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Chairman Johnson Announces a Hearing on Social Security's Death Records

Submission for the record: waysandmeans.submissions@mail.house.gov

The Council for the Advancement of Forensic Genealogists supports open public access to the SSDI, Social Security Death Index, the commercial term for the Social Security Administration (SSA) Death Master File (DMF).

As professionals trained to cite the sources of facts used in our reports, we find it alarming that testimony presented during the House Ways and Means Sub-committee on Social Security's Death Records failed to cite a single source which proved that access to the DMF/SSDI was used to perpetrate fraud. Indeed, a minority of such cases may exist; however recent studies fail to mention DMF/SSDI as a proven source for fraud.¹

The heart-wrenching testimony of Mr. Jonathan Agin concluded with his open admission that he could not prove that the DMF/SSDI was the source for the fraud perpetrated upon the Social Security number of his deceased daughter. Mr. Agin clearly admitted that it was only his *assumption* that DMF/SSDI was the source and that other possibilities existed.

Social Security Commissioner Michael J. Astrue testified that the original purpose of the DMF/SSDI was to prevent fraud through its open access by banks and other financial institutions. Commissioner Astrue went on to state that the use of the DMF/SSDI has changed over the years, and that some of that change has included use for fraudulent purposes. However, the Commissioner failed to cite a single source of evidence that proved DMF/SSDI was the

¹ Federal Trade Commission (<http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/about-identity-theft.html> : accessed 15 February 2012). Privacy Rights Clearing house (<http://www.privacyrights.org/ar/idtheftsurveys.htm> : accessed 15 February 2012). National Institute of Justice (<http://nij.gov/topics/crime/id-theft/welcome.htm> : accessed 15 February 2012). Javelin Strategy & Research (<https://www.javelinstrategy.com/brochure/192> : accessed 15 February 2012).

source for fraud.

DMF/SSDI has evolved into a tool used to prevent fraud by many more entities than those originally intended, the banking and financial institutes. Human resource departments large and small depend upon access to the DMF/SSDI in order to meet federal guidelines on hiring. These federal hiring requirements not only address fraud, but also aspects of our nation's war against terrorism.

DMF/SSDI has also become an invaluable resource to those who conduct **genealogical** research, both privately and in the public and business sector. Testimony during the Sub-committee's hearings appeared to make scapegoats of the genealogists and the use of DMF/SSDI for **genealogical** purposes.

Genealogical research is a matter of using various tools to accumulate data to discover the truth. DMF/SSDI is an irreplaceable resource used across the commercial spectrum, such as attorneys, bank and trust companies, title companies, oil and gas companies, medical researchers, forensic genealogists, and others.

A few examples of **genealogical** usage are:

- The Department of Defense is mandated by Congress to repatriate the remains of our unaccounted-for service personnel. The vast majority of American losses date from World War II. Research for family members of servicemen in World War II and the Korean conflict is especially dependent upon access to DMF/SSDI. Many servicemen from this time period were born prior to state vital records, as certainly were their parents. With the mass migrations during the 1930s, 1940s, and to some extent the 1950s, DMF/SSDI is very often the only resource that military contract genealogists have to trace relatives whose **genealogy** is vital to identifying family members eligible to submit DNA Family Reference Samples. Department of Defense currently estimates that 83,000 Americans are unaccounted-for from World War II, the Korean War, the Cold War, the Vietnam War and the 1991 Gulf War.² Our government, our citizens, the families, and our service personnel rely upon the services of **genealogists** to accomplish the missions of the Defense Department and the casualty divisions of each of the military branches.
- Organizations which work with coroners to find the families of unclaimed service personnel and other deceased persons depend upon **genealogical** research to solve these cases.
- The DMF/SSDI is a vital tool among legal professionals, especially in probate and other cases which involve proving heirship. In states with closed death records and no published death indexes, the DMF/SSDI may be the only resource for tracing and proving heirship. In closed records states, the DMF/SSDI record may be the only source available that meets evidentiary rules for admissibility for documenting deaths to the satisfaction of the court.
- Title companies, oil/gas and mineral companies use the DMF/SSDI for the same reasons. When oil companies cannot trace and identify lineages from original mineral owners, the unknown heirs cannot be identified. In these cases, courts often issue orders allowing drilling and production. Heirs to the mineral rights are in effect cheated out of their economic benefit.
- Next of kin in guardianship cases, youth transitioning from foster care, adoption require

² Defense Prisoner of War, Missing Personnel Office (<http://www.dtic.mil/dpmo/> : accessed 15 February 2012)

- **genealogical** kinship determination.
- Capital mitigation in death sentence cases relies upon **genealogical** reports among others submitted for consideration by the court.
- **Genealogical** research and facts are often used in immigration and citizenship cases to prove or disprove citizenship or residency.
- Determination of heirs to civil pension, Social Security, and veteran's benefits depends on **genealogical** research.
- Identification of next of kin prior to cemetery removal is mandated in many states. This may involve **genealogical** research over several generations.
- Provenance, class action claimants, intellectual property-rights cases may also heavily depend upon **genealogical** research.

On 15 February 2012, Council for the Advancement of Forensic Genealogy polled a dozen of its associates, asking for a description of the usage of the DMF/SSDI in just *one* recent case that each has worked on:

Tina S. in Tennessee - Intestacy case for estate valued at \$200,000 in which DMF/SSDI was the sole source for proof of death for thirteen maternal aunts and uncles.

Connie S. in North Carolina - Korean War MIA case in which DMF/SSDI was accessed for both his parents, three of his four sisters and their husbands, five paternal uncles and their wives, one maternal aunt and spouse, and five maternal uncles and spouses as well as some of the children of these persons. DMF/SSDI accessed 25-30 times for this one case.

Catherine D. in Vermont - Army repatriation case, accessed DMF/SSDI approximately 12 times in a search for siblings, half-siblings, parents, aunts, and uncles.

Michael R. in Pennsylvania - Adams County intestate estate that had 22 citations to different persons' DMF/SSDI records (out of 154 citations). These helped find all 26 first cousins once-removed - all of whom will share in the estate.

Michael H. in Delaware - National Park Service, at Monocacy National Battlefield (Frederick, Md.). Used the DMF/SSDI multiple times to determine date and place of death of descendants of former slaves who were owned and lived on this plantation. When no other death record could be obtained, the DMF/SSDI record was cited 7-9 times as proof of death.

Janice S. in California - Heir search case for property to be sold, tracked forward three generations, multiple children in each generation, used DMF/SSDI for about 20 individuals in the case.

Kelvin M. in Texas - Probate case where the decedent was only child, her parents were only children, so case goes back to the great grandparents. At present, 172 heirs identified and used DMF/SSDI multiple times daily for this case.

Leslie L. in Oregon - Quiet title, bank needs to foreclose on estate but first needs to identify heirs. Accessed DMF/SSDI 7-8 times during initial stage of research.

Claudia B. in Washington state - Working with a local police department to identify the family of a woman whose ashes were found in abandoned storage unit. Accessed

DMF/SSDI 7 times for the deceased, her husband, their three children and daughter- and son-in-law.

Dee Dee K. in Texas - Capital mitigation in a death penalty case, **genealogical** research over three generations, accessed DMF/SSDI 22 times. (Ms. King has provided the Department of the Navy Casualty POW/MIA Branch with Family Reference Sample donors on 279 cases. Her genealogical master database shows more than 3,000 citations to DMF/SSDI during the course of that research.)

Liesa H. in Massachusetts - Pro bono case, attempting to reunite a Vietnam veteran with the surviving family of another veteran who died in his arms. The veteran has wanted to speak to the family of his fallen colleague for more than 40 years. DMF/SSDI accessed 4 times during initial stage of research.

Barbara S. in Georgia - Georgia estate and have thus far used the DMF/SSDI 36 times. One living first cousin in her 90s and several first cousins once removed have been identified.

Council for the Advancement of Forensic Genealogy respectfully requests that the Committee please consider measures that will help the DMF/SSDI meet the potential it was designed for - to *prevent* identity theft. Loss of public access to this irreplaceable resource will have **NEGATIVE** financial, legal, and other impacts.