

## A Case of Ethics: Finding Birth Relatives

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"Speaking hypothetically, if I were the person you're looking for, I would not want to have contact with someone who said they were my child. That happened a long time ago, and, hypothetically, I would probably have another life now."

Now what? As an investigator hired to find the birth mother of your client, how would you respond? What would you tell the client? Does the client have to pay you for your investigation if you find the birth mother but don't turn over the contact information? Do you pretend that you couldn't find her, or do you tell the client the truth? What if your client is actually the *attorney* of the person searching for the birth mother? Are you compelled to provide the information to the attorney, so that the ultimate decision regarding disclosure lies with him or her? What are the ethical considerations when we agree to do a birth relative search?

The secret to successful birth parent or child location investigations lies in the work that is done **prior to** beginning the actual search. There are ethical considerations here that do not necessarily exist in other investigation work. There is a certain amount of "backbone" required that you may not ever have to display in any other instance. An investigator must think of the client first, the fee second. All the important decisions must be made prior to accepting the project.

There are no easy answers to ethical questions. While this article will encourage professional investigators to abstain from providing information when the located birth relative declines contact, at least one seasoned investigator completely disagrees with that advice, noting that he does not have any requirements for "right of refusal of contact" for birth parents. He says he always provides the locate information to any adoptee who desires it.<sup>1</sup> Genealogists and family history researchers have long struggled with restricted records access, outdated laws, and the secrecy surrounding adoptions, foster and "throwaway" children. Often there seemed to be no starting point, and even when one was found, the access doors in the nation's courthouses, and agencies, were firmly closed, and securely locked. Gradually, through pressure brought by investigators and researchers, as well as by the adoptees themselves, the rules began to change.

Norma Tillman,<sup>2</sup> a nationally-recognized missing persons investigator, writing about her battle to get the access laws changed in her home state of Tennessee, said, "...Once I studied, researched, and documented whatever I could find, I was convinced that I knew as much about adoption as anyone in the legislature, so in 1989 I became a registered lobbyist and visited 140 elected officials, one at a time. I wrote a new law to show them how I thought it should be. Then I provided the medical studies and other information which they could not argue with..."

Norma's law passed, and Tennessee later followed it with legislation that allows all persons involved in a Tennessee adoption to ask the state for the identifying information so vital to these searches.

Others were instituting their own legislative fights across the nation. Today most states have begun to loosen their previously stringent access restrictions, with some even offering assistance to adoptees searching for their birth parents. Many states now have specific programs for certifying searchers as "Confidential Intermediaries." These intermediaries

have strict confidentiality rules, initial basic training requirements, and mandated continuing education.

This program, quickly spreading across the nation as word of its success became known, raised an important question of ethics for investigators: Should investigators, whether calling ourselves "private investigators," "staff investigators," "legal investigators," or "professional investigators," be doing birth relative searches in states where specific certification programs have been established, if we do not hold that certification? Like most questions about *ethics*, this one seems to have no ready answer. Each investigator will make the decision based on personal standards, as well as on the licensing regulations of the state in which he or she is working.<sup>3</sup>

Determining what to tell the client about the availability of the intermediaries should also enter into the decision-making process. Is it ethical to withhold such information from a client? Is it legal to do so? Don't forget to check whether your state's "Confidential Intermediary" law prohibits you from doing these investigations without proper certification.<sup>4</sup> Your license to investigate may not be enough.

### **The "How-To" of Birth Relative Adoption Searches**

This article is not designed to be a primer on conducting these investigations, but rather it is meant to instill questions in an investigator's mind about the legality of accepting a client under the laws of the state(s) in which he or she is licensed, to encourage research into the educational materials available, especially on the Internet, and to encourage consideration of the ethical questions surrounding these assignments. There are Internet websites listed at the conclusion of the article that will provide valuable information. Although written primarily for the birth relative searcher, professional investigators can learn from them, as well.

If you, as an investigator learn nothing else from this article, please know that with these assignments, you now have the awesome ability to change forever the lives of not only the person whom you will initially locate, but the lives of everyone to whom that person is related, or with whom he or she is emotionally connected.

I had completed numerous birth relative investigations before the significance of this became clear to me. Ironically, it was not through my own investigation work, but through that of an (at that time) unknown sister who was doing her own birth relative search, looking for ME, and for our mutual siblings! With one phone call to our youngest brother, whom she had found by patiently calling people with the birth name she had discovered, and his one phone call to each of his other siblings, the lives of several hundred other relatives were dramatically affected! We hadn't known she existed, but we, did, indeed share the same father. Fortunately, it was a positive experience, but had it occurred a few months earlier, when our unsuspecting mother was still living, the possibility of an entirely different impact was evident to each of us.

There seem to be an inordinately large number of professional investigators who are adopted persons, and many of them have sad tales to tell of the inadvertent way they discovered this fact. If you are one of them, you will personally recognize the importance of the way that birth relatives are informed or questioned. If not, this short discussion should prompt you to consider the impact of your demeanor and actions.

The following compilation of advice from the writer's own experience, as well as comments compiled from other investigators, will be useful in your work with locating birth relatives:

- Keep in mind, always, that the work that an investigator does on these cases can change the lives of dozens of people in a single phone call, or rap on a door! Be compassionate. Be careful.
- Spend enough time with your client, the "searcher," to understand his or her reasons for wanting this information. Is there an actual need or desire for contact with the birth relative, or is medical information critically needed? Have the needs and desires of the family members of the searcher been considered? What will be their reaction to the "news," and how will that affect your client? Is your client prepared for rejection? Is someone else pushing your client into searching? Be alert to the possibility of extortion plans, or danger to the person you are being asked to locate.
- Consider whether or not the searcher has the emotional and mental stability to handle devastating news. If you suspect not, then you might want to consider declining the assignment. (Keep in mind that "devastating news" may include that the birth relative does not want to have any contact). Perhaps you can give the searcher information about a support group instead.
- Remember, this is an investigation task for which YOU, the investigator, must make the rules of acceptance of the assignment. Even if you have never told a client (especially attorney-clients) what you will and will not do, you must be able to do so for this type of case! For instance, if your client is an attorney representing an adoptee searching for his birth mother, and you have agreed to find her, you must have a contract with the attorney and his client (get BOTH signatures) specifying that if the person refuses contact, you will NOT provide the contact information to the client(s).
- Be certain that your contract specifies, and your client(s) understand, that you are being paid to investigate. State specifically in the written contract that they are not paying for results, nor is your pay contingent on giving them location information, if the birth relative requests anonymity. (Usually in these instances, it is more that the birth relative demands anonymity. You won't want to be in the position of violating someone's requested privacy).
- Make sure that your client, whether the actual person seeking information, or an attorney representing that person, signs a contract that clearly delineates that you (your firm) will conduct the investigation, but that you will not release the name and identifiers of any person who does not wish to have contact.
- Determine in advance whether or not the client expects a detailed, written report of the results of your investigation, if the found person wants contact. Specify your agreement in the contract!
- Know the adoption and search-related laws of the states in which you will conduct the investigation. Some states, such as Oregon, now allow an adopted adult to have access to the original birth certificate, but that state also has a law that allows birth parents to file a form stating they do not wish contact!

- If the case you have accepted involves someone of possible Native American heritage, be sure you review and understand the Indian Child Welfare Act.<sup>5</sup> Find out which tribe your adoptee is believed to be from, and research the tribal policies on adoption-related issues, including tribal membership definitions.
- Once you have found the birth relative, spend enough time evaluating the your information to determine the best approach. Again, keep in mind that you have the awesome ability of changing forever the lives of not only the person to whom you will initially speak, but also everyone to whom that person is related, or with whom he or she is emotionally connected.
- Making the contact: Rehearse the approach you have decided upon. Be prepared for the response. This is the most important part of your investigation. Make the wrong move here and you can destroy lives! Rehearse several responses. Cover the possibilities and feel comfortable with the response you will have for whatever the person says, but know that you may not have anticipated the actual response!

I had no idea that the birth mother quoted in the beginning of this article would begin talking in "hypotheticals" when I found her. I had to quickly revert to asking her "hypothetical" questions. While adamantly proclaiming that she would never want to have contact because of her hypothetical new life and family, she never admitted anything, but answered the questions in such a way that I had no doubt of her identity. I could do nothing more than to provide my phone number to her.

## Some Helpful Resources

### Websites:

<http://www.adoptions.com/aecsearch.html>

(Detailed information on conducting birth relative/adoption searches. An interesting comment found on this site is that a PI is usually less expensive to use than an Independent Search Consultant (ISC), who may charge up to \$3,000. The ISC is described here as "the best searchers money can buy.")

<http://www.bastardnation.com>

(This group fights for adoptee rights, and is currently fighting against the legalized baby dumping bills that are being passed in most states.)

<http://www.calib.com/naic/laws/index.htm>

(Detailed information for each state, in addition to comprehensive educational and informational pages)

<http://www.reunite.com>

(Registration and educational site)

<http://www.rootsweb.com/~rwguide/lesson31/htm>

(Educational information in a quick and easy format)

### Magazines:

Heritage Quest magazine. Regular column by Darlene Wilson, registered Confidential Intermediary in Washington (state). Published every other month. Website:

[www.HeritageQuest.com](http://www.HeritageQuest.com)

### Endnotes

1 6/14/00 E-mail message.

2 Tillman, Norma "Adoption Searches: Lessons Learned the Hard Way" PI Magazine, Summer, 1999

3 For updated information on state adoption laws, see

<http://www.calib.com/naic/laws/index.htm> or

[http://www.adoptionlaws.org/statutes\\_at\\_a\\_glance\\_state\\_regulations\\_of.asp](http://www.adoptionlaws.org/statutes_at_a_glance_state_regulations_of.asp)

4 For a listing of the "Confidential Intermediaries" programs in all states, see

<http://www.calib.com/naic/laws/index/htm>

5 <http://www.nicwa.org>

(National Indian Child Welfare Association, Portland, OR. Information site)

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