



To: IAJGS Board of Directors and JGS Presidents

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

Date: August 10, 2011

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
Jeff Miller, Brookville, Maryland
Paul Silverstone, New York, New York
Joel Spector, Cherry Hill, New Jersey
Stephanie Weiner, San Diego, California
Catherine Youngren, Coquitlam, British Columbia, Canada
Michael Goldstein, *ex officio* Jerusalem, Israel

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. Without access to vital records and census documents, genealogists are unable to research their family information. Therefore, records access is pivotal to maintaining our passion for genealogy- whether as an business or hobby.

In some instances, PRAMC monitors rather than takes action, to be aware if action will become necessary. Informational postings on the IAJGS Leadership Forum, JewishGen Discussion Group and the JewishGen Blog 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 162 times on the IAJGS Leadership Forum and nearly that many times on the other two forums on issues of genealogical interest regarding access to records.

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

IAJGS PRAMC continues 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 postings on the IAJGS Legislative Leadership Forum, JewishGen Discussion Group and JewishGen Blog.

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 2011, 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 how to build coalitions. The tool kit 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 September in Springfield, IL. FamilySearch videotaped Jan's presentation at the NGS, which has a link on the IAJGS website under Public Records Access on the homepage, as well as a link on the RPAC home page.

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.

Unfortunately severe problems of budgeting in several states and the Federal government have led to increases in the cost of researching and obtaining government records, and this will probably continue to occur. An example of this is California's AB 1053—see below.

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

Australia

The Australian Census

The Australian was conducted on August 9th. Similar to Canada, the questionnaire contained an "opt-in" question, regarding the desire of the respondent to retain the personal information for the public in 99 years. "No" answers and leaving the question blank equates to a "no" answer means the individual census questionnaire will be destroyed after the statistical information is collected. A survey by Ancestry.com.au found 1/3 of Australians did not want their information

preserved due to privacy. While a lower number than Canadians replying “no” in their census 5 years ago—it is a significant loss of individual information..

“Mapping Our Anzacs”

Australia Archives makes WWI Records available at no cost: 375,971 records of service in the Australian Army during World War I according to the person's place of birth or enlistment.

Canada

Library and Archives of Canada (LAC)

- Canada conducts a census every 5 years. Canada conducted its 5-year census on May 10, 2011. Similar to the Canadian census in 2006 there was “opt-in” question that every respondent had to answer “yes” in order that individual information would be available to the public in 92 years. In 2006, only 56% of Canadians gave an affirmative response to the informed consent question, meaning that 44% of the census information will not be released in 2098. If the question is left blank, it will be counted as a "no" for release of information. Hopefully a greater percentage will respond affirmatively in 2011. Data on the 2011 census is expected to be released in February 2012. For more information go to: http://census2011.gc.ca/ccr_r000-eng.htm.

The census previously collected in the long-format with genealogically relevant information will be part of a new **voluntary** National Household Survey (NHS). It was conducted 4 weeks after the census to 4.5 million households. Similar to the census, there was a question requesting permission to release the individual information after 92 years. If there is no response to the question, it will be considered a "no" for releasing the individual information after 92 years. For more information on the National Household Survey go to http://nhs.statcan.gc.ca/nhs-enm_r000-eng.htm

- At the request of the Government of Lithuania, Library and Archives Canada (LAC) is today transferring 1400 original consular files of Lithuanian Canadians to the Lithuanian State Archives. This move is in accordance with LAC's initiative to collaborate with peer institutions in determining the most appropriate place for a collection to reside.

France

The Commission Nationale de l'informatique et des Libertés met in December 2010 regarding the policy and directives on the publication, commercial or private, of images and information from the national and departmental archives, particularly for genealogy. There is concern over privacy, genealogy and the internet. By law, the contents of French archives belong to the French people, who may access them at no cost. A private company wants to digitize archival documents and charge for documents on their website. Controversy over this continues.

Hungary

In 2010, the Hungarian Parliament passed a law requiring 90 years passage since the entry of the data into the Register for release of the records. While it was originally scheduled to become effective January 1, 2011, Parliament has postponed the effective date until January 1, 2012. However, some counties started to implement the new requirements last fall.

A law passed in 2010, effective January 1, 2011, granted citizenship to ethnic Hungarians living in neighboring nations nearly 90 decades after Hungary lost 2/3'ds of its territory under the Treaty of Trianon following WW I. It is estimated there are 3 million ethnic Hungarians living in Slovakia, Serbia, Ukraine and Romania. Persons wanting to take advantage of this new law would have to prove they are of Hungarian origin and speak the language. Slovakia's Parliament retaliated against legislation banning double citizenship, with the Slovak Cabinet passing an amendment to its Citizenship Act to revoking it from any 'Slovak' who applies for foreign citizenship anywhere in the world.

Ireland

The National Archives of Ireland makes 1901 and 1911 censuses available on line <http://www.nationalarchives.ie/index.html>. Almost all the records acquired by the Public Record Office of Ireland before 1922 were destroyed by fire and explosion at the beginning of the Civil War in June 1922. National Archives of Ireland dates mainly from the 19th and 20th centuries, although there are a few surviving court and exchequer rolls dating to the early 14th century.

The National Archives of Ireland has a genealogy section where members of the public can consult a professional genealogist about sources relating to their family history. <http://www.nationalarchives.ie/genealogy/beginning.html>

There is a new portal, for the Irish Archives Resource (IAR): <http://www.iar.ie>. The IAR is funded by the Heritage Council of Ireland and is supported by the Archives and Records Association (Ireland).

New Zealand

For the first time since WWII, New Zealand canceled its 2011 census due to the earthquake.

New Zealand Newspapers and periodicals from 1839-1945 have been digitized and are on-line, free, at paperspast:

<http://paperspast.natlib.govt.nz/cgi-bin/paperspast>

This collection is part of the National Library of New Zealand.

Scotland

Effective April 1, 2011, The National Records of Scotland was created resulting from the merger of the General Register Office of Scotland and the National Archives of Scotland. This merger was part of the Scottish government's program to streamline public entities. The two bodies already work closely to provide a service to family historians, both at the ScotlandsPeople Centre in Edinburgh and online at www.scotlandspeople.gov.uk.

The Scotland 1911 census was released on April 5, 2011. It is accessible at <http://www.scotlandspeople.gov.uk/>. In addition, it covers 4.7 million people, including the name, address, age, occupation, birthplace and marital status of everyone counted in the 1911 census, as well as details about their children.

United Kingdom

Great Britain conducts a census every 5 years. They have held a census starting in 1801 except in 1941. The Office for National Statistics (ONS) designs, manages and runs the census in England and Wales. The General Register Office Scotland (GROS) and the Northern Ireland Statistics and Research Agency (NISRA) are responsible for the census in Scotland and Northern Ireland. All three have agreed to conduct their 2011 censuses on the same day in order to produce consistent and coherent information that covers the whole of the UK. The United Kingdom held its census on March 27, 2011. The census for England and Wales will cover 25 million households. <http://www.ons.gov.uk/census/2011-census/index.html>

For information on Scotland's census see: <http://www.scotlandscensus.gov.uk/en/>

For information on Northern Ireland's census see: <http://www.nisra.gov.uk/census.html>

Household could reply either on-line or by paper. A fine of £1,000 could be imposed for noncompliance.

United States

Health Insurance Portability and Accountability Act (HIPAA) Regulation on Proposed Release of Protected Medical Information 50 Years After Death of Individual

In September 2010, IAJGS submitted a statement of support of the proposed modification of the HIPAA privacy rules to include the release of protected health records 50 years after a patient's death for state and national archives. The final regulation is not expected until the fall of 2011.

Library of Congress

The Library of Congress released its National Jukebox, An online destination for 10,000 rare, historical recordings. The program's assets were provided by Sony Music Corp. There are musical and spoken word recordings from 1901-1925

National Archives and Records Administration

- The FY 2012 budget sent President Obama to Congress included an 8.2 percent decrease from the FY 2011 request. As Congress so far is not passing budgets but extensions the total reduction in the Archives budget is not known. Archivist Ferriero decided not to make across board cuts but instead to reduce the library area in Washington DC, and both Archives I and II in the DC metropolitan area remain open but with reduced staff. Due to budget cuts the Pittsfield –Boston MA Archives annex was closed. October 1st. The Waltham Massachusetts Regional Archive remains open.
- The National Archives reported about thefts of historical documents from its main location. Its Archival Recovery Team reported finding taken artifacts in homes of former employees, researchers, and US historical documents items up for sale at auction.
- The Archivist released a report with disturbing findings that the National Archives ranking of NARA by employees compared to other government agencies-- the National Archives was tied for the lowest ranking large agency in the Federal government. The rankings are based on the results of the 2010 Employee Viewpoint (FedView) Survey <http://www.archives.gov/press/press-releases/2010/nr10-138.html>
- To help address some of the concerns with the National Archives, Archivist Ferriero created a Task Force for agency transformation. The report was released in late 2010 with six guiding principals: embracing the primacy of electronic information; fostering leadership; transforming NARA as a great place to work, become more customer focuses and open their organizational boundaries. As part of the Archives reorganization, a number of leadership positions has been filled.
- The National Archives announced they are making available the LexisNexis ® U.S. Serial Set Digital Collection of US Government publications to the public free of charge in all NARA research rooms nationwide
- The National Archives released Marine Corps Command Chronologies for the Vietnam War. This series of records was created between April 1962 and June 1987, it contains documents that describe events that occurred as early as April 1952. <http://www.archives.gov/research/military/marine-corps/command-chronology-additional.html>
- Leading national archives and museums signed a global agreement to provide an international online catalogue of documentation on looted cultural artifacts. The project will enable families to research their losses, the provenance, researchers to locate important documentation, and historians to study newly accessible materials on the history of objects taken by the Nazis between 1933 and 1945. The catalogue was created through collaboration between national archives and expert organizations in

Belgium, France, Germany, Ukraine, the UK and USA. purpose of the project is to extend public access to all records related to looted cultural artifacts by cataloguing and digitizing the archival materials and making them available through a single international web portal hosted by the US National Archives and Records Administration.

- Records from the Railroad Retirement Board are available at the National Archives (USA) in the southeast region- Atlanta/ Morrow branch. The board was founded in 1936 and its records include applications that provide a retiree's career history, date and place of birth, parents, spouse and children. These records represent railroad retirees from all over the U.S. <http://www.ajc.com/lifestyle/railroad-retirement-board-records-934057.html>
- National Archives announced that any military personnel service record that is 62 or more years older than the date a veteran was discharged, died in service or retired is an archival public record and does not require any kind of authorization from the next of kin nor proof of death. The National Archives held its annual genealogy fair in April. In addition, they held a series of genealogy-related programs at their two Washington area facilities.

Researchers can access these records by:

1. Visiting the National Personnel Records Center (NPRC), Archival Research Center, in St. Louis, MO
 2. Requesting copies of the records (for a copy fee) via mail, fax, or online. NPRC encourages interested individuals to submit requests via www.vetrece.archives.gov or on a Standard Form 180, available at www.archives.gov/research/order/standard-form-180.pdf.
- There is a charge for the records.

National Historical Publications and Records Commission (NHPRC)

The National Historical Publications and Records Commission was created in 1935 at the same time as the National Archives. <http://www.archives.gov/nhprc/>. HR 2531 would not only rescind its funding, but repeal the Commission. NHPRC funds projects to state and local organizations that deals with historical source material including:

- a. Records of state, county, municipal, tribal, or other non-Federal units of government;
- b. Manuscripts, personal and family papers, or organizational and business archives;
- c. Collections of photographs, motion pictures, sound recordings, electronic records, and/or such visual materials as unpublished architectural, cartographic, and engineering drawings.

At this time it is unknown whether the appropriations bill or other legislation will in fact repeal and rescind funding for the NHPRC.

Social Security Death Index Threat

During a hearing before the Senate Finance Fiscal Responsibility and Economic Growth Subcommittee on "The Spread of Tax Fraud by Identity Theft: A Threat to Taxpayers, A Drain on the Public Treasury", one of the witnesses testified how identity thieves used the Social Security Death Index to steal the SSN of his deceased infant daughter and used it to fraudulently claim a tax refund from the IRS and its ramifications.

While we have not seen any further action by the Senate Subcommittee on this, there have been several newspaper articles that address people who are still living listed as dead in SSDI and the ramifications. PRAMC and RPAC are monitoring this closely.

California

AB 1053 would raise the fee for certified copies for birth and death certificates from \$3.00 to \$12.00 (a \$9.00 increase) for death and from \$7.00 to \$18.00 for birth (an \$11.00 increase) regardless of when the record event occurred. The bill passed the California Assembly and has had hearings in the Senate where it has been amended even further. The most recent amendment was on July 12, 2011 and it is scheduled for its second reading in the Appropriations Committee on August 15. The amended version retains the \$9.00 and \$11.00 increases, however, the bill splits the fee 15% for state and 85% for local/county registrars. In addition, the increase in fees is incremental over 2012-2014. Most disturbing is the new section that was added effective as of January 1, 2014 which would adjust the fees by the percentage change in that year's State Budget Act for those items appropriating funds to the state department that is responsible for birth and death records--the California Department of Public Health--Vital Records. The increase would include the total percentage change in salaries and operating expenses of the Department— not to exceed the total cost of the program or services provided. We would not know the increase of fees for each year starting with 2014 until the California budget is approved annually.

Illinois

Last year's open records law is being reviewed as some think it goes too far. NO legislation has been introduced as yet, and PRAMC is monitoring this.

Maine

LD 258 PL 58

The PRAMC spent considerable energy working with the Maine genealogical representatives, which amends and replaces more genealogically friendly provisions of last year's access to vital records bill PL 601. What the new law does: clarifies that informational copies of vital records are noncertified copies. It shortens the time period for access to vital records. It opens to inspection and allows for purchase of noncertified copies of vital records created prior to 1892. It requires custodians of vital records to permit inspection of the records by a person who has a direct and legitimate interest and by a researcher engaged in genealogical research who holds a researcher identification card.

However, on August 4, IAJGS was notified that the state regulators created a procedural document for the clerks to follow the new law. There were no public hearings. The procedural document is very restrictive. It excludes vital records as public records from Maine's Freedom of Information Act. In addition, those without a "direct and legitimate interest in the matter" recorded must have researcher card and declares vital records not open records. While there had been an agreement between the regulators and stakeholders during the bill's negotiations to reduce the fee for the researcher card and extend its length of time, no mention of that is in the document. The provisions of the procedural document are to become effective on September 28, 2011. PRAMC has submitted a statement with the regulators and Maine genealogists who are meeting in August regarding the procedures.

We understand at the meeting held August 8 that the statement excluding vital records as public records was removed, but retained was that vital records were exempt from the Freedom of Information Act. As the governor has put a moratorium on all proposed regulations, and changing the fee for the researcher card would be a regulatory change nothing can happen about that at this time. The state has started to train the town clerks on the new access to vital records requirements, without regulations. As more information is known, including how the state determines someone is a genealogist to obtain the researcher card, it will be posted to the IAJGS Leadership Forum and the JewishGen Discussion Group.

Nevada**SB 52**

As introduced, the bill would have provided that no personal identity would be released before 125 years on birth records or before 50 years on death records. The bill died in committee and Nevada's legislature does not convene again until 2013.

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**Imposition of Sales Tax on Genealogical Services**

With governments suffering from revenue shortfalls, a new revenue "enhancement" by the state of New York (USA) was announced in the fall of 2010. Those who deal in information services are required, as of 1 September 2010 to charge, collect, and remit sales tax on their products. Please see page 2 for genealogical services being included:

http://www.tax.state.ny.us/pdf/memos/sales/m10_7s.pdf

New York City Merger of Department of Records and Information With Department of Citywide Administration

New York City's Mayor Bloomberg announced last November that a merger of the New York City Department of Records and Information into the NYC Citywide Administrative Services Department, was forthcoming as part of his Administration's ongoing cost saving, consolidation and shared services initiatives. The New York City Council Committee on Governmental Operations has scheduled a hearing on April 27, 2011 regarding legislation to accomplish the merger. As of this report, no final action has yet been taken.

Increase in New York Municipal Archives Fees

As of spring of 2011, the New York City Municipal Archives increased their "in person" charge for records to \$11.00.

Pennsylvania**SB 361**

This bill would make available to the public death records 50 years and older, and birth records 100 years and older. It would make these records public records. This bill passed out of its initial committee and is waiting for a hearing in Appropriations. In 2010, a similar bill SB 683, (birth records wait time was 75 years) was introduced and got out of its initial committee and then languished. IAJGS submitted letters of support for both the 2011 SB 361 and the 2010 SB 683.

Vermont**H454**

If this bill had passed out of the legislature, it would have permitted informational and certified copies. Under the current process, anyone without identification may obtain a copy of a birth or death record. The bill included protections that established who may and may not obtain certified copies of vital records and permitted anyone to review an informational copy of a vital record. Passed House. No action in Senate before legislature adjourned for the year.

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 are 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