

Genealogy Under Fire: Government Actions to Impede Access to Records YOU Need

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The genealogical community is under siege worldwide due to governmental or repository action that diminishes access to genealogically relevant records—birth, marriage, divorce, annulment, death and census records. Without access to such records, genealogists cannot do their family history research regardless if it is a hobby or occupation. The access restriction is fueled by the misunderstanding that access to these records cause identity theft and the way to reduce such is restricting access. This is not a US-only issue as we are facing this worldwide.

There are different organizations that are working to retain access to records including—IAJGS through its Public Records Access Monitoring Committee (PRAMC) and the Records Preservation and Access Committee (RPAC).

IAJGS Public Records Access Monitoring Committee (PRAMC)

One of the IAJGS objectives is “to promote public access to genealogically relevant records”. Over ten years ago IAJGS members at its annual session agreed that records access and a role for IAJGS was important and in 2003 the IAJGS Board of Directors approved a PRAMC charter (<http://www.iajgs.org/pramc/legislation.html>).

IAJGS’s website <http://www.iajgs.org/pramc/legislation.html> has links to Canadian and US provincial/state/federal government legislative sites as well as periodically posts legislative alerts.

While most of the PRAMC work is informing you about what may be occurring in reducing access due to government or repository actions, PRAMC also submits statements to governmental bodies and works with legislative staff and representatives regarding pending legislation or regulations. Over the years we have had a number of successes that have resulted in **you** still being able to access records. IAJGS works with local genealogy groups and other national genealogical organizations—below are a few examples of our recent and past successes:

- International Tracing Service (ITS)—Letters to US Secretary of State and German Minister of Interior regarding free access to ITS records to the public and different depositories
- Colorado marriage application information after 50 years.
- Georgia Archives reinstitute funding and transfer of operation to Board of Regents-University System
- Maine allowing genealogists immediate access to records via researcher card rather than waiting the newly established 100-50-25 years wait periods.
- Pennsylvania birth records open for the first time after 105 years and death records after 50 years
- Virginia reducing the wait period for marriage, divorce and death records

We are an international organization and rely on **you** to let us know when there is a governmental or repository action that diminishes or enhances access to genealogically relevant records. We also rely on our members helping support our efforts by joining letter writing

campaigns at all levels. The greater the number of people making their voices heard, the greater the chance of success.

IAJGS recently created a Records Access Alert. The records access alert is an “announcement” list—hosted by IAJGS—where—at least for the time being—only the list owner may post messages. PRAMC postings address reduced or increased access by a governmental agency or repository of genealogically relevant documents/records. 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 affiliation. You will receive an email response that **you have to reply** to or the subscription will not be finalized.

While this is an announcement list, we do want to hear from the list subscribers worldwide if they know of public records access issues or have something relevant to add about the postings. Please send notices and comments to the following email address: RecordsAccess@iajgs.org Where appropriate, the list owner will issue a posting. Alerts posted to this new service will be made only when there is something of an important nature regarding public records access; therefore, do not expect this alert on a routinely daily or weekly basis.

Records Preservation and Access Committee (RPAC)

RPAC is a joint committee of Federation of Genealogical Societies (FGS), The National Genealogical Society (NGS), and IAJGS as voting members. 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. RPAC meets monthly to inform and advise the genealogical community on ensuring proper access to vital records and on supporting strong records preservation policies and practices at the federal, state, and occasionally the local level.

The RPAC website <http://www.fgs.org/rpac> is the major communication vehicle for the committee. On the website you will find information about access issues in the United States:

- Notices about threats to records preservation and access
- Social Security Death Index (SSDI) Call to Action Kit, including links to bills introduced in 2012, sample letters, and a video about the threats to SSDI and how you can take action.
- New Congress: More to Come, which describes new SSDI legislation introduced in the 113th United States Congress (2013-2014)
- Copies of letters which have been written to Governors or other state officers, state and federal legislators and key legislative committee chairs stating RPAC's position on issues
- Search for Allies blog entry from 2 December 2012
- RPAC Strategy: A “how to” guide on responding to threats at the state level
- Publications including 2009 White Paper, “Open Access to Public Records: A Genealogical Perspective” and RPAC brochure, “The Case for Open Public Records”

Current Issues That Are Challenging Our Access to Genealogical Records

Model State Vital Statistics Act: Many states since 1992 have enacted legislation based upon the last approved Model State Vital Statistics Act which restricts access to birth records for 100 years and death, marriage, and divorce records for 50 years. A Working Group formed in 2009 to update the Model Act reported out their work as the 2011 Revision in May of 2011, but the

Department of Health and Human Services (HHS) put the 2011 Revision “on hold” in April 2012. The draft had been distributed to State Vital Records officers for comments, and in anticipation of future approval, several have included an additional twenty-five years to each of the current embargo periods in proposed state legislation.

We have already seen several states introduce legislation that would adopt these extended embargo periods: CT, OK OR, and TX. At the time this handout is being written, the Oregon bill due to actions of the genealogical community was amended in committee to retain their existing wait periods and extend the embargo period and in Texas the bill is on hold in committee. We expect more states to have the proposed Model Vital Statistics Act introduced, but states are not required to adopt the model act! To read the proposed 2011 revision of the model act go to: <http://tinyurl.com/c9jij58> original url: <http://www.naphsis.org/Documents/Final%20MODEL%20LAW%20September%207%202011.pdf>

The Social Security Death Index: Fraud Prevention or Source of Fraud

The Social Security Death Index (SSDI) is the commercial version of the Death Master File (DMF). The DMF is a computer database file made available by the United State Social Security Administration since 1980.ⁱ The DMF is a subset of the Social Security Administration’s Numident database file, computerized in 1961,ⁱⁱ which contains information about all Social Security numbers issued since 1936.

The SSDI was designed as a tool to prevent fraud, by alerting credit agencies and other businesses that an individual had died and the social security number assigned to that individual should no longer be used. Had the IRS been using the SSDI as it was intended, to check the social security numbers of those filing electronic income tax returns, many of the fraudulent returns could have been caught. As genealogists we have all used the Social Security Death Index (SSDI) to identify a relative and their place of death, making it easier to locate obituaries and surviving relatives. However, these same online records have made it easier for non-genealogists with sinister motives, to steal the identity of a deceased person and commit hundreds of millions of dollars of tax fraud. Because of the emotional empathy with anyone who has had their identity stolen, let alone a deceased spouse or child, no legislator wants to be viewed as publicly opposing a bill which will thwart identity theft and fraud. Many other factors contributed to the fraud including the electronic filing of income tax returns, lack of automated procedures to flag inconsistent tax returns, inadequate IRS procedures to spot addresses or bank accounts that were repeatedly used, and lack of cooperation between the IRS, FBI, and local enforcement agencies. The result is that the SSDI has been labeled as the “source of the fraud.”

The formal transcript from the 2011-2012 Congressional session that includes genealogical community response submitted following the hearing; “Social Security’s Death Records,” House Ways & Means Committee, Hearing, Serial No. 112–SS13, 2 February 2012 may be read here: see: <http://tinyurl.com/bn2uqe5>. [The genealogical responses start on page 130.]

Checking The Library of Congress “Thomas” is a great way to keep current on what bills are introduced and their status. Look either by bill number or key words such as “Death Master File”: <http://thomas.loc.gov/home/thomas.php>

At the time this handout is being written there are four bills in the 2013-2014 session that have been introduced affecting access to the DMF/SSDI for the public including genealogists:

HR 295—Nugent (R-FL) see: <http://tinyurl.com/al3pb4y>

Original url:

<http://www.gpo.gov/fdsys/pkg/BILLS-113hr295ih/pdf/BILLS-113hr295ih.pdf>

The Secretary of Commerce is prohibited from disclosing any information contained in the DMF regarding any individual who died in the previous two calendar years unless the person is certified under a specific program where the person has a "legitimate fraud prevention interest" in accessing the information described in the DMF. There is no definition of what a "legitimate fraud prevention interest" is and any one violating this provision is subject to substantial monetary penalties.

HR 466 (Capuano (D-MA) see: <http://tinyurl.com/bze6vdu>

Original url:

<http://www.gpo.gov/fdsys/pkg/BILLS-113hr466ih/pdf/BILLS-113hr466ih.pdf>

The Commissioner of Social Security is prohibited from publishing the death master file or any public database that includes the Social Security numbers of any deceased individual.

HR 531 (Castor D-FL) see: <http://tinyurl.com/cbfad7n>

Original url:

<http://www.gpo.gov/fdsys/pkg/BILLS-113hr531ih/pdf/BILLS-113hr531ih.pdf>

Provisions are similar to HR 295 listed above

SB 676 Nelson(D-FL) Feinstein (D-CA) Schumer (D-NY) see: <http://tinyurl.com/btf35vh>

Original url:

<http://www.gpo.gov/fdsys/pkg/BILLS-113s676is/pdf/BILLS-113s676is.pdf>

Title III of this bill includes the prohibition of any individual accessing the DMF in the year of death or the next two calendar years unless the person is certified under the program by the Secretary of Commerce. Persons who may be certified include those having a "legitimate interest" in preventing fraud or unauthorized financial transactions, applicable law, regulation, court order, or fiduciary duty, facilitate administration of an insurance policy and credit reporting. There are no provisions for genealogists to be certified. The bill also permits the Social Security Administration not to be required to provide information (FOIA) on Social Security information to those who are not certified under the bill.

We have been expecting the White House to weigh in on this issue and in the annual White House budget proposal the following is part of the DMF/SSDI discussion: "the Administration is proposing to restrict immediate access to the DMF to those users who legitimately need the information for fraud prevention purposes and to delay the release of the DMF to all other users". See: <http://tinyurl.com/cdo57rn>

Original url: <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/spec.pdf>

see pages 153 and 206. The bill that they are proposing to address identity theft and reduce access to the DMF has not been introduced at the time this handout was submitted.

There have also been a number of bills introduced that would require the IRS to take steps that are long overdue—to prevent identity theft on tax returns as well as bills that would cease Social Security Numbers from being placed on Medicare cards.

We need **you** to get involved in your area to actively get to know your local and federal legislators and your regional archivists. All politics are local and you are the best communicator with your government and repository representatives to let them know that genealogists are not the cause of identity theft and the need to be able to trace your own medical family history which requires immediate access to vital records. IAJGS has a tool kit to help you! See:

http://broadcast.lds.org/elearning/FHD/Community/EN/RPAC/Tool_Kit_for_State_Liaisons/Player.html

Get involved and we are here to support your efforts and help when necessary!

i http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/149/~/-/social-security%27s-death-master-file

ii NTIS Products: Social Security Administration's Death Master File, National Technical Information Service. © Jan Meisels Allen 2013