptees and biological families, but as in other States, many of those persons needing information or seeking to contact biological family do not know of its existence. Because of the mobility of our society, often persons who were adopted in Florida and who placed a child while living in Florida are no longer residents and do not know that such a registry exists. We attempt to assist these people, but often there is little we can do because we do not have their original records. It would be helpful to be able to refer these individuals to a national registry, where there would be a greater chance that they may be able to be reunited with the biological family."

Do you think this expression is not one worthy of attention?

Ms. MARQUESS. Oh, yes, sir. I think it's worthy of attention. If I recall correctly, there are nine local units of the Children's Home Society around the State of Florida, with a State headquarters in Jacksonville. Their State headquarters contains all of the records of all adoptions that they have handled; that the organization has been responsible for in the State of Florida. It may take an individual worker some time, to get access to those records but their organization is responsible for maintaining their records. And, as I understand it, those records are kept at State headquarters.

Mr. SANDER LEVIN. What if the records are in Nebraska? I mean, how—someone comes in to Florida, tries to access the registry, a child. And the mother has registered in Nebraska. I understand the depth of emotions here, and there is no 100 percent guarantee of any system, but the Chairman and I, I think, are trying to get at the bottom of this. And I think other members are too. There's no partisanship involved here. I mean, all that's irrelevant. We're talking about individual human beings here. And there will be pluses and minuses to any proposal, by definition, because we're dealing with a myriad of circumstances. But tell me, if the person, the mother is in Nebraska, where does the person in Florida turn?

Ms. MARQUESS. If the birth mother is in Nebraska?

Mr. SANDER LEVIN. Yes. And she filed in Nebraska, and the child, I don't know—let's assume they have the same law as Florida. And the person in Florida signed up in Florida. What is Helen Irvin, who signed this letter, what does she do? More importantly, what do the two people do?

Ms. MARQUESS. I don't know. In Florida, if we can verify that the person was adopted in Florida or, in some instances, adopted in another State but born in Florida, they are still able to register in the Florida registry.

Mr. SANDER LEVIN. But, but you may not know where the other person is. What does that person in Florida do?

Ms. MARQUESS. I don't know.

Mr. SANDER LEVIN. Thank you.

Chairman SHAW. This subject is much more complicated than I think any of us had really realized. And I think that's what hearing are for—instead of passing things by unanimous consent on the Senate floor. [Laughter.]

I think that's very dangerous. We heard from Senator Bennett, who obviously if it's unanimous, he was somewhere around. He's got concerns about it now. And I have concerns about it. I remember when this came through originally attached to a bill, Senator Levin and I had some discussions as to pulling it off, because I was concerned about doing this without any hearings. And now we've had one, and I'm really confused.

But I'd like to, Ms. Marquess, follow up with what you were talking about. The bill itself, if we were to pass something like this, or put something like this out there, the question is how much background can the Federal Government get involved in delving into State records and what not in order to see if someone should properly be put on the registry. Obviously, you don't want a registry where everybody just dropped by on their lunch hour and get their name put on the list. That's not what we're all about, and

that's not what we're going to do. And that would make the list absolutely meaningless, really.

Maybe we ought to talk about a network of States communicating with each other rather than a national registry, some way to exchange information between States so that that what Mr. Levin is talking about—somebody is looking for somebody in Nebraska—if Nebraska's got a credible system, perhaps there'd be some way to work together to compare these records to see if there might be a match in another State.

What exactly is involved in the background that Florida does before they put somebody on that list? Somebody comes in the door, they want to be on the list, what do you do?

Ms. MARQUESS. First of all, they have to prove who they are. We want to be sure that, to start out, that we're dealing with the right person. And for birth mothers that means a copy of their driver's license, and sometimes, even for them, a copy of their birth certificate. The driver's license that they carry today does not necessarily prove that's who they were 35 years ago, when they gave birth to the child that they placed for adoption.

Chairman SHAW. Does the biological parent have any proof that they gave birth to a child on X date?

Ms. MARQUESS. The only way that we verify that she is the birth mother is by the original birth certificate that's held by the Florida Bureau of Vital Statistics.

Chairman SHAW. And the parent, the biological parent, would have that original birth certificate?

Ms. MARQUESS. No, they do not have that original birth certificate.

Chairman SHAW. They don't have that?

Ms. MARQUESS. I can access that original birth certificate through the Office of Vital Statistics.

Chairman SHAW. I know in Florida, when you adopt a child, you get a birth certificate showing the child was born to you, the adopting parent.

Ms. MARQUESS. That's right.

Chairman SHAW. And if you show it to a school or whatever—but that original birth certificate showing the child——

Ms. MARQUESS. That's sealed by State law at the time the adoption is finalized. And the birth parent does not have access to that if they did not get a copy of that prior to the finalization of adoption. Once the adoption has been finalized, that original birth certificate is sealed. But we do have—our statute created a cooperative agreement between registry and the Office of Vital Statistics so that we can determine that a birth mother applying is, in fact, the birth mother that's shown on the original birth certificate.

Chairman SHAW. Now, can an out of state resident, who gave birth in Georgia, to a child, who has reason to believe that the child might have been adopted in Florida, can they come in and get on that registry?

Ms. MARQUESS. Yes.

Chairman SHAW. And they don't have to show any proof except just what they think.

Ms. MARQUESS. Well, if the child was born in Georgia and adopted in the State of Florida? Okay. That adoption record is going to show where that child was born.

Chairman SHAW. Will the biological parent have that adoption record?

Ms. MARQUESS. No, the biological parent will not have the adoption record.

Chairman SHAW. Will the biological parent have any idea where the child is?

Ms. MARQUESS. No.

Chairman SHAW. So.

Ms. MARQUESS. Well, I will tell you what we do for birth parents in Florida. It was not unusual for birth parents to come to Florida in the 1950's, 1960's, early 1970's, have their baby, and then return home. And we hear quite often from those birth mothers who want to enter our registry. And one of the things that they ask us is where was my baby adopted? If that baby was born in Florida and was adopted, we can determine the State of finalization. Because that information comes from the Courts to vital statistics when they issue the amended birth certificate.

Chairman SHAW. Would you tell the biological parent that?

Ms. MARQUESS. Yes.

Chairman SHAW. Even without a match, you could say your child was adopted in Florida.

Ms. MARQUESS. Even without a match, the child that you placed for adoption was adopted in Florida or New York State in the spring of 1960.

Chairman SHAW. Is that information generally available?

Ms. MARQUESS. No, I have to get that from Vital Statistics.

Chairman SHAW. No, no, no. I'm sorry. In other States is there a similar situation where the parent, the biological parent can find out where the child went.

Ms. MARQUESS. Georgia, it is; and I believe also in Alabama—the States surrounding us.

Mr. ROBINSON. You can by order of court.

Chairman SHAW. They don't have to go to court to get that information?

Ms. MARQUESS. No, sir, not in Florida. They do not have to go to court.

Ms. SWANSON. Can I speak?

Chairman SHAW. Certainly.

Ms. SWANSON. I have a situation in Michigan right now where a birth mother has given her consent. It has been on file for a very long time. And she was going to take the next step to do a confidential intermediary search. And we have learned that because of the gray market that existed at the time, her doctors slipped that baby out of State, and he won't tell. And there's nothing—this birth mother's rights to the law in Michigan have been foregone because although our law permits her to be given the county of placement, county of finalization so that she can complete the process in Michigan, there is no recourse for her. If her doctor won't tell where that baby went, and it was done illegally, she has nothing.

Ms. SANDUSKY. In most cases, when children were thankfully placed for adoption—you know, adoption is a wonderful option. But

in most cases, they were told, these women were told, you would have confidentiality. And then now we have 30 years later, women that weren't validated, women that weren't thanked and appreciated for the gift they've given coming back and searching. And you never really hear from the adoptees that want their privacy because it's a Catch 22. You have to come forward and say, hey, I'm Carol Sandusky, and I want my privacy. And this is inappropriate also. We need to find a way to work this.

Chairman SHAW. Well, if we're going to pass such a law, we certainly have a lot of work to do.

I want to thank this panel for your good testimony and for being with us, and I apologize for the length of time this has taken. But I think this is about the most balanced hearing I've ever seen. I feel like a ping pong ball. I'm not coming out of here with any clear picture. But I'm going out of here really knowing a lot of the problems and a lot of the good parts, so it's going to be for us to think about. Thank you all very, very much.

Our final panel—Kent Markus, who is the Deputy Chief of Staff, U.S. Department of Justice; and Ann Sullivan, who is the Director of Adoption Services, Child Welfare League of America in Washington, D.C. As the other witnesses today, we have your full statement, which will be made a part of the record, and we would invite you to summarize.

Ms. Sullivan, why don't you start? I think Mr. Markus stepped out.

STATEMENT OF ANN SULLIVAN, DIRECTOR OF ADOPTION SERVICES, CHILD WELFARE LEAGUE OF AMERICA

Ms. SULLIVAN. Mr. Chairman, Mr. Levin, as you mentioned my name is Ann Sullivan. I am the Director of Adoption Services for the Child Welfare League. In the interest of time, I will not be reading my entire statement.

CWLA is a 78-year-old association made up of over 900 public and private agencies that serve over more than 2,000,000 abused and neglected children and their families each year. CWLA member agencies provide the wide array of services that are really needed to work with abused and neglected children as listed in my testimony. Nearly 450 of our member agencies offer adoption services. Over 650 of our agencies offer foster care placement and kinship placements.

My testimony today addresses the existing State practices for the screening of prospective foster and adoptive parents for criminal backgrounds. CWLA has long been an advocate for ensuring the safety of abused and neglected children. Our standards recommend a thorough review of any prospective foster and adoptive parents to determine that person's fitness to undertake the responsibility for the safety and well being of a child.

Conducting such background checks, however, is only one component of assessing an applicant's suitability to adopt or to become a foster parent. Many other factors are also taken into account, such as the individual's emotional stability, flexibility, ability to identify and meet the needs of a child, experience with children, willingness to seek help when problems arise, and type of child desired. These factors are considered in a process of mutual assess-

ment through a series of interviews and training for prospective foster and adoptive parents. Our CWLA standards on the background checks for both foster care and adoption are listed in this testimony; I'm not going to read them in their entirety.

As has been indicated earlier, this subcommittee put together a bill that was passed, the Adoption and Safe Families Act, that now requires States to provide procedures for criminal records checks for any prospective adoptive and foster parent before that parent can be approved to receive a child receiving Title IV–E, Federal Adoption Assistance, or Fostercare Assistance.

The new law stipulates that the States have in place procedures for criminal background checks, unless the State elects otherwise. AFSA allows States to opt out of these new requirements either by passing a State law that exempts them or by having the Governor contact HHS in writing, saying that they have elected to be exempt from these requirements.

CWLA is currently in the process of tracking State's progress in implementing AFSA. As part of that effort, we have just completed a survey of the States to determine their practices regarding criminal background checks.

We found that States are currently in the process of reviewing their own policies and statutes to ensure full compliance with AFSA. Key findings include: only two States, New York and North Dakota, do not require criminal background checks for prospective foster and adoptive parents. Both of these States will need to pass legislation to come into compliance with AFSA. All other States reported that they conduct background checks utilizing at least State data. Twenty States routinely access national data as well as state data in checking the backgrounds of potential adoptive and foster parents.

Of the States that utilize only statewide data, the majority indicated that if a family has moved from another State in recent years, they will also utilize the national databases.

Just a handful of States indicated they will have to make changes in their laws to comply with the AFSA requirements that prospective parents may not be approved if a criminal record check reveals a felony conviction for child abuse or neglect, spousal abuse, a crime against children, including child pornography, or a crime involving violence, including rape, sexual assault, or battery. However, 16 States indicated they will have to make changes in their State laws to comply with the AFSA stipulation that approval must be denied if a criminal record check reveals a felony conviction for physical assault, battery, or a drug-related offense if the felony was committed within the past five years.

Finally, no State reported the intention to opt of the AFSA requirement. I would be remiss, however, if I didn't take 30-seconds to make a comment about the mutual consent registry issue that was just being discussed. I would urge the Congressional representatives to look at the research that has been summarized by Madelyn Freundlich of the Evan B. Donaldson Institute. It shows overwhelmingly that large numbers of adult adoptees, birth parents, and increasing number of adoptive parents really do want and need to find each other. I get calls literally every week in my office from people who have been emotionally tortured, it seems,

throughout their whole lives. They have struggled for years with this lack of information about their backgrounds. I would hope that the committee would be guided by the research that's available for the record on this issue.

At the risk of being even more controversial, I should mention that the Uniform Adoption Act that was so eloquently promoted by Mr. Robinson has been actively opposed by the Child Welfare League of America; by the North American Council on Adoptable Children, which is the major national adoptive parent organization in this country; and, most importantly perhaps, was unanimously rejected by the National Council of Juvenile and Family Court Judges, the judges that hear the adoption cases.

I hope this information I've provided on criminal background checks will be useful.

[The prepared statement follows:]

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TESTIMONY BEFORE

THE SUBCOMMITTEE ON HUMAN RESOURCES OF THE WAYS AND MEANS COMMITTEE

BY

ANN SULLIVAN

THE CHILD WELFARE LEAGUE OF AMERICA

JUNE 11, 1998

Mr. Chairman and members of the Human Resources Subcommittee, my name is Ann Sullivan. I am the Director of Adoption Services at the Child Welfare League of America (CWLA). CWLA is a 78-year-old national association that is made up of over 900 public and private voluntary agencies that serve more than two million abused and neglected children and their families.

CWLA member agencies provide the wide array of services necessary to protect and care for abused and neglected children, including child protective services, family preservation, family foster care, treatment foster care, residential group care, adolescent pregnancy prevention, child day care, emergency shelter care, independent living, youth development, and adoption. Nearly 400 of our agencies provide adoption services that enable children to secure loving, permanent families. Over 650 CWLA agencies link vulnerable children with foster families and kin placements.

My testimony today addresses existing state practices for the screening of prospective foster and adoptive parents for criminal backgrounds. CWLA has long been an advocate of ensuring the safety of abused and neglected children. CWLA's standards for the practice of child welfare recommend a thorough review of any prospective foster or adoptive parent's background to determine that person's fitness to undertake the responsibility for the safety and well-being of a child. Conducting criminal background checks is one component of assessing an applicant's suitability to adopt or to become a foster parent. Many other factors are also taken into account, such as the individual's emotional stability, flexibility, ability to identify and meet the needs of a child, experience with children, willingness to seek help when problems arise, and the type of child desired. These factors are considered in a process of mutual assessment through a series of interviews and training sessions related to adoption and foster parenting.

CWLA's Standards of Excellence for Foster Care state that foster care agencies should conduct a criminal background check on all prospective foster parents and all other adults living in the household. This standard states that child welfare agencies should not select as a foster family any household in which an adult has a substantiated criminal record of child abuse, spousal abuse, or a criminal conviction, as evidenced by FBI, state and local criminal record checks for any crimes against children or for any violent crimes, including rape, assault, and murder. Convictions for nonviolent felonies and misdemeanors should be handled on a case by case basis, taking into account the nature of the offense, the length of time that has elapsed since the event, and the individual's life experiences during the ensuing period of time. *CWLA's Standards for Adoption Services* state that, to the extent the law allows, inquiries regarding applicants should be made to law enforcement authorities. Further, the *Standards* suggest that agencies should weigh judiciously any unsubstantiated allegation made against applicants.

Just last year, this Subcommittee put together a bill which was passed into law, the Adoption and Safe Families Act "ASFA" (P.L. 105-89). States are now required to provide procedures for criminal records checks for any prospective foster or adoptive

parent before the foster or adoptive parent may be approved for placement of a any child receiving Title IV-E federal foster care or adoption assistance.

The new law stipulates that the State have in place procedures for criminal background checks, unless the State elects otherwise. The procedures require that prospective foster or adoptive parents not be approved if a criminal record check:

- reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault or battery;

- if a criminal record check reveals a felony conviction for physical assault, battery, or a drug related offense, if the felony was committed within the past five years.

ASFA allows States to opt out of these new requirements by either passing a state law that exempts the State from these new requirements, or if the Governor of the State notifies the Secretary of the U.S. Department of Health and Human Services in writing that the State has elected to be exempt from these requirements.

CWLA is in the process of tracking States' progress in implementing ASFA. As part of that effort, we have just completed a survey of the States to determine their practices regarding criminal background checks on potential adoptive and foster parents.

We found that States are currently in the process of reviewing their own policies and practices in order to ensure full compliance with the new ASFA requirements. Key findings include:

- Only two States, New York and North Dakota, do not require criminal background checks for prospective foster and adoptive parents. Both these States will need to pass state legislation to come into compliance with ASFA.

- All other States reported that they conduct criminal records background checks utilizing at least statewide data.

- Twenty States routinely access national as well as state criminal background databases for prospective adoptive and foster parents.

- Of the States that routinely utilize only statewide data for criminal background checks, the majority indicated that if a prospective foster or adoptive parent has moved from another State within the past few years, then they will utilize national criminal record information.

- Just a handful of States indicated that they will have to make changes in their State laws so that prospective foster or adoptive parents may not be approved if a criminal record check reveals a felony conviction for child abuse or neglect, spousal abuse, a

crime against children (including child pornography), or a crime involving violence, including rape, sexual assault or battery.

- Sixteen States indicated that they will have to make changes in their State laws to comply with the ASFA stipulation that approval must be denied if a criminal record check reveals a felony conviction for physical assault, battery, or a drug related offense, if the felony was committed within the past five years.

- No State reported the intention to opt out of the ASFA requirements to conduct criminal background checks for all prospective foster or adoptive parents.

We hope that this information is helpful in your efforts to ensure that all children remain safe and are nurtured in permanent homes. We look forward to working with you to enhance the protection and care of the nation's abused, neglected and vulnerable children, and to help the federal government meet its commitment to assist States in that effort.

Chairman SHAW. Thank you.
Mr. Markus.

STATEMENT OF KENT MARKUS, DEPUTY CHIEF OF STAFF, U.S. DEPARTMENT OF JUSTICE

Mr. MARKUS. Mr. Chairman, Mr. Levin. It's a pleasure to be here today to discuss our shared interest in protecting the most vulnerable members of our society, our children.

The Ways and Means Committee is to be commended, and the subcommittee also, for its leadership on the issue of adoption and foster care and the passage last year of the Adoption and Safe Families Act to increase the adoption rate in the United States. Certainly, providing stable and caring homes for our nation's children is a priority that is of great interest, particularly to those at the Justice Department, and I might say particularly to our Attorney General, who are concerned with reducing incidences of youth violence.

In a related effort, the Justice Department has been involved with developing screening guidelines for care givers across the spectrum—whether they are prospective adoptive parents, foster parents, day care providers, leaders of youth organizations, or care givers for elderly or disabled adults.

While these guidelines do not specifically address the issue of adoption or foster care, the decision model they present can also be applied when determining screening practices for prospective adoptive or foster parents. And, indeed, that was the objective of this exercise: Is to have a model that could be applied in a wide range of different circumstances to determine what type of screening might be appropriate.

As you know, the 1994 crime law amended the 1993 National Child Protection Act, and directed the Attorney General to develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

In response, the Department of Justice developed the document recently released by President Clinton during his weekly radio address on May 9: the guidelines for screening of persons working with children, the elderly and individuals with disabilities in need of support. That's this document, and I believe all the members of the subcommittee were provided a copy of this document that contains the guidelines.

You will note that the guidelines issued by the Department do not recommend that criminal record checks be required in all circumstances. Instead, they present advice for States and organizations in establishing comprehensive screening practices. The guidelines lead States, local communities or service organizations through a multi-step approach for assessing their screening needs in establishing a policy that provides an appropriate level of screening based upon the specific situation at hand. The suggested screening mechanisms may include the Federal Bureau of Investigation's finger-print based criminal records check where warranted.

However, this is not suggested for every scenario. What we have tried to do in the guidelines is to simply provide the design of a

spectrum that helps States and organizations determine what level of screening might be necessary in a variety of circumstances. This spectrum ranges from situations where there is little threat, to situations where a child or vulnerable adult could be at real risk. For example, a parent volunteer, chaperoning a half-day field trip, probably requires no screening at all.

However the same person, as a prospective adoptive parent, should be subject to the most thorough levels of screening before we would allow that kind of activity to take place.

The decision model presented in the guidelines is a three step process.

The first step assesses triggers that pertain to the setting in which the care is provided, the care giver's level of contact with the person receiving care, and the vulnerability of the person receiving the care. It is a common sense approach that says, in essence, that the greater the period of unsupervised contact, the greater degree of screening is necessary.

The second step is evaluating the impact of what we call "intervenors," or factors that might limit or affect the choice and level of screening. This means asking what things might interfere with an agency's or organization's ability to do a particular screening. For example, do State laws allow an organization to have access to criminal history background information? Do you have the financial or human resources available to do the screening that might be called for?

The third step is the selection of the screening to be used. At a minimum, this decision model assumes that every employer and volunteer should use some basic screening. Basic screening includes a formal written application, a signed statement, personal reference checks with telephone contact, and a comprehensive personal interview. If the assessment and evaluation steps indicate that more than basic screening is necessary, a number of other screening measures can be used. These measures range from checks of central child abuse registries to home visits, to FBI fingerprint checks. Many of these screening mechanisms are already in use by States and adoption organizations in screening prospective adoptive and foster parents, as the last witness indicated.

In determining the level and type of screening appropriate for the setting, it should be pointed out that all screening practices, including FBI fingerprint checks, have limitations. Screening cannot guarantee that all individuals who pass through the screening will not abuse those in their care, nor is screening a guarantee of competency. Screening must be seen in the context as one tool that can prevent harm. In order to establish our goal of protecting the vulnerable in our nation, we must incorporate screening as part of the broader abuse prevention practices we develop.

The Department of Justice is pleased to have provided a framework for States and organizations to use in determining appropriate screening. While we have focused our discussion on screening procedures applicable to all vulnerable—politicians—populations—and vulnerable politicians, I would also be happy to answer questions specific to their application to adoptive and foster families.

[The prepared statement follows:]

Department of Justice

STATEMENT

OF

KENT MARKUS
DEPUTY CHIEF OF STAFF
AND COUNSELOR TO THE ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

CONCERNING

SCREENING OF ADULTS WORKING WITH CHILDREN

PRESENTED ON

JUNE 11, 1998

Thank you, Mr. Chairman and members of the Subcommittee. It is a pleasure to be with you today to discuss our shared interest in protecting the most vulnerable members of our society.

The Ways and Means Committee is to be commended for its leadership on the issue of adoption and foster care and the passage last year of the Adoption and Safe Families Act to increase the adoption rate in the United States. Certainly, providing stable and caring homes for our nation's children is a priority that is of great interest, particularly to those of us at the Justice Department who are concerned with reducing the incidence of youth violence.

In a related effort, the Justice Department has also been involved with developing screening guidelines for caregivers across the spectrum, whether they are prospective adoptive parents, foster parents, day care providers, leaders of youth organizations or caregivers for elderly or disabled adults. While these guidelines do not specifically address the issue of adoption or foster care, the decision model they present can also be applied when determining screening practices for prospective adoptive or foster parents.

As you know, the 1994 Crime Law amended the 1993 National Child Protection Act and directed the Attorney General to "develop guidelines for the adoption of appropriate safeguards by

care providers and by states for protecting children, the elderly, or individuals with disabilities from abuse." In response, the Department of Justice developed the document recently released by President Clinton during his weekly radio address on May 9, 1998 -- the *Guidelines for the Screening of Persons Working With Children, the Elderly, and Individuals With Disabilities in Need of Support*.

Let me provide some background on the development of these guidelines. In 1992 -- prior to the passage of any related legislation -- the Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded a grant to the American Bar Association (ABA) to conduct a study on Effective Screening of Child Care and Youth Service Workers. The study had several goals:

- To provide a comprehensive picture of what screening practices, including criminal records checks, are being utilized by both the public and private sectors and the effectiveness of these practices in protecting children and youth from abduction, abuse, and exploitation by adults who prey on them.
- To assess and determine the effectiveness of different types of criminal records checks and screening tests that are currently in use by public and private youth serving organizations.

- To determine and recommend the steps necessary to develop a national child care and youth service worker screening and background checks program that would be feasible and effective and that could be adopted by public and private organizations, state agencies, and replicated nationwide.

One aspect of the study surveyed 3,800 child and youth serving organizations representing day care centers; public and private juvenile detention/corrections facilities; public school districts; private schools; hospital and adolescent/child psychiatric facilities; youth development organizations; and foster care agencies. With the exception of foster care, 600 entities were sampled for each category.

A total of 46 percent of the surveyed entities responded. Entities responding reported screening over 2.7 million employees, approximately 5 percent of whom were considered unsuitable to work with or around children. They also reported screening over 417,000 volunteers only 3 percent of whom were identified as unsuitable candidates for working with or around children.

This was a very large survey that included responses from all 50 states and the District of Columbia. The results of this study form the basis of the guidelines that were developed in response to the National Child Protection Act and the 1994 Crime

Law.

Turning our attention to the screening guidelines themselves, you will note that the guidelines issued by the Department of Justice **do not** recommend that criminal record checks be required for all care providers. Instead they present advice for states and organizations in establishing comprehensive screening practices. The guidelines lead states, local communities, or service organizations through a multi-step approach for assessing their screening needs and establishing a policy that provides an appropriate level of screening based upon specific situations. The suggested screening mechanisms **may** include the Federal Bureau of Investigation's fingerprint-based criminal records check, where warranted. However, this is not suggested for every scenario.

Mr. Chairman, I would like to give you an abbreviated description of the decision model we developed and presented in the guidelines and explain how it works.

The first step presented in this decision model includes an assessment of "triggers" that pertain to the setting in which the care is provided, the employee's or volunteer's level of contact with the individual receiving care, and the vulnerability of the care receiver.

The first triggers include setting and contact: Will others be present during the contact? If so who? Are they adults or

children? Will the care provider be closely monitored or supervised? What is the nature of the contact? Coaching an athletic team or providing nursing care? Where does the contact occur? In a house or public area? How much time will the care or service provider spend with the child on each visit? What is the frequency of the contact? Daily, weekly, monthly?

The answers to these questions will begin to dictate the level of screening that should be done. For example, if the responses are that no one will be present during the contact, the care provider is unsupervised, and the length of contact is six hours, the level of screening should be higher than that of the person who is one of several care providers who work together under close supervision where the length of contact is typically one hour or less.

The second step is evaluating the impact of the "intervenors" or factors that would limit or affect the screening decision. That means asking what things might interfere with an agency's or organization's ability to do a particular screening.

One intervenor to consider is unavailable or inaccessible information. This becomes particularly important when deciding whether a criminal records check is necessary. For example, does the state currently allow for that information to be shared with your organization? Or, if you are hiring an employee, is there an immediate need to fill the position that would preclude

waiting an extended period to receive the results of a records check?

Liability concerns are another intervenor that may affect screening decisions. State or local laws may give applicants certain legal rights or existing case law may allow employers to be sued when a client is injured by an employee or volunteer who was not adequately screened. What other risk reduction measures exist? Are there high levels of supervision? Are all employees given a mandatory training program?

Another intervenor is the financial or human resources factor, which can have a tremendous impact on organizations as well as governmental agencies. I will discuss this impact in more detail later in my testimony, but let me complete the decision model and discuss step three, which is the selection of the screening to be used.

As a minimum, under this decision model, it is assumed that every employer and volunteer organization should use basic screening. Basic screening is defined as a formal written application with a signed statement, personal reference checks with telephone contact, and a comprehensive personal interview. From this basic screening foundation, supplemental screening measures can and should be added based on the results of the first two steps of the decision model.

Other screening measures that can be used include

confirmation of educational status, confirmation of professional licensing or certification status, a check of motor vehicle records, checks of registries such as central child abuse, adult or elder abuse, sex offender, or professional disciplinary boards. Still further measures may include psychological testing or a psychiatric evaluation, drug and alcohol testing, home visitations, state or local criminal records checks, both by name and fingerprints and a FBI fingerprint check. (Many of these additional screening mechanisms are already in use by states and adoption organizations in screening prospective adoptive and foster parents.)

As I mentioned, financial and human resources must also be considered in determining the usefulness of specific screening mechanisms. For example, the National Child Protection Act also directed the Attorney General to address the cost of background checks and ensure that fees for background checks do not discourage volunteers from participating in care programs.

Today the cost of a FBI fingerprint criminal record check is between $16 and $22 dollars depending on whether the check is for a volunteer or employee and whether the state is a billing state or not. Meanwhile, state and local criminal records checks vary from no cost to over $50 dollars each. This cost factor may be the most controversial issue of criminal records checks and a very real concern for volunteer organizations and the FBI.

In conducting our study, one of the issues that we wanted to get a feel for was the total universe of adults who come into contact with children. That is, what would the total number of screening or background checks be if there were to be policy or legislation requiring FBI fingerprint-based criminal records checks. In 1993, we estimated that there are nearly 35 million people who come into contact with children and youth each year. This number reflects a comprehensive review of relevant published lists and directories; a survey of key national associations and member organizations and their affiliates, state agencies, and selected federal agencies, and collection of statistics from organizational reports and various federal agencies including the Departments of Labor, Health and Human Services, and Education. When this number is combined with the average cost reported by respondents in our survey for a FBI fingerprint check of $22, the costs for such a policy or law would total over $750 million.

In addition, we must consider the numbers of people who would require checks because of their contact with the elderly or disabled. More than 5 million of the estimated 33.9 million Americans older than 65 need some form of assisted care and an additional 2.3 million of the 36 million Americans with a disability require residential treatment. Further, we must consider the capacity of the FBI to be able to handle this substantially increased work load. In other words, this is a

costly and complex issue that needs further research and discussion.

Mr. Chairman, let me also tell you about the results of the OJJDP/ABA study in terms of the relative effectiveness of screening and criminal records checks. Our study looked at whether basic screening alone or a combination of basic screening and a criminal records check was used. Basic screening was defined as employment reference checks, personal reference checks, personal interviews, confirmation of education, written application, and on-the-job observations.

When the study results were broken down, for paid employees, organizations that used only basic screening rejected 6.4 percent of the applicants and organizations that used both basic screening and criminal records check rejected 5.7 percent of all applications. Let me say this again: 6.4 percent of all applications were rejected by organizations using just basic screening and 5.7 percent were rejected by those using criminal records checks in addition to basic screening.

For volunteer organizations, the results again showed no dramatic difference between the two methods. Only seven-tenths of a percent of all applicants were rejected when only basic screening was used as compared to 2.2 percent when basic screening was combined with criminal records checks. (Respondents were not asked whether the criminal records checks

used were FBI fingerprint checks, state or local name checks, or local fingerprint checks, etc.)

The study also asked organizations whether they had any substantiated reports of abuse in the past year. Contrary to what one would expect, 10 percent of the organizations that used criminal records checks reported cases of abuse compared to only 4.9 percent for organizations that did not use criminal records checks. While the study was limited in its ability to further explore these results, and it is clear that more research is needed, at this time the best that can be said regarding the effects of criminal records checks is that they do not appear to have a significant impact in deterring or preventing abuse.

These results are not meant to suggest that criminal background checks are an ineffective screening device. Instead, they make a significant point: All screening practices have limitations. Their use cannot guarantee that all individuals who pass through the screening will not abuse children, the elderly, or individuals with disabilities in need of support. Nor are they a guarantee of competency.

Screening must be placed in context as but one tool that can prevent harm. However, in order to accomplish our goal of protecting the vulnerable in our nation, we must incorporate screening as part of the broader abuse prevention policies and practices we develop.

The Department of Justice is pleased to have provided a framework for states and organizations to use in determining appropriate screening. I will be happy to answer any questions on these issues.

Chairman SHAW. You're not going to——

Mr. MARKUS. It may be subject to abuse if we're not careful.

Chairman SHAW. Does that conclude your remarks?

Mr. MARKUS. Yes, sir, it does.

Chairman SHAW. Mr. Levin?

Mr. SANDER LEVIN. Oh, I don't have any questions. We appreciate the testimony from both of you. It's an important subject. And Ms. Sullivan, thank you very much for taking 30-seconds of your testimony to refer to the earlier subject, and you did refer to work of Madeleine Freundlich?

Ms. SULLIVAN. Freundlich—the Evan B. Donaldson.

Mr. SANDER LEVIN. And she did submit some testimony that will be in the record, and I hope that everybody reads it showing I think perhaps a somewhat surprising, clearly large percentage of people who want to find each other.

Thank you, Mr. Chairman. Thank you for the hearing.

Chairman SHAW. Thank you, and, Sandy, I appreciate your comments and all the witnesses comments. This is a tough subject. It's one that we want to accommodate, but we don't want to open up some other problems, and it's a tough, tough issue for us. And we'll be thinking about it and talking about this over the rest of the year, for sure. I appreciate your time to come and testify as well as, of course, all of the other witnesses.

Congressman Oberstar, who was supposed to be part of our first panel, he was tied up in another hearing. As you know, he is the ranking Democratic member on the Public Works and Transportation Committee. His statement will be made a part of the record without objection.

[The prepared statement of Mr. Oberstar follows:]

STATEMENT OF HON. JAMES L. OBERSTAR
before the
SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE WAYS AND MEANS COMMITTEE
June 11, 1998

Mr. Chairman and Members of the Subcommittee, I greatly appreciate the opportunity to testify today and to share my strong concerns regarding efforts to weaken the fundamental right of privacy for birth parents who make their children available for adoption. I am greatly troubled that federal legislation to create a national voluntary mutual reunion registry would seriously erode the constitutional right of privacy, would lead to an increase in abortion, and reduce the number of available children for adoption.

From the outset, I would like to express my appreciation to you, Mr. Chairman, for holding this hearing today. It is fitting and proper that this issue is receiving the attention that it deserves, and it is crucial for this controversial legislation to be examined in a public forum. I was greatly troubled that the proponents of S. 1487 attempted to attach their legislation to the comprehensive foster care reform legislation last year. While that effort did not meet with success, the proponents, nevertheless, were able to approve their legislation in the U.S. Senate under a unanimous consent process, without a congressional hearing and without providing an opportunity for opponents to object. This legislation must be examined in the full light of the legislative process, and I am pleased that we have that opportunity today, Mr. Chairman.

I appear today as a legislator and as an adoptive parent, and I am keenly aware how personal this issue is for some adopted children and for some adoptive parents who desire to make contact with one another. As Co-Chair of the Congressional Coalition on Adoption, I have worked tirelessly with my colleagues to enact federal policies that promote the life-affirming act of adoption. I have strong reservations that enactment of S. 1487 would undermine, rather than promote adoption. After the dedicated and diligent work of this subcommittee to enact the historic foster care and adoption promotion legislation last year, we should continue to focus our efforts on public policies that will continue to promote adoption.

My principal concern with the National Voluntary Mutual Reunion Registry is that this legislation would undermine a most fundamental and constitutional right of privacy. While the proponents of the legislation claim that there are safeguards designed to ensure privacy, it is clear that the "any birth parent of the adoptee" provision in this legislation makes it very possible that an adopted child could locate one biological parent who could reveal the identity of the other birth parent without their consent. As a result, I fear that the voluntary and mutual aspect of this legislation cannot be enforced, and courageous women and men will suffer needlessly as they are stripped of their fundamental rights.

In this computer and information age, many in this country are rightfully concerned that their rights of privacy are threatened. In fact, Vice-President Gore announced last month a new Administration initiative designed to give people more control over their own personal information. It would be my sincere hope that the Administration would expand their initiative to ensure that the privacy of birth parents is protected. I have written to Vice-President Gore to express my support for efforts to expand the Privacy Initiative to include protections for birth parents who place their children for adoption, and I would like to enclose a copy of this letter into the record at this time.

As a member of Congress who strongly supports the sanctity of life, I find it interesting that pro-choice proponents have utilized the right to privacy argument to justify a women's right to an abortion. While I strongly oppose abortion, I would ask my pro-choice colleagues to be consistent with respect to the fundamental constitutional right of privacy. If you are going to argue that a woman's right to an abortion is guaranteed under the 14th Amendment right of personal privacy, then you must also hold that women who choose to carry a child to term also have a fundamental right to privacy. Today, we see that minor children are transported across state lines to have abortions without their parents knowledge, and that practice is tolerated because some believe that the minor has the right to privacy. To say to those courageous women who decided to give birth somehow do not have the same right to privacy strikes me as inconsistent and unfair.

There is little doubt that should the confidentiality of adoption records become compromised, many women who would be inclined to choose the adoption option will choose abortion. One only has to look at the record in Great Britain to see the dramatic reduction of children placed for adoption. After Great Britain changed its adoption laws in 1975 to allow adopted individuals to view their unamended birth certificates, a significant decline took place in the number of children placed for adoption. While the stigma associated with out-of-wedlock pregnancies has declined in Great Britain and in the United States, many unmarried women, especially teen-age women, have to come to terms with unintended pregnancies. For many of these women, confidentiality is crucial. If they believe for one moment that their identity may be compromised, I believe that many of these women will choose abortion, and that decision is most unfortunate when there are so many families who seek to adopt.

I would urge my conservative colleagues to seriously question whether we want the federal government to interject itself into an area of family law that has long been the primary jurisdiction of the states. I understand that there may be problems with the state registry system, and I would hope that the states could work together to develop a model uniform state law to provide some consistency and to assist adopted children and birth parents who want to meet. While S. 1487 contains language to ensure that state laws take precedence over federal law, I am concerned that a national registry will open the door to more ambitious efforts that would compromise the privacy of birth parents. Since our President has stated that "the era of big government is over," it is imperative for us to question the merits of a federal proposal that would greatly expand the federal government into an area that is properly within the jurisdiction of the states

Chairman SHAW. And with that, Congressman Souder, who I understand cannot come, has a statement to also go on the record. So both those statements will go on the record.

[The prepared statement of Mr. Souder follows:]

Rep. Mark Souder

Statement before
the House Ways & Means Subcommittee on Human Resources
June 11, 1998

Mr. Chairman, thank you for the opportunity to testify before you this morning. I appreciate the opportunity to speak on the critical subject of adoption and foster care. I would also like to commend you and the other members of the subcommittee for your leadership on this issue and the accomplishments of last year's Adoption Promotion legislation to encourage the adoption of children in foster care.

I would like to encourage the committee to build on the successes of last year and further protect children entrusted temporarily or longer to the state. My primary concern is the inadequate and in some cases non-existent criminal background checks for those entrusted with children in foster care around this country. While last year's legislation encouraged the states to implement background checks for foster parents, states may still opt out of this responsibility with the loss of funding.

I am usually a strong advocate for leaving as much to the discretion of the states as possible. Yet, this is such a critical area for the best interests of children that we can no longer afford to allow the states to delay. Moreover, this is a problem with interstate implications where prospective foster parents with criminal histories may move to another state where their criminal backgrounds may not show up even if the state has a background check system in place. A national requirement will assist the states in performing more accurate and comprehensive background checks.

The New York Times reported in March of this year a tragedy which occurred unnecessarily in New York. Diana Cash was arrested for beating her two year old foster daughter until the girl's eyes were swollen shut. New York state law prevented child welfare workers from conducting a check of

criminal records. A criminal background check later conducted by police indicated that Ms. Cash had a number of convictions dating back to 1982 for crimes that included assault, petit larceny, and the possession of stolen property. For years commissioners of the child welfare agency and its predecessors have appealed to the state legislature to change the law and provide for background checks but to no avail. Because of this inaction, the little girl was in critical condition in the hospital.

Unfortunately, this tragedy is not an isolated incident. With more than half a million children in foster care in this country, these tragedies are occurring around the country because of non-existent or ineffective background checks. I have a number of other examples of the system's failures which I would like to submit for the record with your permission. These tragedies could be prevented with mandatory, effective background checks. While some are concerned that background checks may scare away prospective foster parents when they are needed, this misses the very point that playing Russian Roulette with the safety of children is an unnecessary and intolerable risk and convicted criminals are the very people that we want to be scared away from applying to be foster parents.

I would also encourage the committee to consider several modifications to close potential loopholes, further strengthen the law, and better guarantee the safety of these children, many of whom are already recovering from previous trauma and struggles. We need to take adequate steps to protect these vulnerable children which will also strengthen the reputation and integrity of those heros who serve ably as foster parents.

First, current law only prohibits foster parent approval for offenses committed within five years. This prohibition period should be extended or apply for a lifetime. Ms. Cash may not have been excluded even with a proper background check since some convictions were more than five years ago. Second, we should require a criminal check of employees of residential child care institutions. At present, the law in some states doesn't require that employees be checked but only those running residential child care institutions.

Third, we should consider criminal checks for other kinds of child placement such as kinship care. Unfortunately, we cannot assume that because the potential custodian is "kin" that he or she has no criminal history. Fourth, we need to examine the possibility of criminal background checks on other individuals living with the foster or adopting parents. For example, another foster child with a history of abuse or a boyfriend living with the foster parent. These are both problem areas which have not been fully addressed. Finally, we should also consider drug screening of applicants for foster care and adoption. In my work on the Speaker's task force on drug issues, I have observed a growing appreciation of the effectiveness of drug screening in other sectors of American society.

California recently changed its law to reflect the reality that there is a high correlation between prior criminal activity and child abuse. There is no reason to wait for additional tragedies before making this common sense improvement in the foster care and adoption policies of this country. Alaska just recently ran a check of those licensed to provide foster care and day care against their sex offender registry and found a number of matches.

While progress is being made in the states, the problem remains and the tragedies will only continue until a national, coordinated and mandatory system is fully in place. We should not delay. Stated simply, in many cities around this country those seeking to be police officers or file clerks must have criminal background checks; should aspiring foster parents be required any less?

I thank the Chairman and the committee for the opportunity to be with you and I offer my assistance in this effort to better protect vulnerable children around our nation.

Chairman SHAW. The hearing is concluded. Thank you.

[Whereupon, at 1:20 p.m., the hearing adjourned subject to the call of the Chair.]

[Submissions for the record follow:]

American Academy of Adoption Attorneys
P.O. Box 33053
Washington, D.C. 20033-0053
Concerning S. 1487 National Voluntary Mutual Reunion Registry

The American Academy of Adoption Attorneys strongly supports S. 1487 and we are grateful to the sponsors, Senator Levin, Senator Craig, Senator Landrieu and Senator McCain for their patronage of it.

We were disappointed that the Academy was not able to participate in the June 11, 1998 hearing on S. 1487 in the House Ways and Means Subcommittee on Human Resources. The Academy is the national association of attorneys who have distinguished themselves in the field of adoption law. Our members include practicing attorneys, law professors, and judges. As such, we can speak with authority on adoption law issues.

The Academy's work includes promoting the reform of adoption laws. One example of our work in this area is our service as an official advisor to the National Conference of Commissioners on Uniform State Laws (NCCUSL) during its drafting of the Uniform Adoption Act (UAA). We understand that Mr. Robert Robinson, who is one of the NCCUSL Commissioners, testified against S. 1487 during the June 11, 1998 hearing. There is a danger that some might have the impression that Mr. Robinson's views reflect NCCUSL's position on the subject. On the contrary, NCCUSL's official position on the subject is expressed in the UAA which has provisions which are completely compatible with S. 1487.

While the House Subcommittee heard from a few witnesses such as Mr. Robinson who spoke passionately against S. 1487, their views do not reflect the views of the majority of those in our country whose lives have been touched by adoption. S. 1487 is legislation which will greatly benefit those persons. The Academy stands ready to work for the passage of this important legislation.

Mark T. McDermott
Legislative Chair

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Statement submitted by
Jane C. Nast, Adoptive Parent
President, American Adoption Congress
Before the
Ways And Means Subcommittee on Human Resources
U.S. House Of Representatives
On
S.1487, The National Voluntary Mutual Reunion Registry

My name is Jane Nast I am the adoptive mother of a son, David who is 32, and a daughter, Karen who is 29 years old. I am a resident of New Jersey and co-founder of a Coalition in New Jersey which works on adoption education and legislation. I am the current president of The American Adoption Congress, a national, all-volunteer organization that focuses on adoption education, reform and advocacy. The AAC is primarily made up of adoptees, adoptive parents and birthparents....we are the people whose lives are impacted by your laws. Our membership also includes all members of the triad's extended families, social workers, mental health professionals and researchers.

I have a personal interest in the right of adopted persons and their birthfamilies to meet each other and the role that registries play in that process. I have been deeply involved in adoption reform over the past 18 years because in 1980, my son's birthmother, Carol Simpson "found" us when David was 14 years old. Since that time, we have reunited with all of David's birthfamily; and, in doing so, we learned that David's birthfather, Jack Hooper, is the adoptive father of two children. We, in turn, searched for and found Karen's birthmother, Carol Shinnerling (also an adoptee), in Parsippany, New Jersey in 1986. The joy of my life is to know that the work I do for the adoption community is fully supported by all of my family as well as the birthfamilies of my son and daughter.

I became concerned about registries and started researching them when I learned that my son and daughter could not file in the New York State Registry. Restrictive regulations disqualified them because their adoptions were finalized in New Jersey, though they were both born in New York and their adoptions were facilitated by a New York agency

I also learned that since 1980, the National Council for Adoption's lobbyist, William Pierce, continued to be a strong proponent of ineffective state Registries (with a match rate ranging between 2% and 10%) and had written a model registry bill which he encouraged states to enact that was extremely (even more) restrictive. His registry proposal required the adoptee to be 25 years of age, and required both birthparents, and both adoptive parents to register. It disallowed the matching of siblings. It also required that all applicants must re-register each year or their application would be voided.

I was amazed to learn that National council for Adoption (NCFA), through Mr. Pierce, has consistently attacked any efforts Senator Levin has made to enact a National Registry bill by making the claim that a national registry would lead to opening records and would be a violation of birth mothers' privacy. It doesn't make sense AND it seems contradictory to me. Both state passive registries and the National Registry are mutual, voluntary and would only make a match when both parties have independently registered their consent for the exchange of identifying information. Both the state passive registries and the National Registry share the same goal, the matching of adult individuals who mutually want contact. Yet NCFA continues to oppose a national registry!

http://rdz.stjohns.edu/amer-adopt-congress
1000 Connecticut Avenue, NW Suite 9 • Washington, DC 20036 • 202.483.3555

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One has to conclude that:

NCFA SUPPORTS STATE REGISTRIES
BECAUSE THEY ARE INEFFECTIVE [1]
NCFA OPPOSES A NATIONAL REGISTRY
BECAUSE NCFA FEARS THAT
A NATIONAL REGISTRY WILL BE EFFECTIVE

Senators Carl Levin, Larry Craig, Mary Landrieu and John McCain are to be highly complimented for their sincere and courageous efforts in sponsoring a National Voluntary Mutual Reunion Registry. I believe that because the registry will be promoted on the federal level, and will have national publicity, it shows hope of accomplishing what state registries have failed to do since their inception in the early 80's. I believe that it will alert the adoption community and the nation that there is a federally sponsored program which will provide the means to assist those who want to make contact with one another. It is responsive to the needs of adult adoptees, their adult siblings, birthparents and adoptive parents.

Regrettably, Mr. Chairman, I cannot speak to the subcommittee with the full support of the membership of the American Adoption Congress. Our history in relationship National Registry bill was one of endorsement (along with many other national adoption related organizations) until the late eighties.

We found, however, that we were not able to make an impact on Congress because of the influence and mean-spiritedness of William Pierce and the NCFA. We have watched the many Senate victories of Senator Levin's bill only to see it fail in the House of Representatives, because they were convinced by Bill Pierce of the NCFA, that they should not act on the Senate-passed National Registry Bill.

The AAC membership became discouraged and gave up trying to convince the members of Congress to hear us over the false statements, exaggerations and distortions of the true facts about adoption, which have been presented to you by the NCFA. The result of this is that our members believe that the U.S. House of Representatives does not care about us.

I believe that congress has the wisdom and the will to do what is right, but we need you to listen to us, work with us, show care and understanding for what we adoptees, adoptive parents and birthparents face. NCFA through William Pierce has distorted our issues to you and has shown no concern or caring for anyone in this movement except for the agencies which he represents which is actually 2.5% of the agencies[2] in the United

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[1] Dr. William Troxler, President of Capital College, Laurel, MD, stated that: "Twenty states report having Mutual Consent Voluntary Registries. The effectiveness and desirability of these registries can be judged only by determining the percentage of participants in the registry who are reunited with their birth relatives as a result of the action of the registry. The gathered statistics show the match rate ranges from a low of 0% to a high of 4.4%. The medial success rate is 2.05%. Something which fails 97.95% of the time, needs to be replaced"

[2] There are at least 1550 licensed agencies in the country. The NCFA web page (www.ncfa-usa.org) identifies 109 member agencies. However, 57 of those agencies are branches of LDS Social services, 5 are Gladney operations. All in all, 39 separate agencies appear to comprise NCFA agency membership. That is 2.5% of the national agency population. Further, because NCFA agency dues structure is greatly impacted by the number of children placed and because LDS and Gladney process so many children, we expect the dollar amount of influence in NCFA is greatly skewed to these two agencies.

States. He has disrupted your districts and your states and you have been told bizarre tales about the National Registry and the effect it will have on the people it will serve.

Yet you have not heard us. You have not listened to the birthparents who say *"we did not ask for secrecy and confidentiality from our own children, we were told never to look back. We need to know if our child is living and well"*. You have not listened when adopted adults say, "I have the right to know who I am"; and you have not heard adoptive parents say, "I want what is for the best interest of my sons and daughters". I am not talking about the very small percentage of those who have no need for contact...I am talking about the overwhelming majority of those in the adoption triad who do need to make contact, who do need to make connection and who cannot get on with their lives until they have brought some closure to their situation.

Over the years, Pierce has presented his propaganda to members of congress, and regrettably, you have fallen for it. This type of misrepresentation was also reflected in the Philadelphia Inquirer in an Associated Press article on March 7, 1994 where it was reported that "*the National Council For Adoption has been mistaken by at least three nations - Russia, Ethiopia and Poland - for a federal adoption clearinghouse....Pushed by complaints, the State Department last fall wrote to 50 nations explaining that the National Council for Adoptions was not an official agency and that governments could work with whomever they please".*

Many of us have read the written testimony submitted by Bill Pierce at the June 11th hearing on the National Registry. It contains the same old distortions and untruths and insensitivity to the needs of the adoption triad. The compelling testimony at that hearing from the persons who favor a National Registry hearing should open your minds (to be wise) and your hearts (to be sensitive).

The June 11th testimony before the committee revealed clearly that adult adoptees, birth parents and adoptive parents have real needs, real concerns and real pain. There is more to adoption than simply providing homes for babies and children who need families. My husband and I were one of those families, and we have grown to know that we must move beyond our own desires to understand that our son and daughter and their birthfamilies have needs that cannot be ignored.

The NCFA does not represent us – adoptees, birthparents, and adoptive parents. Pierce has no connection with our issues. In fact, as previously stated, represents only 2.5% of adoption agencies. NCFA founders and current major funding sources are a very small number of private adoption agencies.

NCFA not only misrepresents us on the national level, but Mr. Pierce comes to our states and foists the same distorted and untrue information on our legislators. Mr. Chairman, I speak firsthand about this because I also represent a coalition in the state of New Jersey where we have for years fought the misrepresentation and undocumented material that Mr. Pierce has given to representatives of the Right to Life and the Catholic Conference of Bishops.

Clear evidence of the misinformation of which I have spoken is on the record of the June 11th hearing and is documented in the testimony of Congressman Oberstar, a long-time

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Member of the NCFA Advisory Board. I would like to believe that the Congressman was not aware that the information given to him by NCFA was not true, but this kind of misinformation is what has literally destroyed good adoption legislation throughout this nation.

Congressman Oberstar's testimony disappointed me, because he is an adoptive parent, as I am. Congressman Oberstar writes: *"After great Britain changed its adoption laws in 1975 to allow adopted individuals to view their unamended birth certificates, a significant decline took place in the number of children placed for adoption"*. What he testified to is uncaring and it hurts adoption and it has absolutely nothing to do with a National Registry

Congressman Oberstar's statement, above, comes directly from NCFA. What NCFA neglected to tell Congressman Oberstar is: (and I quote from Dr. John Triseliotis of the University of Edinburgh, Scotland, who researched the data on this matter)

> *"In 1975 In England, the same law which made records accessible to adopted adults, transferred all step-parent adoptions to the Matrimonial court, thereby reducing (on paper) the number of adoptions each year by about 50%. If one is aware that stepparent adoptions account for approximately 50% of all adoptions in the U.K. (as in the U.S.), then the reasons for the "drop" become clear. The real "drop" in adoptions has been no less in Britain, where open records prevail, than in the U.S. where sealed records are prevalent".*

Congressman Oberstar also repeated the NCFA fantasy "that a registry will lead to increased abortions and fewer adoptions". This fantasy is not borne out in any facts anywhere in the world. It is not supported in reality in those jurisdictions that provide access to access to original or birth certificates (for example, Kansas and Alaska**)....IN FACT....**

IF WHAT NCFA SAYS WERE TRUE,
ABORTIONS WOULD BE ON THE RISE AND
ADOPTIONS WOULD BE DROPPING
IN EVERY STATE IN THE U.S.THAT HAS A REGISTRY!

It is pure speculation on the NCFA's part that anyone will be violated by any registry subscribed to on a purely voluntary basis. It is speculation of the level of: "you better not go out walking because you might get hit by a car".

I felt sadness when I read the testimony of Congressman Tom Bliley, who like Congressman Oberstar and myself is an adoptive parent. An excellent response to Congressman Bliley is in the testimony of birthmother, Joanne Swanson, of Michigan presented to this subcommittee during the hearing. I would be shocked and dismayed if her commentary did not sway Congressman Bliley's opinions on the "so-called" confidentiality needs of birthparents.

Additionally, testimony by Ms. Carol Sandusky reflects that she has been misinformed or has completely missed the point of the purpose of a National Registry. Ms. Sandusky's life story is very sad and is regrettable. She is an adoptee who, at the encouragement of a former NCFA attorney, filed a lawsuit in Pennsylvania. Her complaint that an indiscrete social worker gave her name and address to her biological sister without her permission is rare and statistically insignificant. This was confirmed by the Pennsylvania Attorney General's office where her case was rejected as "an isolated case with little relevance" which was filed long

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after the statute of limitations had expired. Her testimony, therefore, had absolutely nothing to do with a National Voluntary Mutual Reunion Registry.

Although Ms. Sandusky testified presumably in opposition to the National Voluntary Mutual Reunion Registry, her case and testimony are actually supportive of the registry because, if implemented as presented, the Registry would enable adult adoptees, adult siblings, and birthparents who choose to do so to send in identifying information. As a matter of fact, if there had been a registry, Ms. Sandusky's unfortunate situation could have been avoided....Ms. Sandusky just would just have chosen not to register.

A national registry would be more efficient; and, in the long run, more economical for both individuals and the states than the one recommended by the Uniform Adoption Act. It would avoid the duplication of expenditures required by the UAA's recommendation to implement 50 different state registries. It also has the potential simplifying the often-confusing differences that occur when 50 individual states implement their existing laws or create new ones to accomplish the same end. It would eliminate the problems inherent in the reconciling and identification of adoptions which took place across state lines, as happened with my son and daughter.

As I see it, if implemented as presented, the National Voluntary Reunion Registry, S.1487, would enable adult adoptees, adult siblings, and birth parents who choose to do so, to make contact with one another. It would be entirely voluntary and desired by the participants.

Although the American Adoption Congress is not taking a formal stand on the National Registry, many of us recognize it could have the potential of helping millions of adult adoptees and birth parents find one another. It could be a wonderful, perhaps rare, example of government acknowledging and facilitating individual rights. That is good government.

Jane C Nast, 3 Harding Terr., Morristown, NJ 07960-3252 973-267-8698

TO:
Committee on Ways and Means
U.S House of Representatives
Subcommittee on Human Resources
B-317 Rayburn House Office Building
Washington, D.C 20515

RE: HEARING June 11, 1998

SUBJECT: Adoption Reunion Registries

FOR GENERAL DISTRIBUTION

Bastard Nation, the world's largest adoptee activist organization, has grave concerns about the establishment of a federal voluntary mutual consent reunion registry. While we applaud the fact that the federal government is focusing on the inherent injustice of sealed adoption records, we are dismayed that the House Ways and Means Committee appears to be operating under certain erroneous assumptions.

In its statement to the press regarding today's hearing on the establishment of a federal adoption reunion registry, the Committee states, "Under most State laws, when an adoption takes place, the records providing information about the birthparents and circumstances surrounding the birth are sealed to protect the confidentiality of all the parties: the birthparents, the child, and the adoptive parents." This is simply untrue. Records were not sealed in most states until the mid 1940's, and even then the process was not intended to hide the identity of the birthparents from the adoptee, but rather to keep the proceedings confidential from the public, or other uninvolved third parties. Unfortunately, the original intent of the sealed record has been forgotten or distorted. Instead, a state-supported system of secrets and lies developed which has legally held hostage the birth records of adopted people.

Some opponents of open records claim that sealed records protect the "rights" of birthparents to confidentiality, yet recent federal court rulings have determined that there could be no guarantees of confidentiality to birthparents and that birthparents have no right to anonymity from their offspring. (Doe v. Sundquist)

As adoptees, we can walk into city, county, and state offices and read and copy a legion of public documents dealing with the most private aspects of the lives of total strangers. We can read and access wills, tax receipts, deeds, marriage license applications, birth and death certificates, police reports, divorce decrees, and even autopsy reports. On the state level for a nominal fee, we can order DMV registration reports and driving records. We can call up the Secretary of State's office and right over the phone learn who incorporated a business when they did it, and what kind of money they put up. But we cannot access our own birth certificates.

We believe that the formation of a reunion registry might be appropriate if adoptees were already able to obtain their original birth certificates in the same manner as the rest of the American population. But reunion registries are not substitutes for righting the wrong of sealed records, and the issue of opening sealed records should not be confused with search and reunion. Access to one's birth document is nothing less than a civil right. Measures which aid in reunions do nothing to remedy the violation of this right caused by the denial of access. Searching and non-searching adoptees alike want and deserve the same rights as all other adult U.S. citizens.

Regardless of the outcome of the adoption reunion registry bill, we hope the committee will continue to examine sealed adoption records in the United States, which is one of the last nations in the industrialized world to still utilize such a system, based on archaic notions of "illegitimacy" and shame. We believe that any such examination will cause reasonable people to conclude that keeping birth certificates sealed from the people for whom they were issued, ultimately harms adoption in its entirety by perpetuating an unhealthy climate of secrets, shame and lies.

Statement submitted by:
Shea Grimm
Legislative Chair
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Testimony of Barbara Cohen
submitted to the
Subcommittee on Human Resources
Ways and Means Committee
United States House of Representatives
June 24, 1998
on behalf of
S-1487, The National Voluntary Reunion Registry

Mr. Chairman and Members of the Subcommittee on Human Resources:

When you are considering the importance of S-1487 , I am in hopes that you will also consider the importance of truth and equal rights for all. Please put yourselves in the position of an adopted adult going to a physician for the first time and the forms that they must complete. All health forms ask the questions – Parents alive or dead; what did they die from? Siblings alive or dead; what did they die from? Innumerable inherited diseases and conditions are usually listed, but we as adoptees, are ignorant of these answers. If adoption is in the best interest of the child – then why are so many people in need of answers? You, as our representatives have the power to help millions of adopted people with the passage of S-1487.

My name is Barbara Cohen and I am an adopted adult, who at the age of 26 gave birth to a brain damaged child, who died at the age of 4. Since I am adopted – there was no medical records on me. I believed that I was adopted in New York City, but I was not. It was very difficult to locate where my adoption was completed and considerable time was lost until an investigator, hired by us, was informed of my adoption file. In order to know my medical and genetic history, I had to petition the New York Board of Health – twice; the City of New York; Borough of the Bronx; State of New York; and the State of Pennsylvania. I petitioned for "good cause' for our children and future generations so that they would know if Julie's condition was inherited. What should have cost me $6.00 cost me a small fortune in money not to mention the emotional toll it took on my family and me. A National Voluntary Reunion Registry may have been all that I needed.

The courts awarded me all the information that was in my sealed file and after 4 years of intensive research, I found my birth family. I was to learn that my siblings had lost 3 children; my uncle had died at birth; and that my great-grandfather had lost 5 of his 6 children. They had all lost their children from the same condition that our daughter, Julie had died from. It's called anencephaly. Now we are aware of this condition and our children and our future generations will be educated about this inherited condition.

I was very fortunate to be able to petition the courts and have private investigators, but what about all the other adopted people that also need an opportunity to know their medical history, but can't afford to petition the courts and do extensive research? Why shouldn't they also have an opportunity to know their past? A good beginning would be a National Voluntary Reunion Registry. It doesn't mean that my birth parents would have joined, but it's a start. It would show that our government is aware of the need for the truth and that they wish to help.

State Voluntary Reunion Registries DO NOT work, for so many adoptees do not know the state that they were adopted in. With a National Voluntary Reunion Registry every adoptee would have an equal opportunity. They would finally have a way to learn about their medical and cultural heritage and it would not matter what state that we were surrendered in or what state finalized the adoption. It would be national; it would incorporate everyone; and most importantly - it could work.

We hope that you will do everything in your power to release Bill S-1487 from committee. Please remember that adoption is for "the best interest of the child", but these children grow up and as adults have questions that not only affect them, but have life-altering consequences for their future generations. A National Voluntary Reunion Registry may not be the final answer, but is a a good beginning for people who have never been able to have a voice – even as adults.

Thank you for this time to express my thoughts.

With much hope that our government will help those millions of adoptees that are in need of the truth.

Sincerely,

Barbara Cohen

Barbara Cohen(nee Eleanor Moss Torrell – 12/16/42, Manhattan)

55 High Oaks Dr.
Watchung, New Jersey 07060
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Testimony of
Madelyn Freundlich
Executive Director
The Evan B. Donaldson Adoption Institute
Before the
U.S. House Ways and Means Subcommittee on Human Resources
Concerning Adoption Registries
June 11, 1998

Chairman Shaw and Members of the Subcommittee:

My name is Madelyn Freundlich and I am the executive director of The Evan B. Donaldson Adoption Institute. The Adoption Institute is an independent, not-for-profit, national organization based in New York City with a mission of improving the quality of information about adoption, enhancing the understanding of adoption, and improving adoption policy and practice. As a nonpartisan and progressive voice in the field, the Adoption Institute initiates research, collects, synthesizes and disseminates research and practice-based information on adoption; and prepares policy analyses based on reliable research and proven best practices.

Today, you will consider The National Voluntary Reunion registry, a bill that would provide a nationwide system for the voluntary, mutually requested exchange of identifying information that has been mutually consented to by an adult adoptee and his or her birth parent or adult sibling. This Registry is designed to facilitate contact between birth parents and adult adoptees.

Some have argued that birth parents and adult adoptees do not need to have contact facilitated because they do not wish to find one another. With a voluntary reunion registry, it is obvious that 100% of the individuals who register wish to be found. The research, however, is clear that even outside of voluntary reunion registries, birth parents and adopted adults do wish to be found by one another.

In a comprehensive study of the issues involved in adoption, The Maine Department of Human Resources Task Force on Adoption found in 1989 that adoptees and birth parents wish to be found in overwhelming percentages. Noting that the Task Force was "startled... to learn... how people did not wish to be found," the group reported that every birth parent who was surveyed (130 birth parents) wanted to be found by the child/adult they had placed for adoption and ninety-five percent of the adoptees (164 adoptees) who were surveyed expressed a desire to be found by their birth parents. Similarly, Paul Sachdev's study in 1991 found that a substantial majority of birth mothers (85.5%) and adoptees (81.1%) supported access by adult adoptees to identifying information on their birth parents.

Our practice-based knowledge further validates that birth parents and adoptees what to be found by one another. Contrary to the rhetoric that characterizes birth parents as moving on with their lives and fearing that the children they relinquished for adoption will intrude upon their lives, research and the work with birth parents undertaken by Becker (1989), Demick and Wapner

(1988) and Baran, Pannor and Sorosky (1976) uniformly finds that birth parents do not forget the children they relinquished for adoption and express strong desires to be found by them. Birth parents, as each of these studies find, report that they often think about their children; wonder whether that are alive and healthy; and find that the grief they experienced in having relinquished their children for adoption was intensified by the secrecy surrounding adoption and the walls the adoption system has erected against any contact.

Some also maintain that adoptive parents oppose the voluntary, mutually requested exchange of identifying information between their adult adopted children and birth parents and birth siblings. Again, the research clearly refutes this notion — showing that adoptive parents support the exchange of information and contact between their adult adopted children and the adults' birth families.

Rosemary Avery's 1996 research on the attitudes of adoptive parents in New York regarding access to identifying information found that 84% of the adoptive mothers and 73% of the adoptive fathers agreed or strongly agreed that an adult adoptee should be able to obtain identifying information on his birth parents. This research reflects higher levels of support than that found in Feigleman and Silverman's 1986 research on the attitudes of adoptive parents. That study — more than ten years old — nevertheless found that 55% of adopted parents of American-born children supported legislation easing restrictions on their children learning about their birth families and 66% of adopted parents internationally-adopted children expressed this support.

The Maine Department of Human Resources Task Force on Adoption found an even higher percentage of adoptive family support that did Avery. In their 1989 study, the Task Force found that ninety-eight percent of the adoptive parents supported reunions between their adopted children and members of the adoptee's birth family. The findings of Avery, the Maine Task Force on Adoption, and Feigleman and Silverman are consistent with the literature that consistently reports that many adoptive parents feel frustration and a sense of helplessness because of their inability to help their adopted children connects with their biological origins. See, for example, Gritter (1998) and Chapman, Dorner, Silber & Winterberg (1987).

The research makes clear that birth parents and adult adoptees want access to identifying information and that adoptive families, rather than feeling threatened by their children's needs and interests in their birth families, support that access. Other research, including that done by McRoy and Grotevant (1994), demonstrates that benefits flow to all members of the triad when information is freely shared and there is greater openess in relationships. Policies that facilitate connections between birth families and adopted adults and access to information have strong empirical and practice support.

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Testimony of Frederick F. Greenman concerning S. 1487
Submitted to the Subcommittee on Human Resources
of the House Ways and Means Committee
on June 24, 1998, for the Record.

My name is Frederick F. Greenman. I am the birth father of a daughter born out of wedlock while I was in law school and surrendered for adoption in 1960. I was fortunate enough to have been found by her in 1991.

I was admitted to the Bar in 1962. I have been a member of Deutsch Klagsbrun & Blasband since 1970. My firm's address and contact information are: 800 3rd Avenue, New York, New York 10022-7604, telephone (212) 758 1100, telefax (212) 593 3560. My firm affiliation is used solely for identification; the views expressed herein are my own and may not be shared by my partners. More important than any views of mine, however, are the facts and the evidence described in this testimony and in the enclosures.

I appreciate the opportunity to submit this testimony. Although I have not endorsed S. 1487, William L. Pierce of the National Council for Adoption (NCFA) devoted over a full page of his prepared statement (pp. 3, 6) to quote me out of context and used the quotes as a springboard for factual and legal misstatements relevant to S. 1487. This testimony is in response and to correct those misstatements.

After my daughter found me, I became interested in the problems other adoptees face because their records are kept from them. I am one of the attorneys representing a group of birth parents, adoptive parents and adoptees as *amici curiae* in two cases in the federal and Tennessee courts entitled *Doe v. Sundquist*. These *amici* support the constitutionality of the 1996 Tennessee statute granting adoptees limited access to their adoption records. The final decision in the federal courts, which dismissed all claims based on the federal Constitution, is reported at 106 F.3d 702, *cert. den.*, 118 S. Ct. 51, 139 L. Ed. 2d 16 (1997). The decision of the Tennessee Circuit Court denying a temporary injunction is reported at 1997 WL 354786. In an unreported subsequent decision, the same court dismissed all claims based on the Tennessee Constitution. An appeal is presently pending before the Tennessee Court of Appeals, which has stayed enforcement of the statute. NCFA has also appeared in both cases as an *amicus curiae* attacking the statute. At the recent annual meeting of NCFA, Mr. Pierce boasted that NCFA and its allies have obtained a series of temporary injunctions which have delayed implementation of the Tennessee statute for over two years. Over 1,200 Tennessee adoptees who have applied to see their records have thereby been blocked for this period of time. One of them has died in part as a result of these injunctions (see affidavit of Charles Lokey, attached to my letter of 5/29/98).

Turning now to Mr. Pierce's statements:

I. Mr. Pierce quotes (NCFA Statement, pp. 3, 6) three sentences out of context from my letter of May 29, 1998 to a New Jersey Senate committee. I enclose the entire letter (with exhibits), so that the Committee may have the full statement from which Mr. Pierce chose to extract a few sentences. The first four points of the letter (pp. 1-7) are relevant to S. 1487.

My first sentences quoted by Mr. Pierce (NCFA Statement, p. 3) were to the effect that no one has yet produced a single agreement promising any birth mother secrecy from her children. Mr. Pierce claims to have worked in the field of adoption for twenty-three years; his organization is the principal lobbying group for sealed records or "confidentiality." He states, "[W]ritten agreements did exist" (Statement, p. 3). If so, where are they?

To rebut my statement, Pierce and NCFA produce not a single agreement, not even with names blanked out. Instead they rely on a misquotation of Mary Ann Jones' twenty-two-year-old report summarizing questionnaire responses from adoption agencies. Does NCFA have not a single "confidentiality" agreement in its files? Do none of its member agencies? Their failure to produce such agreements in response to my statement is the clearest possible proof that such agreements do not exist.

The reasons why they do not exist are stated at page 5 of my letter of May 29, 1998. Every statute sealing adoption records contains a vague exception, under which a court can allow an adult adoptee (or the adoptive parents of a minor adoptee) to see the adoption records if the court finds "good cause" or that it is in the "best interest of the child or the public," to quote the two most common formulations. If a birth mother said she wanted her identity concealed from her child, and the agency was willing to cooperate, its social worker would have had to say to the birth mother, in substance, "We will try to keep your identity secret, but a court may order us to disclose your identity at any time in the future, if the court finds that there is good cause (or that it's in your child's best interest) on the facts as they may be at that time. We can't know now what the facts will be 30 or 40 years from now, and the judge at that time will have a great deal of discretion to decide whether those facts justify granting access to your child, but we'll do the best we can." Some "promise." Some "guarantee."

Every agency adoption includes a written agreement between the birth mother and the agency called a surrender agreement. Some of those agreements run several pages; all of them include a promise by the birth mother, in the strongest terms, that she will never try to contact her child or the adoptive family. Such a promise was deemed essential by the agencies and by some adoptive parents. If promises of secrecy

from their children were essential to birth mothers, why are they not found in the surrender agreements?

II. To get around the absence of written agreements promising birth mothers secrecy from their children, Pierce claims such agreements were made orally. That amounts to saying that adoption agencies promised orally what they knew they could not put in writing. If that were true, the legal term for it would be fraud.

III. Pierce says, "[P]romises do not have to be in writing to be binding" (NCFA Statement, p. 3). However, an oral agreement which "by its terms is not to performed within one year from the making thereof" ("or the performance of which is not to be completed before the end of a lifetime" in New York) is unenforceable under the Statute of Frauds in virtually every state. An oral promise of perpetual secrecy would be unenforceable under those Statutes.

IV. Pierce analogizes the alleged birth mother "confidentiality" agreements to the attorney-client privilege and points out that attorneys seldom spell out the privilege in written agreements with clients (NCFA Statement, p. 3). However, the existence and extent of the privilege depends on the law, not on any agreements or promises by attorneys. If an attorney promises more confidentiality than the law provides, he has simply deceived the client. An attorney must, however, explain to a client the limits of privilege where they appear relevant.

An example is the representation of two clients. There can be no privilege or confidentiality between them. If the alleged birth parent "confidentiality" from the child were like the attorney-client privilege, it could not exist. Adoption agencies represent both birth mother and child, with the child's interests having priority.

V. Pierce misquotes Mary Ann Jones' report by material omission (NCFA Statement, p. 3). The omitted passage, represented by three dots in his statement, is as follows:

> Many respondents commented, however, that they would have been more comfortable in answering the question if it had been phrased in terms of "assurances" or "intentions," rather than "guarantees," both because the courts may currently order the records open and, secondly, laws may be changed in the future to open the records. Many agencies, though still supporting the concept of anonymity, are not advising biological parents and prospective adoptive applicants that they can no longer guarantee anonymity, that the child to be adopted might someday wish to know — and have the means to determine — the identity of his or her natural parents.

Jones, The Sealed Adoption Record Controversy: Report of a Survey of Agency Policy, Practice and Opinion (1976), p. 6.

In short, Jones reported twenty-two years ago that "many" agencies (how many is not stated) recognized that the law prohibited them from promising birth mothers secrecy or "anonymity" from their children, and Pierce omitted this information from his statement.

VI. To the extent that Jones' report shows that some adoption agencies did state that they would keep birth mothers' identities secret from their children, the report shows that the policy was imposed on birth mothers for the agencies' own reasons, rather than in response to birth mother requests. I analyzed this aspect of Jones' report in Point III (pp. 2-4) of my letter of March 30, 1998 to Professor Carp. I enclose a copy of that letter.

The Subcommittee may also find of interest some of the material on NCFA discussed in Points VI and VII (pp. 5-6) of that letter. I also enclose a copy of Pierce's memo of April 29, 1989, which is cited in that letter, and in which Pierce claims to have instigated the Uniform Adoption Act.

VII. Pierce asks, "If 95% of birth mothers are open to a meeting, where is the data to support such a statement? To our knowledge, it does not exist, apart from CUB and other search groups' methodologically suspect 'studies'" (NCFA Statement, p. 6). The supporting data is attached in the form of a table entitled "Birth Parent Responses to Confidential Intermediary Searches on Behalf of Adoptees" and supporting letters and declarations. The searches in question were conducted by state officials, court-appointed confidential intermediaries and a search group. The supporting documents are part of the record in Doe v. Sundquist, in which NCFA also participates as amicus curiae, and in which Mr. Pierce has submitted affidavits. The figures have been included in briefs which we have submitted to every court in that case. Pierce, NCFA and its counsel are well aware of them. If the data or the searches on which they are based are "methodologically suspect," NCFA and Mr. Pierce have failed to point out the defects in the lawsuit. They are welcome to try and do so before this Subcommittee; I request only an opportunity to reply.

The 95 percent figure is also consistent with the results of what appears to be the only academic study of birth mother attitudes that used a probability sample capable of generalization to birth mothers in general. Sachdev, Unlocking the Adoption Files (1989). That study found that 88.5 percent of birth mothers agreed with the release of identifying information to their children (Sachdev, op. cit., p. 80). The study also found that birth mother attitudes varied by the year of relinquishment; of those who relinquished in 1978, 94.8 percent favored release of identifying information; of those who relinquished in 1968, 82 percent favored release of the information. Ibid.

The 95 percent figure is also consistent with the results of agency searches reported by Mary Ann Jones, in the report cited by Pierce. As noted in my letter to

Professor Carp (p. 3), the agencies surveyed by Jones reported that 84 percent of the birth parents contacted by them agreed to meet their children (Jones, p. 19).

VIII. Pierce and NCFA have for years falsely claimed that allowing adoptees to know their birth mothers' identities would increase abortions. As I stated in my letter of May 29, 1998 to the New Jersey Senate (pp. 1-3), given that the vast majority of birth parents want contact from their surrendered children, improving the chances of contact must instead increase adoptions and decrease abortions. This is confirmed by comparison of adoption and abortion rates in Kansas and Alaska, the only states where adult adoptees have always had access to their original birth certificates, with rates in the rest of the country. I understand this data has already been supplied to the Subcommittee. A table of comparative abortion rates is attached to my May 29 New Jersey Senate letter. Also attached to that letter is an affidavit of Kris Probasco, a social worker practicing in both Missouri and Kansas, which shows that access to birth certificates causes the higher adoption rate in Kansas.

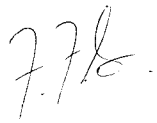
The true facts about the higher adoption rates and lower abortion rates in Kansas and Alaska have long been known to Pierce and to NCFA. I enclose a copy of NCFA's own table of state rankings using its "Adoption Option Index," as it appears in NCFA's 1989 "Adoption Factbook," of which Pierce was a principal author. That table shows that out of 50 states and the District of Columbia, Alaska and Kansas rank 5 and 18 respectively, and that their "Adoption Option Indices" are respectively about 2½ and 1½ times the national average. As NCFA's note indicates, its "Adoption Option Index" is its own effort to combine and compare adoption and abortion rates by states.

IX. Pierce claims, "[T]here is no data supporting the claim that birth mothers have a 'sickness' that needs to be addressed by searching..." (NCFA Statement, p. 6). There is ample evidence for anyone who is willing to see it. My own depression until my daughter found me is described in the next-to-last paragraph of my letter to Professor Carp. I have heard and read accounts of hundreds of birth parents' pre-reunion depressions. The evidence is anecdotal, but overwhelming. To surrender a child and not know for decades whether she is alive or dead, well or sick, whole or injured, normal or retarded, drug-free or addicted, etc. requires one to simply shut off part of one's mind in order to survive. Mr. Pierce should thank God he has never had to live through the experience.

X. The Subcommittee by now has become aware that the alleged wish of birth mothers for secrecy from their children is not invoked by organizations of birth mothers or by actual birth mothers. Instead it is invoked by NCFA and a few other organizations which represent a few adoption agencies and some adoptive parents. Birth parent organizations like CUB (to which I do not belong) want adoptee access and reunion.

In all the years of legislative hearings around the country on the issue of adoption records, NCFA and its allies have not produced a single birth parent witness. Their argument that such birth parents cannot testify without revealing their identities is simply hogwash. Legislative committees such as this have for decades heard testimony from witnesses whose identities are not public, testifying behind screens, in masks, or simply off camera. Senator Kefauver seems to have pioneered the technique in the 1950s, first with organized crime witnesses, who feared death rather than just embarrassment, and then in 1956 with three birth mothers testifying behind screens (U.S. Senate, Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, Hearings July 15 and 16, 1956, pp. 110-19). The same and similar techniques are available today.

XI. NCFA and its allies prey on the understandable but mistaken fears of adoptive parents, that if their children find their birth parents, the birth parents will alienate the children's affections. Those fears are totally unfounded. Adoptive parents have done a wonderful thing and should have no fears about the affections of their children. They have taken in the children that we birth parents could not raise. They are the real parents of those children, in fact and in their children's minds. Having raised those children from infancy or early childhood to adolescence, the adoptive parents are Mom and Dad, and where they live is home. Whether good parents or bad parents, they are the parents. No one can ever take their place, whatever the biological connection.



ATTACHMENTS ARE BEING RETAINED IN COMMITTEE FILES

649 Tuskawilla Point Lane
Winter Springs FL 32708

June 24. 1998

Hon. Clay Shaw (R-FL)
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives

Dear Mr. Chairman:

Last Saturday, I attended a workshop at the annual National Right to Life Convention in Orlando, Florida where I heard a presentation by William Pierce, President of the National Council for Adoption, on the connection between loss of privacy in adoption and a decline in the numbers of adoptions.

I think that the data in that talk would be very useful for you and the members of your Subcommittee to keep in mind as you consider any legislation that would impact the privacy rights of women considering adoption. For that reason, I am providing you, as an attachment to this letter, a copy of Mr. Pierce's remarks and I ask that this letter and Mr. Pierce's text be inserted in the hearings record for June 11, 1998.

Your work on adoption shows the kind of leadership that makes us proud.

Cordially,

Nancy Bustamante Groves

Mrs. Nancy Jane Bustamante Groves

Attachment: paper presented at Orlando, June 20, 1998

A PRESENTATION ARGUING THAT THE LACK OF PRIVACY IS AN IMPORTANT VIARIABLE RELATED TO THE DECLINE IN ADOPTION NUMBERS IN ENGLAND, NEW ZEALAND, AND NEW SOUTH WALES

[This material is based on a workshop given by William Pierce, Ph.D., President of the National Council For Adoption, Inc., at the National Right to Life Conference Convention in Orlando, Florida, on June 20, 1998.]

This morning I'm going to talk about many things related to one certain topic-- privacy and choice. It's appropriate, given the 25th anniversary of *Roe v. Wade* and attorney Sarah Weddington's triumph at the Supreme Court, legalizing abortion.

In adoption, we've had our own case, nearly as important in our field as *"Roe v. Wade"* was to abortion, decided by the Sixth Circuit and which the Supreme Court refused to review. That case is *Promise Doe et al V. Sundquist et al. Doe v. Sundquist* a Tennessee case that a number of pro-adoption and pro-privacy interests brought to argue that a woman has the same right to privacy if she chooses adoption as if she chooses abortion. The opposing view was that a woman has no such right to privacy if she chooses adoption. The lead opposition attorney was a New York man whose daughter had been placed for adoption named Frederick Greenman. I will come back to Mr. Greenman – adoption's "Sarah Weddington"-- later, but let me first give some background.

Today's workshop is described in the Yearbook for this convention in terms of "...what might make a young woman who is considering adoption fear for her privacy and turn to abortion."

The question, you might well ask, as many people with varying views on abortion ask, is: what does privacy have to do with abortion? I will answer that question in some detail because this question is at the heart of debates over privacy in adoption at both the federal and state levels.

For me, the issue has always been one of logical consequences: the decisions that a person makes are as free as they are private. In other words, behavior depends on privacy. Or, to put it more bluntly, if you want to limit a person's options, if you want to control in some way their "choices," all you need do is make some of those choices private and confidential and others non-confidential.

I always took this for granted in the discussions about adoption, especially when I had the chance to meet young women who were in maternity homes and planning confidential adoptions. My view was strengthened when I spoke with veteran adoption people like Ruby Lee Piester, the Ft. Worth, Texas, social worker who is credited with founding the National Council For Adoption (NCFA), whose career has spanned more than 50 years in maternity services and adoption work in both the public and private, voluntary sectors.

This thought motivated me before our organization was even founded, in 1980. All I needed to do was look at my own daughter, 14 at the time, and think if

her choice were between a confidential abortion and a non-confidential adoption, what would the result likely be? The answer, it seemed to me, was self-evident.

In 1981, at a hearing in the New Jersey legislature on a bill that would have ended privacy for women who had placed or who were considering placing children for adoption, the issue was raised dramatically. Here is how the matter is discussed in a new book by E. Wayne Carp, Family Matters: Secrecy and Disclosure in the History of Adoption. By the way, Carp is no fan of mine, or our organization, or the pro-life movement, which makes his comments all the more significant.

In his chapter entitled "The Adoption Records Wars, " (pg.184) he writes: "The legislature also received an anonymous letter sent by a birth mother who conveyed her opposition to the bill. She raised a new issue that would later become a staple of open records opponents and would be *politicized by President Ronald Reagan and George Bush; adoption as an alternative to legalized abortion* [emphasis added].

Enactment of open records proposals will introduce great insecurity into the adoption process for birthparents and adoptive parents alike. The pregnant woman contemplating the adoption alternative cannot possibly know today what her life will be like two decades from now. In many instances only the legal assurance of a lifetime of confidentiality can provide a woman the opportunity to choose the difficult, but unselfish option of making an adoption plan for her child. Such a guarantee is imperative if she is to plan for her future, secure in the knowledge that her past will be as private for her as it is for the woman who chooses abortion."

Shortly after this, I came across a similar sentiment, this time in a pamphlet issued by Catholics for a Free Choice. The pamphlet discussed the pros and cons of a woman's choices. Interestingly, when it discussed adoption, it made the point that a woman considering this choice needed to bear in mind that, 20-some years later, the child could wind up on her doorstep, so if that might be a concern, the woman might want to re-think her adoption decision.

The next development took place in December, 1983, when I paid a visit to a crisis pregnancy center in London, England, as part of a trip to learn more about what other countries were doing in respect to nonmarital pregnancies and adoption policy. In the course of my visit I asked about the numbers of pregnant clients, and whether they tended to choose adoption.

The reply was that, yes, they used to get quite a few women choosing adoption, including a substantial number who once came from Ireland and the Continent. But, the women at the center told me, since the law was passed granting access to adoption records, numbers had declined substantially. I asked how it happened that the law was changed and the response was: it just happened.

I wasn't the only one to hear this from English contacts and alert legislators considering opening adoption records as to the possible consequences. Dr. John Willke, who for many years served as the President of the National Right to Life Committee, said this in testimony before the Ohio legislature on March 17, 1992:

"I happen to be president of the International Right to Life Federation, and have just returned from a lecture tour in Prague and Vienna. While there, I met an old friend, Mrs. Neula Scarisbrook, who occupies a very unique position in England. She is the head of an organization that has more than150 outpatient clinic facilities, the purpose of which is to offer services to pregnant women. Her organization also operates, with government support, over 50 homes for women, both prenatally and post-natally. Her experience encompasses 20 years, and is vast. I had the pleasure of eating with her, the conversation turned to adoption, and I mentioned that this bill was being considered. Her comments are quite relevant. "Oh," she said, "well we have had open adoption by mutual consent at placement for some years now. I believe you have the same, Dr. Willke. What is relatively new here is that about five years ago Parliament passed a bill completely opening all adoption birth records. We have had quite a change since that time. Adoption now, as we did know it, simply no longer exists. Adoption is rare. What we have now in Britain can probably best be described as long-term foster care, with no permanent commitment." I said, "But you have women who still place babies, do you not?" She answered, "Yes, of course. These are the long-term foster care, but there aren't too many of them. Most of the women now simply get abortions. You see, Dr. Willke, with an abortion they have lifetime privacy and no one will ever know. That used to always be true of adoption. But when it changed, being no longer able to have lifetime confidentiality, a significant percent of these girls now abort." I believe this is a comment that all of us should take to heart."

I give you all this background to explain why the topic is so pertinent to people concerned about abortion: there seems to be a clear connection between a lack of privacy for the adoption option and a decline in the choice of adoption by women with untimely or unwanted pregnancies. Whether that is the only variable is not the issue: I believe there are other variables, such as the lack of any viable alternative to the public agency dominated system and the absence of any voluntary association such as NCFA, working in many ways to preserve the adoption option.

In terms of the privacy variable, the statements of birth mothers and high-profile pro-lifers like Dr. Willke turned out to be very convincing to legislators. Whether it was the power of the pro-life movement, the growing influence of pro-family and conservative groups that the media (and supposedly objective historians like Carp) call the New Right [Carp, p. 215] , or simply the common sense argument itself, that "open records equals fewer adoptions" the argument began to have tremendous influence in legislative battles.

Once any good argument emerges in any political battle, the opposition will try and neutralize the argument—or turn it around. And this is precisely what has been going on now for several years.

The argument is made that privacy (or "secrecy," as in "dirty secrets") actually causes women to have an abortion rather than choose adoption and that adoption numbers are higher where records are open. The usual states cited by open records advocates are Alaska (which gave access recently) and Kansas (which never closed access to original birth certificates for adults).

Opponents, rather disingenuously in my view, claim that the data in these states – and certain foreign countries – prove their point. The opponents do not admit, as we do, that no single variable can possibly account for all the effects. Such scientific objectivity is not part of their approach.

The problem with our opponents' argument, of course, is the data from countries like England, which has legalized abortion (as we do), which has a highly industrialized society (as we do), which is diverse ethnically and religiously (as we are) and which is most obviously different from the U.S. in its policy about adoption records. In 1975, England changed its law, retroactively breaking promises of confidentiality made to tens of thousands of women, and denying women any future choice of a confidential adoption.

The numbers speak for themselves, at least to me and most statisticians I've reviewed this subject with.

At this point, I need to make a technical statement about the statistics: they are not what we would like them to be in terms of comparability. For instance, the U.S. stopped trying to collect data after 1975, an action which I can only theorize about as to all the causes. Our small organization is the only entity which has attempted to gather full national numbers since. With consultation from a statistician of unquestionable expertise we gathered data for 1982, 1986, 1992 and are nearly finished gathering the 1996 data.

What the statistics show is that in the U.S., with the advent of states' legislation of abortion, numbers peaked before *Roe v. Wade,* dropped off dramatically after 1972, but have remained remarkably level for the last 14 years. Since 1982, the numbers of U.S. infants adopted by non-relatives have been in the neighborhood of 24,500 adoptions per year.

By contrast, what do we see in England? In data copyrighted by the Crown but provided to me to respond to a Congressional inquiry, we find that adoptions of non-marital children under 1 year by non-relatives peaked prior to abortion being legalized. The data provided to me shows 8,589 such adoptions in 1962 and 6,133 adoptions 10 years later, in 1972

When we look at recent statistics from England, governmental experts cannot provide data that are comparable, so U.S. and England statistics for 1982, 1986, 1992 and 1996 cannot be fully analyzed for policy implications.

However, we do have some numbers and let's look at those. In both the U.S. and England, the abortion rate per 1,000 live births rose dramatically from 1974-1995: in the U.S. it rose about 40 percent, in England 29.4 percent. Population numbers increased substantially in those 21 years in the U.S., but grew by only 4 percent in England.

What about adoption of babies—the class of children who were candidates for abortion, adoption, foster care, or single parenting?

If we take the numbers for 1982 to1992, which have been published or estimated, it looks like this:

	U.S. babies adopted by non-relatives	ALL U.K. adoptions under 1	U.K. babies adopted by non-relatives
1982	24, 602	2,177	1, 230
1986	24, 589	1,572	888
1992	24, 600 (estimate)	661	373
1996	24, 600 (estimate)	253	143

Let's assume that the statistical method that was used to compute the U.K. data are correct. If that is a given, then, since the U.K. is about one-fourth the population of the U.S., we would need to multiply their 1996 figures by four. Translated, it means that if the U.S. had the same adoption ratio as the U.K., in 1996 there would have been 572 U.S. adoptions. The U.S. would have had 24,000 fewer adoptions. That's 24,000 non-marital children, some proportion of whom would have been aborted or raised by unmarried mothers or put in foster care and not adopted.

Now let's pretend that every single U.K. baby adopted in 1996 was non-marital and adopted by non-relatives. How much would this increase U.K.'s numbers: by exactly 440 children. "Only" 23,560 children who would been adopted would have experienced one of the other "choices."

Those are the indisputable hard numbers. If one looks at the statistics, adoption rates are dramatically lower in countries that have destroyed the option of privacy in adoption.

Let's consider the claim made by open records supporters in their New Jersey statement, that "ACCESS—TO—BIRTH—CERTIFICATE LAWS ARE SUCCESSFUL..." in countries like the United Kingdom, The Netherlands, New Zealand and New South Wales, Australia's most populous state.

From the Minister of Social Welfare of New Zealand's 1997 speech posted on the internet, we learn that "...there were 114 local adoptions in New Zealand...," "...20 to 30 local adoptions in the Netherlands in 1996" and 178 in New South Wales.

In raw percentages, the U.S. has an unwed infant adoption rate at least 3.36 times that of New Zealand, 3.58 times that of New South Wales, 60 times that of the Netherlands and 100 times that of the United Kingdom.

Now perhaps you do not believe adoption is an option the U.S. showed be working to preserve. Certainly that is the view of the New Zealand Minister who said "For many decades before the introduction of the Adoption Act, culminating in

the 1960's, our society had the expectation that adoption was the solution to an unplanned pregnancy." (p. 3)

And Mr. Carp, the author of the Harvard University Press adoption book mentioned earlier ends his "objective" history with these two sentences: (p. 234) "Should the "new Puritanism" sweep the nation, it is possible that abortion will again become illegal, unwed motherhood will be restigmatized, infants will again become more available for adoption, and secrecy will re-establish itself. Barring such a drastic turn of events [emphasis added] adoption will continue to be characterized by both secrecy and disclosure, with all the attendant hopes and anxieties the two entail."

So, on the one hand, we have Dr. Willke and others in the pro-life movement saying that there is a connection between a loss of privacy and a decline in adoption numbers. Who disagrees? Those who attacked privacy in Tennessee, and who have won for now, especially New York attorney Frederick Greenman. Mr. Greenman is acknowledged by the anti-adoption, open records group, American Adoption Congress, as "...AAC's hero!" Mr. Greenman developed and distributed, as part of the lobbying battle in New Jersey (Mr. Greenman has inserted himself in the debate in many states) over opening adoption records, a sheet called "Adoption and Abortion Rates – 1992." That sheet, dated March 26, 1998, was critiqued by a pro-life NJ lobbyist, based on her research on Alaska and Kansas. But on May 29, 1998, Mr. Greenman filed another statement with the NJ legislature attacking the lobbyist and her explanations for the supposed connection between open records and fewer abortions/more adoptions. Remember, Mr. Greenman was the leading legal strategist and advocate of opening state records in Tennessee, where he was opposed by a number of organizations – including National Right to Life Committee, Christian Coalition, Americans United for Life, Eagle Forum, Concerned Women of America and Family Research Council – who signed on to the National Center For Adoption's brief standing for privacy for women choosing adoption. Mr. Greenman clearly favors opening adoption records.

But Mr. Greenman's May 29, 1998, statement suggests that there is another legislative approach which he favors. I believe that he favors this other approach because Mr. Greenman believes it will ultimately lead to national open records. Mr. Greenman says on p. 6: "Only a national mutual consent registry could have a chance of success in a nation whose population is as mobile as ours." The lead Senator sponsoring such a "registry" in various forms since 1979 is Carl Levin, (D-MI) assisted this year by Senators, Craig, Landrieu and McCain. And who springs to the defense of Sen. Levin's bill, attacking pro-life Sen. Robert Bennett and Rep. James Oberstar, but Maureen Hogan. Ms. Hogan is known to National Right to Life for her attack on NRLC, which became public knowledge in a letter she wrote, as Executive Director of Adopt a Special Kid, to Sen. McCain (R-AZ). Sen. McCain has a bone to pick with NRLC, the Christian Coalition and our group over another adoption bill dealing with tribes control over adoptions. NRLC sent out a detailed response to the McCain attack.

It is interesting to note that Ms. Hogan also is affiliated with the Catholic Alliance, which also wrote a letter to Sen. McCain that same day.

Ms. Hogan's latest attack is on the credibility of well-known pro-life Rep. Jim Oberstar (D-MN), who made a comment on the situation in England similar to that quoted by Dr. Willke, and was printed in the June 17 issue of *The Washington Times*. Ms. Hogan's letter attacking the connection between loss of privacy in adoption and the decrease in adoption numbers, as part of her defense of Sen. Levin's bill, but she never mentions Sen. Levin in the letter--or Sen. McCain.

I urge anyone who is interested in abortion and adoption matters to study these data and to decide for themselves who to believe: Dr. Willke, Neula Scarisbrook, and Rep. Oberstar – or Mr. Greenman, Ms. Hogan (who uses Mr. Greenman's data) and Sen. Levin.

Why make such a point about Mr. Greenman and Ms. Hogan? Because in legislation affecting adoption, things are often not what they seem. On the open records issue, who would believe that professional organizations would reverse themselves on confidentiality, as the Child Welfare League has? It's as if the American Bar Association said that attorney-client privilege was out the window.

Who would believe that Catholic Charities USA would have as a keynote speaker at an Adoption and Maternity Services Conference a Catholic priest so angry and frustrated that he can't get his adoption records opened that he says he literally wanted to kill the nun who sat across from him?

In this debate, passions run high, statistics are manipulated, statements are sworn to that are false and every tactic in the shoddy lawyer's bag of tricks is used to bluff and con judges and legislators.

The lie upon which *Roe v. Wade* is built—the rape that never happened—has many parallels in the adoption wars. The fact that Ron Fitzsimmons "lied through [his] teeth" on "Nightline" about "partial-birth abortions" is not surprising to those of us who witnessed, starting in a least 1975, similar lies and misrepresentation of the data by the anti-adoption and open records gang.

But lies are not the favorite tactic of the anti-adoption movement: slipping damaging language through legislatures and into regulations and guidelines is. And here are some of the current gambits anti-adoption and open records forces are using.

At the federal level, Sen. McCain would make the anti-adoption, anti-privacy Indian Child Welfare Act even worse. The clue here is "mandated notification of the tribes" in a voluntary adoption. Is there anything similar for abortion? No.

At the federal level, HHS is trying to roll back the impart of the Metzenbaum bills by mis-using "the best interests of the child," "children's choice," "culture" and "individualization."

At the federal level, HHS has an Expert Work Group—I am one of only two people who regularly seem to reflect anything resembling traditional views—fighting to model the U.S. adoption system on that of New Zealand. Clues: "court-enforced post-finalization agreements"—"mandated family group counseling"—"alternative dispute resolution."

At the federal level, we have the Levin-Craig-Landrieu-McCain bill, the "foot in the door" to federalizing adoption and federal open records. Clues: "discretion" for HHS; "non-identifying information" "a birth parent," "a sibling," "no net cost."

At the federal level, according to one Congressional office, there is an attempt to prevent women from leaving the U.S. to have an adoption unless the government gives approval.

At the federal level, undercutting adoption by: clue: "permanence," "other permanent options," "subsidized guardianships," "subsidized kinship care."

At the federal level, attempts by Ms. Hogan and others (often behind the scenes) to take away adoption tax credits for healthy baby and international adoptions. clue: "special needs."

At the state level, we have multiple challenges:

- In Oregon, an initiative that will be on the November ballot to open sealed birth documents.
- In New Jersey, Texas, New York and Illinois, battles to open records.
- In Texas, a push to use party platforms to call for open records, often by packing precinct caucuses.
- In many state, "blue-ribbon panels" stacked with anti-adoption groups.
- In Colorado and Maryland, "contact vetoes" as the "first bite" at the apple of privacy.
- In other states, mandated "legislative review" to set the stage for the "second" and final "bite at the apple."
- In NJ and elsewhere, an attempt to get the "long form" of the birth certificate released.
- In most states, using "medical necessity" to get information that is supposedly non-identifying, but actually is often identifying.
- In many states, use of outrageous extremists to "bracket" open records as the moderate solution."
- In many states, "notarization" that makes a birth mother reveal her private history.
- In many states, required filings of updated medical information—an approach which is intrusive and prone to leaks.
- In any situation, the use of "studies show," "the research says" "an affidavit proves" or "statistics say" to build an argument on false or misleading data.

That's the picture. We greatly appreciate the help that has come to the adoption field and us from NRLC and many others in the pro-life movement. But

the battles continue and we need you more than ever to preserve true privacy and true choice for women.

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Testimony of Pamela Rolande Hasegawa
submitted to the
Subcommittee on Human Resources,
Ways and Means Committee
United States House of Representatives
June 24, 1998
on behalf of
S-1487, the National Voluntary Reunion Registry

Mr. Chairman and Members of the Subcommittee on Human Resources:

As you weigh the merits of sending S-1487 to the House floor for a vote, you are being urged to support or oppose the bill from both ends of a continuum ranging from "privacy is paramount" to "give reunion a chance through a national registry." As an activist in the U.S. adoption reform movement since 1975, and as one who was a resource to the Japanese government when it revised its laws surrounding the birth certificates of adopted persons, I am dismayed that it has taken so long for this very humane and simple proposal to come as far as it has in Congress.

Knowing that the reform of laws regarding adopted adults' access to their own personal information comes under the aegis of state, rather than federal, government, it seems to me that the very least the federal government can do as it strives to implement the Adoption and Safe Families Act passed last November is to establish the National Voluntary Reunion Registry to assist those among the several million adoptees and their families of origin who seek to see each others faces this side of Heaven.

Two weeks ago, quite dejectedly, I left a N.J. Senate committee hearing on access-to-records vs. state-run "mutual consent voluntary registry" legislation, each of which is hoping to make it to the finish line before the other. I heard a representative of the National Council for Adoption exalt the attributes of a state-run registry and demean the value of adoptees' rights to their own birth certificates. The committee, as usual, was stalemated by the intensity of the debate and the power of anecdotal evidence on both sides.

Later that day I stopped to visit a friend in her early seventies. I knew she had an adoption story, and asked her to tell it to me again. She is the second of three children. Three weeks after her baby brother Billy was born, their mother, an alcoholic, left her husband and three kids and disappeared. The father left with a five- and a three-year old — and a brand-new baby — was desperate. "He gave Billy away," is how Billy's older sister puts it. They know his date of birth and place of birth but are unsure of whether they were in Tennessee, Mississippi or Alabama when their dad gave Billy away. She does not know whether their baby brother was raised as a foster child or in an orphanage, or whether he was adopted. All their lives, she and her brother have wondered how Billy fared. These are the kind of people a national registry could help.

Why should the federal government do anything about fixing the brokenness caused by the inexorable sealed records system? Because it has the power to, that's why! I'd like to share an example from contemporary world history for you as an encouragement.

Because my husband was born in Japan and I am an adopted person, when I saw the article in the N.Y. Times on January 4, 1985 about Japanese orphans (attached), I read it with great interest. When we moved to Japan later that year, I made sure to attend several of the meetings where the "Chinese returned orphans" were being given publicity in an attempt to help them reunite with their families of origin. Here's the story:

Thousands of Japanese families emigrated to Manchuria in the 1930s. They settled, established farms, and grew their families as well as food to eat. In 1945, they were forced to evacuate Manchuria as Russian troops advanced south into China. Many, if not most, of the fathers had already been conscripted into the army. Many, if not most, of the mothers had several children to care for. One mother had two arms and often more than two children who could not walk the hundreds of miles necessary to flee the oncoming army. Many of those mothers left one child — or maybe two — behind, as they made a choice to either stay with all their children and die, or leave one or more behind and escape with the rest to freedom.

Those children were absorbed into the Chinese communities in which they had been born. Families adopted them, but most either had memories of their own or information passed down by their foster parents about where they'd been left, or where they lived before they were hurriedly passed into the care of a neighboring family.

The Japanese government always knew about these children — after all, their mothers and elder sisters and brothers remembered leaving them behind — and in 1975 the Japanese government --yes, the national, not the provincial, government began sending for those left-behind orphans and helping them get publicity in Japan to bring forward their relatives who had not seen them since childhood. The Japanese government paid their air fare, brought them into the old Olympic Village site at Yoyogi Park in central Tokyo, welcomed the media, and made these people a cause celebre for the two or three weeks of their stay in Japan. Each person was interviewed by print and television reporters; each person had at least two minutes on national t.v. to say what s/he remembered. ("We lived above a bakery. I remember the smell of bread. I had three older sisters and one older brother. My mother's name was Teru and I was called Michiko. That's all I can remember.") Newspapers across the country printed their pictures - as adults, and as children, if they had a photograph with them. One by one, relatives came forth. I will never forget the poignancy of seeing a man my age, who looked so shy and scared, sitting next to his older brother in a room filled with television cameras , telling his story with tears running down his weathered face. The bittersweetness of remembering being left behind and finally reuniting with a member of his original family was almost more than I, as an adoptee with a falsified original birth certificate, could bear. My tears fell like rain as I watched these dear men embrace each other for the first time.

If the Japanese government could do this for its left-behind orphans, then the United States of America can surely do something to help all our families separated by laws never meant to keep America's left-behind children from knowing their families of origin.

Please, echo the Senate's voice and release this bill from committee. Please do everything in your power to advocate passage of this bill on the House floor.You have taken compassionate action for children who need homes, who need protection. Please remember that these children will grow up. And when they grow up, many of them will want to know their own truth. And they will be shocked and dismayed if the very government which wanted so desperately to keep them safe, to protect them from harm and to find them loving homes, turns out to be the government which stonewalls their efforts to know the truth about themselves, about their parents, about their sisters and brothers.

You have the power to allow reunion and reconciliation to take place if people register in hopes of that kind of healing. If you think about it, you will realize that state-level registries in a society as mobile as ours are a feeble attempt to assist people in finding one another.

I believe intensely that every adopted adult has a right to a copy of his/her unaltered original birth certificate, and I have spent the best twenty-three years of my productive life as an adult working toward that end. I also realize it is not in the power of the legislative branch of the federal government to accomplish that goal; only the Supreme Court could free us from the feudalism of permanently sealed records.

But I hope you WILL do what you CAN do, and that is to pass the National Voluntary Reunion Registry into law now.

Statement Submitted by
JOAN HEIFETZ HOLLINGER
Visiting Professor of Law, University of California, Berkeley
Editor & Principal Author, Adoption Law and Practice (1988-98)
Reporter, Uniform Adoption Act (NCCUSL 1994)

For the
U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Human Resources

Concerning Support for S. 1487, National Voluntary Mutual Reunion Registry

June 11, 1998

Chairman Shaw and Members of the Subcommittee on Human Resources:

I am Joan Heifetz Hollinger, Visiting Professor of Law at the University of California, Berkeley since 1993 and, before that, Professor of Law at the University of Detroit in Michigan. Since 1989, I have served as the Reporter – academic consultant and drafter – for the Uniform Adoption Act approved for submission to the states in 1994 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and endorsed in 1995 by the American Bar Association. As the author of many articles concerning the legal and psychosocial aspects of the parent-child relationship, and as the editor and principal author of the two volume treatise Adoption Law & Practice (1988-98), I am familiar with the legal and social history of adoption in this country, and especially with past and present policies on access to nonidentifying as well as identifying information about the parties to an adoption. I serve on the U.S. Children's Bureau Expert Work Group to draft Guidelines for Achieving Permanency for Children subject to the Adoption and Safe Families Act of 1997 and on the U.S. State Department's Advisory Group on Intercountry Adoption. I am an active member of a number of children's advocacy organizations, an Honorary Member of the American Academy of Adoption Attorneys, and a participant in the Donaldson Adoption Institute's multi-disciplinary study of ethical issues in adoption.

I appreciate this opportunity to present my views on S.1487, the National Voluntary Mutual Reunion Registry (NVMRR), a proposal that I have long-supported and whose enactment is long overdue. The proposed Voluntary Registry is a modest, uncomplicated, sensible and fair way to facilitate the voluntary and consensual sharing of identifying information between adult adoptees age 21 or older and their birth parents or between adult adoptees and their adult siblings. The Registry does not conflict with, but complements, existing state and federal adoption laws and policies. It is a humane response to the expressed desire of tens of thousands, and perhaps, hundreds of thousands of adopted individuals, who, increasingly with the support of their adoptive families, are eager to meet those birth parents and siblings who have expressed an interest in meeting them. As the growing body of research on the multiple benefits of post-adoption contact between members of adoptive and birth

families indicates (See research cited in Testimony of Madelyn Freundlich), the Registry will strengthen adoption by enabling many adopted individuals to fulfill what in our society is an understandable, pervasive, and normal desire to fill in the missing pieces in our personal histories.

The proposed Voluntary Registry is consistent with existing state laws and procedures that similarly allow the consensual release of identifying information, but are not uniform or national in scope, and are generally more cumbersome. These laws and procedures are analyzed in Chapter 13 of Adoption Law and Practice. The need for a national Registry to compensate for their deficiencies is discussed in the testimony of other supporters of S.1487, including Professor Naomi Cahn of George Washington Law School. I simply want to emphasize that, because participation in the proposed federal Registry is purely voluntary and consensual, the Registry is not subject to the criticism that is often directed – in my view, without justification -- at the confidential intermediary "search and consent" procedures that are now available in half the states.

The proposed Registry does not intrude on anyone's privacy because only those who want to know each other's identity can participate. Moreover, the Registry does not interfere with existing state laws concerning the confidentiality and sealing of adoption records. Contrary to what William Pierce of the NCFA suggests in his tirades against S.1487, the proposed Registry does not require the unsealing of adoption records, the release of original birth certificates, or the distribution of personal information contained in social worker evaluations of birth or adoptive parents. The proposed Registry is no more "intrusive" on anyone's privacy than are the so-called "passive" registries that the vast majority of states have already enacted. However, because the proposed Registry is simpler to access and national in scope, it is likely to be more user-friendly than either the passive registries or the confidential intermediary services now found in many different versions in most states.

The proposed Registry is consistent with, and in many respects, more conservative than the provisions of the NCCUSL 1994 Uniform Adoption Act (UAA). The UAA protects confidentiality and individual desires for privacy. It is also responsive to the interests of those birth parents, adoptees, and adoptive parents who are eager to reveal their identities to each other. Upon mutual consent, a birth parent and an adoptive parent may learn each other's identity at the time of the adoptive placement, or at a later time, and may determine for themselves the extent to which they wish to maintain contact after the adoption is final. The Act does not prohibit post-adoption contact between birth and adoptive families, and explicitly provides that the validity of an adoption is not subject to challenge because of the existence of any agreement for post-adoption contact. A Mutual Consent Registry is established by Article 6 of the UAA. It provides that an adoptee who is 18 or older and a birth parent may mutually consent to share identifying information or to otherwise have contact with each other. *Consent is not required from both parents; the consent of an adoptee over 18, or of the adoptive parent of an adoptee under age 18, and the consent of ONE birth parent is sufficient to authorize the release of identifying information.* The UAA also provides for the mutual release of identifying information to siblings. Unless there is mutual consent by the relevant individuals OR a court finding that a "compelling reason" warrants the disclosure, identifying information within confidential or sealed records is

not to be disclosed. *As with the proposed federal Registry, however, there is no prohibition against sharing information that is available from a source other than a record or report deemed "confidential" by the UAA, even if that information is also contained within a confidential or sealed record or report.* In other words, if two adults –18 or older under the UAA; 21 or older under the more conservative S.1487 -- register their mutual willingness to know each other's identity, a "match" occurs and the parties can then decide on their own whether or not to meet or otherwise communicate with each other.

Although I continue to advocate for the enactment of the UAA by the states, I am not sanguine about the prospects for its widespread enactment during my lifetime. This is largely because of the difficulty of achieving consensus on the many different and controversial aspects of adoption which are addressed by the lengthy UAA. Among the many advantages of the proposed federal Registry is that it addresses a discrete and severable issue -- the consensual sharing of identifying information -- and does not become enmeshed in the dozens of other issues, including procedures governing a birth parent's consent to adoption and the rights of children to have their de facto family relationships recognized, that make it difficult for the comprehensive UAA to survive state legislative debates.

As indicated, the proposed federal Registry is a modest approach to a discrete adoption-related issue that deserves national attention. Yet, the Registry is by no means an isolated or single example of federal involvement in adoption policy. To the contrary, it is part of an ongoing history of federal child welfare policies that have influenced adoption practices since the earliest years of this century (e.g. the 1909 White House Conference on the Care of Dependent Children; the creation of the Children's Bureau in 1912) and that, in the 1990s, have increasingly emphasized the importance of adoption as the best way to provide a permanent family for children who would otherwise not experience the benefits of growing up in a stable, loving home.

It is totally disingenuous for Mr. Pierce and others to characterize S.1487 as an "intrusion" upon the states' "exclusive" authority to enact their own adoption laws when federal involvement in adoption policy is expanding rapidly. Consider: (1) the inclusion of adoptive families within the Family and Medical Leave Act, (2) the authorization of tax credits for adoption-related expenses, (3) the expansion of medical and other kinds of assistance for adopted children with special needs, (4) the Multiethnic Placement Act (MEPA) (1994, amended 1996) prohibition against delaying or denying the placement of a child for adoption on the basis of the race, color, or national origin of the child or the prospective adoptive parent, (5) President Clinton's Adoption 2002 Initiative intended to double by the year 2002 the number of adoptions of children now languishing in foster care, (6) the recent amendments to the Child Abuse Prevention and Treatment Act (CAPTA), (7) the Adoption and Safe Families Act of 1997 (ASFA), (8) the Adoption Opportunities Act, and (9) the continuing effort to ratify and implement the 1993 Hague Convention on Intercountry Adoption. In this context, a proposal that respects the wishes of parties to an adoption and that promotes the long term well-being of the many children and families whose lives have been and will continue to be altered by federal, as well as state, adoption policies, is a proposal that deserves your support.

The proposed federal Registry is humane because it is based on an understanding that the interests of the parties to an adoption are not static. They are likely to change over time. A birth parent who prefers confidentiality when he or she relinquishes a child may want to waive confidentiality 5, 10, or 20 years thereafter. Alternatively, a birth parent who, at the time of placement, wants to maintain contact with adoptive parents or an adoptee may later prefer to sever all contact with them. Adoptive parents who want to establish their new family's autonomy when the petition for adoption is approved may subsequently want to have contact with a birth parent or other members of their adopted child's birth family. Adoptees who were too young to express their preferences when they were adopted may be curious about their backgrounds, but never seek to learn their birth parents' identities. Other adoptees, as they grow older, may develop a keen desire to meet or know more about their birth parents. The proposed federal Registry, like many other laws that touch upon personal and familial relationships, wisely refrains from freezing people into any specific mold. Instead, it provides a simple procedure for those who wish to locate each other to do so.

The proposed Registry is also humane because it is consistent with increasingly well-established contemporary adoption practices, which, in many respects, are profoundly different from past practices. We may be on the verge of reversing the general decline in the number of adoptions which began twenty-five years ago. Among the many reasons for this anticipated increase in the rate and number of adoptions is the recognition that many, if not most birth parents, as well as a growing number of prospective adoptive parents, want to participate in the adoption process, want to share all kinds of information at the time of an adoptive placement, want to maintain some kind of contact with each other's families well after the formal adoption is approved by a court. We have much to learn about the long range effects of greater openness in adoptions, particularly on the children whose interests adoptions are intended to serve. Nonetheless, we cannot overlook the fact that the vast majority of public and private adoption agencies, as well as the vast majority of lawyers who specialize in adoption (See, for example, Statement of Mark McDermott on behalf of Academy of Adoption Attorneys), as well as a growing and increasingly articulate number of birth and adoptive parents and adopted individuals, are supportive of voluntary sharing of information -- identifying and nonidentifying.

An advantage of the proposed Registry is that it does not require any individual to "buy into" a particular view of adoption. It offers a choice that, until recently, has not been widely enough available. Moreover, it offers a choice that does not suppress the views of Mr. Pierce and the NCFA. Although the NCFA "speaks" for an ever smaller minority of adoption service providers, as others have demonstrated in their testimony, that minority view can easily coexist with a more humane approach to the desire of so many others to participate in and affirm a greater range of adoption options.

The ultimate value of the proposed Registry is that it is a balanced approach to the creation of reasonable and feasible national standards for the consensual release of information by those whose lives are shaped by past and present adoption laws and policies. I am pleased to join the many individuals and organizations who have asked that you act favorably in support of the proposed National Voluntary Reunion Registry, as already approved by the Senate.

Statement of
Louisiana Adoption Advisory Board, Inc. {LAAB}
Baton Rouge, Louisiana
before the
U.S. House Ways and Means Subcommittee on Human Resources
On S. 1487, National Voluntary Mutual Reunion Registry
June 11, 1998

Mr. Chairman, thank you for providing an opportunity for the adoption community to express its views on S. 1487, the National Voluntary Mutual Reunion Registry. LAAB is comprised of adoption professionals, adoption agencies, adoptees, birth parents, adoptive parents and adoption support groups from all across the state of Louisiana. Our mission is to bring the various members of the adoption community together to listen to differing perspectives, seek common understanding, and promote joint solutions that pertain to special needs adoption. LAAB addresses legislative issues, provides educational and technical support for the adoption community, and serves as a means of directing community attention to adoption issues.

We would like to commend the sponsors of this insightful and caring legislation, including our own Senator Mary Landrieu of Louisiana, Senator Larry Craig of Idaho and Senator John McCain of Arizona -- all of whom are adoptive parents. Last but not least, the bill's chief architect, Senator Carl Levin of Michigan, who has remained steadfast in his efforts to gain enactment of this humane legislation.

LAAB is in unanimous support of S. 1487. It is our view that the National Voluntary Mutual Reunion Registry will effectively facilitate a process for adults separated by adoption to address issues of search and reunion and to share the medical and genetic information to which their birthright entitles them. Current statutes preventing exchange of information among adults in the adoption triad were enacted years ago within a social and moral content that was far different than the one that prevails today.

Presently, over half of the states have voluntary mutual reunion registries with a match rate that ranges from 2% - 10%. These rates are low because of the limitations and restrictions of state-based registries. Some states registries require adoptee applicants to be born in that state, others require that the adoption was finalized in that state, or require that the adoptee be both born and the adoption

finalized in the same state. All of this contributes to the limitations of the state-based registries. The National Voluntary Mutual Reunion Registry resolves this problem and it does so without preempting any state activity in this area.

Mr. Chairman, as you know, the Senate passed S. 1487 on November 8, 1997. It is our hope that you will take the lead in encouraging the U.S. House of Representatives to do the same. This hearing today, Mr. Chairman, is proof that such a measure can be a great healing for all of the members of the adoption triad.

In closing, Mr. Chairman, I would like to bring to the attention of the members of the Subcommittee the following distinguished persons and organizations who are members of the LAAB Board and who endorse this statement calling for the enactment of S. 1487. Additionally, we are requesting that at the end of the list of LAAB members, the Subcommittee include several letters from birth mothers from Louisiana. They are quite compelling, and are being shared with the Subcommittee in hopes that they will positively influence those members who have not yet reached a decision concerning the National Voluntary Mutual Reunion Registry. *The LAAB Board Members are as follows:*

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Co-chair, Adoptees' Birthrights Committee
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Ms. Linda Woods
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Ms. Pat FaKouri
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Mr. Chairman, we would now like to include for the hearing record brief remarks from three birth mothers from Louisiana. They would like to share their personal stories of relinquishing their infant children and subsequent reunion.

Dear Senator Levin:

My name is Linda C. Pendergast of Baton Rouge, Louisiana. I respectfully offer my gratitude and full support for the bill you are sponsoring to establish a National Voluntary reunion Registry to facilitate the reunion of adult adoptees with their biological

family member(s). From a professional perspective, as a Clinical Nurse Specialist and Associate Professor of Parent/Child Nursing, I have frequently encountered the issues associated with adoption and addressed the needs of adoptive parents and children who are adopted. My personal experience with adoption is as a birth mother who relinquished her newborn son in 1968 and was reunited with him in 1997. I believe that both my professional and personal experiences qualify me to lend my voice in support of this compassionate and humane bill.

The decision to relinquish my son was made within the context of societal ideology of the late 1960's. My act of relinquishment was done out of love for my son and not as an act of abandonment. However the treatment of unwed, scared teenage birth mothers by social services in that era was far from compassionate. Besides the lack of preparation for the physical act of childbirth and the mental agony of relinquishment, we were instructed to "keep the secret" and get on with our lives. More importantly, we were told we could forget our experiences and our relinquished babies. Today, there are thousands and thousands of birth mothers who have "kept the secret" for thirty years or more, but continue to mourn and grieve for their lost infants. They have never "forgotten" nor will they ever "forget" the child they "gave away". Because they have never been provided supportive intervention, from the time of relinquishment to the present, birth mothers continue to suffer a silent, brutal, unresolved grief. The establishment of a national reunion registry would send a powerful message to these courageous women who constitute a "forgotten" minority and continue to be victims of oppression within our contemporary society.

I did not attempt to search for my son. I just did not believe I had the right to intrude in his life, no matter how much I longed to be reunited with him. I was not aware o f reunion registries or support groups that were available to me. Thank God my son had the courage and determination to search and find me. He began his search in 1995 and we were reunited in July 1997. When my son found me, he also found his birth father (whom I had married the year after his birth) and his three full-blooded sisters. Reunion with my son has been a phenomenal and beautiful experience for all of us. For me, the experience of reunion has provided the opportunity to heal through the release from years of guilt, remorse, and grief. For my son, the experience has provided the opportunity to define his identity in terms of his biological origins as well as to gain an awareness and perhaps an understanding of the factors surrounding his relinquishment. All of our lives are much richer because of this experience and our newly established relationships.

A National Voluntary Reunion Registry will provide a humane mechanism that will facilitate the process of reunion for all adult adoptees and birth mothers who wish to be reunited.

Sincerely,
Linda C. Pendergast

Dear Senator Levin:

My name is Jean R. Cranmer. I am a birth mother and an Association Professor at the University of New Orleans. I am writing in support of the legislation that you are sponsoring to create a National Voluntary Reunion Registry that will facilitate reunions among members of the adoption triad. My endorsement stems from my personal experience as a birth mother who relinquished her son for adoption thirty years ago. My story, I am sure, has much in common with those you have already heard from birth mothers. As an unwed mother, I gave up my son for adoption because I that it was "the right thing to do" for his happiness. I had no material and , more importantly, no emotional support at the time; I believed that the social stigma then attached to a child without a father would be the cause of pain for my son all of his life. The specter of imagining him shamed by others always brought me to tears and reaffirmed my resolve to assure him of a better life. I could not conceive then how societal norms would evolve in the intervening years. Like all mothers who relinquished their babies I was told that it was all behind me and that I should go on with my life. My life did go on but I did not forget.

Then three years ago, motivated by the overwhelming need to heal from the pain of that separation and by the anguish of wondering if I did indeed do the right thing, I began to search for my son. I was fortunate to have the support of a search group in my community and to locate a similar one in California where my son was born. Through the help and generosity of many individuals all connected in some way to the adoption triangle, we were reunited in December 1995. I think it is impossible to overstate the positive impact of that reunion on both of us. My son has repeatedly expressed to me how much his life has changed, how affirmed he feels in that most of us take for granted and it is the only gift that birth parents have to offer to their children; the reassurance of their genetic connection to the universe. Reunion is about finding that wholeness, about healing, and about self-actualization.

The social conscience in our country has evolved enormously in the past thirty years. Children of single parents are no longer considered pariahs, and the many options now available in family planning and adoption are easily and openly discussed. Although attitudes have changed, for those of us caught in the rigid structures of the past, little has changed. It is time that our laws and avenues of access to rights and information available to others reflect those changes. The creation of a National Voluntary Reunion Registry is a compassionate and important step in that direction.

Sincerely,
Jean R. Cranmer

Dear Senator Levin,

My name is Linda R. Woods of Kenner, Louisiana. I am a birth mother and conference chair of the Louisiana Adoption Advisory Board, Inc. I am an active, long time supporter of the National Voluntary Mutual Reunion Registry and it is my hope that this year the legislation will become a reality.

As a teenage birth mother, I experienced the agony of relinquishing a child to the adoption process. With six siblings at home and father in Vietnam, there was no support system for me and I had to make the choice in order to return home. On the day I surrendered my child I dressed him and, as I walked down the hallway, I promised him through my tears that I would find him someday, answer all of his questions, and let him know how much I loved him. Little did I dream, twenty years later, how difficult that search would be and how many roadblocks I would encounter. After three years of private investigators, attorneys, and financial strain, I fulfilled that promise. It way the most healing event of my life. I provided him with a medical history that alerted him to the prevalence of breast cancer in several members of my immediate family. This information is crucial in establishing the genetic blueprint for his daughter.

I have devoted the past eleven years of my life to adoption reform, to my work as a board member of a support group in my community, and to lobbying efforts for state and national legislation. As chair of three previously held statewide adoption conferences sponsored by LAAB, and current chair of this year's conference, I have been actively involved in the board's success in bringing this annual event to national attention. The demand from the adoption community for workshops addressing all the issues of the adoption triad has been substantiated by the continuing growth in conference attendance each year. Thank you for your diligence in this issue.

Sincerely,
Linda R. Woods

P.S. A delegation of Louisiana Adoption Advisory Board, Inc. members will be making the trip to Wash., D.C. to attend the hearing on the National Voluntary Mutual Reunion Registry which will be conducted by the Ways and Means Subc on Human Resources on Thursday, June 11th. We look forward to meeting you and Senator Craig.

cc: Louisiana Congressional Delegation

Jack Marvin, Licensed Psychologist

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STATEMENT OF JACK (JOHN B.) MARVIN

FOR THE RECORD

**PERTAINING TO THE HEARING ON S. 1487
FOR THE SUBCOMMITTEE ON HUMAN RESOURCES, HOUSE WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES, ON JUNE 11, 1998**

My name is Jack Marvin. I am a 62 year-old grandfather of eight children, two of whom are adopted. I am also an adoptee conceived in rape.

In the world of adoption activism, I am the former interim executive director of the American Adoption Congress, and was its vice president before that. I am on the board of the Open Door Society of Massachusetts, known for its annual conferences which consistently are the second largest conferences on adoption in the US, year after year. Professionally, I am a licensed psychologist who counsels people whose lives have been touched by, and whose families have been extended through, adoption.

After cautiously weighing the proposed National Voluntary Mutual Reunion Registry (S1487), I have decided that I must support it. If it passes and there is some way that I can be helpful in its implementation, I will welcome the opportunity to participate however I can to promote its success.

There are millions of sons, daughters, brothers, sisters, mothers, fathers and other close relatives who have been severed from one another by closed adoptions, i.e. those adoptions in which government, unless ordered by the court, prohibits the release of identifying information to birth parents about their children and vice versa, even when the children have grown to adulthood and are good and responsible citizens. The exceptions are Alaska, Kansas and potentially Tennessee.[1]

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[1] Please do not assume that my criticism of closed adoption implies an across-the-board demand for open adoption. Open adoption is preferable in the majority of situations. However, there are situations in which termination of parental rights is vital to the safety and well-being of the child and the adoptive family. These are the cases in which abuse and neglect have been severe, intentional, and repetitive and the child and/or the adoptive or foster family would be in clear and present danger if birth parent access were possible. Even in such instances, though, I assert that the child achieving majority has the right to know the truth about his/her origins. It should not be the role of government to "protect" citizens from their own truth.

The closed adoption system treats children as chattel. It thrives on myths that with love and good homes, children will forget from whence they came, and that birth mothers do not want to be reminded of, or bothered by, their children. Actually, "myth" is too gentle a word; "lies" would be more appropriate. The fact is, mothers don't forget their children and adoptees wonder about their origins. Increasingly adoptees want their truths and many want to meet at least one parent.

What really needs to happen is for the closed adoption system to be dismantled. However, it is a system well-supported by very powerful and wealthy forces who will fight to the end, bitter or not. Because those who favor dismantling are not well-organized and do not represent wealth and power, the battles are sporadic, at best. What keeps them going is the continuing experience of those of us who are disenfranchised by, and are the witnesses of the unjustness of, closed adoption. We are the refugees of closed adoption. The end for us is far from sight.

There probably are hundreds of thousands of us searching for one another. Many of us will find our families; many will not. Searching and reunion are costly financially, time-wise, and psychologically. Without a mechanism such as the proposed federal registry, many searchers will just run out of resources and live and die without finding and reuniting. Because the federal registry will help those who are searching now, I support it.

We must be clear, however, that such a registry does nothing about the basic problem. It is a temporary bandage, a compromise by which the closed adoption system can continue, yet the immediate needs of many people can be met. Compromises are very controversial in the adoption reform community and there are those among our fellows who see support of a federal registry as treason and betrayal. Hard-liners in adoption reform are sure that many will settle for the registry and that personal success will seduce many constituents into thinking that something has gotten resolved. I am sure they are correct to some extent, yet I have faith that over the long haul, the adoption community will indeed dismantle closed adoption for at least domestic adoptions.

Because the basic issue for me is really the closed adoption system and because I felt that the federal registry was supportable only if it offered some relief to those most impacted by the system, I reflected on situations and people known to me from my life and from my work in adoption reform. Had the registry existed, the lives and well-being of many people, including myself, would have been furthered and the registry would not be a source of harm.

With the hope that you, too, will join in support of the National Voluntary Mutual Reunion Registry, I offer two vignettes.

BIRTHMOTHERS

I ask you, the reader, to imagine that you are a pregnant, unmarried woman. It happens to be a time in your life when you are not prepared to take on the responsibility of parenthood. Perhaps you are very poor, very young, and/or without family support. Marriage, abortion, and single parenting are not options, so you plan to place your child for adoption. You discover that adoption agency personnel are very nice to you and seem caring and protective of you. That feels good, particularly when you are so vulnerable. You feel frightened but safe, and your baby is growing in you.

Your time comes, and you go through the anguish of labor and delivery. Your child is a healthy baby boy, which you are told if anyone would give you any information at all. Now that delivery is over and you can rest, you discover that your body/mind has had triggered all the instincts of motherhood; it is your child and you may want him but you have agreed to give him up. No matter what your instincts are, you are able to master them so that when it is time, you can sign the relinquishment paper.

Signature day comes and people gather around you. The form you are about to sign has already been explained to you, but someone reads it to you again. It is brief, it terminates your parental rights for all time, and proclaims that, on signature, it is permanent and not revocable. You sign and hope you are doing to the right thing.

As time goes by, you wonder about your child. It is more than ordinary wondering, because it is mixed with heartfelt instincts of motherhood. You hope your child is all right. You reflect on relinquishment and begin to realize that relinquishment means more than having given up parental rights and that you are now free from parental responsibilities. Even in voluntary relinquishment in closed adoptions, it means that you are unlikely to ever meet your child unless you or the child searches many years later. For reasons you don't fully understand, government has decided that it is in the your child's best interest not to know you and you never to know him. You wonder, and think about your child.

More time goes by, and you have done what you are told to do. You have gotten on with your life. But you were told that by getting on with your life, you would heal and forget all about it. You haven't, you still remember your child.

As a matter of fact, you notice that as your child's birthday approaches, you are depressed. Christmas is now hard for you. You go to your doctor and he confirms depression and gives you a prescription for a mood elevator. He even may recommend that you seek psychotherapy. Probably the child would not even be mentioned. But you haven't forgotten your child.

You begin to hear about new approaches to adoption, very different from what you underwent. People seeking to adopt are advertising for contact with potential birth mothers in newspapers and yellow pages. You learn that birth mothers now review applications from potential adoptive parents and participate in making decisions about prospective parents suitability. You learn that there is something called open adoption, in which there are agreements made between adopting parents and the birth mother for her continuing involvement in their shared child's life, even though the adoptive parents have clear and full authority for parenting. Obviously the rules have changed...and you haven't forgotten your child.

You finally call the adoption agency and find out that, while the rules have changed for others, they essentially have not changed for you. Your child is in a closed adoption and little has changed there. However, you learn that, should you wish to do so, you can send a letter to be filed with the agency and given to the child should the child, as an adult, ever initiate contact. And you miss your child.

You are also told that the State has something called a registry where, if your child is now an adult and has registered, a match and exchange of identifying information is possible. But, if the agency's worker is well-informed and sympathetic, you are apt to be told that the State registry produces very little results. Few people even know about it. It is essentially and notoriously unworkable. You might wonder why the State would spend tax money on an unworkable system. And you haven't forgotten your child.

You investigate further and discover that the closed adoption system is still thriving, even though more and more mothers and agencies are moving to open adoption. You dig enough to discover that there still are pre-adoptive couples who want their child to be totally theirs and to have no involvement with birth parents. And they are *willing to pay large sums of money to get a child in closed adoption.* You learn all this, you are shocked and angry, and you don't forget your child.

You learn that there are a group of agencies that cater to the well-to-do seeking closed adoption. You learn that those agencies have become rich and powerful. You discover that to ensure their position, they have formed a lobby that works in Washington and with the States on legislation. It is called the National Council for Adoption (NCFA). However, as you learn, it doesn't present itself as a lobby for a limited number of agencies; it presents itself as a charitable organization and purports to be the national authority on adoption, serving agencies and all members of the triad. You recognize the truth, are enraged, and you don't forget your child.

You learn that NCFA justifies its position by saying that it is protecting YOU from your child. It tells you that you don't want your privacy to be invaded, your family destroyed, your reputation ruined, and, above all, that you don't want your adult child suddenly showing up without warning on your doorstep. Meanwhile, you dearly would love to have your child appear but you would hope he would at least call or write first. You hear all this, you are afraid and you are angry, and you don't forget your child.

You decide to find out what others are doing about finding their children and what children who have reached adulthood are doing to find their parents. You discover the search community. You find a vast array of people helping one another to dig through records, willing to help you in your search and offering you support. Many are volunteers; some search for a living with fees running from modest amounts to small fortunes; most are authentic and honest; some are charlatans. You discover the Internet and that the World Wide Web is full of opportunities to help people search. You have hope, and you haven't forgotten your child.

But you are afraid. What if you find your child and he rejects you? What if he tells you that you are intruding upon his life? What if he believes that you abandoned him, that you are not a good person, and, certainly not a worthy mother? You continue the search, but fear what will lie at the end of it. Perhaps he is dead. Perhaps he had a horrible childhood. Perhaps he was one of those foster children who were never adopted but went from family to family all of their childhood, until they "graduated" at age 18. You have heard a lot about the foster care system and the horror stories of brutality and other abuse. You worry, you are frightened, you search, and you don't give up on your child - you can't forget.

That is part of the story. It is reality. I have heard hundreds of variations, but they all contain one common message: **Mothers do not forget their children.**

Think how the National Voluntary Mutual Reunion Registry would serve such mothers. They would know that they could register at any time and they could de-register at any time. They would know that 21 years after the birth of their children, the children are likely to register, if the registry is well publicized, welcoming, and reputed to be successful. They would know that some part of government is working on their behalf. They would not have to go through the world of search, with its hazards, expense, anxiety, blind alleys, and, sometimes dead-ends.

I have heard many stories from the adoptee perspective as well. What is truly exciting is to hear such stories from enlightened adoptive parents who once supported the closed adoption system but, having their children's best interest at heart, help their children search. It is wonderful to read Senator Larry Craig's story of his support for his adoptive son. I like to imagine that being faced with the immediacy of such issues within his own family led to a kind of conversion experience. Such experience is being increasingly replayed around the country.

Peg and Jack

There is a homemade plaque in my living room. It says:

Richard Albert Gibson
Born: Dec. 15, 1935

John Bingham Marvin
Adopted: May 1936 Found: Dec. 1992
Reunited with Mother: Feb. 1993

Pearl Gibson Johnson
By the grace of God. Amen

It is one of my most prized possessions.

Like most male adoptees, I had no intention to search for my birth parents. But when I was 56 years old (1991), I was diagnosed with metastatic prostate cancer. The prognosis was questionable. My wife was away traveling that day and I sat in my empty house, not feeling much, and reviewing my life priorities. What must I accomplish before I die? It was a time to be completely honest with myself and to cut through whatever denials I had about who I really was.

Without even knowing where it came from, the first item on my list was to find my birth parents.

My life represented the breaking of the link between those who had come before me and those who have followed. I did not cause the breakage but it was in my power to mend it, to some

extent. I accepted it as a responsibility to my biological family, my children and my birth parents to search.

Adoptees, particularly adoptees in closed adoption who become honest with themselves, commonly describe themselves as feeling disconnected and incomplete in some way. Often they talk about not being fully part of whatever is going on around them. Like strangers in a strange land they go about their lives separated in some way from their environment and from those who people it. Somehow there is a sense of unreality to their lives, as if they are playing roles as opposed to living lives, and it is others, not themselves, who define the roles. This need not be particularly troublesome, and could be described as true for many people besides adoptees. However, the sense of distance from reality seems pronounced in adoptees and shows up in their ability to have and maintain deep relationships, particularly in parenting and marriage.

I had to consider these matters for myself. Sadly, they fit how I evaluated myself as father and husband. I had lived much of my life as though I was following a script written and directed by others. That is what closed adoption produces, an unreal and pretend life. Sometimes I dutifully follow what I interpret is expected of me; other times, I am very rebellious. The good adoptee does it well, the "in-tune" adoptee may do it well but feels unreal.

My search was an off-and-on proposition lasting over the next two years. Rather spontaneously, I would jump in my car and drive hundreds of miles to remote town clerk's offices and city halls gathering precious information. The drives home were frequently a bath of tears.

I ran into a number of dead-ends but then, almost having given up, I found a clue that led to Peg. Although we all were native Vermonters, she now lived in Texas. I wrote a long letter to her with much information and offering to be available should she desire contact.

She received the letter, and called immediately.

On February 4, 1993 she came east to meet me. The day before, my then youngest grandson was born. So great-grandma, who had raised only one child, now suddenly had a son, a daughter-in-law, five grandchildren, two spouses of grandchildren, and six great-grandchildren. She had a busy time of it.

She died February 2, 1998. I am extremely proud of her.

During that first week together, my mother told me about being a 14 year-old eight grader, raped on her way home from the library. The circumstances were of the sort that, had the rape occurred today, abortion definitely would have been likely. While the hurt, anger, and fear she must have felt apparently had dissipated long ago, the new information left me in a quandary about searching for my father. She encouraged me to proceed and so I did ... with caution.

Locating my father was much more difficult than the search for my mother. It required extensive travel and professional help. However, I did find him and checked him out as best I could prior to any contact. It appeared that the rape was a one-time bad act. The following year, he had married and had remained married to the same woman. He was now almost 80 years old. His

credit history did not reveal anything untoward. He had at least one son who lived in the same town...I had a brother!

On my next birthday (1993), I sent my father a brief letter saying that I knew I was his son, that I believed he had a right to know that I was alive, and that I was aware of the circumstances of my conception. I assured him that being conceived was personally more important to me than how it happened. He was welcome to contact me should he wish to do so. I sent the letter off not really expecting a reply.

He called immediately!

He told me that he had wondered for 58 years what had happened and that he had tried to find out but the State would give him no information. He sounded relieved, solid and sane; I was hysterical. My part of the conversation was attempting to get words out between laughing and crying. I could not believe he had actually called. I also was amazed at how important that call was.

As it was near Christmas, he proposed that we get together after the holidays. We would talk again. That was over four years ago. We have not had the second conversation and I do not know if he is still alive. But that does not mean the end of it. Recently I have been thinking more about him and it would not surprise me if I spontaneously picked up the phone and made the call. I am aware that there are too many questions so that I will not just let go. I am not finished with this business.

People have asked me what might have happened if I found my father through a reunion registry and met him without first knowing about the rape. First of all, I doubt that many men whose participation was rape would register on such a registry. I was surprised that my father even made contact. But the real answer is that most adoptees have a passion for the truth of their lives, even when the truth is terrible, and they abhor secrecy and lies about their origins. Most of us would rather live with the truth by choice, than to live a life in which the truth is withheld. My father raped my mother and I was conceived. That is my truth, it is a fact of my life, but it is not my crime. I live with it.

The story is not complete without mentioning my adoptive mother. I am aware that many adoptive parents frequently as enthused about search and reunion as they are about getting small pox. Mom was no exception. Even though she was in her late 80's she found it very threatening. Her feelings ran from appreciation to distress; she both approved and disapproved. Mostly, she felt betrayed and reassuring her was no help. Nor did the fact that the search took so long help; it prolonged her anticipatory fear of rejection. Only after the reunion had occurred and she could see that I wasn't going to abandon her, did she become comfortable. She and Peg exchanged letters and pictures. My closed adoption was open at last!

But the most important thing was that a dam of secrecy was broken. She shared the story of her infertility for the first time and, for the first time, told me in great detail how she decided to adopt and the adoption process from her point of view. Her story was very moving and I ended up with a deep appreciation and empathy for what she had been through. She moved from being a rather

remote mother to an intimate friend. She is 94 years old, and lives very independently by herself in her own home in Florida. Dad died years ago. We are closer today than we ever have been...and reunion made that possible.

I wish that the National Voluntary Mutual Reunion Registry had been in place when I started my search. It would have saved a great deal of time and money, but more importantly it would have added years to Peg's and my relationship. It would have reduced the amount of time my adoptive mom spent in fear. It would have mended the break in the biological family line and given my kids more of an opportunity to learn first hand about their ancestors. My only regret is that I did not start the process sooner.

When the House makes its decision on the registry, I hope it will be done with full consciousness that we adoptees, birth parents, and adoptive parents are real people who will be affected by your decision. You have the power to do something that will serve many, many people. It is a good government that serves the citizens. The registry will serve a group of citizens who have been deprived of some of the most basic aspects of life, their heritage and their children.

Thank you, Senator Levin.

Respectfully,

Jack (John B.) Marvin
born: Richard Albert Gibson

SUMMARY STATEMENT OF THE NATIONAL COUNCIL FOR ADOPTION (NCFA) OPPOSING S. 1487, THE NATIONAL REUNION REGISTRY BILL

The National Council For Adoption (NCFA) has been involved with the issue of access to adoption records since its founding in 1980. Since 1979, Sen. Levin (D-MI), at times with support from other Members of Congress, has sought to pass various versions of a "National Voluntary Mutual Reunion Registry" to enable adopted persons, including half-siblings, and persons who placed children for adoption to obtain identifying information about each other. NCFA has opposed federal registries, for specific reasons. **NCFA now opposes S. 1487 for some of the same reasons we have opposed past proposals introduced by Sen. Levin, and because we have learned of additional reasons his bill should not become law.** Here is why we oppose S. 1487.

1. Promises of confidentiality, sometimes in writing, were given to women who placed children for adoption in the past because they desired privacy.
2. State laws have consistently guaranteed privacy for the last 55 years, usually by sealing adoption records and issuing amended birth certificates.
3. State voluntary mutual consent adoption registries and other state systems exist in 48 of the 51 states and D.C. which enable people to waive the right to privacy provided under state laws. Some states go beyond registries and open records.
4. Sen. Levin essentially says a federal registry is needed for these reasons:

- ***State registries need "humanizing."* NCFA says they are humane.**
- ***Birth mothers want to be available for "reunions."* NCFA cites data from "search groups" that only 1-2% register in all existing registries.**
- ***People want to know their "roots."* Family trees are not a sufficient reason to pass laws that will destroy birth mothers' privacy and lives.**
- ***People search to seek their identity.* The largest study of adopted persons ever done shows no "identity" problems among young adults.**
- ***People need information for their own health purposes or which may affect the health of others (genetic counseling?).* This is already available through existing state systems and court "good cause" options.**
- ***Birth mothers desire contact.* The myth that they suffer "psychological amputation" and "reunions" will heal them has been accepted as fact by many professionals based on pseudoscientific psychoanalytical "studies."**

5. There is no information about how HHS would operate the proposed registry, nor how such a registry would be paid for. S. 1487 may be an unfunded mandate on the states, requiring them to spend millions of dollars.
6. How the "matching" and "verifying" of searchers would be done is not stated. It could require tapping into existing HHS databases, such as Social Security and health statistics records collected for other purposes – or sealed state adoption records could have to be accessed.
7. Acknowledged flaws in existing state systems are best fixed by state lawmakers, using NCCUSL's Uniform Adoption Act or NCFA's solutions as guidelines.

FOR MORE INFORMATION, CALL NCFA'S BILL PIERCE AT (202) 328-1200

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PREPARED STATEMENT OF THE NATIONAL COUNCIL FOR ADOPTION, FOR THE RECORD, PERTAINING TO THE HEARING ON S. 1487 BEFORE THE HUMAN RESOURCES SUBCOMMITTEE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ON JUNE 11, 1998

On Nov. 8, 1997, according to the *Congressional Record* (p. S12202), S. 1487 passed the Senate. That bill, the "National Voluntary Mutual Reunion Registry," is the subject of this June 11, 1998, hearing.

Background of NCFA

The National Council For Adoption (NCFA) is a national voluntary organization which works for sound adoption policy and practice. Founded in 1980 as the National Committee For Adoption (we changed our name a few years ago), we are interested in adoption matters at every level: local, city, county, state, regional, national and international. Our activities, governance and staffing, and finances are disclosed as a part of our belief that charities should provide donors and government officials with information to allow them to evaluate NCFA. Our membership is composed of agencies, individuals and groups who support one or more of our activities, or who contribute or subscribe because of an interest in following our activities. Our formal policy positions are set by our board of directors, which has 15 members, all of whom serve without remuneration of any kind. Those positions, which are often taken on matters of controversy or about which there are a wide variety of professional views, do not necessarily reflect the views of the entire board of directors of NCFA, the entire agency membership of NCFA, the entire individual membership of NCFA or our individual, corporate or foundation donors, including those who provide us with a wide variety of *pro bono* or volunteer services. In other words, the spirited debate about many, many issues related to adoption is also present within NCFA. We do not wish to give the impression that the entire group who assist NCFA and its broad mission over the course of time unanimously endorse this or any other statement. That would be misleading and unfair.

In respect to our sources of income, these are disclosed by NCFA through the means of providing, upon request, a copy of our latest outside audit to anyone who asks. A review of those audits will reveal that NCFA does not receive federal funding of any kind. In fact, NCFA has received federal funding on only one occasion, more than a decade ago, and since then our board has decided that it is policy that we neither seek nor accept federal funds. Undoubtedly several of our member agencies do receive, either directly or indirectly through contracts or grants, often with state public social service agencies, federal funds but we do not have any information about the size or scope of such funding. It is our estimate, however, that the majority of our member agencies, all of which are nonprofit, private agencies, receive no federal funding.

I am NCFA's President and Chief Executive Officer and have served in that capacity since NCFA's founding. Most of my employment has been in the field of human services, with my longest service apart from NCFA being with the Child Welfare League of America, first as Director of its Washington Office and concluding as one of two Assistant Executive Directors, from June 1, 1970, until I moved to NCFA.

In these official roles, I have had an opportunity to closely follow the developments in the field of child welfare for nearly three decades and to serve in appointed advisory positions with the federal government. Currently I serve on an Expert Work Group which is examining issues in foster care and adoption meeting under the auspices of Health and Human Services and the Department of Justice.

The background on privacy issues and NCFA's role

From at least 1975 onward, I have been an observer of and frequently an active participant in discussions about policies having to do with adoption, and the difficult questions surrounding access to identifying and nonidentifying information. It is a fact that the catalyst for the creation of NCFA was the Draft Model State Adoption Act produced by a panel appointed by HEW Secretary Califano. That Draft Model State Adoption Act would have, in the opinion of many, made significant and negative changes in U.S. policies and practice. Ultimately, as a result of the work of NCFA and others, including bipartisan activity by Members of Congress, that Draft was withdrawn and in its place a very different Model Act was promulgated.

Beginning in 1979, but especially since 1981, one of the major ideas that has been put forward to address the issue of access to adoption information has been that of a federal mutual consent reunion registry. The initial and main supporter for this idea in Congress has been Sen. Carl Levin (D-MI).

Senator Levin's federal registry proposals and S. 1487

NCFA has had serious concerns about, and therefore has opposed, each of the various forms of a federal registry which Sen. Levin has introduced. Just as the nature of his bills has changed over time, so also has the nature of our concerns changed over time. At the present time, because this legislation is receiving its first-ever hearing in the House, our organization has taken a fresh look at the federal registry idea, the language of S. 1487 itself, and the context in which all of the comments on federal registries at the state level are being made. As a result of this review, we have changed some of our recommendations. Our past hesitations about a federal registry, given the conclusions we have now reached, lead us to the position that even NCFA could not draft an acceptable federal registry. The ideal initial federal registry is subject, over time, to pressures that would make it quite different and therefore harmful to individuals, especially birth mothers, as well as to the institution of adoption itself.

Full and open debate of S. 1487 did not take place in the Senate

It is appropriate to add here that on several occasions Sen. Levin was able to enlist other Senators as co-sponsors of his legislative proposals. Indeed, during the last session, Sen. Levin had as co-sponsors Senators Craig (R-ID), Landrieu (D-LA) and McCain (R-AZ). Therefore, although reference will be made to the "Levin bill," this is a proposal which had formal support in the Senate from more than Sen. Levin.

Now we are presented with S. 1487, which had four co-sponsors and which passed the Senate by means which I shall not attempt to characterize. I do need to stress for the purposes of this Hearing, however, that on Nov. 8, 1997, those of us who were monitoring floor action in the Senate courtesy of C-SPAN, did not witness or hear the words that appear in the *Record*. Because Sen. Levin's bill was considered controversial by at least one Senator, it was our understanding that a "hold" had been placed on Sen. Levin's bill. In order to allow the Adoption and Safe Families Act (ASFA) to be approved by the Congress, Sen. Levin agreed to remove his federal registry provision from the Senate version of the legislation. After this proposal was removed from ASFA, it reappeared under the bill number S. 1487 and was included, without its title being read, in a list of bills presented to the Senate for "unanimous consent." It is our contention that the Senators, and especially the Senator who had expressed his strong objections to Sen. Levin's bill, did not know that the bill was in the list read by Sen. Craig. Therefore, when the *Record* records Sen. Levin as saying "...once again, the Senate has gone on record in support of [a federal registry]...," it is important to keep what happened in context. Yes, S. 1487 passed the Senate. But the Senate had no debate whatsoever on S. 1487, so that any Senators who might have objected – or agreed with S. 1487 – had no opportunity to state their views. In saying this, I am fully aware that parliamentary "sophistication" is part and parcel of the Congressional process, and on at least one occasion – when former Sen. Howard Metzenbaum (D-OH) got a bill through the Senate banning racism in adoption and foster care – NCFA was pleased with the outcome. What I am saying is that full and open debate on S. 1487 did not take place.

In our review of S. 1487 and Sen. Levin's approach to federal registries generally, we have attempted to be thoughtful and even-handed, despite our concerns. It is a fact that several discussions have taken place between NCFA and Sen. Levin or his staff member on this topic, and between other co-sponsors and persons who serve on their staff. Many of these discussions were very detailed and involved the sharing of specific suggestions about the federal registry proposal. These discussions were our attempt to understand Sen. Levin's goals more fully and to engage in the kind of dialogue that has not taken place in any other setting. Clearly, we were not successful in convincing Sen. Levin to withdraw his proposal.

Reasons why Sen. Levin says a federal registry is needed

There is a great deal of material which has been produced in the last two decades on the subject of registries, but space limitations make an analysis of that material impractical in this statement. Here are some of the reasons cited by Sen. Levin, which appear in the *Record*.

The issue of whether the current process needs "humanizing"

Sen. Levin said: "...[This is] a measure aimed at humanizing the process...." We agree with Sen. Levin that there are times when the process is in need of improvement. Much that state and federal government does is in need of improvement, including some of the laws dealing with access to adoption information. We take issue with the word "humanizing." Opponents translate words like that into NCFA having a position that supports a "dehumanizing process."

The issue of promises of confidentiality made to birth mothers

Sen. Levin said: "...[W]e are deeply touched by the difficulties experienced by adult adopted persons, birth parents and separated siblings who, often for many years and at great expense, have been seeking one another." We, too, are deeply touched because we get telephone calls and letters from people engaged in search. We hear them crying. We hear their desperation. We make every effort to assist them, within both the spirit of

the laws in the several states and what is just. That means we put the "search" in context, if we can do so in a brief conversation, and stand squarely on the principle that only if those who, voluntarily and without pressure of any kind, waive their right to privacy, decide to exchange identifying information, should that information be shared. Further, we hold that no mutually-agreed upon exchange of information between any two persons should make it possible for another person or other persons to have their rights to privacy interfered with. Specifically, we oppose any system, on principle, which gives one person information at the price of depriving another person of their right to privacy, especially in the instances where a woman who placed a child for adoption, and was promised privacy, may have her life disrupted by an unwanted contact or disclosure.

In this regard, the arguments made by those who disagree with us often center around the claim that women who placed children for adoption neither desired nor were promised confidentiality. For instance, an attorney who is an activist in many states and believes that adoption records should be opened, Mr. Frederick F. Greenman of the New York law firm, Deutsch, Klagsbrun & Blasband, wrote on his firm's letterhead the following on May 29, 1998, to five Senators on the Women's Issues, Children and Family Services Committee of the New Jersey legislature: "In eighteen years of hearings on this issue in New Jersey, no one – neither Catholic Charities, other agencies, or anyone else – has produced a single agreement promising any birth mother secrecy (ironclad or otherwise) from her children. Nor has any such document been produced anywhere else, as far as I am aware" (p. 5).

Mr. Greenman, who has scoured the planet for information to bolster his case, as any good attorney does for a brief, is quite unaware of the literature on the subject – or is being disingenuous.

In 1976, when I was at the Child Welfare League, Mary Ann Jones published *The Sealed Adoption Record Controversy: Report of a Survey of Agency Policy, Practice and Opinion* (CWLA, NY: 1976, mimeo, 30 pages). Here are a few pertinent sentences from p. 6: "What is agency practice now regarding guarantees of anonymity? Such guarantees are made to adoptive and *biological* [emphasis added] parents by 90% of the agencies responding to the questionnaire....The policy regarding anonymity, though usually (66%) a matter of general understanding among the staff rather than a written document, has been in effect at most agencies (85%) *for their entire history in adoption work* [emphasis added]." As to Mr. Greenman's specific speculation about an "agreement" or "document," here is what appears on page 6: "In only five agencies are the guarantees of anonymity given in writing." Mr. Greenman, as an attorney, knows full well that promises do not have to be in writing to be binding: one doubts that Mr. Greenman or most lawyers give their clients, upon first meeting, a written agreement stipulating the terms under which lawyer-client privilege holds. It is understood. So also were these agreements understood between other professionals, social workers, and other entities, adoption agencies, and their clients. But specifically to his point, written agreements did exist.

But perhaps the CWLA reference is too obscure for Mr. Greenman to have found. The same cannot be said for *Child Welfare Services*, the classic textbook which went through several editions, by Alfred Kadushin (Macmillan, NY, 1980). In that text at page 496, Kadushin referenced the Jones study, saying: "The report of this study (Jones, 1976) noted that assurances of anonymity and confidentiality were being made to *birth parents* [emphasis added] and adoptive parents by most adoptive agencies." Had Mr. Greenman been seeking to find proof of promises made to birth mothers, he could have.

However, perhaps even that is too much to ask, because Mr. Greenman may argue that a textbook is too obscure a source. The same cannot be said for a book, for the general public, which has been published by Harvard University Press. E. Wayne Carp has written *Family Matters: Secrecy and Disclosure in the History of Adoption* (Cambridge, MA; 1988). Carp says, on p. 173, that "The survey [by Jones] revealed that secrecy was far and away the rule: 90 percent of the agencies (a total of 163 had responded) guaranteed adoptive and *biological* [emphasis added] parents anonymity, *though only 3 percent put the guarantee in writing* [emphasis added]."

This level of detail is important not just to respond to Mr. Greenman and others who are attempting to change state policies based on misleading or incomplete data, but because the question of confidentiality for birth mothers is central to our concerns about Sen. Levin's proposal. If, as the record makes clear, birth mothers expected and were given promises of confidentiality, including written agreements, then it is critically important that any proposal which relates to access to adoption information protect the underlying agreements which were made by agencies, as a part of the birth mother's decision to carry her child to term, decide on adoption, and use that agency to carry out her adoption plan.

Our most basic disagreement, therefore, with S. 1487 is that language which would allow the exchange of identifying information between "...an adult adopted individual...with—(1) *any* [emphasis added] birth parent of the adult adopted individual; or "(2) any adult sibling who is 21 years of age or older, of the adult adopted individual."

This language is worded so that if an exchange of identifying information takes place between an adult adopted individual and a birth father, the birth mother's privacy is likely to be violated. One of the first questions adopted adults ask in these exchanges is: who was my birth mother? No law, no court and no system of monitoring can prevent this information being disclosed if these two individuals are allowed to know each other's identities and communicate.

In the same fashion, this language is worded so that a sibling could reveal the name of his or her birth mother and, if the name is known, of the birth father.

These objections have been shared in many different ways with Sen. Levin and other proponents of matching which does not take into account the promises of privacy made to birth mothers. These objections, although forcefully presented in the form of a television news magazine at the 1981 Senate hearing, where a birth mother who conceived a child due to rape told of having her privacy invaded by the adopted son, have not moved Sen. Levin or those who support him. We urge this Subcommittee to take this information into account.

Other reasons given why a federal registry is needed

Sen. Levin gave a list of the reasons people "...have been seeking one another." The list includes: (1) "...the natural human desire to know one's roots and genetic heritage...; (2) "...[s]ome are seeking a deeper sense of identity...;" (3) "...some need vital information which may affect their own mental and physical health...;" (4) "...some are facing momentous family decisions that require more knowledge about their heritage...;" (5) "...a substantial percentage of birth parents say they want to be available to the adult children many relinquished at birth, during a time of stress, should they also desire to make contact."

Let us examine each of these reasons in turn.

The desire to know one's roots

It is true that there is a natural human desire to know one's roots and genetic heritage. The phenomenal impact of the mini-series *Roots*, telling of Alex Haley's journey to Africa, stimulated many who had otherwise not given thought to their genealogical background. NCFA understands this desire, and even the strong commitment on the part of some, such as those who are members of organizations that collect and organize historical records, such as the Daughters of the American Revolution. Pedigrees can win one entry into certain elite organizations. NCFA supports attempts to put together one's genetic family tree, so long as the efforts do not involve invasions of privacy. NCFA believes that a child is grafted into the family tree of her or his adoptive parents. For school assignments and other purposes, we believe adopted children should be encouraged to do genealogical research into their adopted pedigrees. We do not find this reason of Sen. Levin convincing.

The need to seek one's identity

It is also true that "Some are seeking a deeper sense of identity...." We believe that it is important to discuss why people are seeking this and what the data show about adopted persons and their identity. Carp's book, referenced earlier, has dozens of pages which pertain to this question. Space does not permit citation of all the pertinent references here, but consider this. In essence, Carp concludes that the most important writings in adoption that served to create what is known either as the "search movement" or, in Carp's words, the "Adoption Rights Movement" came from Annette Baran, Reuben Pannor and Arthur Sorosky. Their most famous publication is *The Adoption Triangle*. Carp says the Adoption Rights Movement (ARM) relies on those three individuals and their thinking, "...on an ideology that labeled adoption triad members [triad refers to the adopted person, the biological parents and the adoptive parents] psychologically damaged as a result of secrecy in adoption (p. 222)." Carp says this about Baran et al's work: "Adopted adolescents were now held to be more prone than nonadopted adolescents to aggressive, sexual, identity, dependency-independency, and social conflicts. They also were said to be uniquely prone to develop symptoms of an "adoption syndrome," which included genealogical bewilderment, compulsive pregnancy, the roaming phenomenon, and the search for biological relatives. In these articles, Sorosky, Baran, and Pannor provided the ARM with its most persuasive therapeutic rationale: adopted persons searched because there was something psychologically wrong with them (pp. 151-152)". Here is Carp's conclusion about Baran et al and their many professional articles: "From a social science methodological perspective, it is a wonder that any of these articles were published....(p. 155)." Carp also says "...their research skills, too, left much to be desired. They failed to uncover a significant body of research that contradicted their sweeping assertion that adolescent adoptees suffer from genealogical bewilderment or identity conflicts. In particular, they ignored a mountain of data indicating that 95 percent of adopted children were never referred to professionals for therapeutic help of any sort (p. 156)." Most of the adoption field, a great many in the child welfare field and key people in the social work profession, even today, have not scrutinized the ideological underpinnings of the "searching for identity" thinking. This remains so even after the publication, after years of research, of the largest study of the outcomes for adopted adolescents, by a Minnesota think tank, the Search Institute. As Carp notes, that study "...found that adopted teenagers were no

more likely than nonadopted teenagers to suffer from mental health or identity problems (p. 231)." With all due respect, therefore, we decline to support "searching" on the false claim that it has anything to do with "...seeking a deeper sense of identity...," as Sen. Levin said. Perhaps now that this information has been made available to Sen. Levin, he and others will reassess their views and remove this reason from their list. There is no therapeutic rationale for searching.

The need for information which may affect one's own health

Sen. Levin says that "...some need vital information which may affect their own mental and physical health...." NCFA agrees. That is why, as a part of our advocacy for state mutual consent adoption registries, we drafted and included as a part of our agenda the recommendation that the health history and the genetic and social history of adopted persons be collected and transmitted. On Nov. 21, 1981, the Executive Committee of NCFA endorsed this position in principle and those principles were used to draft our model legislation, released in 1982. NCFA's model legislation for state registries was circulated, among others, by the Council on State Governments. In 1984, in response to requests for the field, NCFA published a *MODEL BACKGROUND INFORMATION FORM* and NCFA continues to recommend its use in connection with our model legislation.

State registries work well

State registries are fair and effective. State registries enable those who want to waive their right to privacy to obtain identifying information and, if they wish, arrange a meeting. State registries also enable those who want to maintain their right to privacy to "vote" by not registering. It is undoubtedly disturbing to some who would have like to have a meeting with a birth parent to find that, although that parent knew identifying information about the adoptive family and their whereabouts, that parent choose neither to register nor to contact the person placed for adoption as a child. But birth parents have their own reasons for not registering or contacting those they placed for adoption – reasons that are often unknown and will remain unknown, even to those adopted adults. Such may be the case with Michael Reagan's birthmother who, as Mr. Reagan says on p. 282 of his 1988 book, *MICHAEL REAGAN: On the Outside Looking In* (Zebra, NY, 1988), was following the family she placed Michael with. "Barry told me that our mother Irene had been extremely proud of the fact that my adoptive father had gone on to become president. And whenever I was on television, Irene would pull up a chair and insist on quiet while she stared at the set. "I never understood why until she died," Barry said. "If mother had any inkling that you wanted to meet her, I am sure she would have been on the next plane to California." The book reveals that Michael Reagan, the adopted son of Ronald Reagan and Jane Wyman, was adopted, through an independent adoption, in California. Irene knew who the adoptive parents were. California's law provided, in the 1980s before Irene died, for the disclosure of a variety of non-identifying information to the parties. But Irene did not use any of the legal means at her disposal and instead waited until she was on her deathbed to reveal the fact of Michael's birth to her son Barry. There is no evidence in Mr. Reagan's book that Irene would have left Ohio for California if she knew he was interested in meeting her. That is a speculation from Barry that may well have been stated because it was comforting to Mr. Reagan. Many people are part of families where birth mothers had a desire to maintain their privacy, deathbed confidences to others notwithstanding. Mr. Reagan is a strong advocate of a federal registry but does not explain why his mother would have registered with a federal registry when she chose not to contact him or his family or register with a state registry. Irene needed no federal registry. One can speculate that Mr. Reagan supports a federal registry because he is well aware that, over time, a federal mutual consent registry can be amended so that it is a federal open records system, or something that will allow "one-way" searches to be successful.

The fact is that a national registry is not needed for this purpose. Instead, there is a need to encourage more people to actually collect, maintain and transmit the information. How much more productive it would be, for all those who care about background information, to spend their energies getting more compliance with this goal. Instead, the battle to open records, or in states like New Jersey to obtain information which is highly sensitive and perhaps identifying, has an unintended consequence: people who have embarrassing or troubling medical or other information to provide – the existence of a sexually transmitted disease, a history of drug or alcohol abuse, or a bipolar disorder, for instance – are far less likely to provide the kind of candid, honest information that is optimal if they have to worry about disclosure.

Furthermore, in those rare instances where information is a matter of life and death, or a similar crisis, every state has as a part of its laws a procedure whereby one may go to court and, for "good cause shown," have records opened. In some instances, those records may be examined by the judge to see if the kind of information needed appears. This is NCFA's preference. But often, judges simply grant access when that action is an over-reaction. In those instances, even if the information is not helpful medically, the privacy of another individual has been unnecessarily violated. No federal registry is needed to help people obtain non-identifying background information. In all but five states, there is a requirement to collect birth parents' medical information. This information about states' laws comes from Macmillan's extremely popular book for consumers, called *The Complete Idiot's Guide to Adoption* (Christine Adamec, NY, 1988, pp. 120-123). The answer, NCFA contends,

is to use the Uniform Adoption Act and other means to encourage the five states which do not require this practice to amend their laws.

The need for information which may affect the health of others

Sen. Levin next lists as a reason that "...some are facing momentous family decisions that require more knowledge about their heritage...." We deduce that Sen. Levin is probably referring to situations where genetically-related diseases, some of which are extremely problematic, and others of which are fatal, may exist in an adopted person's background and that person fears to conceive a child, lest the child inherit the condition. NCFA fully understands and agrees with this concern. That is why we seek the collection, maintenance and transmission of important medical information from all providers of adoption services, agencies, lawyers, intermediaries – anyone who is involved in any way in an adoption. In those instances where the records are incomplete and there is objective medical evidence of a need to check available records, then the courts' "good cause" route is available. No federal registry is needed to reach this goal.

Birth mothers' desire for contact with persons placed for adoption as children

Sen. Levin's fifth reason is that "...a substantial percentage of birth parents say they want to be available to the adult children many relinquished at birth...should they also desire to make contact." A review of the information available to us suggests that Sen. Levin is misinformed on two counts: the percentage of birth mothers wanting to relinquish their privacy is small; few birth mothers use existing registries, including those maintained by "search groups."

On the first point, here is what Carp says about the history of the largest support group of birth mothers, Concerned United Birthparents (CUB) and the creation of the myth of searching birthmothers. CUB and its role in destroying the chances for Baby Jessica to stay with the DeBoers was reported on in great detail by Lucinda Franks, in the March 22, 1993, issue of *The New Yorker*. The title of the article says it all: "How a baby girl became a rallying cause for the anti-adoption movement." CUB remains, as Franks, says, one of the key "anti-adoption" organizations. Carp says that CUB insisted that "...most birth mothers desired information about children they had relinquished or wanted to meet them. This assertion, like most of the sweeping claims that ARM activists made about the universality of triad members' feelings, was exaggerated. Based neither on clinical data, nor on survey sampling, nor on well-designed research projects, the claim represented little more than the heartfelt emotion of a small minority of birth mothers" (p. 204). What has happened in the last 15 years is that another book, by Kathleen Silber and Phyllis Speedlin (that has sold thousands of copies and been widely used by agencies that should know better) has helped spread the CUB myth. The book is *Dear Birthmother: Thank You for Our Baby* (San Antonio: Corona, 1983). The authors say that "...secrecy harmed all triad members..." and quoted from a CUB brochure that said birth parents were condemned to "...a lifelong sense of psychological amputation." Like Nancy Verrier's 1993 book, *Primal Wound*, the claim was that birth parents could only be "treated" by reunions and "prevented" by open adoption. (Carp, p. 210) Baran et al supported this view of birth mothers as well, recommending reunions and open adoption. As Carp notes, "Their [Baran et al] arguments in support of open adoption represented the triumph of a long series of pseudoscientific psychoanalytic studies, usually confined to academic journals, that stigmatized adoption and portrayed triad members as pathological victims" (p. 213).

Since there is no data supporting the claim that birth mothers have a "sickness" that needs to be addressed by searching, that aspect of Sen. Levin's argument is without basis.

So is the contention that most birth parents want to register. Here is what Mr. Greenman says on p. 6 of his May 29, 1998, letter to the New Jersey Senators: "The basic fact about all state "mutual consent voluntary registries" is that while 95 percent of birth parents welcome contact <u>from</u> their surrendered children, only 1 or 2 percent register with state registries." Here we have the essential problem: if 95% of birth mothers are open to a meeting, where is the data to support such a statement? To our knowledge, it does not exist, apart from CUB and other search groups' methodologically suspect "studies." What does exist is the fact that Mr. Greenman does not dispute: "...only 1 or 2 percent [of birth parents] register with state registries." Mr. Greenman, who supports open records in New Jersey and elsewhere, for some reason supports S. 1487. If birth mothers do not register with state registries and they do not register with national registries maintained by search groups in substantially larger percentages, what makes him think they would do so with a federal government registry? The single reason is one which Sen. Levin speaks about, flaws in existing registries, states where there is no registry and other problems that NCFA, NCCUSL and others are aware of and wish to address, but at that level of government where the records reside and where the solutions lie: the state level.

NCFA, therefore, believes that since birth mothers neither need nor want "reunions" and signify their true feelings by not using existing registries, there is no need to add still another level of registries on top of the various state approaches to providing identifying information.

One of our concerns about S. 1487 is the same as with most previous versions of Sen. Levin's proposal. Almost no details are provided to tell us how HHS would actually be expected to set it up, especially how HHS would find the funds to operate the federal registry. It is to operate "...at no net cost to the Federal Government...," according to the language of the bill. Taking that language at face value, then how are the costs to be handled? It seems to NCFA that there are a limited number of options. The most obvious source is those who are registering, but that is opposed by important organizations in the search movement, like the American Adoption Congress (AAC). In the statement of Jane C. Nast, President of the AAC, of May 21, 1998, she says on page 3 that "*Restrictive regulations* and fees often discourage and impede basic registration." In her footnote, she explains: "*Restrictive regulations are often written that inhibits the match. Some examples are: allowing adoptive parents to veto, specific residency requirements, *high fees* [emphasis added], requirements that all parties must re-register (*and pay fee* [emphasis added]) every 365 days and disallowing advertising." It seems unlikely, given the opposition of the umbrella group of the search movement, the main voice of the ARM, that fees from those who wish to use the federal registry are a source.

Another likely source, if federal funds are not an option and registrants are omitted, is state funds. But a federal registry that relies on state money would, in effect, create an "unfunded federal mandate." The American Public Welfare Association (APWA) and all the organizations of the states oppose unfunded federal mandates on the states. There is no evidence that APWA has any position on S. 1487; indeed, when I asked a high official of APWA if the group has a position on S. 1487 I was told there is no position. If there is no position, I must conclude that state funds are not being contemplated as the source for the budget.

What other sources are there? So far as I can tell, only those who have arranged adoptions – agencies, lawyers, doctors, others. Or, as is the case in some states, it may be possible that creative language can be used to call these "post-legal adoption services" or "family counseling services" or "individual counseling services" and federal, state or local funds – or insurance or other funds can be used to pay for the registration.

The matter of fees is not inconsequential, nor is something that Sen. Levin has not commented on before. Fifteen years ago, when there was debate about a previous version of his proposal, Sen. Levin said in a Sept. 20, 1983, letter published in *The Washington Post*: "Fees would be collected to offset substantially the modest cost of the program, projected at under $500,000 per year." Costs have escalated substantially since 1983. There are private agencies in small states which have had to seek subsidies in the tens of thousands of dollars to handle their "search" activities. In one medium-sized state, the budget of the department handling post-adoption services was in the hundreds of thousands of dollars several years ago. If these substantial costs are going to be handed off, we think it only fair for Sen. Levin, or Secretary Shalala, since this legislation would hand her the responsibility of designing and operating the federal registry, to answer the question: who pays? We are concerned about the imprecision of the language in the bill because, just as Sen. Levin said 15 years ago, perhaps there is a plan to "...offset substantially..." the cost through fees and the remainder will be taken from other HHS accounts.

We are also concerned about the use of the words "...may use the facilities of the Department of Health and Human Services to facilitate..." the federal registry. We are concerned because, if one looks at one of the comprehensive directories that list all those entities which are part of HHS, such as *Carroll's FEDERAL Directory* (Washington, 1988, 798 pages), one finds in the 35 pages of small print a number of locations that may have databases containing information which the Secretary could use to make matches. Consider the Social Security Administration, for instance. All children are now required to have Social Security numbers. So are adults. This information was not collected for the purposes of a federal adoption registry, but would S. 1487 give the Secretary the power to use its banks of computers? Recall that S. 1487 uses the word "...discretion..." to indicate the power given the Secretary. Would the Secretary be able to tap into two of the data bases under her control that pertain to children in foster care and adoption, children in the child welfare system, that data is reported on through the AFCARS and SACWIS systems? NCFA strongly supported the creation of AFCARS and I sat on the Advisory Committee named by HHS but I can assure you that it was never intended that those data be used to make matches in a federal reunion registry. What about the National Center for Health Statistics? Are the vital statistics reports that flow into NCHS to be part of the mix of data the Secretary, in her discretion, decides to capture, consolidate and use? Consider all the data from the various welfare programs over the years, the current Medicaid program, and Medicare: is the data in those files available for the federal adoption registry? We need to remind the Congress that the states have overlooked many sources of data in the legislating that has been done to protect privacy, over and above the obvious locations of adoption agencies and attorneys' files. Today, despite the clear intent of the legislature, agencies and others are using the information that they have at their disposal to evade the laws banning the sharing of identifying information without consent. It is tragic enough that this exists at the state levels without empowering, through S. 1487, the same sorts of loopholes at the federal level. We have grave concerns that just such an approach may be contemplated, because Sen. Levin has consistently stated that "This legislation does not call for the unsealing of adoption records." Sen. Levin may be correct: the tremendous number of computerized files that fall under the jurisdiction of HHS may be sufficient to avoid the need for the unsealing of adoption records in most cases. Although access to sealed adoption records at the state level (by which NCFA means vital statistics, court, agency and attorney records)

would be helpful to achieve absolute verification of a person's identity for a match, those who support the federal registry may have concluded that in "searching," as in horseshoes, "close counts."

We believe that the Congress and the American people should know that for most of the nearly 20 years that Sen. Levin has been promoting a federal registry, we have been asking him to provide us with precise details about how his registry would work. He has declined to respond, indicating instead that this is up to the HHS Secretary. Because several previous HHS Secretaries have opposed Sen. Levin's bills (most recently, President Bush's HHS Secretary, Louis Sullivan), we have inquired of HHS directly how they believe they might operate such a registry. These inquiries have brought the response: we do not know. Because NCFA finds it difficult to fathom that HHS has never considered this question, given the prominence of the controversy, Sen. Levin's experience and influence and HHS' penchant for anticipating administrative or policy questions and devising possible solutions, NCFA filed requests in 1997 and 1998 with HHS under the Freedom of Information Act. We were not encouraged by HHS's ability or willingness to respond when the 1997 inquiry did not turn up either of the two letters written by HHS opposing Sen. Levin's proposals. Even when NCFA provided a copy of the Sullivan letter opposing Sen. Levin's bill, no response was forthcoming. At this point, with letters of ever-increasing insistence, 112 days have elapsed since we sent the first of seven letters to HHS. In fact, the FOI/Privacy Acts Division at HHS wrote to us on March 10, 1998, telling us that "...a due date of March 13, 1998..." had been set as a response date. March 13 was nearly three months ago. Our only other written response was a postcard received June 5 telling us that our June 2, 1998, letter had been received and we had been assigned a case number. In all candor, this appears to us to either be incompetence or stonewalling because, in a Sept. 27, 1988 *Washington Post* column by Donnie Radcliffe, Sen. Levin's "...legislative assistant and in-house expert on the issue...," Jackie Parker, said "And Jim Miller and [Health and Human Services Secretary] Otis Bowen have both demonstrated a willingness to work with Senator Levin." Whichever is the case, it does not speak well of HHS' ability to carry out any task related to the national adoption registry with competence that no record of 1998 communications between the HHS Secretary and Sen. Levin could be found. In fact, over the last several years, there have been a number of instances where HHS' performance and good-faith compliance with the spirit and intent of Congress has been lacking. The most notable example of this, in our opinion, is HHS' failure to properly implement former U.S. Sen. Metzenbaum's Multiethnic Placement Act (MEPA) or the amendments to MEPA. NCFA is not casting aspersions on HHS employees as a group: like most public employees, they are a dedicated, intelligent hard-working lot. NCFA is criticizing the individuals who have made the policies, failed to provide information or otherwise cast HHS in a bad light.'/

Flaws in existing state systems should be corrected by state legislation

Sen. Levin pointed out in the statement he inserted in the *Record* Nov. 8, 1997, a number of flaws that NCFA and every other party interested in the adoption records issue agrees exist. Those problems exist because state legislatures have not enacted uniform legislation dealing with adoption records issues. An earlier Uniform Act promulgated by NCCUSL, originally issued in 1953 and revised in 1969, did not receive wide acceptance because then, as now, controversy about adoption is not new in America. The *Model Act to Establish a Mutual Consent Adoption Registry* NCFA issued in 1982 has had remarkable influence in the states but, despite our efforts, legislatures in states such as New York opted to enact laws which erected barriers that NCFA never intended to be put in place. Although we have made attempts to improve individual state laws, these efforts have been hampered by anti-adoption and search groups who have seized upon any discussion of an amendment of a state registry law as an opportunity to repeal that law and, in its stead, provide for access to adoption records.

Geographic and interstate barriers

Specifically, NCFA is aware that adoptions are often, as Sen. Levin says "...started in one State but finalized in another." Persons in the metropolitan New York area who adopt children born in New York but finalize the adoptions in either New Jersey or Connecticut are precluded, at present, from using the New York registry. This year, again, we are seeking to amend New York's law to eliminate this barrier and say, as NCFA's Model Act does, that the state where the adoption took place is where the adopted person should register. We also wish to see state registry laws amended so that birth parents who placed children in the past can know which state their children were adopted in, so they can pursue their legal remedies in that state. For future adoptions, we believe that birth parents should be notified that the adoption has been finalized and the state where the finalization took place. This helps the birth parents to come to closure and would prevent tragedies such as happened when Joel Steinberg failed to follow through on an independent adoption and proceed to finalize that adoption.

We share some of the concerns of some of those who are among NCFA's harshest critics, such as the American Adoption Congress, about certain inappropriate provisions that exist in some states' laws. For instance, we believe that residency requirements should be eliminated and no matter where the adopted person and birth parents live at the time they desire to register, they should be able to use the registry present in the state where the adoption was finalized. As the administrator of a registry in one state said, "it is the adoption itself

which triggers the sealing of the records and therefore it is the laws of the state where the adoption was finalized that should govern."

NCFA wishes to point out that this problem was addressed by the 1994 Uniform Adoption Act from NCCUSL, which NCFA and the American Bar Association, among others, endorsed. Specifically, Sec. 6-106 (4) is meant to address this problem. All that states need do is amend their laws using similar language. If problems persist, then perhaps some amendment to the Interstate Compact on the Placement of Children, or some other interstate solution, can be devised.

Requirements for multiple registrations or multiple revocations

We also believe that a single act of registration should suffice, providing that a single act of removal of one's registration also suffices. Decisions to agree to share information or decline to share information, once made, should stand until the decision changes.

Lack of publicity about the existence of state registries

We also believe that although there has been a huge outpouring of publicity about registries and their purposes, it is desirable to use additional, appropriate means to inform people of the existence of these registries.

Adoptive parent vetoes

We have serious concerns about allowing adoptive parents to veto registration, based on the discussion we held around the country at the time NCFA was drafting its Model Registry Act. At that time, the consensus of adoptive parents was that so long as the adopted person was adult and mature, and adoptive parents came to the consensus view that this is age 25, there should be no provision allowing for adoptive parents' veto.

Fees to fund registry systems

As for fees, a frequent complaint of "search groups," NCFA believes that there is no other adequate or appropriate source of funding for these activities. There is no sound public policy reason why the small minority who desire this information for their personal use and benefit should have their desires underwritten by federal or other tax money, by other charitable funds, or by private sources such as insurance companies.

Mobility

As Sen. Levin and others say, America is a mobile society. But NCFA contends that mobility, or the fact that "...the adoptee, birth parent or siblings may be a resident of several different States during their lifetimes" does not mean that a federal registry is the answer, or needed. Unless Sen. Levin and HHS intend to use information squirreled away in the various databanks of HHS to confirm matches, records held at the state level will need to be accessed. And for most adopted persons, the answer is as simple as looking at one's birth certificate. As for most birth parents, all that is required is to contact the state where the birth took place. Most adoptions were not interstate adoptions in the past, and for those which were, the solution present in NCCUSL's Uniform Adoption Act will work just fine.

Opposition to S. 1487 or any federal mutual consent adoption registry

For the reasons outlined above, including the fact that state registries are a fair and effective legislative compromise to the adoption records controversy, NCFA opposes S. 1487. We have additional information which we would be glad to provide to the Congress or others about federal registries for any other proposal related to confidentiality and anonymity issues in adoption.

WP/ms s1487hearing60898

Statement of
Nancy M. Newman, Esq.
Adoptee and Child Welfare Advocate
before the
Ways and Means Subcommittee on Human Resources
U.S. House of Representatives
June 11, 1998
Concerning S. 1487, The National Voluntary Mutual Reunion Registry

Mr. Chairmam and members of the Subcommittee, thank you for your efforts and for your attention to this critical adoption and child welfare issue. To the sponsors of S. 1487, Senator Carl Levin of Michigan, and adoptive parents Senator Larry Craig of Idaho, Senator Mary Landrieu of Louisiana and Senator John McCain of Arizona, your dedication is greatly appreciated by adult adoptees and adoption triad members across the nation.

I am an adult adoptee, attorney and child welfare advocate active in Pennsylvania statewide adoption law reform and child abuse prevention efforts. I greatly appreciate the opportunity to present testimony regarding adoption reunion registries, specifically S. 1487, the National Voluntary Mutual Reunion Registry.

By way of personal background, all things positive that are achieved by adoption I believe are evident in my own adoption story. I was adopted at birth and raised in a loving, caring family. I have always been thankful that my birth parents chose to bring me into this world, and that I was blessed with a wonderful, nurturing, supportive adoptive family. Despite the fact that I had nothing but positive feelings about my adoption, and knowing that I was indeed wanted and "chosen", I eventually embarked upon a search for my biological family when I reached the age of 30 and had children of my own.

When I became pregnant with my first child, I joined a high risk obstetric practice to oversee the pregnancy and delivery, and underwent unnecessary genetic testing, chromosome counts, and other procedures because I was adopted and had no medical history at all. I was later diagnosed with malignant melanoma, a genetically inherited medical condition (one that had not shown up on any test), and I wanted to know my genealogical and medical background, as well as the true story surrounding my adoption.

Even the most well-adjusted adoptees often feel the need to discover their biological "roots". I had been provided my "nonidentifying information" by the courts, which contained no medical history information at all. Though the nonidentifying information was factually correct, it contained only inexplicit statements about the reasons for my adoption and my genealogical background. The only way to gain the knowledge I sought about myself was to find and reunite with my birth parents. My search was a demeaning and torturous ordeal, with roadblocks at every

step of the way. I eventually found my birth parents and several siblings. It was a challenging, emotional experience, but one that was necessary, ultimately healing and not at all unexpected.

That is my story. However there are as many individual reasons for the need for reunion as there are adoptees in search, from an urgent need for medical history information to fulfillment of a psychological need to know why the child was relinquished at birth.

I am dedicated to reforming the antiquated plethora of adoption laws that pervades our current system and to helping the children of Pennsylvania, and other states, who are languishing in foster care and waiting for loving, permanent adoptive families like the one I was so fortunate to be a part of. I am involved in many governmental, charitable, legal and legislative efforts aimed at improving our system of adoption. I feel very strongly that National Voluntary Mutual Reunion Registry is a crucial and necessary step in the direction of improving our adoption system so that it meets the needs of adults and children who are involved in the adoption process.

The National Voluntary Mutual Reunion Registry {S. 1487} would permit the Secretary of the U.S. Department of Health and Human Services to facilitate the voluntary and mutually requested reunion of birth parents, adult adopted persons, and adult siblings. Congress should take action to facilitate voluntary reunions of adoption triad members within a framework established by the federal government. The national Voluntary Mutual Registry envisioned in S. 1487 is a necessary mechanism to help meet the needs of individual citizens who seek to find their own biological families.

In encouraging the formation of permanent, loving families by facilitating the adoption process, the federal government has played a critical role in promoting the best interests of our children. The commitment of the 105th Congress to children's welfare requires that this broad vision of serving our children continues. The federal government has been inextricably instrumental in eliminating impediments to adoption in order to assure the best possible placement for each child. Permanency and placement in the most appropriate family for each child requires that adoptions be allowed to take place across state lines.

Congress has worked hard to assure that geographical boundaries and convenience never get in the way of serving the best interests of our Nation's children, and this has been achieved by federal incentives and encouraging interstate placements. The Children's Bureau, and Acts of Law such as the Interstate Compact on the Placement of Children, the Indian Child Welfare Act, and others have been helpful in placing the focus of adoption on the child. Our concern with protecting and preserving the adopted child's best interests crosses all state lines and boundaries. This is a national concern. The federal government has an overriding interest in promulgating legislation on the adopted child's behalf, especially where, as with the case of search and reunion, the states are unable to independently coordinate to meet that need without the aid of our federal government.

If our focus remains on serving the best interests of the child, we cannot go wrong. I beseech you to maintain that focus in all of your adoption-related determinations. The child should be our touchstone. And the rights and freedoms of the adopted child continue after he or she has become an adult. Congress' role in the adoption arena has concentrated on meeting the needs of our nation's children. Our federal government's efforts in this regard have heretofore been commendable. In considering adoption reunion registries, you have a rare opportunity and circumstance to hear the child herself tell you, "I need to find my birth family. Your laws are preventing me from doing so. Please change them". Please listen to that child today. The genesis of all of our adoption laws, both state and federal, was to meet the needs of the child and the birth parents. Adoption is about finding a loving home for every child who needs one, not about finding a child for every couple who wants one.

With a National Voluntary Mutual Reunion Registry, both the adoptee and the birth family member have agreed that they wish to connect with each other. By failing to facilitate that through a federal registry, Congress is disregarding a critical opportunity to bring our laws into the present and meet the needs of children and biological parents involved in the adoption process.

Current state and private sector efforts to provide opportunities for the voluntary exchange of identifying information are insufficient. Though over half of the states maintain some form of mutual consent registry, many are inadequately advertised and there is no coordination among and between the states, making the search process extremely burdensome for the individual in search. Current search practices and procedures vary widely among the states, as well as from county to county within a particular state, and many of these procedures are underfunded and ineffective. Even with formal state processes and the latest computer technology, a search can take the adoptee years of personal effort, numerous hours of court time and government employee efforts which would be unnecessary if a National Registry were put into place. The federal government should play an active legislative role where, as in the case of assisting adoption search and reunion, it is necessary to promote the children's best interests.

I have worked with many state legislatures, including Pennsylvania, to reform our country's adoption laws. The federal government has a crucial role to play that cannot be fulfilled by any other organization or entity. Individual state registries are rarely advertised or promoted beyond state borders. Many states can be the situs of information relating to a single adoption. The child may be born in one state, legally adopted in another, then raised in a third state. The birth family could be located anywhere. Individual states cannot undertake coordination of the several states, and federal efforts are necessary to fulfill this important function through an interstate network in the form of a National Registry. Because of the interstate and international nature of adoption, the federal government has an obligation to do what is essential to protect and preserve the interests of adopted children where the states cannot do so.

Though private efforts to facilitate reunion are to be commended and encouraged, our

elected officials in Congress have an obligation to represent their constituents, children and adults alike, and assure that an advertised, centralized, easily accessible national mechanism is available to meet the needs of parties to an adoption who are involved in the search process. One cannot compare the well-meaning efforts of the International Soundex Reunion Registry ("ISSR") or individual search groups with the need for federal oversight of this area. Congress, through promulgation of this Bill, should play an active role in facilitating the voluntary, mutual connection of two willing participants.

The Uniform Adoption Act, promulgated by NCCUSL, acknowledges that a mutual consent registry is an appropriate means to achieve that end. Even the most vocal opponent of this Bill, the National Council for Adoption ("NCFA"), is a proponent of state mutual voluntary consent registries. But, state registries are restricted to state boundaries and therefore are not effective. A national registry would be effective. Regrettably, misdirection and distortion of the National Voluntary Mutual Reunion Registry has been undertaken by the NCFA from the bill's inception. S. 1487 relates only to facilitating mutual, voluntary reunion between registered parties. It is about the welfare of grown adopted children and meeting the needs of women who made selfless decisions, many of whom were coerced into relinquishing their children for adoption under adverse circumstances, and should be commended for bringing those children into this world.

Interestingly, the NCFA stated at its inception in the previously published "1981 Goals" that the **National Committee For Adoption (now the National *Council* for Adoption) will seek to "link State-level registries through the National Committee [NCFA] rather than through any Federal data bank"**. The suggestion that any private organization, rather than the federal government, should be relegated with meeting this important national need is absurd and dangerous. Private organizations may only adequately represent some, but not all, interests in the adoption process. Only our elected officials, through the political process of representation, should be entrusted with oversight of a national, interstate coordination mechanism in this critical, sensitive area.

Every American citizen has a right to self determination - to seek their "roots". We, as Americans, treasure our roots, especially our family history. That is an individual freedom to which adopted children, and all citizens, have an inherent right. Promulgation of S.1487 is an important step in allowing adoption triad members to exercise that right to voluntarily and by mutual agreement (through the Registry mechanism) associate with their biological families. I strongly urge you to enact S. 1487 establishing a National Voluntary Mutual Reunion Registry.

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STATEMENT OF HON. JAMES L. OBERSTAR
before the
SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE WAYS AND MEANS COMMITTEE
June 11, 1998

Mr. Chairman and Members of the Subcommittee, I greatly appreciate the opportunity to testify today and to share my strong concerns regarding efforts to weaken the fundamental right of privacy for birth parents who make their children available for adoption. I am greatly troubled that federal legislation to create a national voluntary mutual reunion registry would seriously erode the constitutional right of privacy, would lead to an increase in abortion, and reduce the number of available children for adoption.

From the outset, I would like to express my appreciation to you, Mr. Chairman, for holding this hearing today. It is fitting and proper that this issue is receiving the attention that it deserves, and it is crucial for this controversial legislation to be examined in a public forum. I was greatly troubled that the proponents of S. 1487 attempted to attach their legislation to the comprehensive foster care reform legislation last year. While that effort did not meet with success, the proponents, nevertheless, were able to approve their legislation in the U.S. Senate under a unanimous consent process, without a congressional hearing and without providing an opportunity for opponents to object. This legislation must be examined in the full light of the legislative process, and I am pleased that we have that opportunity today, Mr. Chairman.

I appear today as a legislator and as an adoptive parent, and I am keenly aware how personal this issue is for some adopted children and for some adoptive parents who desire to make contact with one another. As Co-Chair of the Congressional Coalition on Adoption, I have worked tirelessly with my colleagues to enact federal policies that promote the life-affirming act of adoption. I have strong reservations that enactment of S. 1487 would undermine, rather than promote adoption. After the dedicated and diligent work of this subcommittee to enact the historic foster care and adoption promotion legislation last year, we should continue to focus our efforts on public policies that will continue to promote adoption.

My principal concern with the National Voluntary Mutual Reunion Registry is that this legislation would undermine a most fundamental and constitutional right of privacy. While the proponents of the legislation claim that there are safeguards designed to ensure privacy, it is clear that the "any birth parent of the adoptee" provision in this legislation makes it very possible that an adopted child could locate one biological parent who could reveal the identity of the other birth parent without their consent. As a result, I fear that the voluntary and mutual aspect of this legislation cannot be enforced, and courageous women and men will suffer needlessly as they are stripped of their fundamental rights.

In this computer and information age, many in this country are rightfully concerned that their rights of privacy are threatened. In fact, Vice-President Gore announced last month a new Administration initiative designed to give people more control over their own personal information. It would be my sincere hope that the Administration would expand their initiative to ensure that the privacy of birth parents is protected. I have written to Vice-President Gore to express my support for efforts to expand the Privacy Initiative to include protections for birth parents who place their children for adoption, and I would like to enclose a copy of this letter into the record at this time.

As a member of Congress who strongly supports the sanctity of life, I find it interesting that pro-choice proponents have utilized the right to privacy argument to justify a women's right to an abortion. While I strongly oppose abortion, I would ask my pro-choice colleagues to be consistent with respect to the fundamental constitutional right of privacy. If you are going to argue that a woman's right to an abortion is guaranteed under the 14th Amendment right of personal privacy, then you must also hold that women who choose to carry a child to term also have a fundamental right to privacy. Today, we see that minor children are transported across state lines to have abortions without their parents knowledge, and that practice is tolerated because some believe that the minor has the right to privacy. To say to those courageous women who decided to give birth somehow do not have the same right to privacy strikes me as inconsistent and unfair.

There is little doubt that should the confidentiality of adoption records become compromised, many women who would be inclined to choose the adoption option will choose abortion. One only has to look at the record in Great Britain to see the dramatic reduction of children placed for adoption. After Great Britain changed its adoption laws in 1975 to allow adopted individuals to view their unamended birth certificates, a significant decline took place in the number of children placed for adoption. While the stigma associated with out-of-wedlock pregnancies has declined in Great Britain and in the United States, many unmarried women, especially teen-age women, have to come to terms with unintended pregnancies. For many of these women, confidentiality is crucial. If they believe for one moment that their identity may be compromised, I believe that many of these women will choose abortion, and that decision is most unfortunate when there are so many families who seek to adopt.

I would urge my conservative colleagues to seriously question whether we want the federal government to interject itself into an area of family law that has long been the primary jurisdiction of the states. I understand that there may be problems with the state registry system, and I would hope that the states could work together to develop a model uniform state law to provide some consistency and to assist adopted children and birth parents who want to meet. While S. 1487 contains language to ensure that state laws take precedence over federal law, I am concerned that a national registry will open the door to more ambitious efforts that would compromise the privacy of birth parents. Since our President has stated that "the era of big government is over," it is imperative for us to question the merits of a federal proposal that would greatly expand the federal government into an area that is properly within the jurisdiction of the states

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June 10, 1998

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Honorable Al Gore
Vice-President of the United States
The White House
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Dear Mr. Vice-President:

I write to commend you for your leadership in announcing the Administration's new initiative on privacy. In this computer and information age, it is clear that many in this country are rightfully concerned that their rights of privacy are threatened.

As the Administration continues to promote this privacy action plan, I encourage you to expand this important initiative to ensure that birth parents who make their children available for adoption are guaranteed that their right to privacy and confidentiality is protected. I am greatly concerned that proposed legislation (S. 1487) to create a national voluntary mutual reunion registry would seriously erode the fundamental rights of birth parents.

Thank you, Mr. Vice-President, for your attention to this issue. I look forward to working with you to ensure the protection of the fundamental privacy rights of birth parents.

Warmest personal regards.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.

JLO/chg

Statement of Gregory Foltz, Ed.D.
Executive Director
St. Andre Home, Biddeford, ME

for

the U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Human Resources

I am the Executive Director of St. Andre Home, a multiservice child welfare services agency that has been serving children and families throughout the state of Maine for many decades. I wish to offer some information that may be of assistance to the Subcommittee, as the Subcommittee considers the various testimony and statements that have been submitted in response to the June 11, 1998 hearing on S. 1487.

The reason I am submitting this information for the record is that I am concerned that a statement filed by Madelyn Freundlich, Executive Director, The Evan B. Donaldson Institute, New York, New York, may mislead the Congress about a Maine "study" and its "findings."

First, a few comments are in order about the Donaldson Institute's general approach to research, as evident in its statement. The Donaldson Institute statement says that "The research, however, is clear that even outside of voluntary reunion registries, birth parents and adopted adults do wish to be found by one another." I have not had an opportunity to look closely at each of the references cited in the Donaldson Institute paper, but I do know that at least two of the references do not meet the minimal requirements for "research."

One of the sources for the Donaldson Institute's claim is the 1976 work of Baran, Pannor and Sorosky. Here is what E. Wayne Carp, a historian of adoption cited by Naomi R. Cahn, one of the witnesses supporting S. 1487, said about Baran, Pannor and Sorosky in his book, *Family Matters: Secrecy and Disclosure in the History of Adoption*. On page 155, he writes: "Although the reader can at least find a number of personal accounts of adult adoptees in the studies of Sorosky, Baran, and Pannor, their research design and methodology were similarly flawed. From a social science methodological perspective, it is a wonder that any of these articles were published. Their sample was so small, self-selected, and unrepresentative of the adoption triad community at large that, statistically speaking, their conclusions were all but worthless."

It is a puzzle to me why the Donaldson Institute, with its huge endowment and financial resources, as well as its lengthy list of academics and others interested in

adoption that appear in its annual report, would seek to convince the Congress about anything based on "all but worthless" studies.

The Donaldson Institute statement goes on to say: "In a comprehensive study of the issues involved in adoption, The Maine Department of Human Resources Task Force on Adoption found in 1989 that adoptees and birth parents wish to be found in overwhelming percentages. Noting that the Task Force was "startled...to learn...how few people did not wish to be found," the group reported that every birth parent who was surveyed [130 birth parents] wanted to be found by the child/adult they had placed for adoption and ninety-five percent of the adoptees [164 adoptees] who were surveyed expressed a desire to be found by their birth parents." The statement goes on to say: "In their 1989 study, the Task Force found that ninety-eight percent of the adoptive parents supported reunions between their adopted children and members of the adoptee's birth family."

I served as a member of that Task Force and the Evan B. Donaldson Institute is not properly reporting the work of that Task Force. Either the Donaldson Institute did not review the actual Survey Report and take note of the limitations clearly described in that document or the Donaldson Institute read the Survey Report and chose not to tell the Congress that the limitations of the data-gathering were such as to render the findings, as Carp would put it, "all but worthless."

I am submitting as an attachment to this the cover page of the Survey Report and three pages which speak to the questionnaires which were distributed.

I am also submitting for the record page 4 of a Minority Opinion I filed on March 1, 1990, with three paragraphs devoted to the "LIMITATIONS OF THE STATISTICAL DATA CITED IN THE TASK FORCE FINAL REPORT."

I am also submitting for the record page 2 of a response dated March 7, 1990, from Freda Plumley, Co-Chairman of the Adoption Task Force. Note that her response confirms the limitations that I cited. Moreover, and to the point of whether that report's "findings" should have been used by the Donaldson Institute or anyone else in discussing public policy before a legislative body, Ms. Plumley wrote: "The Adoption Task Force Report was never presented by the State of Maine as a prototype for any legislative body."

Ms. Freundlich, with all the resources at her command at the Donaldson Institute, certainly could have inquired of Ms. Plumley and others about the validity of the data and any questions that were raised by Task Force members. It would appear that she did not do this, even though a beginning researcher would be alerted by the ostensible "finding" that 100 percent of birth parents wanted to be found. At the least, an organization that promotes itself as a group that "...collects, synthesizes and disseminates research and practice-based information on adoption; and prepares policy analyses based on reliable research..." would have read the full report of the Task Force, noted the limitations, and declined to use it.

Given this statement, until the field has proof to the contrary, I believe it is appropriate to question the underlying claim of the Donaldson Institute, that its policy analyses are based on reliable research. Two of the sources for this "policy analysis" are worthless. Several of the other sources are of highly questionable value. It would appear that the Donaldson Institute is perilously close to falling into that category of biased advocates who produce what Carp terms, on p. 234, as "...pseudoscientific psychoanalytical studies...."

The Subcommittee had factual testimony, such as that presented by Josette P. Marquess of the Florida Adoption Reunion Registry. As Ms. Marquess stated on p. 4 of her written testimony in regard to those women who should be our central concern, because without their decision the adopted adults might never have been born: "As a result of many court ordered searches, and the conversations that I have had with the birth mothers that I have found, many (40%) over the last two years have not been entirely happy that a search had been ordered for them." I understand Ms. Marquess expanded on this statement in her verbal testimony.

It is disappointing when bogus "statistics" are used to try and make a point in Congressional Hearings. I urge you to closely examine all of the statements and testimony to determine whether the methodology used in sources cited was scientifically sound.

Enclosures: *SURVEY REPORT*, Adoption Task Force, Maine Department of Human Services, March 1989, four pages

"The Maine Adoption Task Force Final Report: A Non-Commissioned Minority Opinion, Dr. Gregory Foltz, March 1, 1990, one page

"RESPONSE TO A NON-COMMISSIONED MINORITY OPINION...," by Freda Plumley, March 7, 1990, one page

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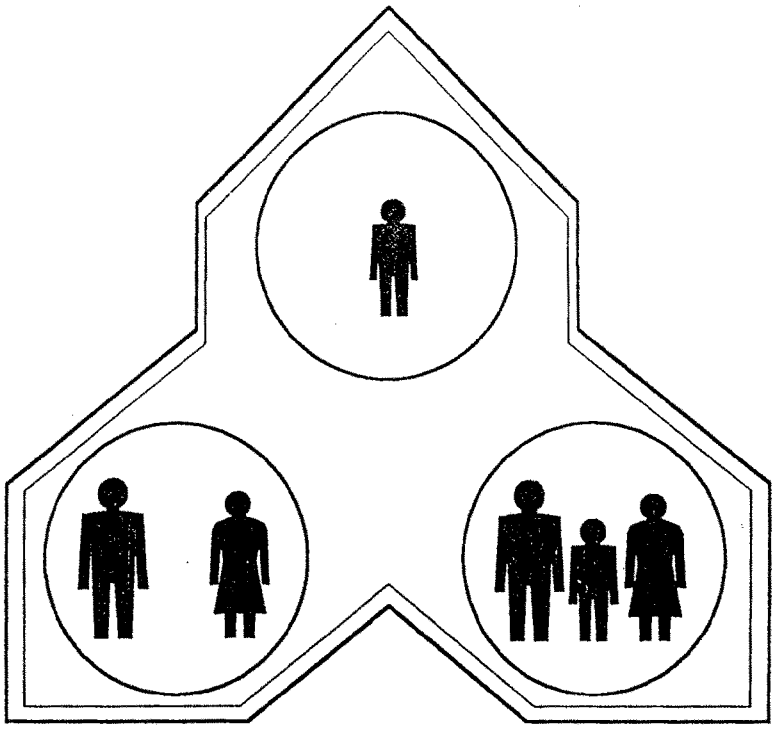
SURVEY REPORT



ADOPTION TASK FORCE
MAINE DEPARTMENT OF HUMAN SERVICES

MARCH 1989

John R. McKernan Jr.
Governor

Rollin Ives
Commissioner

THE ADOPTION TASK FORCE QUESTIONNAIRES

PURPOSE

The Adoption Task Force developed and conducted several surveys during its brief tenure. Crucial needs for new information were identified as the Task Force Committees began to consider the issues before them. Although much has been written about the various facets of the lifelong adoption process, the Task Force was unable to find any source that evaluated the experience of a broad spectrum of individuals. Past studies have focused on those with problems, those associated with a particular agency or organization, etc., but none describe the "silent majority" of those involved with adoption. Information about the concerns, desires, attitudes and needs of the general population of those affected by adoption was needed to help the Task Force achieve its purposes of identifying current issues regarding adoption in Maine and making recommendations for changes in laws, regulations and administrative policies.

The Support Services and Search Committees of the Adoption Task Force determined that information from Maine people would be a key factor in shaping recommendations for change. The Support Services Committee wanted to know what services were presently available and what unmet service needs adoption triad members have. The Search Committee wanted to know what opinions and needs people have regarding the exchange of information, search, and contact.

PROCESS

In order to yield the desired information in time for it to be used by Task Force members in their deliberations, four surveys were developed and conducted within an extremely compressed time frame: approximately three months from beginning to end. Inevitably, this resulted in some poorly constructed questions and the omission of some which should have been included. Too, no master list of persons involved with adoption exists from which a statistical sample could be chosen, while a poll of the general public, however selected, would be unlikely to include enough adoption triad members to provide useable data. Despite these drawbacks, we believe that the information collected through the four Task Force surveys is a unique resource which will continue to prove invaluable in dispelling some of the myths regarding the adoption process and in shaping new policies for the future.

Development: The Support Services Committee developed separate, but essentially parallel, questionnaires for each member of the adoption triad - adoptees, birth parents, and adoptive parents - to determine service availability and unmet needs (Appendix A). An Ad Hoc Committee developed an "opinion" or attitude questionnaire to accompany each of the triad questionnaires, in order to obtain more general information concerning such issues as searching for birth parents and surrendered children, characteristics of adopting families, independent or non-agency adoptions, adoption versus abortion, and rights of each triad member (Appendix B).

Distribution: The questionnaires were distributed as widely as possible to reach all who have had some experience with or interest in adoption in Maine, particularly those who are members of the adoption triad.

- Licensed private adoption agencies distributed to their clients;
- Department of Human Services regional adoption units distributed to their clients;
- Adoptive Families of Maine member list was used;
- Adoption Search Consultants of Maine newsletter list was used;
- Copies were distributed at the four public hearings;
- Newspaper articles and editorials solicited respondents;
- Task Force members distributed questionnaires to interested individuals.

Each person who responded was asked to complete a questionnaire appropriate to his or her position in the adoption triad as well as the general opinion questionnaire.

Response: Six hundred Adoptee Questionnaires, 400 Birthparent Questionnaires, and 900 Adoptive Parent Questionnaires were distributed, together with 1,900 opinion questionnaires.

Response rates were average for a survey of this type, in which no follow-up of unreturned questionnaires was possible. Not all triad questionnaires were returned with an opinion form, and some opinion questionnaires were completed by non-triad members.

Survey Type	Number Distributed	Number of Responses	Response Rate (%)
Adoptee	600	160	27%
Birthparent	400	98	24%
Adoptive Parent	900	232	26%
Opinion	1,900	533	28%

ANALYSIS:

The analysis of the data was done by the Office of Data, Research, and Vital Statistics, within the Department of Human Services. Analysis was limited to frequency counts of survey responses, due to constraints of time and resources. The data thus provided were used by each Task Force Committee as they developed their recommendations for new policies, statutes, rules and procedures. Further analyses directed to specific issues of concern remain to be done.

LIMITATIONS:

There are several limitations which must be kept in mind when using the data derived from the Adoption Task Force surveys. The primary consideration is the nature of the sample itself. The respondents were self-selected from a larger group comprised of persons who obtained or received a questionnaire through one of the distribution methods outlined above. The time factor did not permit waiting for respondents who missed the survey return deadline (60 questionnaires came in so long after the deadline that they could not be included in the tabulations.) Due to the distribution method, no follow-up was possible to remind participants to return their responses. Thus, respondents were people who received a questionnaire due to known involvement in the adoption triad or who requested a survey form following an announcement in a newspaper, newsletter or at a public hearing held by the Task Force. Respondents were interested enough to return the questionnaires on their own, without reminders of any kind.

The sample is not a probability sample and statistical techniques such as significance testing or calculation of confidence intervals are meaningless. Yet, taken on their own and for what they are, the responses to these questionnaires are an invaluable source of information on the needs and attitudes of adoption triad members who are concerned about these issues.

A secondary consideration is the quality of the data. With such a very short time frame in which to develop and distribute the questionnaires, then process and analyze the returned survey forms, very little pre-testing could be done. As a result, some questions are ambiguous or too easily subject to misinterpretation. Some information which should have been requested was not. Potential problems of this nature must be appropriately controlled for in analyzing and interpreting the data.

IMPLICATIONS

Despite the limitations noted above, the findings of this study have important and far-reaching implications for Maine's adoption law, policy, and practice. The Adoption Task Force could not find any other studies that surveyed a large number of triad members at the same time using a uniform opinion questionnaire for all and parallel questionnaires for each triad member. Comparisons of the responses of the various categories of triad members to certain questions revealed unanimity on issues long considered to be areas of acute conflict and difference. Conversely, emotions or concerns that conventional wisdom has held to be shortlived are shown to be frequently longstanding and painful.

The opportunity afforded by the Task Force Surveys to glimpse the needs and feelings of each of the triad members is rare indeed and carries great potential for better understanding and supporting them more effectively.

As such, the final report reflects a philosophical orientation toward adoption that is quite sympathetic to the views strongly held by the Search representatives who so faithfully served on the Task Force. (In general, it is a view which supports the deregulation of closed adoption records, advocates for "open adoption" through which adoptive parents and birth parents openly share their identity with one another, and views the more traditional practice of non-identified adoption as being out dated, and at times harmful to individuals who choose such practices.)

Clearly, the individuals espousing the Search representatives position are entitled to their views on adoption. However, when such views are presented in the form of legislation, and as such may become binding on the lives of all adoptive families within the State of Maine, many people object.

An example of such an objection was witnessed at the public hearing on LD 2094. Two adoptive parents, both lawyers, after reviewing the proposed legislation, objected because they do not view adoption as a process of loss, grief, sadness and sorrow. Rather, they share the view of many adoptive parents, **the view that adoption is a positive way in which to build a loving family. As a result, they expressed concern that the proposed legislation would intrude upon their right to privacy.**

Given the lack of balanced and established quorum protocol which reflects the entire diversity of Task Force membership, the views of a constituency of people with positive feelings about the more "traditional" adoption practices, were at critical times under-represented on the Task Force. A representative sample of such people, who wish to raise adopted children in a less open, more traditional manner, adequately expressed their concerns at the hearing on LD 2094. In so doing they were typified as fearful individuals who wish to "live a lie". At that juncture respectful debate sadly began to degenerate into emotionalism, and the opportunity for valid public discourse was lost. And once again the Task Force's method for "getting the bugs out" of proposed legislation failed.

A STATEMENT REGARDING THE LIMITATIONS OF THE STATISTICAL DATA CITED IN THE TASK FORCE FINAL REPORT

Some members of the Task Force have stated that the final report is viewed nationally as a model for other States interested in reviewing their adoption laws. The final report bases a great deal of it's credibility on the statistical data gathered from surveys conducted by the Task Force. Fortunately the survey report addendum to the Task Force final report clearly outlines the "several limitations" in drawing inferences from the survey data. It is unfortunate that these same limitations are not cited in the body of the text of the Final Report. The limitations of the study data are several, and major. I quote:

> *"The sample is not a probability sample and statistical techniques such as significance testing or calculation of confidence intervals are meaningless. . .A secondary consideration is the quality of the data. . . some questions are ambiguous or too easily subject to misinterpretation. Potential problems of this nature must be appropriately controlled for in analyzing and interpreting the data"*

Such limitations should be clearly identified in any report that is presented by the State of Maine as a prototype for other Legislative bodies. Such limitations must be clearly understood by the Maine State Legislature in weighing the content of the Task Force Report. Such limitations should be clearly made evident to concerned legislators before they rule on proposed legislation. Intellectual honesty requires that anyone reading the recommendations in the Final Report have a clear understanding that some of data generated by the Task Force is lacking in statistical utility.

The voting protocol was as follows:

- Only members appointed by the Commissioner could vote.
- There must be a quorum (simple majority) at each meeting where voting took place.
- Decisions would be made by majority of qualified voters present.

Meeting dates were set well in advance for people to plan their schedules to participate. Furthermore, if there were issues which were discussed while Task Force members were not present, the Task Force chairs allowed those same issues to come forward for reconsideration. Therefore, no one was disenfranchised from participating in the process.

STATEMENT REGARDING THE LIMITATIONS OF THE STATISTICAL DATA CITED IN THE TASK FORCE FINAL REPORT

The surveys carried out by the Task Force were never intended nor ever presented as scholarly research. The Task Force did not have the resources to engage in such a process. The Survey Report clearly set forth the limitations of the study that was done and advised that analysis and interpretation of the data be done with those in mind.

The Adoption Task Force Report was never presented by the State of Maine as a prototype for any legislative body. The report has been received in other states with interest and consideration for similar studies.

THE SUGGESTED METHOD FOR MINIMIZING FUTURE "LIKE CONFLICT" WHEN OTHER BILLS EMERGING FROM THE TASK FORCE REPORT ARE FILED WITH THE LEGISLATURE

The bulk of the language of LD 2094, An Act to Amend Vital Statistics Provisions Pertaining to Adoption, was drafted prior to the convening of the Adoption Task Force. The specific language that had been drafted was reviewed by the Task Force itself on more than one occasion. In addition, a bill which would provide a service delivery system related to adoption was also drafted significantly prior to the end of the work of the Adoption Task Force and reviewed by it. It is only the recodification of the adoption law which was not completed during the process. That recodification was drafted by an Assistant Attorney General based on the recommendations of the Task Force. The latter two bills have not yet been presented to the Legislature.

The Adoption Task Force completed its work in March of 1989 and no longer exists as a Task Force.

Statement
Submitted by Dr. Rickie Solinger
Historian, Author and Visiting Scholar, University of Colorado, Boulder
Before the
U.S. House Ways and Means Subcommittee on Human Resources
On S.1487, National Voluntary Mutual Reunion Registry
June 11, 1998

Mr. Chairman, my name is Rickie Solinger. I am a historian, the author of Wake Up Little Susie: Single Pregnancy and Race before Roe v. Wade (1992), a book which won a number of historical prizes and was named a "Notable Book of the Year" by the *New York Times*. Wake Up Little Susie is a study, in part, of the rise and flourishing of the "adoption mandate" in the United States between 1945 and 1973. By "adoption mandate," I mean the practice by which the federal government and other authorities defined, unwed mothers as not-mothers and facilitated the placement of their "illegitimate" babies for adoption in these postwar years. (Before 1945, adoption was not a widespread practice in the United States.)

As a historian who has written a definitive history of postwar adoption practices and policies, I would very much like to comment briefly on the proposed National Voluntary Mutual Reunion Registry, specifically on the role that the federal government took in the adoption arena in our recent past. It would surely be historically inaccurate to claim, as some have, that adoption and its satellite issues are and always have been matters for the states.

My central point here is that the federal government took a vibrant role in establishing and enforcing adoption practices - - in fact, in creating the adoption arena - - in the late 1940s and early 1950s in the United States. Not surprisingly, many adoptees and birth parents of that era now support the establishment of a Federal register to facilitate their desire for contact with one another. One can surely argue that since the federal government was so crucially instrumental in constructing the adoption experience of this cohort , the federal government has a role to play in facilitating "the voluntary, mutually requested exchange of identifying information" for the purpose of achieving reunions of birth parents, adult adopted persons, and adult siblings.

Between the mid-1940s and the early 1970s, staff employed by the

federal government's Children's Bureau were charged with overseeing all issues involving the adoption of white illegitimate babies - - those who accounted for approximately 80% of non-relative, white adoptions between 1945 and 1973. During most of this thirty-year period, Miss Maud Morlock and then Miss Ursula Gallagher were the U.S. Children's Bureau's designated representatives in the field and in Washington, responsible for promulgating and implementing adoption-facilitating policies and programs.

Among other duties, Morlock and Gallagher (as well as Mildred Arnold and other Children's Bureau staff), visited and evaluated maternity homes across the country, to ensure that these facilities were implementing the modern practice on a nearly every-case basis. They consulted at length - - with the staff of these homes, always with the intention of developing quality programs that featured relinquishment. As spokeswomen for the federal government, they addressed national adoption-related conferences and wrote articles about the need for all social workers in this area to facilitate adoption. This work was funded by the federal government and was explicitly presented as reflecting the government's adoption policies.

U.S. Children's Bureau staff were charged with being the voice of the federal government when they responded to thousands of letters from young women seeking advice about their illegitimate pregnancies. In every case where staff had reason to believe that the letter-writer was white, Morlock and the others insisted that the women relinquish her illegitimate child for adoption. As representatives of the federal government, Morlock and others wrote articles for magazines "unwed mothers" were expected to read, urging these girls and women to give their babies up for adoption.

Morlock and other Children's Bureau staff were always invited to testify as THE government experts whenever Congressional hearings addressed adoption-related matters. As members of Congress recognized in the 1950s (and then again in the 1970s) that white babies were increasingly valuable commodities on the newly emergent adoption market, they turned to Children's Bureau personnel to help clarify this question: how can the government promote the adoption of illegitimate babies while at the same time protect all parties to adoption from marketplace exploitation.

I must reiterate as I close that the federal government played a significant role in creating and facilitating adoption policy in the United

States in the decades since World War II. Personnel and other resources of the federal government were routinely assigned to achieve the "adoption mandate" that underwrote the separations of several hundred thousand "illegitimate" babies from their birth parents and siblings - - people who may want to locate each other today. The federal government's earlier role surely justifies its role in establishing the National Voluntary Mutual Reunion Registry today.

Mr. Chairman, I would urge the Subcommittee members as well as Secretary Donna Shalala of the U.S. Department of Health and Human Services and First Lady Hillary Rodham Clinton to carefully review the papers *{National Archives}* of Miss Morlock and Miss Gallagher. I would also urge a careful and in-depth review of the July 15 and 16, 1955 hearings on "Interstate Adoption Practices" which were chaired by U.S. Senator Estes Kefauver of the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency.

It is important to remember that not only did the Federal government play a large role in constructing the adoption arena in the 1940s and 1950s, it has also had a large role in sustaining this arena via adoption subsidies beginning in the 1970s.

I sincerely appreciate the opportunity to present these brief comments on the Federal government's long history and direct involvement in shaping adoption policy in the states. The National Voluntary Mutual Reunion Registry does not impose any federal adoption policy upon the states, yet it effectively addresses the unforeseen consequences of some questionable adoption practices. It is my hope that the U.S. House of Representatives will show compassion in this area of adoption by passing S. 1487.

Rep. Mark Souder

Statement before
the House Ways & Means Subcommittee on Human Resources
June 11, 1998

Mr. Chairman, thank you for the opportunity to testify before you this morning. I appreciate the opportunity to speak on the critical subject of adoption and foster care. I would also like to commend you and the other members of the subcommittee for your leadership on this issue and the accomplishments of last year's Adoption Promotion legislation to encourage the adoption of children in foster care.

I would like to encourage the committee to build on the successes of last year and further protect children entrusted temporarily or longer to the state. My primary concern is the inadequate and in some cases non-existent criminal background checks for those entrusted with children in foster care around this country. While last year's legislation encouraged the states to implement background checks for foster parents, states may still opt out of this responsibility with the loss of funding.

I am usually a strong advocate for leaving as much to the discretion of the states as possible. Yet, this is such a critical area for the best interests of children that we can no longer afford to allow the states to delay. Moreover, this is a problem with interstate implications where prospective foster parents with criminal histories may move to another state where their criminal backgrounds may not show up even if the state has a background check system in place. A national requirement will assist the states in performing more accurate and comprehensive background checks.

The New York Times reported in March of this year a tragedy which occurred unnecessarily in New York. Diana Cash was arrested for beating her two year old foster daughter until the girl's eyes were swollen shut. New York state law prevented child welfare workers from conducting a check of

criminal records. A criminal background check later conducted by police indicated that Ms. Cash had a number of convictions dating back to 1982 for crimes that included assault, petit larceny, and the possession of stolen property. For years commissioners of the child welfare agency and its predecessors have appealed to the state legislature to change the law and provide for background checks but to no avail. Because of this inaction, the little girl was in critical condition in the hospital.

Unfortunately, this tragedy is not an isolated incident. With more than half a million children in foster care in this country, these tragedies are occurring around the country because of non-existent or ineffective background checks. I have a number of other examples of the system's failures which I would like to submit for the record with your permission. These tragedies could be prevented with mandatory, effective background checks. While some are concerned that background checks may scare away prospective foster parents when they are needed, this misses the very point that playing Russian Roulette with the safety of children is an unnecessary and intolerable risk and convicted criminals are the very people that we want to be scared away from applying to be foster parents.

I would also encourage the committee to consider several modifications to close potential loopholes, further strengthen the law, and better guarantee the safety of these children, many of whom are already recovering from previous trauma and struggles. We need to take adequate steps to protect these vulnerable children which will also strengthen the reputation and integrity of those heros who serve ably as foster parents.

First, current law only prohibits foster parent approval for offenses committed within five years. This prohibition period should be extended or apply for a lifetime. Ms. Cash may not have been excluded even with a proper background check since some convictions were more than five years ago. Second, we should require a criminal check of employees of residential child care institutions. At present, the law in some states doesn't require that employees be checked but only those running residential child care institutions.

Third, we should consider criminal checks for other kinds of child placement such as kinship care. Unfortunately, we cannot assume that because the potential custodian is "kin" that he or she has no criminal history. Fourth, we need to examine the possibility of criminal background checks on other individuals living with the foster or adopting parents. For example, another foster child with a history of abuse or a boyfriend living with the foster parent. These are both problem areas which have not been fully addressed. Finally, we should also consider drug screening of applicants for foster care and adoption. In my work on the Speaker's task force on drug issues, I have observed a growing appreciation of the effectiveness of drug screening in other sectors of American society.

California recently changed its law to reflect the reality that there is a high correlation between prior criminal activity and child abuse. There is no reason to wait for additional tragedies before making this common sense improvement in the foster care and adoption policies of this country. Alaska just recently ran a check of those licensed to provide foster care and day care against their sex offender registry and found a number of matches.

While progress is being made in the states, the problem remains and the tragedies will only continue until a national, coordinated and mandatory system is fully in place. We should not delay. Stated simply, in many cities around this country those seeking to be police officers or file clerks must have criminal background checks; should aspiring foster parents be required any less?

I thank the Chairman and the committee for the opportunity to be with you and I offer my assistance in this effort to better protect vulnerable children around our nation.

Statement submitted by
JANICE UIBLE, BIRTH MOTHER
Cincinnati, Ohio
to the
Ways and means Subcommittee on Human Resources
U.S. House of Representatives
on S. 1487
National Voluntary Mutual Reunion Registry
June 11, 1998

Mr. Chairman, members of the Subcommittee, I am deeply touched by the fact that you have scheduled this hearing today. S.1487 deals with an issue that confronts the lives of adoptees, birth parents, siblings and adoptive parents all across America.

As a 49 year old birth mother who has lived with and paid the price of being an unwed mother and then being reunited 26 years later in 1995, I can only say: Hooray to Senator Carl Levin, Senator Larry Craig, Senator Mary Landrieu, and Senator John McCain for their compassion in sponsoring the National Registry. My story is an example of why S. 1487 needs to be enacted into law.

We live in a time when so many medical conditions have a genetic link; I know that I desperately wanted my son to know of past and continuing medical history. I also wanted to know that I made the right "choice" in relinquishing him so many years ago at birth; *those who knew best*, said it was, but as time went by I wondered if it was and had no way to get any information to set my mind at ease.

I got pregnant out of wedlock -- YES! I chose NOT to abort my child -- YES! I have suffered -- YES! I hope that in telling my truth, others will say: ENOUGH. I thank you for encouraging the necessary steps so others can choose adoption in a positive way. My eyes were covered as I gave birth to my son; I was lied to by *those who knew best*. I signed papers with no understanding; I was told to *"Forget the past"*. I can promise you: A Birth mother never forgets.....

In searching for my son, there were many obstacles. BUT in 1995, I was not the scared 20 year old in a middle class family who had been railroaded into a decision that was made out of fear and shame. My thoughts were not clouded by alcohol; I made the decision to find my son. It was for both of us. There were matters of the heart and mind he needed to know. ***I am his birth mother and yet I will never be his mother. Nature and Nurture are two separate forces, and I accept this reality.***

In desperation, I hired a "private detective," but after exhausting my savings of over $6000 I had to tell him to stop looking. I have only his bills I paid, no report or any

documentation of his efforts. I want to believe he tried his best; that is what he told me.

I did not want to disrupt my son or his family's life; I had a mother's heart and wanted only the best for him. I FINALLY found him through an independent searcher; I learned my son's name on December 6, 1995. I can't describe the overwhelming feelings I felt to finally have the chance to meet but I believe every person has the right to know their heritage. I wanted him to KNOW the medical conditions that run in his family; when he has a family they will have this important information.

Life has come full circle for me. I have relinquished him again; this time to Life itself. I know where he is. I am here for him. He has answers to questions then and now. He has one more person in his life to be there for him if he needs me.

Please explain that to *those who know best*..... for me and my sister Birth mothers and our adult children who are searching for their heritage. They already know their *real* parents.

Had there been a National Registry, I might have been spared "exploitation" by the detective I hired, and I might have met my son years sooner.

I have read, in disbelief, the statements of the lobbyist, Bill Pierce, who represents the National Committee for Adoption, and Representative Tom Bliley of Virginia and Representative James Oberstar of Minnesota, both of whom are listed as members of Bill Pierce's advisory board. One can only conclude that these individuals do not want birth parents, adopted adults, adult siblings or adoptive parents to make contact with one another -- to *talk* with one another. And, the question is, Why? There is much on which to speculate. But since truth cannot be held back, we will all know in due time.

On behalf of this country's birth parents, I appeal to you Representatives Bliley and Oberstar to open your hearts and hear us. Why do you not want to help us? You know very well that State registries cannot effectively match the adoption triad members across this country who wish to make contact. You know very well that S. 1487 is not an "open records" bill. You know that 95% of the birth parents who are seeking contact are birth mothers -- why are you turning your back on us. Both of you are adoptive parents -- birth parents have given you the greatest gift, and now we seek peace of mind!

To the members of the Subcommittee and U.S. House of Representatives, I say to you, please do not listen to Bill Pierce--he has done harm to us and he has done harm to adoption. Please listen to those of us who *feel* and *know* what is right for us. He does not. He is telling you untruths about S. 1487, just

read the bill.

The adoption triad members need an effective vehicle that will facilitate mutual contact with one another. You cannot imagine the fear and pain of birth parents when newspapers all across America report on tragedies like the 1988 abuse case in New York of six year old Elizabeth Steinberg and a one year old boy; or the 1987 St. Paul, Minnesota case of birth mother Jerry Sherwood whose search, 25 years after her infant son was relinquished, led her to the discovery that he had been murdered at the age of three. Her drive to bring "peace" to herself and her son, further led to the reopening of a coroner's files and the exhuming of young Dennis Jurgens's body, and finally, to the conviction of the person who murdered him. And, the list goes on Mr. Chairman, including the 1995 Manatee County, Fla case of 7 year old Lucus Clambrone, adopted son of Joseph ad Heather Clambrone, whose death was caused by horrible abuse. Although such instances are rare, this fact does not bring peace of mind to the *birth parents who just don't know.*

Time is of the essence! There are birth parents, adoptees and siblings in their 50s, 60s and 70s still searching -- they need closure. For so many, it is too late! Yet for many, change may come soon enough! My appeal to you Representative Portman {as my representative}, to you Chairman Shaw, and to the members of the Subcommittee and the U.S. House of Representatives, is that you actively support the passage of the National Registry. It is only right that you do so.

In closing, on behalf of birth mothers of this Nation who seek *healing*, and the adoptees who seek *connection*, I thank you.