



DECREE

Winter 2000/Spring 2001

AAC—Established 1978

US \$5.95

More Deception about Access, Abortions, and Adoptions

by Frederick F. Greenman Jr., Esq.

For years, the National Council for Adoption and its former president, William L. Pierce, told legislators and right-to-life groups that allowing adoptees access to identifying information about their birth parents would reduce adoptions and increase abortions. The claim is false because, as every active registry and confidential intermediary program has shown, the vast majority of birth mothers want eventual contact with their surrendered children, not secrecy from them. Nevertheless, NCFA and Pierce attempted to support their claim with misleadingly incomplete statistics from England and Australia, while ignoring data from Kansas and Alaska that proved exactly the opposite.

In the Tennessee litigation, we exposed the deception concerning England and Australia, and we presented the data from Kansas and Alaska. Subsequently, AAC, BN and Adopt America Advocates publicized this information. Right-to-life groups, legislatures, and others began to realize they had been misinformed.

Late in 1999, NCFA published its "Adoption Factbook III" (1999 "Factbook"), to which Pierce contributed two articles. In the first, he attempts to resuscitate his claim using another set of misleadingly incomplete statistics from England, while ignoring Australia. In the second, he gives up the claim as to Kansas and Alaska, and instead argues only that the data from those states do not prove that access to records increases adoption and decreases abortions. Once again, even regarding this more limited claim, his statistics are fraudulent.

The Earlier Deceptions

In their earlier claims, NCFA and Pierce pointed to declines in adoption in England and Australia after adult adoptees gained access to their records. NCFA and Pierce ignored the years before adoptees gained access.

In the Tennessee litigation, we obtained from England and from New South Wales (the largest state in Australia) the annual numbers of adoptions *before* adoptees gained access. These numbers showed that in New South Wales adoptions had peaked in 1972, *eighteen years before* access was granted, and had declined *85 percent* before access was granted in 1990. Obviously access to records did not cause that decline.

In England and Wales, total unrelated adoptions had peaked at 14,641 in 1968. Before adoptee access became effective in 1976, unrelated adoptions declined 67 percent (to 4,777). In the following eight years, after the records were unsealed, these adoptions declined only 39 percent (to 2,910). Again, access to records could not have caused the decline. If unsealing adoption records in England and Wales had any effect, it was not to cause the decline, but rather to slow it, i.e. to *increase* adoptions over the numbers that otherwise would have been obtained.¹

We also looked at state-by-state comparisons of adoption and abortion rates. Kansas and Alaska are the two states which have always allowed adult adoptees access to identifying information. If NCFA and Pierce were correct, they should have had lower adoption rates and higher abortion rates (at least for their own residents) than other states. The facts are exactly the opposite. Both states have *higher* adoption rates and *lower* resident abortion rates than the U.S. as a whole. Indeed, Kansas has higher adoption rates and lower resident abortion rates than *any* of the four states that surround it.

We submitted this information to the court, through briefs and in my affidavit dated July 17, 1996. (The courts eventually upheld the Tennessee statute.) NCFA and Pierce were fully aware of our submission, since NCFA also participated in the lawsuit as an *amicus curiae*.²

They had long known that their claim was false. In NCFA's 1989 Adoption "Factbook," it compiled an "Adoption Option Index," which it described as "a standardized ratio calculated by dividing the number of domestic infant adoptions by the sum of abortions and births to unmarried women, times 1,000" so as "to indicate the relative frequency of infant adoptions to that group of pregnancy outcomes which could potentially yield adoptions" (1989 "Factbook," pp. 66, 98). NCFA ranked all the states and the District of Columbia according to their "Adoption Option Index" numbers. If NCFA and Pierce's claim had been correct, Alaska and Kansas should have ranked 50 and 51. Instead they ranked 5 and 18 respectively (1989 "Factbook," p. 98).³

continued on next page

More Deception about Access, Abortions, and Adoptions—Greenman

The New Deceptions

In the 1999 “Factbook,” Pierce ignores Australia. He begins by repeating the claim that granting access decreases adoptions and increases abortions (pp. 209-12), using incomplete statistics for England and Wales. Once again, he attempts to deceive by omitting numbers of which he is well aware.

This time Pierce uses the annual numbers of infant (under one year) adoptions (1999 “Factbook,” p. 211). Once again he starts in 1975, the year in which England enacted the law that granted access. Once again, prior years are ignored. The complete figures going back to 1960 were available in Exhibit 3 to my affidavit of July 17, 1996, in the Tennessee litigation, but Pierce chose not to disclose them. They show the same pattern of continuous decline as do total unrelated adoptions. Figures for the key years are shown in Table 1.

In the eight years before adoptees were granted access to identifying information, unrelated infant adoptions declined 71 percent; in the eight following years they declined 49 percent. Once again, if granting access had any effect on the numbers of adoptions, it was to *increase* them over the numbers that otherwise would have been obtained.

In his second article, Pierce attempts to counter the impact of the Alaska and Kansas statistics. He does not contend that they support his claim. Instead he takes a defensive position, trying to show that granting access does not increase adoptions or decrease abortions. As modest as is Pierce’s new, defensive contention, it too rests on bogus figures.

Pierce begins with abortion data, but the wrong data. The relevant state figures are those for abortions obtained by *residents* of each state. The numbers of women who leave one state to get an abortion in another state may indicate that abortions are easier to obtain in the second state, but they say nothing about the *adoption* laws in that state.

The Alan Guttmacher Institute compiles resident abortion rates for each state, and those are the rates that we used. Pierce, on the other hand, uses total numbers and rates of abortions performed in each state, even while noting that Kansas is a “magnet” for abortions because it allows

late-term abortions and has at least one “extremely widely known abortion provider” (1999 “Factbook,” p. 216). But even using total abortion rates, Pierce has to concede that both Kansas and Alaska have lower rates than the U.S. as a whole (*Ibid*). Even Pierce, in other words, can find no statistical support for his claim that opening records to adoptees increases abortions.

On the adoption side, Pierce concedes that Alaska’s adoption rate supports access to records. “Those who favor eliminating privacy may well point to Alaska as an example of success” (1999 “Factbook,” p. 218). When it comes to adoption figures for Kansas, however, Pierce makes three misstatements. The first may be innocent; the others definitely are not.

Table 1

Year	Unrelated Infant Adoptions
1968	12,382
1976	3,556
1984	1,805

Sources: 1968: Her Majesty’s Stationery Office, *Registrar General’s Statistical Review of England and Wales*, Table T5. 1976 and 1984: Office of Population Censuses and Surveys, *OPCS Monitor*, Table 3. This excludes small numbers of adoptions by single individuals because the source tables do not break these down between related and unrelated adoptions.

First, Pierce uses figures for unrelated infant adoptions in 1996, as compiled and calculated by NCFA. This would be reasonable if the figures were compiled in a way which allowed reliable state-to-state comparisons, but they are not. Most states compile reasonably accurate annual figures for total numbers of adoptions, but most do not compile numbers of unrelated infant adoptions, so that this number must be estimated. Usually this requires

two successive estimates, first the number or percentage of adoptions that are unrelated, and then the number or percentage of those that are of children less than a year old. In NCFA’s survey, these estimates often are made by different people for each state, using different and often undisclosed methods. (We used total numbers of adoptions in each state as reported by the National Center for State Courts.)

NCFA’s surveys were supervised by a reputable statistician, Dr. Paul J. Placek of the National Center for Health Statistics, working as a private off-duty consultant. In a note on the methodology of NCFA’s surveys, Placek states, “This [estimating] procedure yields reliable National estimates, but sometimes causes extreme variability in counts within individual states...” (1999 “Factbook,” p. 51). Pierce’s articles appear 150 pages away from Placek’s note, and Pierce simply omits and ignores the limitation that Placek frankly admits (1999 “Factbook,” pp. 213–18).

continued on next page

Second, in NCFAs 1996 survey, it was unable to obtain an accurate number of total unrelated adoptions in Kansas because adoptions were privatized during that year. The Kansas state employee who supplied figures to NCFAs noted that her figure for total unrelated adoptions was a minimum, and that the actual number had to be higher (1999 “Factbook,” p. 64). NCFAs used that understated number as the basis on which to obtain its estimate of the number of unrelated infant adoptions in Kansas in 1996. Pierce then used that understated number for his state-to-state comparisons, without any acknowledgement of the understatement (1999 “Factbook,” p. 217). That understatement was essential to his contention. In other words, he deliberately used an erroneous figure, knowing that the error helped his contention, and without disclosing the error.

Pierce’s third and most blatant misstatement was the intentional omission of NCFAs data that flatly contradict his claim. NCFAs compiled data on 1992 adoptions as well as those in 1996. This survey is reported elsewhere in the “Factbook,” but totally ignored by Pierce. NCFAs 1992 numbers for Kansas do not suffer from the understatement of unrelated adoptions discussed above. NCFAs own 1992 figures reveal that the adoption rates in Kansas and Alaska are higher than in the United States as a whole, and that of Kansas is higher than in any state surrounding it. See Table 2.

NCFAs “Adoption Option Index” confirms this result. For 1992, Alaska and Kansas ranked Nos. 2 and 6 respectively (1999 “Factbook,” p. 42). As noted above, if Pierce’s claim were correct, they would have ranked 50 and 51.⁴

There is only one word that accurately characterizes Pierce’s omission of pre-1975 data from England and Wales, his knowing use of an erroneously low number of adoptions in 1996, and his failure even to mention NCFAs more accurate 1992 number: *fraud*. If a publicly traded corporation made similar public misstatements about its finances, its executives could face imprisonment. It is sad that misstatements that prejudice the lives of adoptees are treated more casually.

Footnotes

1. British authorities attribute the decline to more effective use of contraception and greater acceptance of children born outside marriage. The same is probably true throughout the industrialized world.

Table 2

Unrelated Infant Adoptions

State/Country	per 1,000 Live Births	per 1,000 Non-Marital Live Births	per 1,000 Abortions
United States	6.6	21.8	19.6
Alaska	24.2	88.3	159.3
Kansas	16.2	66.9	59.4
Colorado	1.4	5.9	7.2
Missouri	8.8	27.9	50.1
Nebraska	10.2	45.2	42.4
Oklahoma	10.5	37.1	50.6

Source: 1999 “Factbook,” p. 39. All the ratios above were calculated by NCFAs. No matter which ratio one uses, Kansas and Alaska are higher than the United States as a whole, and Kansas is higher than any of the four states surrounding it.

- Pierce assiduously avoids acknowledging that all of these figures were discovered by us in the course of the Tennessee lawsuit, and first published there. Instead he cites a Web site, author unstated, even when quoting from my affidavit (1999 “Factbook,” pp. 209-11 notes 3 and 6, and p. 215 notes 11 and 13).
- For reasons stated on page 3, NCFAs data do not give reliable state-to-state comparisons, and for that reason we did not use them in the lawsuit.
- Even with NCFAs understatement of unrelated infant adoptions in Kansas for 1996, NCFAs own Adoption Index ranking for 1996 puts Alaska at No. 4 and Kansas at No. 19. Pierce calls this “an accident of statistical creation” (1999 “Factbook,” p. 217).

Fred Greenman Jr., AAC legal counsel, is a partner with Deutsch Klagsbrun & Blasband, a NY law firm. He holds a B.A., an LL.B., and an LL.M. from Harvard, served in the U.S. Army, and was an assistant U.S. attorney before entering private practice. His daughter was born out of wedlock in 1959 and surrendered for adoption in 1960. They were reunited in 1991. He is active now in adoption reform and participated in the federal and state litigation in Tennessee and Oregon that upheld laws granting adoptees access to original birth certificates and other identifying information.