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VIA EMAIL
Records Access Office
New York State Department of Health
Corning Tower, Room 2364
Albany, New York 12237-0044
foil@health.ny.gov

Re: FOIL Request - New York State Death Index

Dear Records Access Officer:

I write on behalf of Reclaim the Records ("RTR"), a 501(c)(3) non-profit organization that advocates nationally on behalf of genealogists, historians, teachers, journalists, open data enthusiasts and open government activists to promote the public availability of historically significant records.

Pursuant to the New York Freedom of Information Law ("FOIL"), RTR requests one complete set, in digital form, of the New York State Death Index, covering all data that is already retained by the New York State Department of Health ("DOH") in textual or database format, for all available dates through December 31, 2017, inclusive (the "Death Index").

This request is *not* for actual copies of death certificates, but rather, merely the basic text index or database (or "finding aid") to state deaths that DOH retains, part of which DOH already freely publishes in an online dataset that it calls the "Genealogical Research Death Index," which contains easily searchable data on decedents who died between the years of 1957 and 1970.[1] DOH proactively uploads this data set to the agency's official open data web portal, with quarterly updates. This same data set is also available on the DOH open data portal in an interactive "Data Lens" format, which allows for more advanced searching and graphic ability, where the database is called the "Interactive Ancestry/Genealogical Research Death Index."[2] According to search metrics on DOH's website, this "Data Lens" version of the Death Index is the single most-viewed item in the DOH open data web portal (indeed, even more so than sets regarding

[1] *See Genealogical Research Death Index*, N.Y. State Dep't of Health, https://health.data.ny.gov/Health/Genealogical-Research-Death-Index-Beginning-1957/vafa-pf2s (last visited Nov. 11, 2021).

[2] *See Interactive Ancestry/Genealogical Research Death Index*, N.Y. State Dep't of Health, https://health.data.ny.gov/Health/Interactive-Ancestry-Genealogical-Research-Death-I/x83h-k5ey (last visited Nov. 11, 2021).

state COVID testing or Medicaid providers), attesting to the enormous public interest and need for access to New York State death record information.[3]

DOH makes its online basic index for the years 1957 through 1970 available in various text-based formats, including in CSV (comma-separated value) format, compatible with open source databases and spreadsheet programs such as Microsoft Excel. It is therefore evident that DOH already stores textual information for the Death Index in a computerized tabulated format. Consequently, DOH can easily produce the requested data. Further, there is no exemption under New York law that prevents disclosure of *indexes* for death records.

This request, though, is not limited to those deaths starting in 1957 or 1970, but also includes any and all computerized tabulations or files retained by DOH regarding New York State deaths predating those years, specifically including those compiled during recent efforts to recreate certain years of indexes that predate 1957. Additionally, this request seeks all available data fields in the DOH internal death index files, not merely the fields shown publicly online for the 1957-1970 set.

Separately, there is no privacy basis to restrict disclosure of the records, as everything of personal relevance contained in the Death Index is already publicly available. For instance, the U.S. Social Security Administration ("SSA") has long published a dataset known as the Social Security Death Master File ("SSDMF"), which is also commonly referred to as the Social Security Death Index. The SSDMF contains over 100,000,000 records about anyone who held a Social Security Number since the time that the numbers were first issued in the 1930s, and it includes not only the death date for decedents, but also their exact birth date, and their state or city of last residence.[4] This data is freely available to the public through the year 2014 on the websites of several non-profit organizations, such as FamilySearch.org, as well as through both website and automated API access from commercial websites and data providers.[5] This widely available public data consequently contains information on the deaths of millions of New Yorkers over the course of several decades.

Additionally, RTR is aware that on at least one recent occasion, the SSA has disclosed, in compliance with a federal Freedom of Information Act (FOIA) request from a private citizen, a more up-to-date version of the SSDMF, which covers three more years of deaths, until the middle of 2017. Therefore, the basic state-level Death Index requested here contains nothing that is not already freely available to the

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[3] *See "All Health Data" and sort by "Most Accessed"*, N.Y. State Dep't of Health, https://health.data.ny.gov/browse?sortBy=most_accessed&utf8=✓ (last visited Nov. 11, 2021).

[4] Additionally, beginning in 1973, the SSA created a unified system for assigning Social Security Numbers that was based on the zip code of the mailing address shown on the application for a social security number; specifically, the first three digits of the number signify a certain state's allocation. Therefore, it is possible for anyone to determine the likely state of birth of anyone born in the United States after 1973, as well as the state of residence for someone who subsequently first acquired a Social Security Number. *See Social Security Number Allocations*, U.S. Soc. Sec. Admin., https://www.ssa.gov/employer/stateweb.htm (last visited Nov. 11, 2021).

[5] *See, e.g., United States Social Security Death Index*, FamilySearch, https://www.familysearch.org/search/collection/1202535 (last visited Nov. 11, 2021).

public at the federal level, so DOH's compliance with this request would not result in any new or unwarranted invasion of personal privacy.

RTR is willing to pay for the time and effort needed to make this data available, including all costs related to data analysis and export, purchasing hard drives, and the insured and trackable shipping of the hard drives. We are glad to discuss further the proper format for transmitting the requested data and how to make the transfer as streamlined as possible. We look forward to working together.

Sincerely,

/s/ Michael D. Moritz
Michael D. Moritz

cc: Brooke Schreier Ganz (info@reclaimtherecords.org)