



A Foundational Understanding of Late Discovery Adoption

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A Foundational Understanding of Late Discovery Adoption

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A Thesis in the Field of Legal Studies
for the Degree of Master of Liberal Arts in Extension

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Abstract

This thesis aims to provide a foundational understanding specific to late discovery adoption (LDA) in order to provide an information source specific to the LDA experience apart from the broad experience of all adoptions and adoptees by offering insight into the unique experience of LDA.

I will first examine the historical background of non-disclosure practices and how historical traditions of social and religious practice influenced the choice by birth parents of non-disclosure in adoption. Second, I will provide an overview of the psychological impacts of late discovery in comparison to adoptees who were told of their adoption prior to adulthood. Third I will share the impacts of impeded legal access of adoptees to their birth and adoption records, and how historical practices related to adoption influence such restrictions. Fourth, I will provide discussion on the decision of disclosure and timing of adoption disclosure. Fifth, I will provide a summary of the limited research available exclusive to late discovery adoptees in order to illustrate implications and need for further research. Finally, I will provide a summary of future practice related to disclosure and non-disclosure of adoption to the adoptee. To accomplish these aims, this thesis will provide a variety of quotes and perspectives from the late discovery adoptees themselves, as well as from a variety of scholarly and historical sources to provide a fuller picture of the story and experience of LDA. The consequences of LDA have gone unexplored in scholarly study despite the fact that non-disclosure practice occurred for centuries. LDA has been mostly unaddressed beyond the topic of adoption in general.

Author's Biographical Sketch

With over three decades in service to communities through non-profit leadership and service, journalism, public relations, and community outreach, Stephanie Ann Cross has spent her lifetime in service to others. She has served in public service in Washington D.C, promoted social service programs for the needy in Texas, Oklahoma, and Kansas, and volunteered at legal aid to support those who cannot afford legal representation. She is a graduate of West Texas A&M University and currently serves as a Manager of Public Relations at Texas Tech University. She will graduate with her Masters in Legal Studies in May of 2023. In addition, she is the founder of Middleground America, a social media outlet to support respectable civil discussion and discourse providing a current news and events discussion across party lines. As an accomplished singer, musician, and songwriter, she has traveled and performed in 48 states of U.S., and internationally to lift the hearts of the broken hearted, disenfranchised, and downtrodden through music and inspirational speaking. She has appeared in and spoken to small and large audiences alike in person, on social media, and live television to audiences domestically and internationally. Stephanie is looking forward to continuing her activities in public service and legal study in the hopes of serving in public office in the near future. Having experienced some of the impacts of LDA herself, she hopes to encourage adoptees and those who care for them in coping with their newfound adoptive status. She and her daughter Sydney currently reside in Lubbock, Texas.

Dedication

I dedicate this thesis to every person who was not told of their adoption and discovered this secret as an adult. While I do not know of your experience personally, I have been touched by LDA's impact as my spouse became a late discovery adoptee, and I was prompted to author this thesis as a result. Late discovery adoptees and those who care for them are faced with unique challenges in coping with adoption disclosure. I hope this thesis will provide information upon which continued scholarly research and authorship can be built to further understand all aspects of LDA and offer to late discovery adoptees a starting point as they search for information in their journey.

LDA as an accepted outcome of adoption practice impacts the lives of countless children and families, many of whom will never discover their secret adoptive status. Some will find their whole truth. Others may find endless dead ends, partial truths, and secrets held tight by the grave. However, I hope readers of the content herein will find some answers, some guidance, and some inspiration to take these contents and improve your life and/or the lives of others through further authorship and scholarly study to a topic that gone largely ignored. To you the reader I dedicate this thesis.

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family, especially my brother Sam and sister Jennifer. Your encouragement and love kept me going when I did not think I could.

Finally, thank you to my “bestest” friend and daughter Sydney. It was you who walked with me through Harvard Yard to every class, you who said, “Mama, you can do it,” every time I wasn’t sure I could, and you who make me greet each day with purpose and love in my heart. We have been on this Harvard journey together now since you were five years old, and I want to say thank you sweetheart for being there every step of the way. You better than anyone can understand this thesis topic, and together I hope we will have helped provide information to improve the lives of others facing the same challenges we have. I have no doubt that you will find yourself walking a similar path in your educational and service endeavors in the days to come. I am proud of you always and thank you so much for believing in me. You were my “road not taken” and you truly have made all the difference.

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Chapter I.

Introduction

The practice of taking in the orphaned child has occurred since time ancient. The biblical account of Moses adopted by Pharaoh's daughter, as well as references to orphaned children given a new family are seen throughout centuries of fictional literature and biographical accounts presented societies with views on the practice of adoption as well as society's view of the illegitimacy and legitimacy of the adopted child (Finn et al., 2010).

It is important to understand adoption and its broad scope, as well as the term adoptee. The legal proceeding known as adoption is one in which an adult takes on care of another adult or a minor, incurring the rights and responsibilities of a parent with that minor or adult (Modell, 2002). Adoption of children is a practice whereby a child receives a new parent to take the place of the child's biological parent (Burnham, 2011). In the legal system the phrase, "as if begotten" is often used to make clear adoptive parents hold no differentiation from birth parents under the law (Modell, 2002, 5). Children who are adopted are often referred to as adoptees from childhood into adulthood (Riley, 2013).

An adult denied the knowledge of their adoption prior to adulthood and who learns of their adoptive status in adulthood is known as a late discovery adoptee. An adoption experience known as late discovery adoption (LDA) occurs when the adoptee learns of their adoption during their adulthood through methods other than voluntary

disclosure. The first-time we see the term late discovery adoptee appear is in a blog post by late discovery adoptee Ron Morgan in the late 20th century (Baden et al., 2019).

Morgan is credited with authoring the definitions of LDA and late discovery adoptee.

Non-disclosure occurs when adoptive parents make the decision to not reveal to their adopted child during childhood nor as an adult that they are adopted. Non-disclosure in adoption practices has a long history, and there is extraordinarily little research related to the specific experience of LDA and particularly those of late discovery adoptees (Riley, 2013). It is most important to understand that the experience of LDA is unique from other adoption experiences in which adoption status was known or disclosed to the adoptee in childhood or adolescence. In cases of LDA, the adoptee was never told of their adoption during the years of childhood, adolescence, or adulthood through any type of planned disclosure, making it distinct from other adoption experiences.

The adoptive status of late discovery adoptees is one shrouded in secrecy and non-disclosure. With little scholarly research available on the experiences of late discovery adoptees, we are left to understand the impact of discovery upon late discovery adoptees by reading their own accounts of their experiences. We will explore this more in detail later on as we address, in the words of late discovery adoptees, how discovery felt to them and how it impacted their lives.

Available accounts of late discovery adoptees suggest that discovery impacts the adoptees by leaving them with the unanswered questions such as: Who am I? Why was I not told? Where can I find the answers? How do I go forward? What do I do now? One adoptee shared, “I had the best of parents, however at the end of the day, I still don’t know fully, who I am, and I don’t know at all where I came from” (Pearl, 2000, 6). In

personal accounts shared by late discovery adoptees they often pursue the answers to these questions as a method to cope and move on with their lives (Baden et al., 2019). Some find their answers in their journey of searching out their genetic origins, and yet others find that the silence of long dead relatives has locked such answers away never to be found.

Many adult adoptees will never learn of their adoptive status, as legally there is no requirement to disclose this information to them and such information is not tracked or regarded by health or legal systems (Passmore et al., 2006). Each late discovery adoptee's experience is different and personal varying in many ways due to countless different circumstances surrounding their adoptions (Riley, 2013).

The importance of understanding LDA

Little research work has been dedicated solely to LDA. Most information is among a scattering of studies on other aspects of the adoption process or from the autobiographical accounts from the late discovery adoptees themselves. Thus, there is a need to provide a source of information offering an overall understanding specific to the LDA experience that includes the limited research information, as well as testimonies from sources which documenting and share the words of the late discovery adoptees themselves. This limited source information is all that is available to answer to the questions of what impacts LDA has upon the adoptee, how is the LDA experience unique from other adoption experiences, why is non-disclosure practiced in adoption, and what are the future implications faced by late discovery adoptees related to non-disclosure and legal access to their known origins? It is the stories of the late discovery adoptees themselves that provide the largest amount of insight into the LDA experience, and there

are many autobiographical works providing this. However, there is little scholarly research to use for further study by clinicians, practitioners, legal professionals, or even for use by the adoptees themselves.

Therefore, the purpose of this thesis is to review existing information about LDA and provide a foundational framework to inform a more detailed clinical and legal background for clinical practitioners, those involved in the adoption process, and the late discovery adoptees themselves to in an effort to provide an understanding of LDA and how it impacts future adoptees. Readers will find information to lessen the research search for definitive terms and the basics of LDA as an experience. The intention of this thesis is to spur on further research to fill the knowledge gap of what LDA is and encourage further cooperative efforts among late discovery adoptees, mental health practitioners, legal practitioners, adoptive parents, and those in the adoption industry interacting and supporting the needs of late discovery adoptees.

Clinicians and counselors may thus find a starting point of knowledge in an effort to better support late discovery adoptees as they cope with the discovery of their adoption. In particular, this thesis aims to provide initial groundwork to inform psychological studies, legal practice, adoption-related policies, reference for late discovery adoptees, and reflection by individuals and families affected by LDA. It is meant to be a resource for scholar and laypeople alike in pursuits related to LDA.

Limited scholarly work related to LDA

Although this is an experience shared by many, and despite its likely psychological consequences, there is no single research resource fully explaining or examining the LDA experience. Only one study could be found related exclusively to late

discovery adoptees (Baden et al., 2019). Other existing information comes from social media communities, blog posts, news articles, and websites. Therefore, this thesis will not provide new clinical research, but instead serve resource for those wanting a starting point in learning about LDA and how it impacts the lives of adoptees. By synthesizing accounts of late discovery adoptees and the historical and legal evolvement of non-disclosure, this paper will provide an initial understanding of LDA to lay the groundwork for future empirical research.

The following chapters will provide a foundational overview of LDA not only as an experience, but also how historical, religious, and traditional practices in the adoption of children related to non-disclosure practices influenced adoption practices in the past through today. I will explore the historical beginnings of LDA deriving primarily from English law and European practices as well as how we still see non-disclosure playing out today known as LDA.

An overview of the perceived psychological impacts of LDA upon late discovery adoptees will be discussed to provide information as to how late discovery adoptees are faced with different psychological impacts from other types of adoptee experiences. Though there is little formal psychological research concerning LDA, I will utilize information from various biographical works and scholarly articles, including comments and quotes from late discovery adoptees themselves. I will summarize the limited research related material to present how LDA may impact the lives of adoptees after the moment of discovery and share needed areas of further research on the long-term impacts of LDA.

In addition, I will present the varying recommendations concerning adoption disclosure practices from scholarly authorship and opinion, especially as to the timing of when adoption disclosure to the adoptee should take place in order to minimizing the psychological distress after discovery upon late discovery adoptees. The scholarly recommendations vary widely, and there has been no conclusive final recommendation on this issue, but the information will provide a perspective on each view to support an informed decision on when disclosure of adoptive status should occur. I will also share the future implications of LDA occurrences and continued non-disclosure practices and the need for further research concerning the possible continuing impacts of impeded legal access of adoptees to their birth and adoption records.

Chapter II.

Historical Background of Illegitimacy and Evolving Adoption Practices

Two centuries of European tradition and religious practice along with the European influence of English Common Law upon the colonial establishment of the United States may have influenced views on illegitimacy. These views and practices continued on into the early twentieth century and even influence adoption practices today surrounding the issues of illegitimacy toward children, legal rights of kinship, and the rights of birth mothers.

Throughout history, children conceived and born out of wedlock faced the stigmas of illegitimacy and being labeled as a bastard child. Illegitimacy has been called a social problem for the last two centuries and a moral problem from time immemorial (Laslett, et al., 1980, 1). One of the first written forms of adoption found existed in approximately 2285 B.C. in the Babylonian “Code of Hammarubi” (Askeland, 2006, 7). LDA emerges from a long history of shame and secrecy surrounding illegitimate birth, religious views concerning unwed mothers, the concept of blood kinship and the rights that come with it. A child was traditionally labeled illegitimate if born as the result of the acts of fornication, adultery, or incest (Laslett et al., 1980).

In the United States, this stigma continues primarily from English law and practices used in continuing social traditions seeded from English colonialism (Laslett et al., 1980). In this chapter, I will explain this history and illustrate why it is relevant to LDA today due to the long held traditional views related to illegitimacy and adoption practices from past centuries, into the 18th and 19th centuries, and even into today.

Early adoption and illegitimacy practices

Centuries ago in Europe, a child born of an unapproved wedded union forbidden by certain family members often was labeled as illegitimate (Laslett et al., 1980).

Historical rules of society and its expectations were important to the ruling classes. The classification of illegitimacy ensured that inheritance rights remained reserved for those of blood kinship who were conceived of approved wedded unions in order to comply with Christian convictions of the utmost importance to a family's reputation in society. This protected the elite classes from the consequence of the fruit of their perceived ill act claiming their name and their property (Laslett et al., 1980).

In addition, throughout European societies in which the church was held at a high value, birth records often were kept in local parishes with children often labeled as illegitimate if conceived outside of holy wedlock (Laslett et al., 1980). A child categorized as illegitimate by the church and society influenced the adoptive parents' decision of disclosure vs. non-disclosure due to the probable impact to the future reputation of the child, the birth family, and the adoptive family (Askeland, 2006). Also, the illegitimate child could be denied rights to inherit property, the legal use of the adoptive parents' last name, employment and economic opportunities, and other negative consequences (Askeland, 2006).

The labeling of illegitimacy influenced the choice of secrecy related to the child's origins in order to present the adopted child to a non-biological parent in a manner to give the child the appearance of blood kinship (Modell, 2002). This provided the means to a valid transfer of rights to name, property, and inheritance under common law to the

adopted child without the entanglement of legal concerns related to legitimate birth (Askeland, 2006).

These religious and societal values as well as legal practices of property transfer were considered a requirement in establishing a civilized society (Laslett et al., 1980). These practices also allowed governmental, spiritual, and societal control over those they governed. The implications of ill acts such as producing an illegitimate offspring re-enforced harsh consequences toward those who broke the established norms of behavior and decency, as well as upon the labeled illegitimate child (Askeland, 2006).

Sex outside of marriage was considered taboo according to religious traditions and even a criminal offence during the 17th and 18th centuries in England and other European nations due to foundational Christian traditions (Laslett et al., 1980). The illegitimate child conceived and born out of wedlock in 18th century England was legal and societal evidence of the shame threatened and even of the criminal act itself (Laslett et al., 1980). With this threat of shame and labeling an illegitimate child, many children were abandoned, uncared for, and even murdered to cover up the deed of conceiving a child out wedlock (Sjoberg & Skold, 2022).

Children labeled illegitimate often were taken in or sent to other households to engage in apprenticeships and even indentured servitude (Askeland, 2006). This brings to mind what we know today historically as the “workhouses” where orphaned and illegitimate children found themselves utilized as a commodity of property for the profit of others (Frost, 2003). Orphaned boys taken in with families of higher socioeconomic status would find themselves in apprenticeships of better social status such as craftsmen, lawyers, and doctors. Boys taken in by those of lower economic status could learn a

trade. Girl orphans taken in would often find themselves trained as domestic servants (Askeland, 2006).

These traditional and religious views were prevalent even as slavery was abolished in Europe and in the United States heading during the 18th century. A child born of one white parent and one non-white parent would have been labeled as an unholy union prior to end of slavery and even after the ending of slavery. Thus, the child could be categorized illegitimate or a bastard and left to an uncertain fate of indentured servitude or even slavery itself (Laslett et al.,1980). These views even continued on well into the 18th and 19th centuries in the United States as we saw during the civil rights movement in the U.S. during the 1960's (Edwards, 1999).

18th and 19th century adoption practices

These early adoption practices and attitudes on illegitimacy in Europe carried over into views surrounding illegitimacy as Europeans, particularly those from England, came to North American in order to establish what we know as the United States today (Askeland, 2006).

The concept of childhood as something precious had not yet developed during these times, and thus children being forced to do difficult work or suffering abuse was not viewed as significant (Bhabha, 2014). One historical event illustrating how the view of childhood changed related to these practices and their influence upon reform into the 18th and 19th centuries was known as the Orphan Trains.

In the U.S. during the mid-1800's, transportation of orphaned children by trains from the east coast of the United States to the mid-western areas of the United States

began and became known as the “Orphan Trains” (Askeland, 2006, 21). These orphan trains were an attempt to place urban orphaned children in homes where they might find opportunity and a better life (Askeland, 2006).

While some of these children may have had knowledge of their placement, many were too young at the time of placement to recall the act (Askeland, 2006). Often, these children found themselves utilized for farm work, industrial work, and other endeavors that would be considered indentured servitude today in support of their “new” family (Askeland, 2006). Placing agencies did their best to function under the legal rules of guardianship of common law at the time in placing children through a social contract with receiving families (Askeland, 2006, 17). This social contract was not a formal written contract placed with a court of law, but a bond of words between those placing the child and those receiving the child, and this was American society’s first organized effort into what today has evolved into modern adoption practices (Askeland, 2006).

Influence of historical adoption practices upon adoption into the 20th and 21st centuries

Adoption practices evolved to better protect the interests of adopted children and their adoptive families with the coming of the twentieth century. However, while the best interests of children were now being considered by adoption practitioners and the legal community for reform, birth mothers were still feeling the ill effects of corruption and lack of regulation in the adoption process into the 20th century. The historical practice of secrecy to cover up a child’s illegitimacy often led to corrupt practices toward birth mothers and their rights within adoption process itself.

Unmarried pregnant mothers would travel far from their homes to seek shelter with distant family or others, to live in other unwed mothers' homes, or to work as domestic servants with the promise of their anonymity being kept until the birth of their child (Sjoberg & Skold, 2022). Upon birth, these children would be taken away from these mothers in a variety of ways (Sjoberg & Skold, 2022). In the early 1900's, these women were often labeled as "unnoticed women" as they accepted the promise of anonymity or being unnoticed in exchange for giving their child up for adoption or to foster care (Sjoberg & Skold, 2022).

Unwed mothers were often taken advantage of by those they sought refuge with, as they were isolated or even cast out of their families far from home with no economic support, no husband, and no choices (Sjoberg & Skold, 2022). Those who took in these women would often charge fees for their housing and support in exchange for an anonymous place to live and the surrender of their child (Sjoberg & Skold, 2022).

With the threat of social stigma upon these mothers and the label of illegitimacy looming over their child, these pregnant women were vulnerable to opportunists seeking economic gain ready to take advantage of unfortunate circumstances. As a result, serving these unwed mothers became a business industry unto itself (Sjoberg & Skold, 2022). Sponsors of these unwed mothers could profit not only from housing these pregnant women, but also receiving finder's fees from adoption agencies and others placing these children with their adoptive parents (Sjoberg & Skold, 2022). Some even advertised their services to "unnoticed women" in local and regional advertisements (Sjoberg & Skold, 2022). Thus, the business of caring for unwed mothers and placing their illegitimate children with others created an industry interested more in economics than the benefit of

the unwed mother and her child (Sjoberg & Skold, 2022), as we see in the statement of one birth mother following:

“I was made to work full-time at the hospital for 5 months—in the laundry lifting heavy loads, in the linen repairs, in the kitchens as kitchen hand, and the serveries plating meals for patients. Sometimes on split shifts you would start by 7 am and finish after 7pm; so exhausted, I had to go up the stairs to bed crawling. I expected I would be paid for this, and it might have helped when my baby was born, but I was never paid, and my baby was taken ... The food and lodging provided was poor and no clothes were provided, despite the need for maternity garments, which I had two of, discarded by others and in poor condition. It was slave labor virtually. We were seen as ‘sluts’ or ‘fallen women’ in need of some redemption.”

This new-found industry may have also created the need for secrecy to protect the anonymity of not only the unwed mother and the illegitimate child, but also to protect those involved in the transactions of adoption practices from scrutiny once these children reached adulthood. One birth mother shared (Kenny et al., 2012, 40) the following:

“Years later I found out more of the truth: I was lied to, cheated, betrayed, belittled, and berated by my parents and church. I was led to believe that I was damaged goods—don’t ever tell anyone or you will never find a husband. The secrecy was deadly.”

Another birth mother states, “I had nothing to offer her but myself, but I was told that was not enough” (Kenny et al., 2012, 36).

Thus, the child then became property for transaction and part of the business of exchanging property. The need for secrecy became embraced by the legal system as it codified the child as property not only to ensure the absolute ownership of the child and clarify inheritance rights by the adoptive parents, but the protection of the secrecy and anonymity of birth parents and property rights as well (Sjoberg & Skold, 2022). We will expand on this later as we discuss privacy rights in relation to the legal rights of the adopted child versus the birth parents.

In addition, there was a darker side of coercion to such practices related to ill treatment of birth mothers (Kenny et al., 2012, 36) such as the following from one mother:

“Our treatment as unmarried mothers was not just about social expectations of these girls, nor was it about applying mild social pressure that is not strictly enforced or put into law. This was about breaking the law, kidnapping babies at birth, drugging young, defenseless girls during and after labor through a premeditated designed system to coerce a young, impressionable person that they were unfit to be a mother during their pregnancy. The visit to the hospital during pregnancy and the conversations with the social workers at the hospitals was designed to convince the girl that the baby she was carrying was not hers. She had no right to it, she was not fit to be a mother and she was asked repeatedly to sign adoption papers before her child was born.”

As a result of the exploitation of adopted children as well as their birth mothers, the 19th century the adoption industry began (Askeland, 2006). Often those in social work and social service found themselves at odds with charity organizations who had

operated out of well-meaning but little professional training (Askeland, 2006). This further spurred the legal system to become involved with the regulation and legal transactions related to adoption as it sought to fight corruptive practices for profit and self-interest while ensuring adoptive parents' absolute ownership of the adopted child (Askeland, 2006).

Next, we will discuss how these societal standards, religious perceptions, and legal practices from early adoption practices related to birth mothers and their adopted children influenced adoption practice into the 20th century. These concerns around illegitimacy and shame continued well into the twentieth century, and even into the modern period of the 1960's and 1970's labeled as the sexual revolution (Askeland, 2006).

Historical adoption practices and their influence today

Considering the long practiced historical traditions of adoption and societal views toward illegitimate children spanning times from ancient Europe into 18th and 19th century in Europe and the U.S., lets discuss how today's adoption practices have evolved from these historical practices and how this history still influences adoption practices today in the United States.

The common law tradition in England, on which most domestic law in the United States is now based, did not recognize any adoptive relationships as adoption did not become legalized in England until 1926 (Askeland, 2006, 7). Thus, legal adoption practices were only recently established in the scope of the historical practice and transfer of children to non-birth parents (Askeland, 2006).

As the period of the 1960's and 1970's brought with it quite different views on sexual activity than those traditionally held prior to the sexual revolution, views long held to religious and societal traditions of behavior began to change. Though the availability of modern birth control offered a method of preventing pregnancy, it did not necessarily impact a change in the societal view, or the possible shame endured by a child labeled as illegitimate (Clapton, 2021). This is important to note, as late discovery adoptees today may find a similar perception of their adoption when examined in the scope of the historical times in which they were adopted. Understanding these historical influences may provide late discovery adoptees with more understanding in viewing circumstances concerning justification for non-disclosure relating to societal stigmas. Such historical understanding will give late discovery adoptees further understanding of why LDA occurs. More research conducted with late discovery adoptive parents concerning reasons for non-disclosure might prove useful in answering such adoptees questions. However, with a lack of research on this topic the historical background may be important and relevant to late discovery adoptees.

This historical understanding of non-disclosure and historical practices also gives those supporting late discovery adoptees as well as those experiencing LDA a better understanding how non-disclosure as historical practice continues today. Of course, some answers could be found in general adoption research, but the LDA experience relates to an adult experience rather than a childhood one.

With all the possible continuing stigmas associated with the illegitimate child, it is easy to see why today's birth parents and adoptive families might choose the path of secrecy in an attempt to eliminate that stigma from the child's life and/or their own

families. Also, in cases where there is no evidence or explanation of the circumstances of a child's conception, the stigma may be removed from the child when a new family, a legitimate family, is given to protect those who hold agency in the child's future. With the historical and modern practice of secreting away of the knowledge and record of the adoption, the child may be perceived as saved from the stigma of illegitimacy (Askeland, 2006). Also, non-disclosure today may be chosen to protect the future prospects and possibilities of the child, the birth parents, and adoptive families just as was practiced in the past. This is not a justification of the use of the secret, but merely a plausible explanation for why secrecy may still be used today. The purpose of this thesis is not to explain the entirety of history as it relates to adoption as an overall practice, but to provide background on the plausible reasoning behind the use of secrecy as it relates to out of wedlock births, and the historical stigma associated with them that leads to the possible use of secrecy influencing the consequence of LDA today.

Due to the historical corruption and mistreatment of some children and problems resulting from placement, as well as the maltreatment of birth mothers, evolving societal views influenced reform in the practice of adoption and established changes in public policy, state statute, social definitions in foster care and adoption in America (Askeland, 2006). Without guidelines on who could adopt these orphans, children suffered, were exploited, and were maltreated as a lack of regulation and corrupt legal practice (Askeland, 2006). In addition, birth mothers who may have expected support in attempting to keep their child instead found a system constructed to facilitate exactly the opposite (Laselett et al., 1980).

This maltreatment and corruption led to the beginnings of what we call social services such as foster care and the modern adoption agency (Askeland, 2006). These efforts spurred on adoption reform and legal statutes to protect the interests of these children and birth mothers serving to expand legal statutes related to all adoption practice in the United States in an effort protect all those involved in the social contract of adoption (Askeland, 2006). Our modern concept of adoption, as we know it today in the United States, was seeded from much of this history and beginning (Askeland, 2006). As in countless societal practices in the protection of others, it may have evolved through corruption, self-interests, trial, and error.

This became the legal evolution of modern adoption law and practice which went on to ensure the privacy of birth parents and the anonymity of the adoptive status of the child by sealing the records of the birth and adoption. These historical views influence the development of legal practices such as allowing the adoptive parents to choose disclosure or non-disclosure for justifications such as concealing the shame of illegitimacy or preventing disclosure as we see historically (Askeland, 2006). These historical views on the need for secrecy also influenced what is today the sealing to assurance and protection by law to whom the child legally belongs to ensure rights of name, property, and inheritance (Askeland, 2006). This continued the historical practice of putting the power over the child into the hands of adoptive parents while severing the modern rights of the state to guardianship and birth family of any claim to or responsibility to the child.

Adoptive parents today desire the same assurances as historical adoptive parents of the past, so that once they became the caretakers of the child, their role as parents cannot be undone, ensuring the child would be treated as-if-begotten (Askeland, 2006).

Today, adoption laws and procedures as well as laws relating to access to birth records, vary from state to state in the United States. The legal system continues to evolve as late discovery adoptees and other advocates pursue unrestricted access to birth and adoption records through reform and legislation in an effort to change historical views and practices of adoption. Today, late discovery adoptees find themselves often at odds with a legal system protecting the privacy rights of birth parents, whom the legal system gave assured anonymity, as adoptees pursue knowledge of their origins and their birth story (Riley, 2013).

“A characteristic of the genealogically bewildered... is their relentless pursuit of the facts of their origin” (Sants, 1964, 139). We will address the legal implications in more depth in a later chapter as we discuss the future of LDA, but suffice it to say, it is a recent development that these practices are gaining consideration for reform as the adoptees interests are being considered related to disclosure for the first time in two centuries of adoptive practice in the United States.

Chapter III.

The Experience and Effects of LDA

When non-disclosure of adoption occurs, often there are other persons aware of the adoption who keep the secret, and only once the adoptee discovers their adoptive status do these secrets become known (Clapton, 2021). LDA experiences vary, as each is highly personal and specific, making it difficult to generalize reasons for non-disclosure and categorize the psychological experience of LDA by late discovery adoptees (Riley, 2013). Discovery can occur in early adulthood, late in life, after the death of an adoptive parent, when searching for genealogical ties through DNA testing, and countless other scenarios (Riley, 2013, 178). Regardless of how the discovery occurs, late discovery adoptees are impacted psychologically as they face challenges to cope with the discovery of their adoption and the LDA experience (Baden et al., 2019).

Psychological effects of LDA

Late discovery adoptees may encounter a feeling of betrayal by those closest to them as they face possible loss of trust and kinship with them. In a sense, the foundational understanding of who they are concerning self-identity and where they come from is impacted by the LDA experience as all they thought they knew about their origins no longer exists. Late discovery adoptees describe the moment of discovery as leaving behind difficult feelings including identity loss, grief, confusion, and mistrust as they ask themselves, “Who am I now?” (Pearl, 2000).

While the shock of discovery comes as a surprise to late discovery adoptees, many also expressed they often felt as if they did not fit in to their families or that they did not look like any family member, leaving them feeling that they somehow knew they were not biologically related to their adoptive family all along (Riley, 2013). Also, late discovery adoptees searching for connections to their biological family, can find that their birth parent(s) are deceased and feel they were denied the opportunity to reconnect to them because of those who kept the adoption secret (Pearl 2000, 4). This may then put the adoptee in a position of dealing with further grief in the loss of not only their adoptive family, but their birth parent(s) as well.

With only few research studies that discuss the psychological experiences of LDA, the bulk of information about the LDA experience comes from late discovery adoptees themselves through autobiographical books, articles, blog posts, websites, and social media. These biographical experiences are perceptions and emotional writings about the LDA experience with little quantitative research, however they offer one common element found in all LDA experience, secrecy. It is this experience of secrecy surrounding their adoption and birth origins that impact late discovery adoptees in differently than in other adoption experiences. (Riley, 2013). One adoptee describes being five months pregnant at the time of adoption discovery as she is told by her adoptive parents that everyone else in her family knew of the adoption with the exception of her husband, as they felt he would not keep the “secret.” She describes herself as feeling alone, as her adoptive parents refused to discuss it further and the realization that those closest to her knew of her adoption all along (Riley, 2019, 178).

There is no opportunity for the adoptive parent to redeem the act of the secret, and thus a deep loss of connection may be more profound in late discovery adoptees (Passmore et al., 2006, 5). Late discovery adoptees experience a disruption in the ability to have relationship with others in their lives, as their own free will and autonomy were not regarded while others kept secrets from them. Suddenly the adoptee can feel separate from everything and everyone (Riley, 2019). One late discovery adoptee describes her feeling of betrayal by a spouse who kept the secret from her, “the revelation of my adoption ... was delivered by my husband after he had left the marriage, and kept it from me during the 12 years of our marriage” (Riley, 2019, 180). Another adoptee states the expanded mistrust of many beyond the birth parents, “So the doctor is in on the lie, the nurse or secretary is in on the lie... the whole family...but no one informed me...the greatest hurt of all” (Riley, 2019, 180).

When trusted relationships prove unreliable and untrustworthy through late discovery, trust may then be impacted in all existing relationships and in building new relationships (Riley, 2019). Another participant of the study states, “It really screwed my head up... What kind of world is this? It made me so angry” (Riley, 2019, 181).

There is also the possible concern that the late discovery adoptees may face further psychological impact by how others will react to the discovery of their adoptive status (Riley, 2019). The mistrust created between the adoptee and those who kept the secret affects the relationships the adoptee has with those who did not know of their adoption status and had nothing to do with the decision or knowledge of non-disclosure (Passmore et al., 2006). This may also cause additional psychological difficulties and distrust issues in maintaining spousal, child, and extended relationships of the late

discovery adoptee. There is no current research on the psychological impacts upon those in relationship with the late discovery adoptees, nor on how discovery impacts such relationships long term.

This struggle with a loss of self and self-identity inevitably touches on themes of justifying keeping the adoption secret from the adoptee. Another adoptee referenced this justification for secrecy in discussing the shame of illegitimacy in society and its effect of non-disclosure, “In a way, they probably felt that they were protecting us from ourselves. But that very issue is the one I have the most difficulty in accepting – that our existence was fundamentally flawed in some way, that somehow, we were also blameworthy. We were, after all bastards, the unwanted mistakes” (Pearl, 2000, 6). This supports the understanding that secrecy protects adoptees from societal stigmas as we note in the previous chapter outlining historical influence on this practice today. These historical implications and practices may influence how adoptees theorized the reasons for their adoption, but there is no current research found to address this detail.

Adoptees describe how they experience distrust and loss of identity as one late discovery adoptee states, “Local shopkeepers, neighbors, school friends, and just about anyone who knew us was aware of this secret (Riley, 2013, p.5.) For late discovery adoptees, the additional issue of coping with the knowledge that others knew the secret comes with a sense of betrayal and humiliation psychologically difficult to cope with (Kenny et al., 2012). Many of these adoptees have an overwhelming sense that their entire life up to the moment of discovery was a lie leaving them feeling devastated and betrayed by those closest to them (Kenny et al., 2012, 90). One adoptee said, “I had the best of parents, however at the end of the day, I still don’t know fully, who I am, and I

don't know at all where I came from. Earlier acknowledgement, explanation and acceptance of my origins could have celebrated rather than hidden and denied the reality of my existence" (Pearl, 2000, 6).

The spouses and children of late discovery adoptees found that discovery had been impactful and difficult upon them as well, due to the adoptee being forced to confront identity issues and to grieve for their now lost previous self while working out trust issues in those existing relationships (Pearl, 2000). In some cases, the spouse of the adoptee knew of the adoption and kept it secret from the adoptee (Pearl 2000, 5).

Late discovery adoptees may spend the rest of their lives coping with their adoption and their adjustments to self-identity (Riley, 2013). It can be a long road taking years, and there are few mental health practitioners well versed in the challenges that late discovery adoptees face (Baden et al., 2019).

Coping with the effects of LDA

People reach out for support from their families in challenging times. However, for the late discovery adoptee this may prove difficult as they may no longer trust their adoptive family and thus do not feel they can reach out to such connections for support (Powell & Afifi, 2005). Late discovery adoptees may find themselves feeling completely disconnected and severed from everything and everyone they previously thought was true about their kinship and background as they try to cope with discovery of their adoptive status. In addition, the adoptee, possibly in the midst of their own personal crisis of the discovery, is still perhaps the parent of a young child, a spouse, a worker for their business, and a friend. The late discovery adoptee may not only have to cope with a crisis of self-identity and mistrust but face doing so in way that it does not cause ripple effects

into the relationships with others in their lives who may be need in aiding late discovery adoptees to cope (Riley, 2019)

In coping with the secrecy surrounding their adoption, the late discovery adoptees to not only have to cope with the new knowledge of their adoption as life goes on, but also to cope with the knowledge that others close to them knew of their adoption and kept it secret (Riley, 2013.). It's been found that degrees of secrecy impact late discovery adoptees. (Passmore at al., 2006). The greater the secrecy engaged in by adoptive parents to keep the adoption secret from the adoptee, the greater the sense of loneliness, risk in intimate relationships, and increased attachment avoidance. (Passmore at al., 2006, 7). Late discovery adoptees do experience problems with distrust in other relationships after discovery beyond their distrust of those who knew the secret (Passmore et al., 2006, 7). To cope with this can be daunting and difficult for adoptees as they also work through mistrust issues with their adoptive family who have kept the secret from them (Powell & Afifi, 2005, 130) Also to note, while mental health professionals certainly encounter supporting the needs of all adoptees, the coping needs of late discovery adoptee are unique as they relates to the discovery of the secret of their adoption and loss of connection and mistrust issues as a result (Baden et al., 2019). More research related to increased mistrust in the relationships specific to late discovery adoptees would bring further insight into this issue of transference of mistrust, but none is found to date.

In one 2000 research study, late discovery adoptees had difficulty in forming new relationships and found that deep feelings would rise to the surface as they sought out information on coping with their adoption knowledge (Pearl, 2000, 5). Most late discovery adoptees participants felt they were helped by the support of partners and

extended families and friends The study revealed that 75% of participants felt they did not need to seek counseling in order to cope with discovery, while 25% of the study participants sought counseling support in coping with discovery and issues surrounding their adoption and search for biological connections (Pearl, 2000, 5). As one describes, “I found that talking to my husband, family, and friends helped me immensely. Just knowing that I had support helped me through this situation” (Baden et al., 2019, 69 and 1172). There was no additional research found on the long-term effectiveness of these coping strategies with respect to long-term of benefits in coping with LDA.

One other limited research study in 2000 revealed late discovery adoptees actions after discovery and additionally their decisions on discussing their adoption with their adoptive parents, (Pearl, 2000). 24% of late discovery adoptees in the study told their adoptive parents of the discovery, 28% were told of their adoption by their adoptive parents as a result of events causing disclosure, and 25% of adoptive parents of late discovery adoptees were deceased at the time of discovery (Pearl, 2000, 4). Participants who told their adoptive parents about the discovery of their adoptive status varied as to when they chose to tell their adoptive parents of the discovery (Pearl, 2004, 4). Some participants told their adoptive parents immediately, others took months or even years (Pearl, 2000, 4). In addition, 22% did not tell their adoptive parents of their discovery with some feeling that their adoptive parents were too elderly and could not have handled the stress of such a conversation. (Pearl, 2000, 4).

In addition, a 2019 research study of adoption experiences asked what late discovery adoptees participants did to cope with the discovery of their adoption (Baden et al., 2019, 1171). The overwhelming most beneficial coping strategy found for use, by

these late discovery adoptees, was seeking connection with their birth family (Baden et al., 2019, 1171). The second most beneficial coping strategy for them was that of seeking out and finding support. The coping strategy that was of the least help to late discovery adoptees was the masking or suppressing of emotions (Baden et al., 2019, 69 and 1172). The study concluded that life satisfaction decreased as the age at time of discovery increased, while the level of distress decreased as age at which adoption discovery occurred decreased (Baden et al., 2019, 69 and 1172). Thus, the impact of the age at which discovery of adoption occurs has significant effects upon the late discovery adoptee's ability to cope and quality of life.

These challenges in coping with discovery and mistrust toward adoptive family members can cause late discovery adoptees to face the additional feeling of being isolated and alone in position where they trust no one and they do not know whom to turn to for support (Baden et al., 2019). This is why the unique situational aspect that late discovery adoptees find themselves in makes the experience of LDA different from other adoption experiences such as open adoption, adolescent disclosure, or open disclosure from infancy (Riley 2013).

Late discovery adoptees often have long term impacts on their future and existing relationships, and they can spend years trying to cope (Baden et al., 2019, 1172). One late discovery adoptee stated "Realizing that you don't know who you are is life changing. Every relationship in my life changed at that moment. I am much more guarded in every aspect now. Finding out that everyone knew, and I didn't is probably the single most traumatic event in my life" (Baden et al., 2019, 1171). It is often comments like these from late discovery adoptees themselves which leads to the conclusion that the LDA

coping experience is one of psychological distress affecting their relationships with others (Riley, 2013).

In situations where late discovery adoptees confronted family members to learn further information surrounding their biological origins, some were met with answers, while others were refused the information by family, biological family, or the graves of long deceased biological parents (Riley, 2013). Adoptive parents' reactions to learning that their adopted child had discovered their adoptive status vary from providing information about the adoption to telling their adopted child that they should be grateful they were adopted, to refusing to speak about the adoption at all (Pearl, 2000, 4). Late discovery adoptees may experience isolation and anger toward those who knew of their adoption making seeking information about their adoption from the those who kept it secret difficult (Riley, 2013). One late discovery adoptee shared (Baden et al., 2109, 1171) the following:

“They should have told me from the beginning. My father collapsed after disclosure causing me to feel more guilty. My mother was surprisingly, quite positive but it was swept under the carpet soon after and they all pretended it never happened. My feelings were not considered long term...It was all about them”

As a coping response to this loss of family connection and support, adoptees begin the process of seeking out their biological origins to seek and replace that loss with connection to birth family and those who might give them supportive information concerning their adoption story (Baden et al., 2019, 1172). They seek to form a new connection to their birth family in an attempt to reconcile the loss of previous connections

to their adoptive family (Riley, 2013). In addition, those participating in the 2000 research study had mixed feelings concerning the outcome as some felt that their relationships with their adoptive families became closer after contacting their biological family, while others felt the contact with their birth families had destroyed their adoptive family relationships” (Pearl, 2000, 5). Participants in the study who did not contact their birth families found it more difficult to cope with identity issues (Pearl, 2000, 5).

Additionally, the 2000 study shows that late discovery adoptees had difficulty in forming new relationships and found that deep feelings would rise to the surface as they sought out information on coping with their adoption knowledge (Pearl, 2000, 5). One late discovery adoptee states her feelings: “Anger, I felt isolated and alone. I felt I did not belong to anyone” (Pearl, 2000, 4).

Even in light of their anger, adoptees also can still face a feeling of disloyalty to their adoptive parents in seeking out connection and information from their biological family, adding additional burden in an already challenging situation (Pearl, 2000,). In the 2000 research study, half of late discovery adoptees participants went on to contact their birth family and received a positive response, while those who had not contacted their birth family had decided to wait but felt they would contact them in the future when they were ready (Pearl, 2000, 5).

This, then brings us full circle back to the origins and the importance of the historical practice of secrecy concerning the whys of secrecy discussed in Chapter 1. As late discovery adoptees seek out their biological origins, they also seek to understand why the secret was kept in the first place as additional way to cope. A late discovery adoptee comments: “I am not a social historian, and I cannot imagine society as it existed then. I

can, however, believe that most adoptive parents felt that they were acting in the best interest of their adopted children by not revealing their status” (Pearl, 2000, 8). Late discovery adoptees may find that understanding justifications of secrecy can help them in facing the issue of being illegitimate or unwanted as they search for their biological identity and the story of their adoption as a coping process (Pearl, 2000). An understanding of societal pressures in combination with information gained about their own adoption story from adoptive and birth families can bring conclusion on issues they may face such as illegitimacy, bastardization, unwed motherhood, etc. (Pearl, 2000).

Late discovery adoptees may also find the historical understanding of adoption practices and society’s historical views on illegitimacy helpful as they learn more about the act of their adoption in the context of the times in which their birth parent(s) and adoptive parents were living when the adoption occurred. (Pearl, 2000). In short, searching for their biological connections and information concerning the how and why of their adoption story is the first challenge they may face in coping with discovery. Late discovery adoptees must decide how they will progress through these first steps of coping with their adoption discovery in light of how they related to their adoptive parents, biological family, and other people in their lives.

Chapter IV.

Birth Origins, Adoptions Practices, and the Law

Since one of the steps that late discovery adoptees first take to cope with discovery is seeking answers to questions about their biological origins and adoption, it is important to address the difficulties adoptees may face as they search for answers through access to their birth and adoption records as a method to cope with their LDA. While the legal issues of access to birth and adoption records might seem at first inconsequential, they in fact are often the first items sought out by late discovery adoptees in searching for information.

As mentioned in a previous chapter concerning the historical efforts to protect the rights of birth parents, the transfer of children can appear much akin to the transfer of property and the method of ownership transfer within historical legal practices as well as in today's legal system. Late discovery adoptees upon seeking access to legal records will find that the privacy rights of others can impede their search for answers. We will touch on past adoption traditions and practices to help better understand why current legal access to adoption and birth records is often restricted for late discovery adoptees as they were in times past prior to the development of modern legal systems.

Legal protections for adoptive and birth parents

As we noted earlier in Chapter II, adoptive parents in the past desired legal protections and reassurances that the transfer of the biological parental rights are now permanently theirs irrevocably, and that the biological parent has no further claim to

material responsibility or possession of the adopted child. Adoptive parents still desire these assurances today (Bhabha, 2014).

Current legal procedures still protect the interests of the adoptive family and permanent relinquishment of the child by birth parent(s) just as this did historically, while keeping and sealing the secret of the adoption if desired is affirmed by modern legal system. Today's legal system provides adoptive parents the security of finality and legal protections that the adopted child will not be removed from them by others claiming right or guardianship of the child, and today's birth mothers often want the legal guarantee of anonymity to protect their own reputations in order to avoid social stigmas and upon themselves and their child (Askeland, 2006).

As noted earlier, efforts such as the orphan trains and other child placement efforts over the past two centuries created the need for legal procedures to be developed overtime concerning the transfer of children. Without such legal assurances, today adoptive parents would be limited in wholeheartedly raising the adoptive child as their own (Bhabha, 2014, 123). The modern legal practices of sealing adoption and birth records continue with these assurances in mind due to the a long historical practice of denying the person with the most agency and the central figure in the adoption, the child, with no "say in the matter" concerning their adoption, the disclosure of their adoption, nor access to their biological origins or birth records (Bhabha, 2014). Since the child is considered legally under guardianship of others such as the state, birth family, or adoptive parent, the child has no legal rights apart from what is given them by the person legally assigned responsibility for their care (Bhabha, 2014). The child as a legal

sovereign person unto themselves is still today not recognized in the United States and most of the world (Bhabha, 2014).

Late discovery adoptees are forever children under the law

As historically in the past, today's children hold no legal sovereignty as individual citizens of the state and are the possession of either the state by guardianship, the birth parent by birth, or the adoptive parent by legal adoption proceedings (Bhabha, 2014). Nor do children vote in the U.S. Though the modern legal system offers more protections to ensure children are not exploited or abused, the legal system's interests have been primarily to serve the interests and desires of adults with a stake in the adoption process legally, but do not consider the child's wishes nor the sovereign rights of the future adult the child will become (Bhabha, 2014, 89).

Adoptees as children and adults are the only persons denied access to legal records related to their birth and origin. These rights of access are granted other to non-adopted persons so easily in all states and most nations (Hughes, 2007). Adoptees rights to their birth and adoption records is denied in many states without what is termed in the legal system as "good cause." The simple pursuit of the knowledge of the details of their own birth and adoption is not sufficient to force the courts to grant legal access to such records (Hughes, 2007, 3-4). The fact of adoptees denial of information contained in their own legal records may hinder their search for their identity, with the legal system then hindering them from the very method necessary to cope with discovery that they may need. This hinderance may prevent adoptees from reducing the uncertainty faced in resolving identity issues related to their biological origins and may also cause additional psychological distress (Smith & Brodzinsky, 2002). With little study concerning the legal

issues as they relate to late discovery adoptees, there is little information for legal professionals to utilize in order to justify the opening of birth records with what is legally termed “good cause” (Hughes, 2007).

Courts deny “good cause” to open adoption and birth records in order to protect legally protected privacy rights of birth parents (Hughes, 2007). The main legal barrier to adoptees access to their birth and adoption records is the impact access would have upon the violation of the birth parent(s) right to privacy (Hughes, 2007). Birth and adoption records contain an immense amount of personal information related to birth parents and adoptive parents ranging from financial information, health information, criminal history, education, and much more (Hughes, 2007). Again, those who are sovereign adults in the adoption transaction are provided a guarantee of those rights to privacy simply because they are adult sovereign citizens, whereas the adopted child has no sovereignty apart from those designated to them by their legal guardian and their subsequent later occurring adulthood does endow them with adult rights, making them forever children in the sight of the law (Hughes, 2007).

Adoptive parents as well may not even have access to information as it relates to birth parents, nor will birth parents have access to adoptive parents’ information in many situations (Hughes, 2007). Adults in the adoption transaction have privacy restrictions to protect them from gaining information about each other. This is perhaps an additional reasoning for the use of adoption agencies and the legal system in order to protect anonymity for both adoptive and birth parents as well as the location and status of the child once adopted (Hughes, 2007). However, the adult late discovery adoptee may find

themselves entangled in these legal protections due to denied access to these protected records.

In addition, as can occur in legal proceedings, those who have the means to purchase legal services can exercise considerable advantage over those who lack the financial resources such as birth mothers in caring for the child or protecting their legal rights should they change their mind to surrender their child upon birth (Bhabha, 2014, 111). These biological mothers, sometimes underage themselves, can often find themselves in situations where they are pressured to go through with the surrender of their child under the guise of making a legal pre-arrangement upon which they are told there is no reversal (Bhabha, 2014, 111). In addition, late discovery adoptees as well as their birth mothers may lack the financial resources to purchase legal services if either party were to seek to open records in attempts toward reunification.

“Once an adoption takes place in the United States, the arrangement leaves no visible traces” (Modell, 2002, 3). Thus, a court ruled parent child relationship between the child and adoptive parent is no different than the relationship between a biological parent and their biological child (Modell, 2002, 5). Today’s legal system then transforms the identity and kinship of the child from the biological parent to the adoptive parent with no required future disclosure of this transfer to the adopted child or any governing entity (Modell, 2007). The adoptive child would not be aware of their adoptive status or that they are any different than that of a biological child (Modell, 2007). Thus, adoption records are then permanently sealed by the state and can only be reopened by statute or court order (Modell, 2007, 5).

The legal system however does vary concerning how it views biological versus adopted children related to inheritance laws which vary from state to state. Late discovery adoptees may make discovery upon the death of a parent as they go through estate papers and files. Knowing these legal issues surrounding inheritance rights related to adoptive status would prove helpful to late discovery adoptees in certain situations.

The continued system of secrecy supported by the legal system that may have been historically created to protect the child from the label of illegitimacy now today protects the privacy of birth and adoptive parents above the wishes of the late discovery adoptee and transforms the secrecy from a tool of protection to one of confidentiality (Hughes, 2007, 10). In addition, these privacy rights are further cemented in federal law stemming from the case of *Griswold vs. Connecticut* 381 U.S. 479, 1965 providing the constitutional right to privacy in the first, third, fourth, fifth, and ninth amendment of the United States Constitution (Hughes, 2007, 10).

Today, late discovery adoptees continue to lobby for legislation to gain access to their birth and adoption records. A more modern concern as it relates to biological parent's right to privacy arises related to the topic of sperm and egg donation used in the conception of children and the donor's assurances and rights of anonymity (Riley 2013). This will be discussed later on in addressing future recommendations and implications effecting late discovery adoptees and non-disclosure.

Chapter V.

Limitations of Existing Research and Recommendations for Policy and Practice

In this chapter, I will provide a brief overview of the little existing research work done concerning LDA as well as recommendations for future research of LDA and disclosure practices. In doing so, I hope to provide a framework that might inform and provoke future research on the short and long-term impacts of LDA, and hopefully a more informed view for researchers who make recommendations on the practices of adoption disclosure, as well as adoptive parents evaluating their decisions concerning disclosure.

Limits of and the current lack of research on LDA

The most recent research effort focused specifically on late discovery adoptees was published in 2019, and included as an author Ron Morgan, a late discovery adoptee. Of all the research reviewed, this 2019 study was the only one found with a portion which focused a portion on the psychological impact of the LDA experience upon adoptees (Baden et al., 2019). The study involved 254 adult participants and presented a clear contrast between adolescent/early disclosure and delayed disclosure experiences of adoptees. The study also measured psychological distress impacts upon late discovery adoptees vs pre-adult discovery by the age at which discovery took place, utilizing the Kessler Distress Inventory (K10), used by the World Health Organization to measure quality of life in individuals. While the study attempted measure levels of distress, it did not offer measurements in terms of psychological impacts that were specific and measured by clinical measures. The study proves helpful in understanding how discovery

occurring at various ages by adoptees differs, though it gives little insight into the specific psychological experience of LDA. The study is relevant in establishing that late discovery adoptees suffer varying degrees of distress providing support that the LDA experience is unique from pre-adult disclosure experiences.

In this study the range in age in which late discovery adoptees discovered their adoption status was from approximately 18 years of age to 67 years of age. This study was conducted on all age groups from early childhood and beyond but is relevant when noting the adults participating as it related to late discovery, but it still represents a limited view on the LDA experience. The average age at which all adoptee participants in the study were at the time of their adoption was approximately 23 weeks of age. Surprisingly, those experiencing discovery of their adoption between the ages of 3 and 20 experienced more distress than experience by those in adulthood age 18-68. This may be attributed to the more mature coping abilities of adults versus children, but further study would be needed (Baden et al., 2019).

The Kessler Scale utilized in the study ranges in measurement from a level of no distress or 10 to severe distress or 50. Study participants between the age of 27-70 experienced a distress level of 26 while those age 11-20 experienced a distress level of 25. Those age 6-10 experienced a distress level of 24 (Baden et al., 2019). Thus, there appears to be a higher distress level that is significant in adolescence and into adulthood than in infancy and early childhood. With only a few points of difference among the adolescent disclosure and adult disclosure of adoption, the distress level in both is significantly higher than those who learn of their adoption from the ages of 5 and younger.

In addition, all participants of the study rated their quality of life. Participants ages 11-20 rated their quality of life significantly lower than adoptees who were told of their adoption at age 10 and younger (Baden et al., 2019). Participants that were age 11-20 at the time of adoption knowledge gained, ranked slightly higher, but this may be accounted as self-identity formation during what we could describe as the teenage years. Further study is needed to answer this plausibility (Baden et al., 2019).

Though the study was a limited short-term survey study, it provides a few insights into the LDA experience and it demonstrates the need for more targeted research on LDA exclusively. What is needed is more specific short and long-term study of LDA to measure its impact and how late discovery adoptees cope (Baden et al., 2019).

Also, I would like to note the fact that a late discovery adoptee, Ron Morgan, is a co-author of this limited study. This may offer insight into the community of late discoverers themselves often being the persons responsible for bringing forth information about the psychological impacts of LDA rather than medical clinicians, legal experts, or social work agencies. While late discovery adoptees do their best to describe the LDA experience, the continued lack of scholarly research may limit specific clinical understanding of LDA that would be considered as valid for use by clinical practitioners, legal professionals, and those in the adoption industry.

Research focusing on the overall generalization of adoption without specification to LDA makes it difficult to quantify research to compare the LDA experience with other adoption experiences (Riley, 2013). Also, little research as to what LDA is can cause those seeking information on LDA to lack a full picture on the topic. With no reporting requirement or method of tracking who is to be told of the adoption versus who is not,

there is no way to know accurately the number adults or children unaware of their adoption status (Hughes, 2007). This may leave participants in research to be only those who have experienced discovery and leaves out those who have not discovered their adoptive status to serve as a comparison group.

Recommendations for future research on disclosure practices and LDA

It would be important in any future study related to LDA to set research efforts apart from simply being included in the study of all adoption experiences, due to the element of secrecy that is present only in LDA. Measuring if harm is induced on late discovery adoptees due to late disclosure and secrecy would also prove helpful in determining the validity of non-disclosure as a protected practice as well, but this should be conducted by trained professionals in legal and mental health backgrounds to prove useful if research is to be utilized in evaluating future adoption practices and policies that will be decided by those in mental health practice as well as legal practice.

There is currently no specific research on the long-term impact of LDA related to issues such as self-identity, success in coping with discovery nor the effects of LDA upon those in close relationship with late discovery adoptees such as spouses and children, and others. Without more study of what LDA is and what is experienced by late discovery adoptees, it will likely be difficult to dive deeper into the specifics LDA. Research regarding LDA is an unexplored frontier in the area of psychological study and adoption research. More research on LDA would no doubt prove most helpful, especially to late discovery adoptees and those who support them.

Recommendations & future directions concerning disclosure of adoptive status

It is important to understand how the practice of adoption disclosure and non-disclosure impact all adoptees differently prior to considering recommendations on disclosure and future policy reform in adoption practices. While we have discussed the impacts of LDA on adults, we must consider adoption disclosure and its processes when considering future directions concerning LDA. We have not yet presented LDA's opposing adoption experience, childhood disclosure. Presenting the minor child's experience with disclosure may prove helpful when attempting to evaluate if non-disclosure as a practice is unwise versus planned disclosure of adoptive status to children. Thus, now that we have discussed the LDA experience, let us examine how minors are impacted by disclosure practices to see how their experience may differ from the LDA experience.

Minors told of their adoptive status are given time to adjust to that knowledge while still experiencing the permanent care and support of their adoptive parents who are still caring for them (Macintyre et al., 1990). As adoptive parents disclose to the child their adoption status, the child is told the truth rather than the omission of truth or the creation of the "secret" experienced by late discovery adoptees. For adoptees with knowledge of their adoption in childhood, their adoption is more incorporated into the growing up experience and varies depending on the age they were told of their adoption (Macintyre et al., 1990). This is not to imply that minors who are told of their adoptive experience do not face challenges in coping with disclosure, but this is not the primary focus of this thesis.

When children are told they are adopted, they begin the process of incorporating their adoptive status into their identity development allowing them the opportunity to add to that identity rather than a complete loss of identity that late discovery adoptees may face (Baden et al., 2019). Children remain in a stage of constant growth and development, where their intellectual abilities and physical attributes are constantly expanding during a time of growth and learning. It is suggested this may make adjusting to the knowledge of being adopted as a minor more favorable as it offers the child the chance to process the information in a healthy and productive way of benefit to them during a time where their identity is not yet fully developed (Baden et al., 2019).

Children told of their adoption also have the opportunity when young to adjust to and navigate any societal stigmas of illegitimacy they face from peers, adoptive family, and others. Those who grow up with knowledge of their adoption no doubt face challenges as they continue into adulthood, but this central issue of the “secret” or the “lie” makes the experience of the late discovery adoptee vastly different. Late discovery adoptees then have to cope with such stigmas with possible additional mistrust issues as fully developed adults (Riley, 2013).

In addition, the adoptive parents are on hand to not only disclose the adoption but support the adoptee as they navigate that knowledge. This can help to continue the trust bond between the adopted child and the adoptive parent(s). However, the late discovery adoptee may no longer trust those who kept the “secret” of the adoption and are left without that parental relationship to help them navigate and add that they are adopted to their self-identity (Baden et al., 2019).

While there are multiple views and policies by clinical practitioners supporting adoptees concerning if and when disclosure should occur, there is no definitive final agreement among practitioners concerning disclosure versus non-disclosure or when disclosure should occur. This can cause confusion for adoptive parents and adoptees, as they struggle with unique forms of loss and frequently don't have accepted rituals to help them deal with those losses (Macintyre et al., 1990, 828). Adoptive parents may also have their own stresses and losses to cope with such as infertility, adding an additional child to a family that already has children, how and if to explain the adoption to family and friends, and how, if and when they should tell the child of their adoption (Macintyre et al., 1990). Adoptive parents can have a "continuous dread" that their child will somehow discover their adoptive status (Knight, 1941, 70).

In the past psychologists have recommended the child be told as soon as the child is developed enough to understand their adoptive status, and this was recommended in order to avoid the child coming to mistrust the adoptive parent(s) (Macintyre et al., 1990). The theory in telling the child as early as possible, presents that the child would be deeply affected, and yet each time the adoption is discussed as the child develops, the better adjusted the child may become to being adopted as it relates to the development of self-identity (Knight, 1941).

As noted in a previous chapter, research supports that if a child is told prior to five years of age, the distress level is the lowest level of measurement than at any other age the child might be told (Baden et al., 2006). This view advocates early disclosure in order to avoid future resentment and distrust toward the adoptive parents by the adoptee. Often parents who choose non-disclosure to avoid that very issue and find that when the child

discovers the adoption it occurs anyway (Knight, 1941). Most authorities advocating childhood disclosure also agree that disclosure is a process that occurs over time with telling and retelling rather than with a single discrete telling, but there is no clear agreement as to when the child should be told (Macintyre et al., 1990).

An additional view held by some practitioners advocating early childhood disclosure is that the child should be told of their adoption only if they ask (Macintyre et al., 1990, 831). This view advocates against a certain age for disclosure and even disclosure itself, as it theorizes that disclosure then places the knowledge of having two mothers and two fathers into the life of the child. The theory on these two sets of parents poses that the child will conclude that if one set of parents abandoned them, then their adoptive parents could abandon them as well – leaving the child with the burden of fearing abandonment a second time (Macintyre et al., 1990). This view of telling only if asked also presents that the very act of asking will let the adoptive parents know that the child is ready and it is time to disclose the adoption to the child (Macintyre et al., 1990),

Additionally, it is recommended when a child asks if they are adopted, that they be told the truth with no excuses and no added theories or non-factual information (Macintyre et al., 1990). In other words, adoptive parents should not paint a made-up picture of biological parents that is not factual to soften the blow and adoptive parents should not overcompensate in making up for the biological parent's surrender of the child. The most important thing for the adoptive parent in disclosing the adoption to the child is to maintain honesty and support to maintain the child's trust and relationship with their adoptive parent(s) (Macintyre et al., 1990). However, it is also thought concerning this the view of don't tell if not asked, that disclosure can put children in the position of

coming up with fantastical stories of why they were adopted causing increased feelings of abandonment, grief, and loss (D'Amato, 2010). If a child's adoptive parents do not know the story of the biological parents' decision to place their child for adoption, this leaves it to the child to fantasize in order to cope, which may increase distress upon the child (D'Amato, 2010). Fantasizing after disclosure presents the child with the picture of the adoptive parent who cares for them and the biological parent who abandoned them (Landerholm, 2001).

Yet other views held by clinicians favoring disclosure are against this premise that a child only be told if the child asks. These clinicians take the position that the child will certainly find out, and the adoptee will suffer more psychological burden due to added mistrust and loss of connection with the adoptive family and thus the adoptive parent should disclose to the child their adoptive status (Macintyre et al., 1990).

Regardless of clinical practitioners' views on disclosure versus non-disclosure, all agree on one point. If disclosure occurs the full truthful story should be told to the adoptee (Macintyre et al., 1990). This need to know the truth about their biological family agrees with what was discussed in a previous chapter concerning the late discovery adoptee's most beneficial coping method upon discovery of seeking connection with their biological origins. If disclosure takes place in childhood, it will not negate this same need and coping strategy in children who were told of their adoption (Macintyre et al., 1990).

Adoptive parents will have to consider how to support their adopted child's desire to seek out their biological origins and adoption story. This scenario presents countless challenges for adoptive parents and adopted children as to if and how can this

information be obtained. Will such information change the child's relationship with the adoptive parents? Many adoptive parents choose non-disclosure as they fear telling their child of their adoptive status would cause the child to reject the adoptive parents and make it difficult to maintain parental guidance over the child (D'Amato, 2010).

It would seem there is no conclusive decision upon which psychological clinicians and researchers can agree as to what age a child should be told of their adoption, however there is a consensus that the adoptee should be told of their adoptive status and that non-disclosure poses more harm to the adoptee than disclosure (D'Amato, 2010). Once again, further study on the practice of non-disclosure versus disclosure would provide information on each view's outcome, but this proves difficult due to the secrecy and privacy factors as it relates to adoptive parents and birth parents. It should also be noted that there is no research that was found concerning why adoptive parents of late discovery adoptees choose non-disclosure. More study on adoptive parents and non-disclosure would prove helpful, but again this is difficult when faced by the need adoptive parents may feel for secrecy. More debate on the choices related to disclosure from an adoptive parent's point of view among researcher might provide answers related to which is the better adoptive practice, disclosure on non-disclosure and related to the adoptee versus the birth parent's rights.

Recommendations and future practices legal rights of birth parents and adoptees

Let's discuss how current recommendations and policies surrounding legal access to birth and adoption records by late discovery adoptees have been influenced and how these policies continue to evolve. As we touched on briefly before, late discovery adoptees may desire to search for legal records of their birth and adoption only to find

these records inaccessible as they are legally sealed according to the legal practice of protecting the privacy rights of birth and adoptive families. The question of what effect having such records open to the adoptees would have upon the community and the legal system needs to be addressed in order to better understand future implications relating to the legal rights and “good cause” justification of late discovery adoptees seeking unrestricted access to these legal records.

According to Adoption.com, only five states within the United States allow unrestricted access to original birth records with twenty allowing conditional access to birth records and twenty-one states restricting access to original birth records completely. Current policies evolved during the 1950’s to 1960’s as Jean Patton, an adoptee and social worker, lobbied to denounce the sealing of these records calling for the creation of a national mutual consent adoption registry (Carp, 2007). This mutual consent registry would allow the voluntary option for biological parents and adopted children to connect with one another Patton pressed for birth and adoption records to be legislated by the federal government and open to adoptees and birth parents to no avail (Carp, 2007). However, by the 1970’s adoptee Florence Fisher, who had successfully found her biological family after a difficult twenty-year search, founded the Adoptees Liberty Movement Association (Carp, 2007). The organization was the first-time adult adoptees could advocate together as a group to influence policy and law related to sealed birth and adoption records. The association filed a lawsuit stating that denial of these records to adoptee was unconstitutional, but the United States Court of Appeals dismissed the case in 1979 (ALMA Soc’y Inc c. Mellon, 1979). This first attempt to open these records to adoptees was an argument based on legal rights.

Subsequent efforts have focused on the psychological need to justify “good cause” that the adoptees to have access to their adoption and birth history (Carp, 2007). This basis of psychological need is now the central focus of efforts to open these records, however this notion of psychological need lacks firm and long-term research study to persuade that psychological need is a valid “good cause justification or compelling reason” for adoptees access to these records. These words “good cause and compelling reason” are vague and undefined left to the court’s interpretation (Carp, 2007, 34). Thus, without a foundation of understanding as to the uniqueness of LDA, it is difficult for legal practitioners to address. (Carp, 2007).

Efforts to open adoption and birth records through the federal courts have been most successful when focusing on state courts and legislative lobbying within the states. During the 1980’s these efforts began to have significant impact as many states began to pass legislation related to adoptees access to these records (Carp, 2007). These efforts aimed to preserve the privacy rights of birth parents by withholding personal identifying information but allowing for the release of information in the records that would not lead the adoptee to the identity of the biological parent(s) (Carp, 2007). While this is an offered remedy, it still supports the denial of birth records to adoptees.

Though Patton failed in her attempt to fully unrestricted access to legal records for adoptees, as a result of her efforts mutual consent has emerged as an evolving and future policy to provide legal access to birth families for adoptees as well as birth and adoption records for late discovery adoptees (Carp, 2007). The most common reform to date brought by the majority of legislation has been Jean Patton’s original vision of a voluntary mutual consent registry, This registry allows an adoptee to register that they are

seeking their birth family and allow the birth parent(s) to voluntarily agree to give the adoptees their information for the purpose of reunification (Carp, 2007). Other measures utilized in several states include the solution of a court appointed intermediary who would take the request for information or reunification from the adoptee to the biological parent without revealing to the adoptee the biological parent's identity is a compromise solution offered in protecting the privacy rights of the birth parent(s). Also, some states offer the option of a consent preference form, where birth parent(s) can let adoptees know if they wish to be contacted or not (Carp, 2007, 35).

All of these solutions still deny late discovery adoptees access to their own records. In addition, these efforts may present all adoptees with the exhaustive paperwork and even legal costs of gaining access to birth and adoption information even if "good cause" is established (Carp, 2007). To date, there is no federal law or statute, nor supreme court ruling, giving adoptees unrestricted access to the birth and adoption records. But this is coming into much debate because it pertains to all adoptees and not just those related to LDA (Riley, 2013). The concern of those in opposition to opening birth and adoption records is that without privacy protections, birth parent(s) would be less likely to place their children for adoption (Riley, 2013).

This takes us back to where we began, the stigma of illegitimacy and societal stigmas of out of wedlock birth (Edwards, 1999). It remains that adoptees are the only U.S. citizens denied the right to their original birth certificate and personal records (Riley, 2013). Though there have been solutions presented and utilized by many states, argument favoring access to one's original birth records continues unresolved for adoptees.

These continued policies will continue to impact the LDA experience and be an issue of concern in the future. The future of access to these legal records will also be impacted by continuing policies surrounding adoption practice, particularly related to medical history and emergent DNA and genetic therapies requiring an accurate biological family medical history (Riley, 2013). In addition, as continued efforts to serve those desiring a biological child without sexual conception and utilizing embryonic transplantation and sperm donation, the idea of more late discovery issues in the future may be certain (Riley 2013). In such situations a single sperm or egg donor may be the biological parent to dozens if not hundreds of offspring. The children conceived of such means may face the desire to know their origins just as children conceived in what might be termed, “the old fashioned” way. Future questions related to current policies may cause further evolution when it comes to access of birth and adoption records as modern medical practices related to conception of offspring evolve (Riley, 2013). Do then those conceived through clinical means have less rights to their origins than others? Is a child born of a donated embryo considered adopted by the birth mother in such a situation? That discussion begs an entire other research focus, but what is important to note is that late discovery is most certainly going to continue to be an issue in the future (Riley, 2013).

Chapter VI.

What is needed and what should be considered

Long term clinical conducted research would provide insight and information in aiding late discovery adoptees to cope with discovery and its subsequent plausible impacts upon self-identity, relational trust issues, and decisions on connections with adoptive and birth family members. Long term study would be of benefit due to secrecy issues held by adoptive parents in their decision of non-disclosure, as it may take years to conduct a study on the varying timing choices of disclosure. Insight into the adoptive parent(s) reasoning for non-disclosure might also prove helpful to adoptees coping with discovery but may be impeded by the strong need for secrecy. With such limited psychological research by trained clinicians, it is difficult to measure the impact of late discovery versus voluntary disclosure impacts upon adoptees.

Also, the issues surrounding today's legal practice of adoption affirming the continued practice of secrecy through sealed birth records will continue to be challenged. At this time, the voluntary systems that some states have put in place to reunite adoptees with birth parents have been considered effective, but the state and the legal community has left out one important person, the adoptee – especially the adoptee who is never told of their adoption and may never learn of the adoptive status. These who are unaware they may have rights, though they may not know of the need for them as they may not even know of their adoption, have their rights removed without their knowledge. Is knowledge to one's birth origins an inherent human right guaranteed? Further legal research and debate is important on this topic as society heads into the uncharted waters of donor offspring births through egg, sperm, and embryo donation as well as the possible

implication in the future of cloning of human beings. There are countless ethical implications to be explored that impact the continued practice of non-disclosure. Do the privacy rights of a person who happens to be an adult impede the rights of another person who only deference is being adopted? Can one person's rights be taken away to save another from societal stigmas alone. Can a person be denied their right to know they are adopted at all?

This thesis provides a foundation to provoke research to answer more questions like these for reference use by mental health clinicians, legal systems, those in the adoption industry, future adoptive parents, future birth parents, and late discovery adoptees.

Though today's society has changed much from past views related to the stigma of illegitimacy and other issues that surround the surrender of children by their birth parents, no doubt such stigma plays a role even today. Should secrets be kept? Should records be sealed and kept from those whom they are about? Will the history of adoption practice continue to evolve in consideration of the late discovery adoptee's experience? All of these are answered with the statement, "it depends." It is the word "depends" that must be debated further. History can change, just as the practice of adoption evolved from historical practices in the transaction of children due to mistreatment into today practices protecting privacy rights.

Late discovery adoption has met its time to be addressed as an adoption practice legally affirmed with the continued protections of non-disclosure to benefit birth and adoptive parents as well as records access. LDA continues to impact the rights of children and the interests of what is defined as family. It presents a complex view that may settle

areas of vague law, particularly when it comes to child rights. No doubt late discovery adoptees will continue to press forward in gaining access to birth records and participating in social discourse and discussion on this little-known topic that affects them. The varying types of information offered here provide a background to lay the groundwork for future adoption practice discussion and provoke the justification and need for research study of this unique group, late discovery adoptees.

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