

The Honorable Charles Mahlen  
Commissioner  
Department of Labor

November 13, 1992

663-93-0171

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Request for workers'  
compensation in  
electronic files format

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You have asked whether the Workers' Compensation Division may comply with a public information request that seeks electronic copies of its data base and specifically requests social security numbers. The short answer to your question is that the department may not release the electronic data base in its entirety, but may release the information contained in the data base if the social security numbers are deleted.

#### **BACKGROUND**

The Workers' Compensation Division has received a request for its data base containing all of its claims information in an electronic format. One of the specific fields of data requested is the social security number for the workers' compensation claimant.

Generally, the documents contained in a workers' compensation claimant's file are considered to be public documents and are available for public inspection. The practice has been to allow the public to review documents contained in a claimant's file and to allow copies of these documents to be obtained as needed. One previous request has been made for workers' compensation claimant data in an electronic format. This information was provided with the social security number field deleted.

#### **DISCUSSION**

As a general principle, the public records of the State of Alaska must be made available for public inspection upon

request. AS 09.25.110. Additionally, the release of public information in usable electronic formats, when feasible, is encouraged under AS 09.25.115. However, state law excepts from public inspection, records that are required to be kept confidential under federal law or regulations. See AS 09.25.120(4). Under 6 AAC 95.010, a request for public records may be denied if "nondisclosure is authorized by a valid Alaska or federal statute or regulation."

The circumstances allowing the use or disclosure of social security numbers are limited under federal law. The use of social security numbers by governmental agencies is addressed at Section 7 of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C.S. § 552a note (1989) which provides:

(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to --

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

The purpose of the privacy act legislation was to limit the use of social security numbers by governmental agencies to eliminate the threat to individual privacy posed by the use of a universal numerical identifier.

Once an agency obtains social security numbers, it is not entirely clear under what circumstances those numbers may be disclosed. For the most part, the circumstances of disclosure will have to conform with the explanation of possible uses that is provided when the person provides a number. If an agency has not informed a person of the possible uses of a number, the agency will not be able to disclose the number. However, even those agencies that are allowed to require and disclose social security numbers probably may not provide lists of names and social security numbers to the public. See 1984 Inf. Op. Att'y Gen. (Feb 22; J66-566-83).

In this case, social security numbers have been collected from most workers' compensation claimants, but claimants were not told whether the disclosure was mandatory or voluntary and what specific uses will be made of the number. It is, therefore, not permissible for the division to disclose social security numbers. Furthermore, the release of electronic data containing the social security numbers of all workers' compensation claimants as an identifier would violate the protections intended under the Privacy Act of 1974. However, as long as it is possible to remove the social security number field from the data base, there is no problem with providing workers' compensation claimant information in an electronic format.

### **CONCLUSION**

Public agencies are prohibited under the Privacy Act of 1974 from disclosing claimants' social security numbers if the claimants were not informed whether the disclosure was voluntary or mandatory or told of the potential uses of the numbers when the number was provided. Furthermore the release of an electronic data base that contains names matched with individual social security numbers in response to a public information request appears to violate the protections intended under the Privacy Act of 1974. The request for an electronic copy of the Workers' Compensation Division's data base may be released only if the

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social security number field is deleted.

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