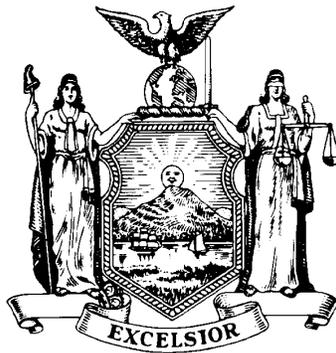


State of New York
Office of the Inspector General



Investigation of the New York State Department of
Health Bureau of Vital Records

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Inspector General

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EXECUTIVE SUMMARY

On August 8, 2012, the Inspector General was advised by the New York State Department of Health (DOH) that its Bureau of Vital Records had, without authorization and contrary to policy, released a partially redacted Transcript of Birth to an adoptee in which the adoptee's biological mother was identified. With this wrongfully acquired information, the adoptee then contacted her biological mother and biological half-sibling, much to the dismay of her biological mother. The release of this vital record is not in dispute, and occurred despite the fact that two DOH employees had reviewed the document prior to its release, but inadvertently failed to discover that the name of the adoptee's biological mother had not been removed. In the course of investigating this disclosure, the Inspector General uncovered several problems in the systems by which DOH maintains and produces copies of vital records, including using incomplete and complex databases and indices to search for records and keeping an unduplicated and vast original card catalog index, among others.

The Inspector General's investigation revealed that in order to fulfill record requests, Vital Records employees often must search through several indices and databases in an effort to match a request to a record. These antiquated databases are difficult to navigate, the investigation found, and contain gaps in data, mistakes and omissions. The investigation also found that only a select few seasoned employees within the bureau know the full scope of the multipart search process and struggle with the high volume of requests to ensure each search is executed properly and mistakes are not made. Given the complexities of the search, the great number of daily record requests and the voluminous record archive, the process is fraught with peril. The system creates a high risk that someone other than an eligible person will obtain documents or information from records for wrongful, fraudulent or illegal purposes. According to the Bureau of Vital Records, attempts by unauthorized people to obtain copies of records or information contained within vital records are not uncommon.

In this instance, the Inspector General found that although the requested record was sealed and flagged for special attention, human error by one DOH employee in failing to redact the biological mother's name from the Transcript of Birth, followed by human error by a second employee in failing to discover the mistake, resulted in the release of the record with information that was to be redacted.

Most significantly, the Inspector General further found that the system utilized by DOH in indexing, storing, retrieving and reproducing vital records is antiquated and not only susceptible to human error, but vulnerable to loss, theft, or destruction, and therefore in critical need of modernization to ensure the integrity of these important documents.

Immediately following the release of the records in question, and in response to and in consultation with the Inspector General, DOH took remedial steps to bolster its procedure, including reviewing and modifying its Vital Records policy to require three quality control checks prior to the release of any documents. Further, in response to the Inspector General's investigation, DOH commenced a modernization program to include the scanning and indexing of the approximately 2,420,000 paper records within its repository, including all birth, death, marriage, and dissolution certificates, as well as approximately 500,000 paper records contained within a birth certificate amendment index. DOH has advised that the scanning phase of the modernization project is estimated to be completed by September 2016, and the indexing phase will commence thereafter.

INTRODUCTION AND BACKGROUND

The New York State Department of Health's Bureau of Vital Records

DOH's Bureau of Vital Records is responsible for collecting, maintaining and processing requests for vital records, including birth certificates, death certificates (including fetal death), marriage certificates, divorce certificates, and adoption information within the State of New York, exclusive of New York City. The Bureau of Vital Records includes the Certification Unit; Reproduction Unit; Amendment/Correction Unit; and Adoption and Medical Information Registry. Qualified applicants seeking information or certificates of birth, death, marriage or divorce are provided with certified copies of vital records and uncertified copies of older certificates for genealogy research.

Adoption information and records, which are confidential and under court seal, are only released in limited circumstances. Pursuant to Public Health Law, three types of adoption information are available: non-identifying, identifying, and medical. An adoptee can obtain non-identifying information about their birth parents (general appearance, religion, ethnicity, race, education, occupation, etc.), the name of the adoption agency and the facts and circumstances surrounding the adoption. An adoptee may obtain identifying information about their parents

only if the adoptee and their parents (or biological siblings) have all registered with the Adoption Information Registry and all have consented. Lastly, an adoptee may obtain medical and psychological information from the Registry if it has been supplied by the parents.

The Bureau of Vital Records maintains a repository of over 30 million vital records, including birth, death, marriage and dissolution certificates, as well as adoption records. Most of the records are contained on film, microfiche, and scanned digital files. However, approximately 2,420,000 are paper certificates. The Bureau of Vital Records annually processes approximately 400,000 new vital records supplied by local registrars and clerks; over 200,000 requests for copies and/or confirmations of vital records; 34,000 applications for certificate corrections and amendments; and 20,000 requests for genealogical information. The Bureau of Vital Records processes approximately 500 records requests each day.

The Allegation

On August 8, 2012, DOH reported to the Inspector General that its Bureau of Vital Records had, without authorization and contrary to policy, released a partially redacted Transcript of Birth to an adoptee in which the adoptee's biological mother was identified. The recipient of this transcript, an adoptee, had submitted an earlier request in June 2008 to obtain information regarding her birth mother and had, pursuant to Public Health law prohibitions, received only non-identifying information at that time. In July 2012, the individual again sought information about her biological mother, claiming a medical need for the information. In August 2012, DOH provided the individual with a Transcript of Birth that inadvertently listed her biological mother's name. At this same time, DOH wrote to the individual's attorney, and advised that it was barred from providing the requestor with an original birth certificate as well as contacting her birth parents to provide them with her contact information pursuant to Public Health law prohibitions on disclosure. Soon thereafter, the Vital Records Bureau became aware of its error.

THE INSPECTOR GENERAL'S INVESTIGATION

Complex and Incomplete Databases Used to Search and Match a Request to a Vital Record – The Certification Unit

The Inspector General reviewed the procedures used by the Vital Records Bureau in processing requests for records. Upon receipt of an application requesting a record, the

Certification Unit has the task of locating it. If, after reviewing the bureau's electronic search system it is found that the request exactly matches a record held by DOH and nothing prohibits the requestor from receiving it, the record is reproduced, reviewed and provided to the requestor. Often, however, the request does not exactly match a record. This occurs for a number of reasons, including deficient applications that contain incorrect information or are missing information, or the information originally filed on the vital record and contained within the search system is inconsistent with that of the application, among others.

In instances when an exact match is not found, the Certification Unit then searches for the record using various manual indices and computer databases, each replete with gaps in data, mistakes and omissions. This cumbersome and convoluted task is made more difficult by the fact that the searcher must be aware of the limitations of each index and database.

Initially, the Vital Records Search System is examined to find the record. This electronic system contains birth certificates from 1924 to the present, and certificates of death, marriage and divorce from 1964 to the present. Approximately 70% of unmatched records can be found by searching this system. However, this system has limitations. Due to some malfunction, records of births between 1993 and 2003, and amendments made to records between 1957 and 1968, may not appear in the search system. In these instances, Certification Unit staff must review hard copy computer printouts of a "master file," which have been compiled alphabetically by year into books. Additionally, although birth record data has been directly recorded since 2004 by hospitals and birthing centers into DOH's Statewide Perinatal Data System (SPDS), amendments and corrections made to these records are not always updated on the Vital Records Search System. Thus, for all birth record requests, searches for possible amendments and corrections must be conducted outside of the Vital Records Search System.

Certification Unit staff can also search microfiche records, which contain an index of records of births between 1881 and the 1950s, deaths between 1940 and 1945, and marriages between 1940 and 1945. To search the microfiche records, a staff member must be familiar with the "Soundex" indexing system, which allows for searches based on the way a surname sounds rather than how it is spelled. This requires the staff member to work out the name's code to execute the search. There are records indexed in "Supplemental" microfiche, a separate group of indices for late filers.

Additionally, the Certification Unit maintains amendment cards; approximately 100 filing drawers containing a total of approximately 500,000 handwritten index cards of record amendments related to births, not unlike an antiquated library card catalog system. The cards include pedigree information as well as codes, or the absence of codes, indicating amendments to the records or signifying a case of adoption. Making the search of this index more cumbersome, the cards are divided into two groups, each alphabetically organized, thus requiring a reviewer to conduct two separate searches. Problematically, with respect to the integrity of the records, this is the one and only copy of this index - DOH does not maintain backup copies of these records. As this is the only source of information on amendments to particular birth certificates, its value is immeasurable. Its destruction, by fire or water damage, for example, would have catastrophic consequences.

Once the Certification Unit locates a requested record that was not matched using the bureau's electronic search system, they note the record's Certification Number and the reason why the record was not matched (e.g. misspelling), and forward the request to the Reproduction Unit for processing.

Antiquated Systems Used to Locate an Original Record and Create a Copy – The Reproduction Unit

Once provided with a Certification Number, the Reproduction Unit locates the record and produces a copy. This search too can require multiple steps. Staff members can search for the original record on microfiche, in the "Book Room," or on "FileNet." Microfiche records, which are organized by record year and certification number, are first searched. If a record is not found there and the record sought is a post-1981 birth certificate, the Book Room is then searched. The Book Room contains binders holding certified birth records for the years 1982-1987, late 1999-2003, and 2010 to present, as well as death, marriage and dissolution records. Digital images of records are stored in FileNet (or its predecessor program) for the years 1988-1998, and 2004 to present.

Upon locating a record, a "flag" may be appended to it. A flag is used to alert staff to restrictions and prior actions taken with respect to that record, including amendments, corrections and Adoption and Medical Information Registry records. Amendments are changes to official records pursuant to court orders, legal challenges, reports of adoption, paternity rulings, and similar legal directives. When a record is amended, the original record is sealed.

Corrections are changes to official records that are typically done to correct errors and/or add missing information. Interlineation, the lining-out of incorrect information (so that it remains legible) and printing of correct information above or adjacent to the incorrect information, is the method by which birth and death certificates are corrected.

Those records that are flagged as part of the Adoption and Medical Information Registry have special restrictions on dissemination. An adoptee, or their biological sibling, can receive non-identifying information about their birth parents, including their general appearance, religion, ethnicity, race, education, occupation, the name of the agency that arranged the adoption, and the facts and circumstances relating to the nature and cause of the adoption, among other things. In the event an adoptee and their birth parents or biological siblings have registered with the Adoption and Medical Information Registry and have given their final consents, the registry will facilitate the sharing of current names and addresses. Additionally, the Adoption and Medical Information Registry can be used as a repository of medical and psychological information supplied by birth parents. This information is shared with adoptees that have joined the registry.

For all records that have been flagged, the Reproduction Unit creates a “white copy.” This is an image of the original record, which is not intended for release but to be used only by staff. Staff then uses the information on the white copy to update the electronic search system. Once updated, two types of records can be produced for the customer. The first, a certified transcript, is a brief abstract of information found in the electronic search system. The second, a “Full Copy” or “Long Form,” is a copy of the original document. Prior to releasing a record, the Reproduction Unit completes a quality assurance review.

Quality Control Reviews

For all but exact matches without flags, the Certification Unit then utilizes a checklist to verify the record is accurate and matches the white copy. All transactions then undergo a review by a quality control officer. The quality control officer verifies all data on the record matches the white copy and the request, and prepares a packet for mailing to the requestor. Additionally, the quality control officer confirms that the information in the electronic search system matches the white copy for those records that have been flagged as amended and corrected, and Adoption and Medical Information Registry records.

The Investigation finds that Complex and Overburdened Systems Coupled with Human Error Resulted in the Inadvertent Release of Confidential Information

In the instant matter, an adoptee sought information from the Bureau of Vital Records about her biological parents. After an electronic search of the adoptee's name produced no records, Certification Unit staff searched through various databases and indices to locate a match. Once found, it was noted that the birth record had been flagged for special treatment and passed on to the Reproduction Unit for further processing. There, a "white copy" image of the original record was created. As noted earlier in this report, the white copy is not intended for release, but is used by staff to update the electronic search system with amendments found on indices. Once updated, a transcript of birth was produced. Here, by mistake, the biological mother's name was not overwritten with the adoptive mother's name. Subsequently, although reviewed by a second individual, this mistake was not caught.

Later, after DOH was contacted by the distraught biological mother, the Bureau of Vital Records' errors were discovered. Indeed, the adoptee not only alerted her biological mother to her find, but told her adoptive mother and biological half-sibling as well.

The Inspector General Identifies Vital Record Modernization Projects in Other Jurisdictions

Finding that DOH's vital records system is antiquated and susceptible not only to human error but inadvertent loss or destruction of records, the Inspector General conducted a survey of other jurisdiction's vital record modernization projects.

The New York City Department of Health, using funds obtained from a federal grant, embarked on a project in 2006 to scan and index its birth and death records using a contracted vendor working at a secure on-site facility. In less than nine months, the vendor digitized more than 13 million records. Vermont, an open record state, solicited vendors and awarded a contract to Ancestry.com to convert microfilm and microfiche to digital images and index its vital records. The project was conducted off-site using Ancestry.com employees and associates based in the United States and India.

Other states, including Florida and Texas, utilized their employees to scan and index vital records within state facilities. In this fashion Texas, over the course of four years, processed 34 million records. Still others, like California, have not fully digitized their vital records.

FINDINGS AND RECOMMENDATIONS

The Inspector General's investigation found that DOH released a vital record containing confidential information relative to an adoption. Although the record was marked in a manner indicating restrictions on its dissemination, human error by one DOH employee in failing to redact certain information on the birth record, followed by human error by a second employee in failing to discover the mistake, resulted in the release of the vital record with information that was to be redacted. No intentional wrongdoing was found on the part of any DOH employee.

Although due to inadvertent human error, the dire consequences of the actions cannot be overlooked and the need for meaningful checks and balances overstated. Here, an adoptee seeking information about her biological mother was provided with a transcript of birth that mistakenly listed her biological mother's name. After learning her biological mother's name, the adoptee revealed this information to her adoptive mother, biological mother and biological half-sibling. According to DOH, the adoptee's biological mother was greatly dismayed by the State's failure to keep her identity confidential.

The Inspector General's investigation further revealed that in order to fulfill record requests, the vital records staff must sometimes resort to a search through a hodgepodge of various and sometimes overlapping databases/indices to match a request to a record. The databases/indices, some of which are remnants of filing systems from bygone days, contain gaps in data, mistakes and omissions. At least one of the indices, a card catalog spanning approximately one hundred filing cabinet drawers, is the only record of amendments with no duplicate copy in existence. Its vulnerability to damage or loss must be addressed.

The investigation also found that only a few long-tenured employees with institutional knowledge within the bureau know the full scope of the multipart search process and the limitations of the many records and indices. These conditions expose the great vulnerability of a method fully known by few. Additionally, given the complexities of the search, high daily record requests and a voluminous record archive, the process is fraught with peril and creates a high risk that someone other than an eligible person will obtain documents or information from records.

Given the needless complexities of this antiquated system that is susceptible to human error, and the inherent danger of maintaining non-redundant indices like the aforementioned card catalog, the Inspector General recommends that DOH modernize its methods of filing, storing and producing vital records.

DOH'S RESPONSE TO THE INSPECTOR GENERAL'S FINDINGS AND RECOMMENDATIONS

Immediately following the release of the records in question, DOH reviewed and modified the policy of the Bureau of Vital Records to require three quality control checks prior to the release of any documents. This third quality control point should afford greater protections against the improper release of records.

Further, in response to the Inspector General's investigation, DOH has entered into a contract and commenced a modernization program to include the scanning and indexing of the records within its repository, including but not limited to all approximately 2,420,000 birth, death, marriage, and dissolution certificates, as well as its card catalog index of amendments to records. This modernization will allow the Bureau of Vital Records to conduct its operations more efficiently, protect its records for historical purposes, and potentially allow historical records to be made easily available to the public. Moreover, scanning of the approximately 500,000 records in the card catalog index containing amendments to birth certificates will create a much needed back-up electronic copy. Had this card catalog been destroyed by fire or water damage, no duplicate records existed to substitute for the originals.

DOH has advised that the vendor chosen to scan and index the documents has been required to ensure the documents are not lost, damaged, stolen, or destroyed by providing a secure environment for the records from their receipt through the completion of the project. Additionally, DOH will authorize designated members of the vendor's staff to access the records, and require them to sign confidentiality agreements. Lastly, DOH advised that the scanning phase of the modernization project is estimated to be completed by September 2016, and the indexing phase will commence thereafter.