



To: IAJGS Members-2015 Annual Session

From: Jan Meisels Allen, Chairperson, IAJGS Public Records Access Monitoring Committee

Re: Public Records Access Monitoring Committee-Annual Report

Date: May 11, 2015

Committee Members

Jan Meisels Allen, Chairperson, Agoura Hills, California

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* Ken relocated from New York to Israel in late March, 2015. As his area of expertise involves the IRS and tax issues that might affect the issues with the Social Security Death Index, whether he remains on the PRAMC will be decided soon.

The PRAMC had a busy year addressing and monitoring the issue of limiting access to public records. Without access to vital records and census documents, genealogists will be unable to research their family information. Therefore, records access is pivotal to maintaining our passion for genealogy-whether as a business or hobby.

In some instances, PRAMC monitors rather than takes action in order to assess whether action may become necessary. Information is posted on the IAJGS Records Access Alert and JewishGen Discussion Group when genealogical collections of interest are first released by various countries' National Archives, by subscription sites and others, as well as items of record interest not reported below.

The PRAMC continues to review matters affecting access to vital records and census records as a result of government action worldwide, and cautiously selects issues on which IAJGS may take a proactive stance.

Accomplishments Summary

These are highlights of what is included in the 2015 IAJGS PRAMC Report:

- 151 Records Access Alert postings on 16 countries since the 2014 IAJGS Annual Meeting
- Four Conference panel presentations: IAJGS 2014, FGS 2014, FGS 2015 and NGS 2015
- Approximately 7,000 signatures on the Genealogists' Declaration of Rights
- RPAC joined National Coalition for History
- Added "genealogy" in the Congressional History Caucus focus
- 300 subscribers to IAJGS Records Access Alert

- IAJGS submitted statement to the U.S. Department of Commerce's final rule on access to the Death Master File
- IAJGS provided comments on the "Expiration of Paperwork Reduction Act (PRA) Clearance of the DMF Certification Form."
- IAJGS submitted comments on Department of Commerce Publication 100
- IAJGS submitted comments to the Kansas Supreme Court on Proposed changes to Rule 106
- IAJGS submitted comments to Maine's Department of Health staff proposal on regulations on access to vital records and participated throughout the year as a stakeholder on the State Department of Health, Office of Vital Records committee
- IAJGS submitted letters to all on the Polish Sejm committee on legislation regarding embargo periods for birth, marriage and death records, resulting in legislation with reduced embargo periods for marriage and death records
- Indiana biennial budget did not reduce funding for state library and genealogical library
- Reported on numerous international issues from the European Union, Canadian census, UK and United States legislation and regulations

IAJGS Records Access Alert

The IAJGS Records Access Alert started in February 2013. The IAJGS created the Records Access Alert for postings regarding governmental or repository actions that enhance or reduce access to genealogically relevant records. The Records Access Alert also includes postings regarding advocacy when it is determined that action rather than monitoring is required. This is an announcement list, and one needs to be subscribed. It is open to all member JGSs/JHSs/SIGs, their members, JewishGen, and all Special Interest Groups (SIGs) members that are hosted by them. All organizations should have at least one member subscribed. To subscribe go to: <http://lists.iajgs.org/mailman/listinfo/records-access-alerts> and follow the instructions to enter your email address, full name and JGS/JHS/SIG/JG affiliation. You will receive an email response that **you have to reply** to or the subscription will not be finalized. All postings are archived and may be accessed at: <http://lists.iajgs.org/mailman/private/records-access-alerts/>. As of the date of this report, we have 300 subscribers, but 11 IAJGS member organizations have not yet subscribed. Since last year's annual meeting, the Records Access Alert has had 154 postings on records access covering 16 countries: Australia, Austria, Bosnia, Bulgaria, Canada, Czech Republic, Denmark, European Union, Great Britain/United Kingdom, Ireland, New Zealand, Norway, Poland, Portugal, Scotland and the United States. Non-public access items are posted to the IAJGS Leadership Forum.

FGS/IAJGS/NGS Records Preservation and Access Committee (RPAC)

The IAJGS is one of the supporting/managing members of the RPAC. The other managing members are the Federation of Genealogical Societies (FGS) and the National Genealogical Society (NGS). The Association of Professional Genealogists (APG), the Board for Certification of Genealogists (BCG), International Commission for the Accreditation of Professional Genealogists (ICAPGen), and the American Society of Genealogists (ASG) also serve as participating members. By invitation, RPAC also includes participation from a few commercial providers of genealogical information. The committee is chaired by Janet A. Alpert, past president of the NGS.

About RPAC: In North America, a joint committee of the FGS, IAJGS and the NGS monitors and recommends action to be taken on restrictions to access of public records. RPAC holds monthly conference calls and shares information via e-mail. During 2014, both Jan Allen and Ken Ryesky represented the IAJGS on the RPAC and Jan is the managing IAJGS member.

When Ken relocated to Israel as of March 2015, Jan became the sole IAJGS representative on RPAC. Starting in 2015, Teven Laxer will monitor legislation in California for RPAC as well as IAJGS. By participating with this committee, IAJGS is better able to find out when legislative or regulatory actions are occurring that might need our attention. As a result of our collaboration with RPAC, IAJGS is able to maximize our effectiveness while preserving our limited resources.

Since last year's IAJGS conference, Jan participated on the RPAC Records Access Panel presentation at the NGS annual conference in St Charles, Missouri, May 2015 and participated on a similar panel presentation via videoconferencing for the FGS/RootsTech conference when they held their conference in Salt Lake City, UT in February. (Jan also participated via video conference on the RPAC Records Access Panel at the FGS 2014 conference in San Antonio, TX In August.)

Genealogists' Declaration of Rights

Over the last few years, access to public records has been threatened over concerns about privacy and identity theft. RPAC launched a Genealogists' Declaration of Rights. The Genealogists' Declaration of Rights is a statement advocating open access to federal, state and local public records. In 2014, RPAC's three sponsoring organizations' Board of Directors (FGS, NGS and IAJGS) unanimously voted to endorse the *Genealogists' Declaration of Rights*. To read about this, including an RPAC press release and **most** importantly a link to digitally sign the *Genealogists Declaration of Rights*, go to the IAJGS website: <http://iajgs.org/ISigned.html>. The electronic version of the Declaration is available at <http://bit.ly/gen-declaration>. As of the date of this report, there are approximately 7,000 signatures. At the NGS Conference in Mid-May there will be a table at both registration and in the exhibit hall to continue gathering signatures. There was also a table for signature gathering at the RootsTech/ FGS Conference in February 2015.

National Coalition for History

In 2014, RPAC was invited to join the National Coalition for History (NCH) <http://historycoalition.org/> and beginning in 2015, RPAC Chair Jan Alpert started serving a two-year term on the NCH Policy Board.

The NCH is a consortium of over 50 organizations that advocates on federal legislative and regulatory issues. The coalition is made up of a diverse number of organizations representing historians, archivists, researchers, teachers, students, documentary editors, preservationists, political scientists, museum professionals and other stakeholders. Since 1982, NCH (formerly the National Coordinating Committee for the Promotion of History) has served as the voice for the historical and archival professions in Washington, D.C.

NCH's priority issues may be read at: <http://historycoalition.org/priority-issues/>. Some of the priorities include: federal funding for the National Archives and Records Administration, the Institute of Museum and Library Services; the Smithsonian Institution, and the Library of Congress; legislation affecting public access to federal records and the digitization of federal records; and advocacy on federal agency and regulatory policies with the intent of maximizing access for historians and researchers to federal records and facilities, and expediting the processing of records for public use.

For the past two years, NCH has been promoting the creation of a Congressional History Caucus to provide a forum for members of Congress to share their interest in history and to promote an awareness of the subject on Capitol Hill. It is important for our community to be seen as a resource by Congress and we hope to build lasting relationships between Members

of Congress and historians, archivists, teachers, students, **genealogists**, researchers, and other stakeholders in their respective districts. Genealogists were added to the write-up at the request of RPAC and from a suggestion by IAJGS President Marlis Humphrey. To read more on the Congressional History Caucus see: <http://historycoalition.org/congressional-history-caucus/>

Digital Due Process Coalition

In 2012, RPAC joined the Digital Due Process Coalition (DDPC) <http://www.digitaldueprocess.org>, a broadly-based coalition of commercial enterprises, including several non-profit organizations whose mission is government reform of internet privacy laws. However, starting in 2015, the IAJGS advised the other sponsoring members of RPAC that as the DDPC had yet to take any affirmative action for the genealogical community's concerns (such as with the Congressional action on the limited access to the Death Master File), IAJGS would no longer vote to have RPAC sign the DDPC sign-on letters. RPAC requires all three sponsoring agencies to agree to any actions. Therefore, it would be left to FGS and NGS if they wanted to sign for their respective organizations as IAJGS's decision to no longer vote to sign the DDPC "sign-on" letters would preclude RPAC from affixing their signature. The IAJGS decision was made with consultation between IAJGS President Humphrey and IAJGS RPAC sponsoring member Allen.

RPAC joined these Coalitions to gain allies in its quest to preserve and promote access to the records we need. Each of the three RPAC sponsoring organizations equally share in the annual dues payment to the National Coalition for History.

RPAC Priorities for Next Year

In addition to continued monitoring of legislation in the United States, RPAC will focus on the following priorities:

1. Work with National Association for Public Health Statistics and Information Systems (NAPHSIS) on lowering public records embargo periods, especially on death records, and working with state genealogical societies to defeat the 2011 Model Act when introduced "as is" in states.
2. Continue to gain 10,000 signatures to the Genealogists' Declaration of Rights through new informative blog posts, and when we reach the goal, present the Declaration to the Congressional History Caucus
3. Find a sponsor to amend the 2013 Bi-Partisan Budget Act Section 203 making the DMF available to genealogists with the Social Security Number and the minimum information available, and when we have proof that the IRS filters are working, repeal Section 203 of the Bi-Partisan Budget Act.

Why We Are Seeing an Explosion of Legislation and Government Action Addressing Records and Archives Access

With the explosion of identity theft, not only in the United States, but worldwide, we are seeing legislators take the initiative to limit access to vital records believing this will prevent identity theft. Vital records access is **not** the cause of identity theft.

Genealogical websites have been blamed for causing identity theft by permitting access to the Social Security Death Index (SSDI). However, the main cause of identity theft is hacking into databases—of banks, data collectors, government agencies, merchants, etc. As genealogists,

we have to educate our legislators as to the real cause of identity theft and to insist they keep access to public records open.

In the United States, with the recent changes in the health care law and how health care is being provided, a side effect is the increase in the amount of personal information in health care databases, the size of those databases, the number of people who access those databases, the amount of information transferred from one database to another, and the lessening of the degree of credentialing imposed upon the typical person who has legitimate access to those databases. It portends for a greater possibility of potential problems with personal information being accessed.

Unfortunately, severe local and national government budget shortfalls have led to increases in the cost of researching and obtaining government records, and may continue to occur. Due to the worldwide fiscal situation, governments are reducing funding for national archives and in some instances merging their archives with other government agencies. We started seeing this in New Zealand in 2010 and since then have seen it in Canada with the Library and Archives Canada and the 2014 threat in Oklahoma when they attempted to consolidate the Oklahoma Historical Society with the Department of Tourism.

Your Role in Preserving Access to Vital Records and Census Information

Achieving access to vital records and census information takes **everyone's** efforts. Please get involved by contacting your state or national representatives when there is an access issue that affects you. "All politics is local". While IAJGS may submit statements, **your** comments to **your** elected official carry more weight. The basis of genealogical research is vital records. It is not just family history, but the tracing of medical family history, and thus the need for access to records. Do your part to keep access alive.

Several years ago, we asked for each society to identify a key person who would monitor records access in their area and report to the PRAMC. So far, only three societies advised us that such board appointments have been made. This is an activity all of us must be involved with—without access to records, we cannot properly research our genealogy!

Several Major Issues Confronting Genealogists

There are three main issues to which PRAMC devoted many hours, as well as the usual monitoring and letter writing on specific issues.

European Union [EU] Proposed Data Privacy Regulation

As reported to you last year, the EU Proposed Data Privacy Regulation is of concern to genealogists. The provision includes the "right to be forgotten", as well as "the right of erasure." While we have been told by Ministers of Justice in several EU member countries that the intent is to protect the living and therefore vital records and similar documents should not be adversely affected, this is not written in the Proposed Data Privacy Regulation. Currently, each of the 28-member countries has their own data privacy regulation. They are not uniform. Some state the provisions of the "right to be forgotten" only affect the living, while others affect both the living and deceased. The proposed regulation would strengthen individual rights and tackle the challenges of globalization and new technologies. The scope of the proposed regulation update applies if the data controller or processor (organization) e.g., Google, Bing, Yahoo, or the data subject (person), is based in the EU.

In March 2014, the European Union Parliament voted overwhelmingly in favor of the Proposed Data Privacy Regulation. However, the EU Council did not vote before the May 2014 elections. Both Chambers (European Union Parliament and EU Council) must vote on the same proposal. Differences that might occur between the two chambers' positions will have to be "negotiated". The vote is expected later in 2015 or 2016. There are several issues, not just the "rights to be forgotten/erasure", where some EU member countries are not unified in position. The delay in voting is due to the differences that are still being negotiated. One of those issues is a "one-stop shopping" proposal which would change the existing rule that requires multinationals processing personal data established in several EU member countries to comply with the local requirements of **each** jurisdiction. The proposal instead is for a **single** set of EU data rules replacing the 28-member states individual rules. The concern by some of the EU countries is that there is a potential for "forum shopping" going to the jurisdiction offering the lowest level of protection.

A 2014 EU court decision required Google to erase links to specific web pages and sets the precedent for the "right to erasure" for all data aggregators doing business in EU countries. In a recent French Court, the plaintiff, a French attorney, sued to have Google remove the links on its **worldwide global search engine** domains—and won. This set a precedent that the EU ruling should apply outside of the EU. In November 2014, non-binding guidelines were issued by a committee of the EU which also asserts that the EU "right to be forgotten/erased" affects countries outside the EU if the data processor has other websites and the data may be found by searches on those websites.

The EU is also reviewing Facebook—a social media outlet used by many genealogists—which also addresses the out-of-EU jurisdiction. In a case against Facebook, a French Court decided in March that the French court has jurisdiction against companies doing business online even if the company does not operate in the EU. The Court decision involved Facebook and its contract that states "any litigation must be based in California, where the site is based". At the hearing Facebook's attorney stated the French did not have jurisdiction as users have to sign a clause agreeing that only a California court can rule in disputes relating to the firm. The Court found this "abusive" and therefore null and void. The attorney for the plaintiff said this decision **creates jurisprudence for other social media and internet companies headquartered outside of France that they cannot evade French law**. The court will hear the case May 21st.

The potential for out-of-EU jurisdiction is staggering...*any business could be sued in France even if they don't have a French subsidiary*—as suing them in their home jurisdiction where the contract states all disputes are to be decided will have major ramifications. Further, a report commissioned by the Belgian Privacy Commission which may be read at: <http://tinyurl.com/nfwcfsp>, states that Facebook places cookies whenever someone visits a webpage belonging to the facebook.com domain, even if the visitor is not a Facebook user—and that it is contravening European Union (EU) privacy rules. The EU Commission (the EU's executive body) warned EU citizens if they want to keep their information safe from U.S. security services to close their Facebook accounts. This raised the question if the "safe harbor" framework about transmission of EU citizen's data from the EU to the U.S. provides adequate protections of EU citizens' data. The plaintiff in the Facebook case has taken it to Austria, where he is accusing Facebook of compiling its users' personal data in violation of Austrian and EU legislation. If the Vienna Court declares it is entitled to hear the case, then it is conceivable that there will be more legal battles against Facebook and perhaps other social media providers. As European Facebook is headquartered in Ireland, Facebook argues that a consumer complaint can only be made in the complainant's country—which in this case is not Austria.

In the Hague, on March 11, 2015, a Court scrapped the Netherland's data retention law saying it breaches privacy of telephone and Internet users. EU regulators believe the Internet prevents

citizens from escaping their past, whether they did something adverse or foolish or just don't want their actions or information available. This concept is antithetical to the United States' core belief in freedom of expression. The right to privacy is a highly developed area of law in Europe. This forms the debate that genealogists are continually confronting when accessing records—the right of privacy vs. the right to know—access to what we as genealogists believe is in the public domain and should be available.

The National Archivist of the Netherlands, Marens Engelhard stated recently, “as a result of the destruction of personal information, we may no longer be able to reconstruct our past.” This statement “says it all” as to why genealogists should be concerned about the concept of “the right to be forgotten” and the controversy over precedence between right to privacy and the right to information.

The issue of extraterritoriality—imposing one's laws outside their jurisdiction—is a concern for all countries and should be monitored carefully. It behooves readers to inform their governments of our concerns if extraterritoriality of EU rules is being imposed on their country outside of the EU and the implications it may have for that country's businesses and consumer rights.

Countries outside the EU – Australia and Brazil are also adopting data regulation protections. As of January 2015, a new California law enables minors to have embarrassing materials removed from their Internet pages. Is this a precursor of more to come in the United States?

IAJGS continues to monitor these privacy and right to be forgotten issues within the European Union. The best place to monitor the updates is on IAJGS Records Access Alert.

United States: Death Master File (DMF) Commercial Version: Social Security Death Index (SSDI)

IAJGS and RPAC continue to monitor and respond to the DMF issues that resulted from when the U.S. Congress enacted the Bi-partisan Budget Act P.L. 113-67 in December 2013 and the proposed regulations to access the limited DMF in March 2014. Congress gave the responsibility to determine certification to the U.S. Department of Commerce. The Department of Commerce promulgated interim rules in 2014 and final rules in early 2015. The 2014 PRAMC Annual Report reported on the interim rules and the concerns identified by the genealogical community. Thus far, only one forensic genealogist DeeDee King-applied for and received certification. Since then, the Department of Commerce issued its final rules, which other than recognizing that genealogists could apply—albeit with very arduous financial and security requirements, did permit forensic genealogists to have access. The IAJGS commented on the proposed final regulation in January 2015 and noted:

1. Limited data elements in the Death Master File making it all but unusable for meaningful genealogical searches;
2. Prohibitive charges for access to the data and to becoming certified; and
3. Security provisions that are not small business-friendly.

The IAJGS statement said: “Information in the DMF, other than the Social Security Number (SSN), does not contribute to possible fraudulent use and needs no protection. The limited data elements in the current DMF of: name, social security account number, date of birth, and date of death of deceased individuals are inadequate for genealogists to be able to correctly research a deceased person. While not all forensic genealogical research requires a SSN, many times the SSN is required by the government agency or a court probates or lawsuits.” We concluded, “IAJGS joins with the Records Preservation and Access Committee, of which IAJGS is sponsoring member, and other genealogical associations which identified the need for technical

amendments to the Budget Act at a minimum, in order to have non-sensitive information removed from under its protection or a total sunset of Section 203.”

Expiration of Paperwork Reduction Act (PRA)

In October 2014, the U.S. Department of Commerce requested public comments for the “Expiration of Paperwork Reduction Act (PRA) Clearance of the DMF Certification Form.” IAJGS submitted formal comments, expressing our concerns regarding those who may be certified, the limited amount of data available under the newly crafted Death Master File (DMF) and the costs for accessing the database for solo and small business practitioners.” With the written statement we brought to the attention of the Secretary of Commerce our concerns with the interim program which has resulted in very few genealogists applying for certification.

Certification Program Publication 100

The Department of Commerce also requested comments on their proposed Publication 100. On March 25, 2015, IAJGS submitted its official comments expressing our deep concerns with the Publication as it did not recognize the unique work-related and financial issues for small businesses including solo-practitioners, which are how genealogists would be classified. Small businesses are not able to comply with the required security measures as many work from their homes. The proposed charges for obtaining the data are not financially feasible for small businesses. Combined with the financial burden of trying to meet the required security requirements, these charges would put the small firm or single practitioner out of business.

Congressional Hearings

While no new bills specific to DMF access were introduced since the 2014 IAJGS Conference and last PRAMC report, we continue to monitor those bills that were introduced earlier in 2014 for any potential hearings or movement. However, in 2015 the issue of identity theft and problems with the DMF became more of an “interest” to those in Congress, especially due to a 60-Minutes exposé that aired March 15, 2015. As a result of that program and the March 16 hearing before the Senate Homeland Security Committee Hearing on DMF, two bills were introduced on April 23: *The Stopping Improper Payments to Deceased People Act* SB 1023 and HR 2003. The concerns the bills address are that only a few federal agencies have access to the Death Master File resulting in some federal agencies making erroneous payments to people who are deceased. The bills also attempt to improve death data such as screening those who are listed as older than 112 years of age and mandate fixing errors by living beneficiaries who are listed as deceased. The bills have been assigned to committees but no hearings have yet been scheduled by the date of this report.

United States: 2011 Model Vital Records Act Revision

The Model State Vital Statistics Act was developed to serve as a model for states in preparing laws and regulations on the collection and publication of vital statistics. The Model Act currently restricts access to birth records for 100 years and death, marriage, and divorce records for 50 years. A working group consisting of state and local vital statistics executives drafted the 2011 Revision of the Model Vital Statistics Act, which would extend the restriction periods to 125 years after the date of a live birth, 75 years after the date of death, and 100 years after the date of marriage or divorce.

The Department of Health and Human Services (HHS) put the 2011 Revision “on hold” in April 2012. Impatient for DHHS approval, the National Association for Public Health Statistics and Information Systems (NAPHSIS) endorsed the Model Act in 2011. Frustrated by the delay in approval at the federal level, several state vital records officials introduced the 2011 Model Act in their state legislatures.

Maine—IAJGS has been working with the Maine Genealogical Society and has been privileged to be considered by the Maine Department of Health Services Office of Vital Records as a Stakeholder during the 5-years of working first on the legislation and the three years on the proposed regulations. IAJGS submitted concerns with the draft regulations prepared by the Maine department and submitted the comments in December 2014. At the end of January 2015, IAJGS and other stakeholders received the state’s final proposed regulations—not a notice of proposed rule-making (NPRM) which has yet to be announced—with the caveat that no stakeholder may contact the state staff further. Additionally, attached was the first ever state staff proposed Code of Ethics. We are not able to contact staff regarding that either. The state staff is following directions from the State Attorney General’s office—who also changed the “shall” to “may” provisions in direct contradiction of the state statute. According to the Governor, there is no requirement for the proposed rules and Code of Ethics to go through the Attorney General. However, the Office of Vital Records decided to go through the Attorney General’s Office. There is a known dispute between the Governor and Attorney General on many issues. Nothing further has been done since the late January submission to the stakeholders. The proposed rules will have to go through NPRM procedure. Included in the proposed rules is the 2011 Model Vital Records Act provision that indexes are to be treated with the same embargo periods as the actual vital record.

Oklahoma—Even though the records access bill was passed in 2011, it was not until 2013 that a major error in the law was noticed when a genealogist tried to obtain a death record. The poorly drafted law permits only the named individual to request death records (in other words, *only the deceased can request their own death record*). An attempt was made to modify the statute in 2014, but it resulted in the same wording as before—that only the named person may request their own birth or death records. The Model Vital Records Act provisions were added for embargo dates. The Oklahoma genealogical community felt at least records would eventually be accessible. Under the original statute, there was no time when anyone other than the named individual could access the records. The bill was signed into law in April 2014. In 2015, a bill was introduced—HB 1603— where legal counsel representing the deceased is added to the named person as the only persons eligible to access the death records before the 75 year embargo date for the public. No movement has occurred on the bill since it was introduced in February. The bill died in committee as it did not get out of committee by the required deadline.

Texas—While in 2014, the Texas Genealogical Society was successful in preventing the 2011 Model Vital Records Act from getting out of committee—in 2015, another bill, HB 3427, identical to the version introduced in 2014 was introduced. The proponents [the Gray Legislature (senior citizens)] did not appear at the April 2015 hearing. It is hopeful that the bill will again die in Committee. The Texas Genealogical Society did testify at the April hearing.

Selected Achievements, New Access to Records, Activities, Monitoring and Reporting Issues [To read all major activities go to the Records Access Alerts Archives]

100- Year World War Centennial

The 100–year centennial of World War I resulted in a number of countries placing records of genealogical interest of those who served in World War I on their websites [Australia, Canada, New Zealand, Scotland, United Kingdom, United States, and archives such as the International Red Cross and the Joint Distribution Committee]. All such announcements may be found on the IAJGS Records Access Alert.

Canada

There was legislation introduced, C-626, that would have reintroduced the mandatory “long-form” census to Canada. This bill failed.

The mandatory long-form census was implemented in 1971—since then there have been two census forms: a long form and a short form. When the long-form was mandatory, it had a 94 percent response rate. Statistics Canada’s mandatory long-form census was abolished by the Harper government. A “voluntary” census was instead imposed which had a low response rate—68 percent. In 2010, Statistics Canada abandoned the long-form for the 2011 census and turned over to the National Household Survey (NHS) a voluntary long form.

Another bill, C-625, adds the requirement to opt-in for information to be made public after 92 years to the household survey taken after 2011 and removes the imposition of prison for not filing out the census forms. That provision has been in the census since 2006. This bill is still active in Parliament, reported out of Committee on April 29.

United Kingdom

The British Parliament approved an amended bill which allows the General Records Office to provide information from birth, marriage and death registers in England and Wales in digital format or as an uncertified copy.

Poland

Legislation was introduced for the first time in Poland regarding access to birth, marriage and death records. The previous embargo dates of 100 years for each of the vital records was a ministerial decision. In 2014, the Polish Legislature (Sejm) considered enacting legislation that would embargo birth records for 100 years and marriage and death records for 80 years—effectively reducing the embargo period for death and marriage records by 20 years. IAJGS sent letters of support to each member of the Sejm committee for the reduced embargo periods and supported an attempt by Geshet Galicia to reduce the embargo dates even further. The end result was that both death and marriage records will be available after 80 years rather than 100 years. The bill became effective January 1, 2015. Since then, however, the date of implementation was moved to March 1, 2015 because the Ministry of Internal Affairs wanted to ensure enough time for the operations to go smoothly. The law requires a 6-month transition period. It also requires an additional six-months for implementation allowing the new (electronic) and old (hard copy) systems to work in parallel to ensure the electronic system is implemented correctly and fully operational.

United States

Connecticut

HB 6280 was introduced which would permit local departments of health to charge and collect a fee for a genealogy search. It could result with a charge anytime a clerk assists a genealogist, or brings books to the counter. The city of Bridgeport has been “illegally” charging a fee for genealogy searches for several years—\$40.00 and now has changed their website to charge \$20. The author of the bill, Ezequiel Santiago, is from Bridgeport. No action has been taken on the bill since the public hearing in February and the Connecticut Genealogical Societies are working on not having further action on the bill. The legislature adjourns on June 3 for the year.

Indiana

The Indiana Legislature included in their 2015 budget a 24 percent reduction in funding for the Indiana State Library (ISL) despite the fact that Indiana has a budget surplus. These budget cuts also jeopardize 10 percent of the library staff jobs. The proposed state budget cuts also will have a ripple effect as some of the databases suggested to be eliminated receive federal funding matches and may result in Indiana losing 1/3 of the federal funding for the state libraries—thereby increasing the devastating effect of the state’s proposed reduced funding. Due to grassroots lobbying in Indiana, the final version of the bi-annual budget passed with all the Library funding restored and \$25 million added to build a new state archives building but

specified that it may not be in the area near the state library or state historical society for unknown reasons. The governor signed bill on May 7.

Kansas

The Kansas Supreme Court is considering changes to Supreme Court Rule 106. The proposed changes would restrict marriage records to attorneys, court officers, the Kansas Department of Health and Environment and to the person to whom the marriage license was issued. The “rationale” behind this proposal is to clarify treatment of personally identifiable information in marriage licensing documents maintained by the district courts---to prevent possible identity theft. Unfortunately, the court, by being the entity that sends the marriage records to the Office of Vital Records, may stipulate that marriage records may not be released. Currently there are genealogical records that the Department of Health may provide to the permitted recipients, but if Rule 106 is adopted, the Court may prevent the continuation of genealogical copies. IAJGS sent a written statement to the Kansas Supreme Court expressing our concerns and the desire for the records to continue to be made available. While the deadline for submission of statements was April 12, the Court has not been forthcoming in releasing their decision or the comments that were submitted. A Kansas attorney who is also concerned about the proposed rule has filed a request for information under their Freedom of Information Act. This is an example of why genealogists need to be watching not only their state legislatures, and regulators but also their Courts for issues that restrict access to records of genealogical value.

New York

In December 2014, the New York Courts amended their uniform rules adding a new subsection (e) requiring those who file papers to redact personal information which includes a person’s Social Security number, their date of birth other than year, a minor’s full name, and all but the last 4 digits of financial and insurance numbers. This became effective January 1, 2015.

New York City, NY

In November 2014 the New York City Board of Health held a hearing (the genealogical community did not know about the hearing and therefore missed the opportunity to provide testimony) and then adopted changes to New York City Health Code articles 205 and 207. The amendment expands access to confidential medical reports for deaths that occurred prior to January 1, 2010 and clarifies who may obtain a death certificate...genealogists are not included. It became effective January 12, 2015.

Oklahoma

If enacted, HB 1125 passed the House and is in the Oklahoma Senate. If enacted it would eliminate clerks from issuing marriage licenses and puts issuing marriage licenses solely in the hands of judges or ordained recognized religious persons— preacher, minister, priest, rabbi, or ecclesiastical dignitary who is a resident of the state. As originally introduced, the bill did not permit judges to issue marriage certificates—therefore, no civil marriages would have been permitted. The bill will permit common law marriages. Court clerks will no longer issue marriage licenses, but they will record them. The religious officiant would issue the marriage license. There are many details that are not covered in the bill making it unclear as to how this bill—if it is signed into law—would record marriage licenses under the law or how one would access the marriage records in the future. The original bill omitted by name certain religions that may be covered under the amended versions “catchall phrase” of “ the assemblies which have no ordained minister”. The bill died in committee as it did not get out of committee by the required deadline.

Additional Reporting Items

Other reporting items are available for review from the IAJGS Records Access Alert archives.

All IAJGS comments and recommendations concerning legislation and rule-making support the position that there should be access and if some restrictions are necessary, then these restrictions must not be infinite. Birth, marriage, divorce, and death records should be open to the public and available for research. We are trying to open access, within a specified time period, to records that currently may have extreme embargo dates or permanent closure.

A handwritten signature in cursive script, appearing to read "Jan".

Jan Meisels Allen
Chairperson, IAJGS Public Records Access Monitoring Committee