

**Task Force on Adoptions
Public Hearing Testimony - December 13, 1999**

I am Jane from Harrisburg, Dauphin County, and my husband is Brad. On July 24, 1996, when she was just 3 days old, we took our adoptive daughter, Libby, home from the hospital. We were matched with her birth mother, "Martha," through a private adoption agency that arranges open adoptions. We met Martha for the first time just a few hours before picking Libby up at the hospital.

A social worker from the adoption agency had met with Martha many times during the months leading up to the birth and had discussed the birth father. Martha named a man I'll call "Jeff" as the birth father, and the social worker began taking the necessary steps to locate Jeff in order to get him to relinquish his parental rights. Unfortunately, after many weeks she was not able to make contact with him, so our lawyer placed the necessary advertisements to let him know that he had a daughter and if he did not take certain steps, his parental rights would be terminated involuntarily. After waiting the required time period for a response and getting none, our lawyer had Jeff's parental rights terminated involuntarily in February 1997. Martha's parental rights were also officially terminated at that time, although she had signed a consent to adopt just a couple of weeks after Libby's birth. Of course, at any time up to the actual termination hearing (in our case, a period of seven months), either of Libby's birth parents could have changed their minds and we would have had no choice but to relinquish our daughter to them. With the termination of the birth parents' parental rights, the hearing to finalize the adoption was scheduled for May 6, 1997 (when Libby would be nine-and-a-half months old).

On May 1, 1997, we received a letter from Martha that was to turn our lives upside-down for the next nine months. In her letter, she told us that Libby's real birth father was not Jeff, but rather another man (I'll call him "Don") with whom she had been having a long term, although on-again-off-again, relationship at the time she got pregnant. She indicated that she was telling us this now because Don said they "can't let her [Libby] live without knowing the truth." Martha assured us that Don didn't want to disrupt the adoption, nor did she.

Although initially very disturbed by this news, after talking to the adoption social worker, our attorney, and Martha, my husband and I were fairly confident that Don would voluntarily relinquish his parental rights so that we could reschedule the finalization of the adoption. After all, Don was incarcerated at the time (and still is) and obviously wouldn't be able to take care of Libby.

Because we are strong proponents of open adoption, we wrote a letter to Don telling him about ourselves and Libby and indicating that we would be happy to meet him some time. We also sent along pictures of Libby. The adoption agency's social worker arranged to send Don the relinquishment papers so that he could sign them. But he kept putting it off. He would say that he was going to sign the papers, but then he just wouldn't get

around to doing it. In the meantime, he was transferred to a different facility, which made contact more difficult.

Finally, Don asked me and my husband to visit him at the prison so that he could meet us and see Libby. This visit took place on September 9, 1997. Within minutes of his arrival to the tiny prison conference room where Brad and I, Libby, and two adoption agency social workers were crammed tight, and with Libby on his lap, Don very plainly said to us, "Well, I want you to know that I do want my daughter." The devastation both Brad and I felt was indescribable, but for some reason neither of us can explain, we said nothing in response to Don's statement and offered no physical reaction. We just let him keep talking. One of the social workers pointed out to Don that because Libby had been with us basically since birth and we were the only parents she had ever known, it would be quite hard on her if she were removed from our custody. His response was, "Well, I think she's young enough she'll adapt." (Libby was almost 14 months old at the time.) He said that he planned to have his parents, both in their late 50's, "watch" Libby until he was released from prison.

During our brief visit, Don went on to ask about the birth mother and the "arrangements" we had with her. We explained that we send her letters and pictures periodically, had visited with her at the adoption agency's picnic in June, and had plans to see her a couple of times a year. We assured him that we would do the same with him. After more small talk that was friendly but unproductive, we prepared to leave. Just before saying good-bye, Don asked the social worker, "How long will it take before my parents can pick her [Libby] up?" The social worker told him that many things had to be taken care of before we could even think about doing that. Don kissed Libby, shook our hands, and a guard returned him to his cell.

Later in the prison parking lot, with me fighting tears and my husband so angry he could hardly speak, the social worker tried to assure us that even if Don wanted custody of Libby there was no way he could take care of her. The social worker said that she would begin the process of involuntarily terminating his parental rights. We returned home deeply depressed but trying to remain positive.

The day after our visit to the prison, Don called the social worker and after he again inquired about the "arrangements" we had with the birth mother, the social worker asked him if he was seeking to make some kind of financial arrangement in exchange for signing off on his parental rights. When he indicated he was, she told him it was illegal and could not be done. His response was a dejected-sounding, "Ooooh."

With the knowledge that Don was apparently only seeking what money he could get from us and didn't seem genuinely concerned about his daughter, we went forward with the petition to involuntarily terminate his parental rights with a lighter heart but still some reservations about the outcome of this situation. As it turned out, our caution was warranted.

All we had to do was make it to November 6, 1997, without Don's making any objections to our petition. On November 4, Don's mother contacted the judge in charge of the case and asked to make an objection on her son's behalf, since he was incarcerated. She was permitted to do so. She also hired an attorney to represent her son at a full hearing at which the judge would listen to testimony as to whether Don's parental rights should be terminated. We too hired an attorney (at a cost of \$150 an hour) to advise us and represent our interests at the hearing.

In consultation with our attorney, Brad and I decided that we would ask for DNA tests to prove Don's paternity, since the birth mother admitted to having relations with both Jeff and Don around the time Libby was conceived. In retrospect we should have asked for the DNA tests when we first learned of Don's existence, but there was a reason we didn't. One of the grounds on which we were trying to involuntarily terminate Don's parental rights was abandonment. Despite knowing early on in the birth mother's pregnancy that he could be the father, Don made no attempts to make contact with Libby or support her financially for at least a four-month period (the legal time period for abandonment). Had a DNA test proved conclusively that he was the birth father, we were concerned that his attorney would successfully argue that Don's four-month period didn't begin until the test results were received, and therefore our abandonment argument would be negated.

Once the situation came down to a court fight to involuntarily terminate Don's rights, we were faced with the very real possibility that he wasn't even the birth father. So we made a strategic decision to ask for DNA tests, knowing that our abandonment argument later might well prove useless, but wanting to be absolutely sure we weren't going to lose our daughter to a man who was not her birth father.

The DNA tests were performed on Libby and the birth mother on January 9, 1998, and the waiting began for the test to be done on Don, and then for the results. During those long weeks, we did a lot of praying and talking about "what-ifs." Brad and I (and the birth mother) were almost certain that the results would only confirm our belief that Don was in fact the true birth father.

From the time of our first meeting with Don when he first told us he wanted his daughter, we had been suffering from sleepless nights, crying jags, and a constant state of anxiety due to the uncertainty of our future together as a family. In fact, we stopped planning for the long-range future altogether. Not only did we not know if Libby would be with us forever, but we also didn't know how financially debilitating a court battle would be. These feelings intensified during the long wait for the DNA test results. Brad likened our situation to one in which a child has a terrible illness and a cure has yet to be found. Our extended family and friends were likewise concerned and anxious and were very supportive of us during this hugely trying time. They tried to comfort us by saying that "no judge in his right mind would take Libby from you." Indeed, there were several factors weighing against Don, including his prison record and his apparent attempt to extort money from us. Yet it seemed we were constantly hearing news stories about

children being taken from loving adoptive parents and returned to birth parents who had committed similar or even worse acts. We were deeply worried that our situation would end up as one of those sad and bizarre cases.

On February 12, 1998, more than nine months after we originally learned of Don's existence, we received the DNA test results: Don is not Libby's birth father. Our reactions ranged from disbelief to elation. After all we had been through, he wasn't even the birth father! On May 7, 1998, when our daughter was just a couple of months shy of her second birthday, her adoption was finalized once and for all. At last Libby was legally our daughter. We were finally able to plan for our future together as a forever family.

Over the past year and a half Brad and I have had countless discussions about whether to adopt a second child. After considering many factors, including the possibility that a second adoption might be disrupted, we have decided not to adopt any more children. Even if we were to take the leap a second time, we know that we would not adopt a child in Pennsylvania, given our state's current adoption laws. The time period in which birth parents can revoke a consent to adopt is simply too long, and there is no statute of limitations for putative fathers claiming their parental rights. As a result, disruptions can occur weeks or months or even years after the child has been placed with adoptive parents. By that time, the adoptive parents and child have already bonded. The disruption causes immeasurable anguish to the adoptive parents and the child and can possibly damage the child's ability to later bond with any caregiver. My husband and I simply don't want to risk adopting in Pennsylvania again.