



To: IAJGS Board of Directors and JGS Presidents

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

Date: July 14, 2010

Subject: Status of Public Records Monitoring Committee and Areas of Concern with Records Access

Committee Members

Jan Meisels Allen, Chairperson, Agoura Hills, California

Teven Laxer, Sacramento, California

Paul Silverstone, New York, New York

Joel Spector, Cherry Hill, New Jersey

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Catherine Youngren, Coquitlam, British Columbia, Canada

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Access to vital records worldwide, is a growing concern for genealogists and the IAJGS had a busy year in addressing and monitoring these areas of limiting access. In some instances, the committee monitors rather than takes action, to be aware if action will become necessary. Informational postings on the IAJGS Leadership Forum and JewishGen Discussion Group were made when genealogical collections of interest were first released by NARA, subscription sites and others as well as items of record interest not reported below. Since Last year's annual report, PRAMC has reported 73 times on the two forums of issues of genealogical interest regarding access to records.

Review of PRAMC by IAJGS Board of Directors

During the spring 2010 IAJGS board meeting, the board reviewed the PRAMC charter, operating mechanisms and activities as part of good business practice of periodic reviews to determine if there needed to be any changes in structure or operation. The board discussed the activities, operating mechanism and keeping cognizant of our 501-C3 requirements that lobbying is not a major effort of the IAJGS, endorsed that the committee continue to keep its members apprised of access to records issues by notifying them on the IAJGS Leadership Forum, and the JewishGen Discussion Group. The board agreed to codify three steps of operation into the PRAMC charter:

1. If time permitted, have the entire board address the issue;
2. If there is no time to address a bill before a legislative deadline then bring the issue before the executive committee (of which currently three IAJGS officers serve on the PRAMC) [Note: the Board recognized that legislation sometimes moves extremely quickly and there may not be the luxury of time to share and discuss before critical action needs to be taken];
3. If the above two options are not possible, take action and soon after let the board know the action.

Current and past practice is if an issue was "sensitive", the president of IAJGS is **always** consulted in advance before any action is/was taken.

Additionally, the board voted to add to the PRAMC Charter taking appropriate action to represent the interests of the IAJGS members in maintaining and expanding access to records.

The PRAMC will continue to review matters affecting access to vital records and census as a result of government action, worldwide, and cautiously select those few issues that IAJGS may take a proactive stance.

IAJGS PRAMC will continue to write Legislative Alerts posted to the IAJGS website regarding specific pieces of legislation, how to access them, and any suggested actions. When a legislative alert is updated, notification will be made via e-mails on the IAJGS Legislative Leadership Forum and the JewishGen Discussion Group.

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

The IAJGS is one of the managing members of the RPAC. The other managing members are the Federation of Genealogical Societies (FGS) and the National Genealogical Society (NGS). Other genealogical groups are represented on the committee in a "non-managing capacity": Ancestry.com, American Society of Genealogists, APG, Bureau of Certification of Genealogists (BCG) and FamilySearch, The committee is chaired by David Rencher, Chief Genealogical Officer, FamilySearch.

About the RPAC: In North America, a joint committee of the FGS, IAJGS and the NGS monitors and determines action to be taken by the joint organizations on restrictions to access of public records. RPAC meets three times year, face-to-face, holds monthly conference calls and shares information via e-mail. Jan Allen represents the IAJGS on the RPAC and is the managing IAJGS member. By participating with this committee IAJGS is able to find out when legislative or regulatory actions are occurring better than if we were operating solo. This also shows our presence being accepted as a major player by others in the genealogical community.

IAJGS being a part of the RPAC enables IAJGS to "tap" into the resources of other organizations, thereby maximizing our effectiveness while preserving our limited resources.

In 2010 at both the FGS and NGS, annual conferences it was decided that RPAC hold a session to aid their state liaisons in what they should be alert for in their states regarding legislative issues effecting access to records. The session included a "tool kit" of how to learn how a bill becomes a law in their state, who to contact, how to write a letter to a legislator and coalition build. This session was conceived, developed and given by Jan Meisels Allen at the NGS conference and she will do the same session via teleconferencing for the FGS conference to be held in August in Knoxville, KY. The rest of the session included an overview of what the RPAC did during the year and a case study regarding the Michigan State Library.

Why We Are Seeing an Explosion of Legislation Addressing Records 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.**

Hacking into databases—of banks, data collectors, government agencies etc., such as have been reported in the press, is the cause. As genealogists, we have to educate our legislators as to the real cause of identity theft and to insist they keep access to records open.

Information contained in censuses is also of major importance to genealogists. We are seeing provisions, requiring "affirmative" responses on census forms to make the information publicly released far into the future. The public needs to be educated to understand the need for affirmative responses so that future generations may obtain the information.

The county clerks are another group that opposes access to vital records in many cases in the United States. While their public statements reflect they are proposing to reduce or eliminate access to vital records to prevent identity theft or terrorism (US: Intelligence

Reform and Terrorism Prevention Act enacted in 2004- see below), some believe it has more to do with their workload level due to the increasing requests for records.

The new RFID chip in US passports, PASS cards and some states' driver's licenses have been found easy to interpret the data from any inexpensive RFID reader. The RFID chip includes Social Security Number, name, birth date, hair and dye color, and more.

Your Role in Preserving Access to Vital Records and Census Information

Achieving access to vital records and census information takes everyone's effort. Please get involved by contacting your state or national representatives when there is an access issue that affects you. "All politics is local" (per former House Speaker Tip O'Neill), and while IAJGS may submit written 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. We appreciate all the support and contacts individual Jewish genealogists provided this year on various bills that limit access!

Achievements, Activities, Monitoring and Reporting Issues

Canada

Library and Archives of Canada (LAC)

- Canada conducts a census every 5 years. Statistics Canada released an order on June 26, 2010 that they will use the same short-form for the 2011 census as they did in 2006 <http://www12.statcan.gc.ca/census-recensement/2011/ref/gazette-eng.cfm>

The census previously collected in the long-form with genealogically-relevant information will be part of a new **voluntary** National Household Survey (NHS) and will **exclude** the consent question for personal release of information after 92 years, therefore, **never** releasing the long-form. The rationale given is that the personal release of information pertained to the census and the NHS is not the census. One in five households receives the long-form questionnaire. The survey will be conducted within 4 weeks of the May 2011 census. For information on the NHS, questions see:

<http://www.statcan.gc.ca/survey-enquete/household-menages/5178-eng.htm>.

The short form will still contain the consent for release question, but much of the genealogically relevant information is not asked on the short form. The only questions on the short form are name, address, telephone number, sex, birth date and age, marital status, if you are in a same sex relationship, and permission to release information after 92 years. Due to the public outcry, at this time the government is "looking" how to release the data in 92 years- that may be only in aggregate form—of limited value for genealogists.

- The Library and Archives of Canada updated many of their databases this year. In addition, they released indexes and digital images for the 1861, 1871 and 1916 Censuses. All Census returns from 1851 to 1916 have been digitized and are available on multiple websites. By the summer of 2011, LAC reports that all digital images and indexes to those Census returns will be available on the LAC website. <http://www.collectionscanada.gc.ca/>
- The Library and Archives of Canada has placed on their website, newly digitized images and new html pages for Form 30A (ocean arrivals, 1919-1924). They are not searchable by keyword but the actual images. <http://tinyurl.com/2wdjhlx>.

- The Library of Canada (LAC) posted the Documentary Heritage Management Framework and Acquisition Orientation Instrument. This is based on the three pillars of modernization: acquisition, preservation, and resource discovery.

Great Britain

Previously unreleased 1939 UK National Registration was made available in February 2010--a true genealogical aide since Great Britain has a 100-year privacy law preventing census information from being released before then. This is a genealogical valuable resource for those who had ancestors living in England and Wales on September 29, 1939--(the date of the enumeration). Data will only be released for those individuals who are deceased and recorded as deceased. The charge for searching for the information--regardless if it is found or not- is £42 see <http://tinyurl.com/ydhsy67> and for Scotland £13 <http://tinyurl.com/yc3hpjs>.

Brighton and Cove History Centre

Originally slated for closure, the public archive was saved due to public notification in the media about closing this archive as a cost-saving mechanism. IAJGS posted the announcement on both the IAJGS Leadership Forum and JewishGen Discussion Group.

Iraq

Reported that the Jewish Archive found in Iraq and brought to the United States in 2003 is now reclaimed by the Iraqi's. Included in the artifacts are: photos, parchments and cases to hold Torah scrolls; a Jewish religious book published in 1568; 50 copies of a children's primer in Hebrew and Arabic; books in Arabic and English, books printed in Baghdad, Warsaw and Venice - the lost heritage of what was once one of the largest Jewish communities in the Middle East, dating to the 6th century B.C.

Ireland

The National Archives of Ireland established a research partnership with the Library and Archives Canada to facilitate digitization, indexing and contextualization of their 1901 and 1911 census records. For those interested in Ireland you might find the LAC on-line exhibit relating to documents on the Irish in Canada of interest:

<http://www.collectionscanada.ca/ireland/>.

Currently, all 32 counties for the 1911 census are available on the National Archives of Ireland site: <http://www.census.nationalarchives.ie>. There is no charge for accessing the information including the census records from the site.

The returns for 1901 and 1911 are arranged by town land (the smallest division of land) or, in urban areas, by street. The 1901 census lists, for every member of each household; name, age, sex, relationship to head of the household, religion, occupation, marital status and county or country of birth. The census also records an individual's ability to read or write and ability to speak the Irish language. All of this information is given on Form A of the census, which was filled in and signed by the head of each household.

The same information was recorded in the 1911 census, with one significant addition: married women were required to state the number of years they had been married, the number of their children born alive and the number still living. 1911 has been prepared first because the film is better quality than 1901, and they will initially focus on urban areas because of the present difficulty of finding one's ancestors in cities without a precise address. The census records for all counties for 1911 and for 1901 will be made available online throughout 2009. www.census.nationalarchives.ie. While we may not think many Jewish ancestors came from Ireland, remember some may have stopped in Ireland on their route to Canada or the United States.

New Zealand

A newspaper report stated in the *National Business Review- New Zealand* the National Archives and National Library will be moved administratively to be part of the Department of Internal Affairs. The State Sector Management Bill has not yet been introduced in the NZ Parliament. There is some "difference of opinion" if the merger back into the Department of Internal Affairs will keep the Chief Archivist from being independent. Once the bill is introduced, you may find it on the following website: <http://www.legislation.govt.nz/bill/searchquick.aspx>

United States

National Archives and Records Administration

- The United States welcomed its new Archivist, David S. Ferriero who was previously the Andrew W. Mellon Director and Chief Executive of The Research Libraries at The New York Public Library. IAJGS sent a letter of welcome to the new Archivist.
- The National Archives proposal to change its NARA I design and reduce the research area in lieu of the museum area resulted in a Congressional hearing and public meeting conducted at NARA. Jan Allen was invited to testify in person at the Congressional hearing but deferred to the president of the NGS another managing partner of RPAC. IAJGS PRAMC chairperson did meet with Congressional staff two weeks before the hearing and IAJGS also submitted a written statement to the Subcommittee on Oversight and Government Reform Subcommittee on Information Policy, Census and National Archives. The IAJGS statement may be accessed at www.iajgs.org and click on legislative alert and scroll down to NARA Proposes Redesign of Research Center.
- As a result of IAJGS Chairperson's inquiry to Archivist Ferriero about why "Military Morning Reports require Freedom of Information Act requests", we were advised: "Unit records (morning reports [MRs] & rosters) are available for public viewing if they are 62 years old or older. They mature on a monthly basis because the MR's for each unit is on its own reel of microfilm, which was compiled monthly. For example, MR's for April 15, 1948, would not be archival public records until May 1, 2010, when the entire month of April is 62 years old."

The US Army, Air Corps and Air Force produced a Morning Report (MR) every morning of the year for every basic unit of the service, by the unit clerk, detailing personnel changes for the day. These reports can be of genealogical value for those researching their ancestors' military records. A person must have the specific time frame and unit of service when requesting the morning reports. They were NOT destroyed during the fire in 1973 at the National Personnel Records Center [NPRC] (St. Louis, MO)

- 2010 is a US census year and this year there is a much-abbreviated census questionnaire. There were also rumors that the census would be destroyed following the Bureau of the Census receipt of the census questionnaires. IAJGS PRAMC drafted a letter to Archivist Ferriero who promptly responded: "The rumors that the images of the forms will not be captured and preserved are inaccurate. The Census Bureau has yet to officially submit its schedule for the disposition of 2010 census records to the NARA for approval, however, NARA staff has reviewed a draft of the schedule and is working with the Census Bureau. In 72 years, [the statutory amount of time before a US census may be released to the public] genealogists will have two means of searching for their ancestors: (1) the database, which contains all data (including names and addresses) from the respondent forms; (2) use the database to locate and retrieve images of the forms themselves."

Letters to the Census Bureau Director asking a number of questions with concerns received an initial reply "read my blog" and no response to IAJGS's follow-up questions. One such

question was the form provides 10 questions for person # 1 and 7 questions for persons #2-6 questions and for person # 7 + fewer questions, and may have telephone follow-up – how would those answers be coordinated into the written questionnaire replies so that when NARA receives the information there would be a complete record of all information for those persons.

- In the fall of 2009, NARA proposed that all researchers using original records, NARA microfilm, and public use computers at the National Archives Building in Washington, DC, to obtain a researcher identification card. Researchers at regional archives are also required to obtain a researcher identification card when there is no separate research room for the use of microfilm and public access computers. This is to enhance security at NARA offices.
- The National Declassification Center was created by President Obama's executive order December 2009. Its mission is to advance the declassification and public release of historically valuable permanent records while maintaining security.
- The NARA 2011-2012 FY budget may be reduced by 14.2 % below the FY 2011 request. Genealogists are the largest user of NARA records and if implanted as currently proposed by OMB it could affect access to some NARA offices depending on how the cuts are implemented.

HR 2171/S3227 Preserving American Historical Records Act

This is the same bill as 2008's HR 6056-reintroduced for the current session. It would provide the US Archivist with \$50 million for each of 5 fiscal years to be doled out to the states that provide 50% matching funds to preserve and protect historical documents, and provide education on preserving historical documents, digitizing to preserve the records. With the tight financial situation many states currently find themselves, the bill permits "in kind" services to be acknowledged for the matching funds. IAJGS wrote a letter of endorsement to Senator Orin Hatch, the Senate sponsor. Letters of endorsement were also sent from NGS, FGS and RPAC. No hearings have yet been scheduled.

California AB 130

This bill is a 2009 bill that was reported on last year. IAJGS submitted a letter requesting a veto in September 2009. It was signed into law in October 2009, after the last annual report and became effective January 1, 2010. This law addressed marriage records, redaction of mothers' maiden names and marriage records be subject to the same requirements as birth and death records under the California Vital Records Image Redaction and Statewide Access Program (VRIRSA).

Maine LD 1781

The PRAMC spent considerable energy working with the Maine genealogical representatives trying to amend and defeat this bill which changed Maine from what was considered by genealogists as an "open access" state to one which now requires a researcher identification card (with an annual charge) for genealogists to have access to birth, divorce, marriage and death records. The state interpretation is that records previously were not "open" and this bill opens them. Genealogists prior to this law being enacted had no impediments to accessing records.

LD 1781 required a Task Force to be created to address the issues in the law and the two Maine genealogists that IAJGS was working with have been appointed as "stakeholders". The law becomes effective July 12, 2010—the researcher card is required by statute but the policy, and procedures have not yet been finalized—such as who needs to obtain them: definition of immediate family members, a one time researcher or those who will need continual access, or all researchers. Directions from the state archivist to city and town clerks

was submitted to the clerks regarding those requesting records less than 100 years and what type of identification is required for identity verification and to establish lineage when records are requested either in person or by mail.

IAJGS continues to stay in contact with the local genealogical community representatives to monitor the progress of accessing records under the new law.

Massachusetts

S 820

The IAJGS also spent efforts working in coordination with the Massachusetts Genealogical Council to help defeat this bill, which would have changed the tradition since 1641 of open records in Massachusetts. The bill would have prevented access to birth and marriage records after 1841.

H 2064

This bill would make it impossible for genealogists to obtain the original records, which we require. It permits the state registrar to enter into agreements with state and federal agencies to verify the existence of a Massachusetts birth, marriage or death record as an alternative to issuance of a certified copy of the record-for streamlining administration and to minimize the potential for identity theft and fraud associated vital records and other state issued documents. The last report on the Massachusetts Legislative website was the bill was reported favorably out of its initial committee-Joint Committee on Public Health and referred to House Committee on Ways and Means in February with no action since then.

New Jersey AB 216

We reported this bill in the past several years (as A 326) and it is the third-session attempt by the sponsors to get it enacted. New Jersey's legislative session is two years (2010-2011). Nothing has happened since the bill was introduced in January 2010. We will continue to monitor it.

The bill changes the 80-year birth-50 year marriage-40 year death public availability to 100 years after a birth, 50 years after a marriage, civil union or domestic partnership and 40 years after death or fetal death and transfers the records to the New Jersey State Archives and Records Management. The genealogical community did **NOT** recommend the year change. The newly defined "current vital records" are retained as public records, albeit as a private/confidential public record. The bill now eliminates the existing informational or non-certified copies of vital records. In addition, a provision requested by IAJGS in its previous iteration, now exempts genealogists from the bill's prohibition of sharing information, which would otherwise have made it a crime for our sharing of obtained information with family, friends or clients.

New York

NARA Relocation

NARA has advised that they will be relocating their NY regional office from Varick Street to the Custom House at Bowling Green in lower Manhattan. The move is to take place in 2011 –no exact date has been announced. The concern is that many of the existing files will now be kept off-site in Philadelphia. A public meeting was held in early May and representatives of JGSNY attended the meeting.

National Guard Records On-Line

The New York State Military Museum website has available over 53,000 pages of NY National Guard records. The files include 197 issues of the NY National Guardsman Magazine published between 1924 and 1940 and annual reports from 1858 to 1955. The

searchable pdf-format files can be opened online and are also downloadable.
<http://www.dmna.state.ny.us/historic/index.htm> and click on "research:

Pennsylvania

Open Records Act

A challenge by a Jewish genealogist to the Philadelphia Register of Wills/Clerk of the Orphans Court (to obtain marriage records) where they charge more than the Open Records Act permits under the new Office of Open Records for Pennsylvania (\$0.25) per page. The Office of Open Records (OOR) agreed with the genealogist but lost in the court. The only issue to be heard by the Commonwealth Court would be whether or not the Register of Wills/Clerk of the Orphans Court was a judicial agency. The OOR said they were not, which gave the OOR the right to rule on the rest of the matter. The Clerk/City said they were. Commonwealth Court in an unpublished decision recently, said that they were a Judicial Agency, and quashed the OOR decision. (The OOR has no authority on this type of appeal from a Judicial Agency.) At this time it is unknown if the genealogist will pursue this further in the courts. IAJGS is monitoring the situation and taking no action.

HB563

This bill (introduced in 2009) requires the Department of Health to prepare an electronic database for all vital records. It would also require the transfer of all birth and death records after 100 years to the Pennsylvania Historical and Museum Commission. The bill is sitting in its original committee with no hearing scheduled. IAJGS continues to monitor the bill.

HB 931

This bill would establish an Internet-based electronic death registration system for creation, storage and transfer of the information. It would also establish, for birth and death records, to become public records and the information would become available at no fee, on an Internet-system maintained by the Department of Health. The Department of Health would be required to establish and maintain an Internet based-system for birth and death certificates as a searchable database open to the public. The database would be subject to any limitation on access and release required by other existing laws. In addition, the Department would establish and maintain a searchable index database of all death records between 2-50 years of age. A similar bill was introduced last year with no hearings held. In 2009, PRAMC sent a letter of support to Governor Rendell and key legislators to hold hearings on the bill. The bill has yet to have a hearing.

Puerto Rico Invalidates all Existing Birth Certificates

Effective July 1 all existing birth certificates issued by Puerto Rico were declared invalid by their government. Puerto Rico took this unusual step due to high identity theft caused by a "black market" for Puerto Rican birth certificates that confers US citizenship.

Pending Areas of Concern

There are areas of concern that did not require us to take any action—as of this report—but are being watched in case action becomes necessary.

United States HR-10/SB 2845 Public Law 108-458 (2004)

The Intelligence Reform and Terrorism Prevention Act of 2004 Act passed by Congress and signed by President Bush, includes a provision addressing the states and who may have access to birth certificates. The goal is to prevent terrorists from obtaining birth certificates and using them fraudulently to acquire other identification documents, such as driver's licenses and passports.

While the law required the Secretary of Health and Human Services to promulgate regulations addressing the birth certificate provision within one year (December 2005) to date no proposed regulations have been published. Rumor has it that the overall cost to comply with what the government is planning may be excessive and unaffordable-which may be why the proposed rules are delayed. We have no idea when/if any regulations will be forthcoming.

We are concerned that some states may try to enact legislation restricting access to birth records before the proposed regulations are promulgated. In addition, some "over zealous" states may decide, "If it's good to restrict access to birth records, it is also good to restrict access to marriage and death records". In some jurisdictions, the county clerks are proactive in sponsoring legislation with just this sort of over zealous reaction.

In addition to the above, the PRAMC reviewed a number of proposed bills which, after review and discussion we felt did not need our attention at the time, as the language was acceptable for genealogy, or the politics were such we knew the bills were not going to be moving through the legislature.

Thank you to JewishGen

IAJGS PRAMC thanks JewishGen for permitting us to make informational announcements only, on its discussion group, of legislative or regulatory items of genealogical interest with noting that further information is available on the IAJGS website current Legislative Alert. We would not be as successful as we have been, without the cooperation of JewishGen in getting the individual genealogist informed and ready to assist by contacting their local representatives to amend egregious legislation for genealogical research.

If you aware of other areas of access denial, please let us know. Your eyes and ears is how we learn of many situations that require monitoring or action.

Respectfully submitted,



Jan Meisels Allen
IAJGS Director-at-large, and
Chairperson, IAJGS Public Records Access Monitoring Committee