Releasing Pre-Adoption Birth Records: The Impact of Oregon's Experience on Its Vital Records Department

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SYNOPSIS

Objective. In November 1998, Oregon voters passed Ballot Measure 58, which allowed Oregon adoptees ≥21 years of age access to their original birth records, which are sealed at adoption. The objective of this study was to evaluate the impact of the measure on the Oregon Health Division (since renamed Oregon Health Services) by assessing procedures used and resources needed after implementation of Measure 58.

Methods. Vital records employees were interviewed about processing, storage, and archive retrieval procedures for pre-adoption birth records before, during, and after the implementation of Measure 58 and the effect on their usual workload. Personnel time, space, and fiscal resources used to process requests for pre-adoption records were also calculated.

Results. The Oregon Health Division began to receive requests from adoptees immediately following the passage of Measure 58 in November 1998, but due to legal challenges, they could not be processed until May 31, 2000. From June 2, 2000, through October 20, 2000, 12 staff members and two supervisors issued more than 4,700 pre-adoption birth records while also processing their normal workload, which averages more than 135,400 vital record orders annually. Due to the need for retrieval from archives, requests for pre-adoption birth records were estimated to take 75 hours to process vs. 2–3 minutes for standard requests. Each batch of approximately 75 pre-adoption birth records required approximately 12.5 person-hours from vital records staff and 3–4 person-hours from archive personnel; in addition, supervisors spent time responding to incomplete orders, informing the public and the media, and responding to concerns of adoptees, birth parents, and adoptive parents. Fewer than 1% of requests went unfilled.

Conclusions. Implementation of Measure 58 utilized substantial resources of the Oregon Health Division. States contemplating similar legislation should consider increasing personnel and resources, preparing for intense public and media interest, and reorganizing the storage of adoptees'original birth records so they are easily retrieved.

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On November 3, 1998, Oregon voters passed Ballot Measure 58, which allows Oregon adoptees age 21 and older to have access to their original birth records. These records, which are sealed at adoption, contain names and other identifying information about the adoptee and her/his birth parents. The adoptee is issued a new certificate at adoption that is identical to the original except that it includes information about the adoptive parents and does not contain information on the birth parents. The ballot measure was due to take effect on December 3, 1998, but implementation was delayed for 18 months due to a lawsuit and several court appeals filed by birth mothers. On May 31, 2000, the Oregon State Supreme Court rejected the appeals, and on June 2, 2000, the Oregon Health Division began sending original birth records to adoptees. By that day, 2,516 requests had accumulated. By October 1, 2000, 2,250 new requests were received. Requests for pre-adoption birth records ranged 15 to 20 per day.

Oregon was the first state to pass a citizen-initiated ballot measure allowing adult adoptees to have access to their pre-adoption birth records. Adoption statutes, which are state laws, were initially enacted in the mid-1800s with no provisions for confidentiality; originally, birth certificates were available to adoptees on demand. Early in the 20th century, laws were passed to make adoption records closed so that the privacy of birth parents and the adoptive family would be protected.[1,2] In the 1920s, legislation was passed to restrict adoption records to those involved in an adoption and their attorneys, and in the 1930s statues were enacted to require original birth records and adoption records be sealed. The records could only be opened upon a judicial finding of "good cause." A practice began of issuing new birth certificates at adoption with the adoptive parents' information entered on them.

Over time, the practice of sealing pre-adoption birth records was called into question, and in the 1970s adoptees began to challenge lawmakers regarding access to their records. They claimed constitutional rights to these records, including access to information and equal protection.[3] Arguments to keep the records sealed came primarily from birth parents, who argued that a right to privacy under the 14th Amendment to the U.S. Constitution protected their anonymity. Fairly late in the debate, access to family medical histories became an issue as well.[4]

At present, only a handful of states allow access to birth records without the consent of the birth parents; other states allow for "veto power" of an adoptee's request by the birth parents. Since the passage of Measure 58 in Oregon, Alabama passed a similar measure for adults aged 18 or older.[5] Missouri[6] and Georgia[7] have similar legislation in committee or subcommittee, and bills submitted in Arkansas, Connecticut, and Texas have either been defeated or are pending.[8] State or local public health departments, which are responsible for birth records, have absorbed much of the brunt of these legislative changes, but little is known about how they are affected. Indeed, we know of no other assessment of the impact on a public health department in terms of costs to the state, adequacy of resources available to the department, or the processes used to meet the needs of adoptees.

We evaluated the impact of Measure 58 on the vital records section of the Oregon Health Division (now renamed Oregon Health Services). Our study describes the procedures used by vital records section personnel in responding to requests for pre-adoption birth records, and we estimate the resources used to fill the adoptees' requests. Their experience provides an important example of the effect of policy changes on the previously routine administration of vital records and the organization of sealed files, particularly in an environment of emotional concern from adoptees and birth mothers and of legislative uncertainty.

METHODS AND RESULTS

Individual interviews were conducted with vital records supervisors and staff. Supervisors were asked how Measure 58 affected their work and their staff's work in the vital records section. They were asked about the extent of preparation, reorganization, and implementation of staffing and material resources during and after the implementation of Measure 58. Staff were asked how Measure 58 affected daily duties, and if there were any specific challenges to their work environment. Assessments were made to describe procedures and personnel resources used, physical space needed, and other resources required to process requests for birth certificate records. The processing of telephone, mail, fax, and in-person requests was observed. Written policies regarding procedures and website information were also obtained and evaluated.

Description of terms

The *legal birth certificate* is the standard birth certificate that is filed for all births in Oregon. For adoptees, this certificate contains information about the adoptive parents and is not their first birth certificate. This document can be used to establish identity. It is linked to a sealed pre-adoption birth record (the first birth certificate) through a sealed file number.

The *pre-adoption birth record* is an adoptee's original birth certificate, which is sealed and archived once adoption takes place. This record contains identifying information about an adoptee's birth parents. Before the implementation of Measure 58, this record was accessible only by court order. It is now accessible to adoptees age 21 years or older who request it. This document cannot be used for identification purposes.

Sealed files are sequentially numbered envelopes that contain official documents opened only by court order. The files include not only pre-adoption birth certificates and adoption decrees, but also other legal amendments such as corrections to birth certificates, paternity determinations, and name changes. They are linked to legal birth certificates with the certificate numbers.

Assessment of procedures for storage of legal birth certificates vs. pre-adoption birth records

Legal birth certificates are stored in computer files or on microfilm at the vital records section and are easily accessed by authorized personnel. Requests, which take 2–3 minutes to fill, are processed soon after receipt. In contrast, pre-adoption birth records are not stored at the vital records section, and are archived elsewhere in the state. These files are held in 160 boxes filled since 1957, with 500 sealed files in each box. They are stored in a large warehouse with many other archived documents. Thus, obtaining rapid access can be a problem. In addition, sometimes it is not easy for staff to locate the file of interest, even though the sealed files are indexed by the file date. For example, if a child was adopted twice, thus causing the file to be amended, the amendment may be placed in the original sealed file, or a new file number may have been created and the file relocated under it.

Assessment of procedure for processing public requests for sealed files that include pre-adoption birth records

Adoptees age ≥21 years or their legal representatives can request a pre-adoption birth record by contacting Oregon Health Services by mail, telephone, fax, or in person. Requests must include their legal birth certificate, full legal name, date and place of birth, adoptive mother's maiden name, and adoptive father's name. A payment of $15 is required, the same as for a request for a legal birth certificate (as mandated by the law).

After the request is submitted and payment has been made, the legal birth certificate is pulled. Staff members send requests for the corresponding sealed files to the off-site archives in batches of approximately 75. Once the sealed file is located, it is sent to the vital records section, where the pre-adoption birth record is verified by matching the sealed file numbers and a series of variables (which include birth date, birth county, and birth attendant's name). The pre-adoption birth record is then photocopied and certified with a notarized seal. The copy is sent to the adoptee or legal representative by mail. Filled requests are logged each day into a computerized file with the date of request, name of the requestor, and the date on which the copy of the record was mailed.

Challenges in the processing of requests for pre-adoption records

To assure accuracy in processing requests, the vital records staff conducted numerous verification steps. Orders had to be clearly recorded, and legal birth certificates verified. Once the corresponding sealed file was obtained, pre-adoption birth records were verified by matching corresponding numbers. The pre-adoption birth record was also inspected for matching date of birth, place of birth, and birth attendant information. As they worked, vital records staff found unique challenges at each step.

Clarity of requests. Adoptees, particularly those who made requests by mail, did not always clearly state that they were seeking their pre-adoption birth record. For example, some asked for their "original birth certificate" without mentioning adoption and received their legal birth certificate instead of the pre-adoption birth record. In this case, a re-order was required, which was not accompanied by an extra charge if the requestor returned the legal birth certificate. Errors such as this were not uncommon, and were frustrating to adoptees.

Identification and retrieval of pre-adoption birth records in sealed files. The sealed files of pre-adoption birth records are organized in sequence along with other files containing amended records. Even so, they were often difficult to find because a pre-adoption birth record could be in any one of several sealed files if multiple amendments were made to it. Locating a batch of sealed files (approximately 75) took 48–72 hours. Typically, a batch was requested on Monday and returned on Wednesday; this process could be delayed if the clerk assigned to sealed files was not available.

Storage of pre-adoption birth records and completed requests. Due to the court appeals, requests could not be formally processed until June 2000, but they were taken well before then and filed by batches on a first-come, first-served basis. Some sealed files were pulled before June but not opened or processed; these were kept in a secured, well-monitored area within the vital records section, necessitating additional physical space.

Unfilled requests. Of more than 4,700 requests, just 50 (<1.0%) could not be filled. Reasons for unfilled requests were: (*a*) a sealed file number was not placed on the legal birth record, (*b*) the pre-adoption birth record was missing from its sealed file, or (*c*) the legal birth certificate did not match the pre-adoption birth record. Some requests could not be filled because the records were missing from the archives or because of inaccurate information from the requestor (e.g., adoptive mother's maiden name or place of birth was wrong). Of the filled requests, two involved giving incorrect records to requestors (<0.04%) due to placing requests in the wrong envelope.

Address changes. Because of the delay in completing requests, more than 70 of the initial addresses for requestors were no longer correct when the requests were finally processed. This often required contacting the requestor by telephone to obtain a new address; in some cases a change of address form was received. These more complex requests required special processing by supervisory staff and also necessitated some contact with adoptees by letter or telephone to explain the reasons for further delay or inability to process their requests.

Confidentiality issues

Since most address lists would be considered public records under Oregon public records law, media agencies tried to obtain the names of adoptees and even birth parents by citing these laws. However, the Health Division was able to cite a combination of statues to deny media access to the address lists of requestors: Oregon Revised Statutes (ORS), Section 192.502(9), which exempts "public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law," and ORS 109.430 and 109.440, which provide for an adoptee's right to privacy and confidentiality and prohibit the disclosure of information about adoptees.

Contact preference forms: an additional challenge to processing

In July 1999, the Oregon legislature passed House Bill 3914, allowing birth parents of adoptees to submit a form indicating their preference for one of the following forms of contact: (*a*) a birth parent wants to be contacted directly (contact information, such as addresses included); (*b*) a birth parent wants to be contacted through an intermediary (intermediary information included); (*c*) a birth parent does not want to be contacted (but medical information is included). No fee is charged for submission of contact preference forms.

For several reasons, contact preference forms proved to be even more difficult to link with pre-adoption birth records. First, some birth parents had used aliases but could not remember them more than 21 years later. Second, some birth mothers could not remember the date of the adoptee's birth or the birth hospital. Without these few unique identifiers, locating a legal birth record with a sealed file number is difficult. Of the 312 contact preference forms received, 11 (3.5%) were not matched because of a lack of unique identifiers.

Resources utilized to fill adoptee requests

Accurately estimating the resources used to fill requests by adoptees is difficult. The suit filed in late November 1998 and subsequent court appeals and legal delays complicated preparation for processing. Vital records and Oregon Health Division supervisors spent many hours interacting with legislators, adoptees, and media representatives, but the total number of hours would be impossible to determine. When the vital records section was first allowed to process requests on May 31, 2000, 2,311 were pending. By September 20, 2000, the vital records section had received more than 4,700 requests and had completed its response to more than 4,500. In September 2000, the section was completing requests at a rate of 75 per week.

Personnel. Before the passage of Measure 58, the vital records section had 12 staff members and two supervisors. In 1998, the section issued 522 certificates per day, with about 54% of the requests submitted by telephone or in person, and the remainder by fax or mail. Of 132,683 paid orders in that year, approximately 75%–80% of the certificates issued were birth certificates, according to the vital records supervisors. In 1999, activity was a little higher, at 542 certificates issued per day and 135,434 paid orders. Estimates by the vital records supervisors for the year 2000 indicate about the same level of activity before the addition of the 4,700 pre-adoption birth requests received as of October 2000.

In preparation for filling the backlog of requests, one additional staff member was hired, bringing the section complement to 13 staff members and two supervisors. Processing a batch of approximately 75 records is estimated by vital records staff to take 12.5 hours; thus, to process the 4,500 completed records, the division used about 750 person-hours. The salary of an office specialist qualified to process these records ranges from $9.63 to $13.20 per hour. Therefore, taking into account salary only, the cost of personnel to process the records was in the range of $7,223 to

$9,900. With personnel benefits, the cost would increase to the $9,028–$12,375 range, adding $2 to $3 per record to the existing $15 birth record processing cost. Therefore the cost of a pre-adoption birth record would be at least $17–$18 per record. This does not include the costs of supervisory staff, supplies, telephone, fax and computer resources, archive retrieval, and other overhead costs.

Supervisors initially spent substantial time preparing informational materials, pre-adoption and contact preference forms, and Web pages. They also coordinated with other agencies and disseminated information to the public and media via telephone, face-to-face inquiries, and the Internet. In addition, supervisors took substantial time to process special requests, respond to unfilled orders, respond to calls from either adoptees or birth family members, and interact with media. According to vital records supervisors, managers invested two weeks of time on average prior to the law going into effect. In addition, two other managers at higher levels and the state epidemiologist participated in some media contacts and contacts with other agencies.

After the initial passage of Measure 58 in November 1998, the vital records section was on a constant state of alert; employees did not know exactly when they would be allowed to process records, even as requests continued to pour in. Although staff maintained a professional approach, some reported to us that they had found the increased workload stressful during this period.

Although the archive department was not a direct part of the Oregon Health Division, its resources were significantly affected by the legislation. According to archive personnel, before Measure 58 they pulled 10–15 sealed files a week. Once the legislation passed, however, they pulled 400–450 records weekly. Pulling a batch of 75 records requires 4 person-hours, according to archive personnel. During the months of June through August 2000, archive personnel reportedly spent 50%–60% of their workdays on retrieving pre-adoption birth records. The salary of archive personnel is approximately $11.50 to $14.30 per hour, according to archive personnel. The retrieval of 4,500 records would cost $2,760–$3,434 for 240 person-hours, taking into account salary only. This would add an additional $0.61 to $0.76 per record to the cost of processing pre-adoption birth records. The cost of transportation of the retrieved records to the vital records section is minimal.

Computer resources. In anticipation of the overwhelming response of adoptees, the Oregon Health Division created a page on its website (www.ohd.hr.state.or.us) to address the pre-adoption birth record referendum. This "frequently asked questions" page contained information about the status of the legal appeals and reported an ongoing tally of backlogged requests. Once the Division began to accept requests for pre-adoption records, it gave detailed instructions on its website as to the current procedure. When it was finally allowed to process records, it also reported a weekly tally of requests submitted and number filled, allowing the public and press to view its progress. The Web administrator and vital records supervisor entered updates as indicated.

Telephone resources. During the time between the passage of Measure 58 and its implementation, many calls came into the vital records section. Frequently, adoptees inquired about the status of their requests. Some birth mothers called to express their opinions about the legislation. Once adoptees were allowed to receive their requests, many called back to ask about other sources for information. For example, some called to find out whether they could order the marriage or death certificate of their birth parents. In addition, newspaper and television outlets made numerous telephone inquires and conducted several in-person interviews, which distracted staff from other duties. An estimated 3% to 35% of calls were related to pre-adoption requests in the first few days after Measure 58 went into effect in June 2000. By the end of the second week, the calls had decreased to fewer than 10%. According to vital records supervisors, the section averaged 375 calls per day for the whole year 2000, while the average was 425 calls per day during the first few weeks after implementation of Measure 58, which was as many calls as the staff and its equipment could handle.

DISCUSSION

The Oregon Health Division's experience demonstrates how important the content of vital records may be for many people. The passage of Measure 58 changed an ordinarily infrequent process of retrieving pre-adoption records into one that is now fairly frequent. Because of the sensitive nature of the material and the detailed steps required, more person-hours are now required. We concluded based on our assessment that the vital records section would have benefited from the use of one additional full-time or two more part-time people. Increased personnel in the archive department to retrieve archived files would have been helpful also. The appeals process delayed the initiation of processing requests, but the Oregon Health Division responded to the increased workload

and prepared for the challenges to processing requests. As a result, requestors were satisfied despite the lengthy process, and other units within the Health Division were minimally disrupted.

Lessons learned

Preparation for implementation of the law. Court appeals created delays in processing records, but they also allowed time to prepare for the large number of requests. Managers and supervisors were able to create pre-adoption birth record request forms, develop employee protocols for processing pre-adoption records, respond to adoptees seeking further information, and interact with the media. The Oregon Health Division used media resources to continue to keep the public informed during the appeals process.

Organization of sealed files. Measure 58 resulted in a reconsideration of how sealed files should be indexed and archived. The clerk who processes adoptions created a series of sealed file numbers distinct from those for other sealed files so that future pre-adoption files will be cataloged together in a few boxes. There is also consideration of indexing sealed files on a computer, in much the same way that standard birth certificates are indexed. These records would still require some extra security, however. Additionally, storage of sealed files and pre-adoption birth records may require a distinct area for rapid retrieval.

Consequences of legislation. Now that adoptees are receiving their pre-adoption birth records, many are seeking other types of information about their birth parents (for example, marriage, divorce, or death certificates). Currently, adoptees have legal access to death and marriage certificates only in some counties. Also, additional demands for records necessitate additional resources within public health departments and other agencies, such as adoption, social and family services, and legal assistance agencies.

Contact preference forms. Although contact preference forms contribute only a small proportion of requests, they have already been identified as problematic, according to vital records staff. Because contact preference forms are more difficult to link with preadoption birth records, the Oregon Health Division believes they are far more expensive to process than other vital records and that a fee should be considered in the future. Also, because of the timing of the legislation mandating the contact preference form, many of these forms were received after the pre-adoption record had already been sent and therefore the adoptee never received their birth parent's contact preference form.

Recommendations

Public health departments anticipating similar legislation should consider their current state of preparation for processing pre-adoption birth records. Appropriate personnel should be well informed as to their legal obligations and sensitive to this controversial issue. Additional personnel should be hired to cover increased person-hours. Other potential stakeholders should be informed, including adoptee rights organizations, birth parent organizations, adoption agencies, adoption registries, social services, support groups, and local and county public health departments.

Media organizations should be involved to facilitate the dissemination of accurate information without violating the confidentiality of adoptees, birth parents, and adoptive parents. In creating lists of names, public health departments should be aware of the legal implications for public information under the Freedom of Information Act and might consider ways to protect the confidentiality of adoptees, adoptive parents, and birth families. Internet resources should also be used to inform the public as to the legislation, the status of processing, and limitations of the information on the birth certificate.

The production of appropriate order forms for processing may require significant resources. Public health departments should assess their current processing procedure for pre-adoption birth records and consider reorganization for rapid retrieval. In addition, they should assess the potential for systematic losses of archived records due to fires, floods, or other disasters. Requestors should be immediately informed of the status of their orders, particularly if they are backlogged, and there should be personnel resources to handle inquiries. States may also consider creating forms for birth parents that would indicate preferences for contact. Adoption registries may be a useful resource for adoptees to obtain medical information about their birth families without contacting them directly.

Finally, it is important to plan for the future. In 1998–2001, Oregon processed 1,760 to 2,213 adoption records per year (this includes all age groups and second adoptions). Oregon birth parents and adoptive parents should be informed that adoptees have the right to obtain their pre-adoption birth records on their 21st birthday. Adoption agencies and social services should inform and prepare birth and adoptive parents of this as they go through the adoption process.

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