

HB

4911

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

May 31, 197

SUBJECT: Use of Social Security Account Numbers as an Identifier on  
State Forms (W.O. 3499)

TO: The Honorable Charles Parr  
Chairman  
House HESS

FROM: Deborah Behr (DB)  
Research Analyst

I recently received the delayed reply from the University of Alaska regarding the use of social security account numbers on its forms. I have revised the memorandum that I forwarded to you earlier this session to reflect the receipt of this material. Basically the University appears to use the social security account number as a key identifier for many of the University's computer programming systems.

This completes the study. If you have further requests for information on this topic, please do not hesitate to contact me at 465-4917.

DB:mo  
Attachments

Survey of Use of  
Social Security Account Numbers  
on State Forms

#### EXTENT OF USE

At present the State of Alaska uses approximately 6,500 forms (excluding University of Alaska) to administer its many programs and its personnel and fiscal operations. Of those forms, 13% or 832 request social security account number from persons applying for services or assistance. The University of Alaska utilizes an additional 43 forms, which ask for an individual's social security account number. Only 15% of all the forms requesting social security account numbers are computerized at this time.

The Department of Labor, Military Affairs, and Administration use 60% of all forms requesting social security account numbers. The Department of Labor utilizes social security numbers as its primary identifier on its Unemployment Compensation forms and Workmen's Compensation files. The military serial number was recently changed to be the same as the individual's social security account number, and the Department of Military Affairs utilizes the military serial number on many of its forms. The Department of Administration's statewide personnel, payroll, and retirement systems use social security account numbers as a key identifier.

#### IMPACT ON PUBLIC

The 13% of state forms which request social security account numbers are generally those in heavy use by the general public. They range in scope from application for a driver's license to an application for a hairdresser's license. At any given time, the average citizen probably has at least 3 cards on his possession for which he was requested to release his social security account number. They may include:

- (1) Driver's License
- (2) Voter Registration Card
- (3) Hunting and Fishing License
- (4) State Employee Identification Card
- (5) University of Alaska Student Identification Card

#### LEGAL REQUIREMENTS

In response to a questionnaire forwarded to the agencies that requested social security account numbers on some of their forms, the agencies cited laws and regulations to justify their request. Most of these citations were related in some way to federal government requirements. For example, income tax, social security retirement, and certain public assistance laws were often cited. Only rarely were state laws or regulations cited and those were with regard to contractor's licensing and labor assistance programs.

#### JUSTIFICATION FOR USE

Although most agencies could not cite a specific law or regulation requiring the use of social security account numbers, many stressed the

importance of the number as a positive method of verifying identification. The Department of Revenue's reply, for example, noted "the use of numbers has a greater degree of accuracy as handwriting or printing often leads to misspelled names." The Office of Elections stated that it requests social security account numbers "in order that we may identify the various people with the same name or initials." A few departments stressed that they would not deny a person services or assistance if he refused to supply his social security number.

Some agencies requested social security account numbers from their clients in order to comply with a request from another department, agency, or office. For example, the Department of Health and Social Services uses the social security account number on its public assistance fraud form in order to request information from Department of Labor, whose system uses social security account numbers as identifiers. Other departments, such as Public Safety which have unique personnel or payroll forms, use social security account numbers quite frequently so that their personnel information is comparable with data collected by Department of Administration.

#### OTHER ISSUES

Recently the Office of the Ombudsman has become involved in several complaints concerning the requirement that a social security account number be supplied when applying for certain state services, such as a driver's license or University of Alaska library card. The Department of Public Safety, in particular, has responded to these complaints by posting signs in their offices stating that an applicant may refuse to release his number and will not be denied a license because of this action.

Also, a bill has been introduced in the Senate on this topic--SB 283. That bill states that no person shall be required to release his social security account number in order to obtain state services or assistance. An exemption is provided for programs that are required to ask for the number as a condition of their federal-state plan. The bill is currently in Senate Judiciary Committee.

SURVEY OF FORMS EMPLOYING SOCIAL SECURITY ACCOUNT NUMBERS  
CURRENTLY IN USE IN ALASKA PROGRAMS

Department or Office	Total Number of Forms Using SSN	Number of Forms Computerized	Reasons for Use of Social Security Account Number			Law/Regulation Cited	Number of Forms Under Cite	Types of Forms Using Social Security Account Number
			Positive Verification of ID	Required By Other Agency	Other			
<u>OFFICE OF GOVERNOR</u>	22	13	20	2	0	None	1	See separate division detail.
Governor's Office	1	0	1	0	0	None	0	Personnel/payroll
Commercial Fisheries Entry Commission	14	13	14	0	0	None	0	Application and program forms.
Human Rights Commission	3	0	2	1	0	None	0	Complaint forms; (Note: These forms are under revision and social security numbers will be removed.)
Alaska Police Standards Council	3	0	3	0	0	None	0	Personnel/payroll; program forms
Alaska Historical Commission	1	0	0	1	0	Grant: IRS Reg.	1	Grant application including personal services.
<u>OFFICE OF LT. GOVERNOR</u>	3	1	3	0	0	None	0	Election forms.
<u>DEPARTMENT OF ADMINISTRATION</u>	95	28	90	4	1	IRS Reg.; FICA Reg.; Treasury Dept. Reg.	16	Personnel/payroll; retirement (teachers', PERS, Social Security); pioneer benefits; insurance; finance; deferred compensation; data processing; housing.
<u>DEPARTMENT OF LAW</u>	3	0	2	1	0	Payroll: 26 USC §6109(d) Child Support Enforcement: Title IV-D; Social Security Act	2	Payroll; testimony form; directions for service form.

Department or Office	Total Number of Forms Using SSN	Number of Forms Computerized	Reasons for Use of Social Security Account Number			Law/Regulation Cited	Number of Forms Under Cite	Types of Forms Using Social Security Account Number
			Positive Verification of ID.	Required By Other Agency	Other			
<u>DEPARTMENT OF REVENUE</u> <sup>2</sup>	57	17	50	4	3	Tax forms: 26 USC §6109(d)	31	Personnel/payroll; individual and corporate tax forms; fishing, hunt trapping license; fur dealer license; taxidermy license; business license; liquor license; coin operated equipment distributor's patent; cannery license, contractor's license.
<u>DEPARTMENT OF EDUCATION</u>	22	12	21	1	0	Personnel/Payroll: Social Security Act	1	Student loan; teacher certification; vocational rehabilitation.
<u>DEPARTMENT OF HEALTH &amp; SOCIAL SERVICES</u> <sup>3</sup>	61	7	18	39	4	Title IV-A; Title IV-D; 45 CFR 206(a)(v)(A) 45 CFR 232.10 45 CFR 250.71 45 CFR 302.70 45 CFR 302.71	11	Personnel/payroll; catastrophic illness form; public assistance forms; fraud complaint form; API forms; alcoholism forms; child support enforcement; state medical ID card; corrections booking and parole form; Harborview personnel forms; mental health referral form; nursing family folder; social services forms; violent crimes compensation form.
<u>DEPARTMENT OF LABOR</u> <sup>4</sup>	257	26	241	1	15	8 AAC 85.020 8 AAC 85.040 8 AAC 85.030	16	Employment service forms; unemployment insurance forms; wage and hour forms; workmen's compensation form; personnel/payroll; fisherman's fund forms; occupational safety and health forms.
<u>DEPARTMENT OF COMMERCE &amp; ECONOMIC DEVELOPMENT</u> <sup>5</sup>	39	0	37	2	0	AS 08.18.021(1) (contractor)	2	Occupational licensing; AK Transportation Commission; uniform form for securities; broker dealer.

Department or Office	Total Number of Forms Using SSN	Number of Forms Computerized	Reasons for Use of Social Security Account Number			Law/Regulation Cited	Number of Forms Under Cite	Types of Forms Using Social Security Account Number
			Positive Verification of ID	Required By Other Agency	Other			
<u>DEPARTMENT OF MILITARY AFFAIRS</u>	157	0	157	0	0	Army Reg. 600-2; Air Forces Reg. Disaster Office Reg.	157	Army now requires use of social security number as military serial number. Serial number is requested on most program forms.
<u>DEPARTMENT OF NATURAL RESOURCES</u>	4	0	0	3	1	Veteran's preference: AS 38.05.067 AS 38.05.035(A)(4) 11 AAC 54.250(B)	1	Personnel/payroll; employee insurance; veteran's preference for land (Note: Veteran's military serial number is now social security number. See Department of Military Affairs for law citation.)
<u>DEPARTMENT OF FISH &amp; GAME</u>	6	1	3	2	1	None	0	Personnel; cannery ticket; hunting, trapping, sport fish ID card; pilot house/trip ticket book; commercial fishing gear and/or vessel license transfer form.
<u>DEPARTMENT OF PUBLIC SAFETY</u>	53	10	28	26	4	For payroll functions: IRS Reg. Social Security Reg.	3	Personnel/payroll; security guard licensing; background investigation; state trooper forms, wanted persons report, press reports; service requests; motor vehicle form; driver's record and licensing; pilot training; state ID card; fish and game protection forms; aircraft form.
<u>DEPARTMENT OF PUBLIC WORKS</u>	18	1	14	4	0	None	0	Personnel/payroll; marine transportation; aviation.
<u>DEPARTMENT OF HIGHWAYS</u>	3	3	3	0	0	None	0	Personnel/payroll
<u>DEPARTMENT OF ENVIRONMENTAL CONSERVATION</u>	0	0	0	0	0	Not applicable	0	None

Department of Office	Total Number of Forms Using SSN	Number of Forms Computerized	Reasons for Use of Social Security Account Number			Law/Regulation Cited	Number of Forms Under Cite	Types of Forms Using Social Security Account Number
			Positive Verification of ID	Required By Other Agency	Other			
<u>DEPARTMENT OF COMMUNITY REGIONAL AFFAIRS</u> 6	15	1	0	11	4	None	0	Payroll/personnel; senior citizen's tax exemption program; day care program; farm use program; expense reports; manpower (CETA) (Note: Five forms used by the department contain social security number at request of Research Division, Legislative Affairs Agency. The request was made in conjunction with data matrix project.)
<u>LEGISLATURE</u>	2	0	1	1	0	Personnel/payroll: Social Security Act	1	Personnel/payroll
<u>COURT SYSTEM</u>	5	0	1	3	1	None	0	Personnel; child support application form; cash appearance bond form; report of coroner call form; inability to afford counsel form.
<u>UNIVERSITY OF ALASKA</u>	43	16	7	6	30	Personnel/payroll: IRS REG; Cooperative Extension: Federal Civil Service Req	7	Admissions; accounts services; general ledger; business office; correspondence study; personnel/payroll; rural education; travel reimbursement; physical plant; cooperative extension activity report; housing forms; ID card.
<u>TOTAL</u>	875	136	701	110	64		249	

## FOOTNOTES

1. The Alaska Police Standards Council notes that its regulations (6 AAC 70.010(d)) permit the council to request necessary information to evaluate merits of applications.
2. The Department of Revenue cited AS 16.05.360 as justification for requiring social security number on its fish and game license forms. That statute permits the commissioner to request any reasonable information, but does not specifically itemize the requirement of social security numbers.
3. The Department of Health and Social Services cited statutes that require them to cooperate with federal government in public assistance programs (AS 47.05.010(11), AS 47.25.330(3)). These statutes do not specifically require the use of social security numbers on public assistance forms. Many federal programs, though, require the use of social security numbers for ID and tracking purposes. "Cooperating" with the federal government therefore might be seen as a requirement for requesting social security numbers from clients.

The Department of Health and Social Services also cited statutory mandate (AS 47.37.040(9)) to "make available relevant statistical information including number of persons treated" in alcoholism programs. The department cited this reference as documentation of allowing them to collect information including social security number, but not a strict requirement of the inclusion of that data item.

The Department of Health and Social Services cited AS 47.10.010, AS 47.10.030, and Children's Rules, Rule 10, as documentation that the Division of Social Services is responsible for certain child custody matters that require the use of social security numbers in order to locate missing parents.

4. The Department of Labor has also cited laws (AS 23.30.100, AS 23.30.155, AS 23.35.050) which permit, but do not require, the use of social security numbers for certain Workmen's Compensation and Fisherman's Fund forms.
5. The Department of Commerce and Economic Development has cited AS 08.64.190 to support use of social security numbers in licensing physicians. That statute gives the licensing board the authority to require "other information" on its application which the board considers "necessary" in order to evaluate the candidate.
6. The Department of Community and Regional Affairs cited AS 29.53.035 to support its use of social security numbers in its form use assessment application. That statute gives the state assessor the authority to prescribe forms which include such information which may be reasonably required to determine the entitlement of the application.

# STATE OF ALASKA THE LEGISLATURE

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JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY

### MEMORANDUM

April 5, 1977

SUBJECT: Survey of Use of Social Security Account Number in State Forms  
(w.O. #3499)

TO : The Honorable Charlie Parr  
Chairman, House HESS

FROM : Deborah Behr   
Research Analyst

Earlier this session, you requested a survey on the use of social security account numbers on state forms. The enclosed report is the result of that survey. The survey was done in two major stages: (1) collection of forms and (2) requesting of information on use of social security account number. Forms were collected from the Department of Administration, Division of General Services and Supply, which controls state form production. Also, specific agencies, departments, and offices were contacted to obtain information. After the forms were collected, questionnaires were forwarded to each agency asking specific questions with regard to use of social security account number, such as the reasons for including it and the legal citations requiring that agency to request the number.

The Department of Administration estimates that there are over 6,500 forms in use statewide, excluding the University of Alaska. Forms, such as the personnel application form, which are used throughout the state, were included only in the counts relating to the department that originated the form. If an agency, such as University of Alaska, had its own personnel form, that form was counted and included with that particular agency total.

As of this date, all agencies, except for the University of Alaska, have responded to my questionnaire. The University returned its forms later than other agencies. My questionnaire therefore was mailed later to the University than to other agencies. The University was requested to respond to the questionnaire by April 6, 1977.

In addition to the report, I have also included notebooks containing the forms and agencies' responses. These forms are grouped by agency in which the form is used. Also, I have included a brown notebook containing the laws cited by Departments which require them to request social security account numbers.

If you have any questions regarding this study, please do not hesitate to contact me at 465-4917.

DB:cm

## Survey of Use of Social Security Account Numbers on State Forms

### EXTENT OF USE

At present the State of Alaska uses approximately 6,500 forms (excluding University of Alaska) to administer its many programs and its personnel and fiscal operations. Of those forms, 13% or 832 request social security account number from persons applying for services or assistance. The University of Alaska utilizes an additional 50 forms, which ask for an individual's social security account number. Only 15% of all the forms requesting social security account numbers are computerized at this time.

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### IMPACT ON PUBLIC

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importance of the number as a positive method of verifying identification. The Department of Revenue's reply, for example, noted "the use of numbers has a greater degree of accuracy as handwriting or printing often leads to misspelled names." The Office of Elections stated that it requests social security account numbers "in order that we may identify the various people with the same name or initials." A few departments stressed that they would not deny a person services or assistance if he refused to supply his social security number.

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Also, a bill has been introduced in the Senate on this topic--SB 283. That bill states that no person shall be required to release his social security account number in order to obtain state services or assistance. An exemption is provided for programs that are required to ask for the number as a condition of their federal-state plan. The bill is currently in Senate Judiciary Committee.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

Volume IV, No. 10, May 1977

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WHO ARE YOU?: IDENTIFIERS AND IDENTITY DOCUMENTS

Although no one actually seems to want it, the national identity document may be close to becoming a reality.

The Administration and members of the Congress are sifting through proposals intended to cope with the problem of illegal immigration, in particular, the employment of aliens who are in the country illegally. Among the measures before them are the issuance of counterfeit proof Social Security cards, coded to show the bearer's legal entitlement to work in the United States, and a legislative ban on the employment of persons who do not possess such proof of entitlement. If adopted, this program would bring together two essential elements of a national identity document: the universal identifier (in the Social Security number), and the identity document as a legal precondition to participation in the life of the community. But in fact, we already have the major elements of a national identity document, for the Social Security number has become,

for all practical purposes, the American universal identifier, and the manipulation of personal information as a means of controlling the participation of individuals in the activities of the community is already far advanced in our society.

## THE UNIVERSAL IDENTIFIER

Originating in 1936 as an identifier for Social Security accounts, and extended a year later to state unemployment insurance programs, the Social Security number was not otherwise commonly used in public or private record systems for the next twenty-five years. It is interesting now to recall that misgivings had been expressed about the implications of the SSN as a universal identifier from the very start, requiring repeated official assurances that the government's uses of the number would be strictly limited to administration of the Social Security system. Yet the federal government itself initiated the move toward a universal identifier when, in 1961, the Internal Revenue Service adopted the SSN as a taxpayer identification number. Over the last sixteen years the SSN has become the standard identifier for federal employees, patients at V.A. hospitals, aliens, military personnel, holders of Treasury bonds, securities, and bank accounts, and recipients of all kinds of federal benefits. It is used by the states and localities for public assistance programs, school records, civil service employment, motor vehicle registration and drivers' licenses, voter registration, fishing and game licenses, even library cards, and on records sent by state and local law enforcement agencies to the FBI's National Crime Information Center. In the private sector, the number frequently appears on student and employee ID cards, hospital records, insurance policies, department store charge applications, and telephone and electricity accounts -- to name only a sampling.

A few years ago, Congress finally responded to emerging public anxiety over the proliferation of uses of the SSN. By 1974, the American people clearly had come to perceive the incessant demands for disclosure of the SSN not only as an intrusion on the right of privacy in itself, but also as a symbol of all that is threatening in modern data collection practices -- the use of information as a mechanism for social control. The spectre of the "one big dossier" keyed to the Social Security number was no longer just a literary fantasy; the public knew enough about the uses and abuses of personal records, and about the capabilities of computer technology, to have developed quite a sophisticated understanding of the potential of the SSN as a universal identifier.

Congress' first efforts were only palliative. The Privacy Act of 1974 placed a moratorium on any new uses of the SSN by federal, state, and local government agencies after January 1, 1975, except for uses thereafter specifically enacted by federal statute. It restricted existing uses to those formally authorized by statute or regulation. It required the Privacy Protection Study Commission to examine the need for further legislative or regulatory controls.

From this modest beginning, it seemed for a time as if the move toward a universal identifier might have been checked. The media picked up on the subject. Public consciousness became more acute. Increasing numbers of people registered their objections about the ubiquity of demands for the SSN -- to legislators, to the press,

to ACLU, to anyone willing to listen. Some government agencies abandoned uses of the SSN that did not meet the conditions set down by the Privacy Act.<sup>4</sup> Lawsuits were filed when other means of challenge failed. There was talk of stronger legislation to come, in particular, a proposed federal statute, numbered (fortuitously, its sponsors claimed!) H.R. 1984, which would forbid any private business or organization to use the SSN without the express authorization of Congress. Expectations focused on the long-awaited studies and recommendations of the Privacy Commission, due for publication in the summer of 1977. Some optimistic souls even began to speculate on the amount of time and money it might take for various governmental and private record-keepers to convert their existing Social-Security-numbered systems to other kinds of identifiers.

The optimism was unfounded. Just weeks after passage of the Privacy Act, federal and state agencies began preparations to operate the Child Support Enforcement Program by means of the Parent Locator Service, a federal-state record-tracing system authorized by Congress in January of 1975, for the purpose of locating parents (invariably fathers) who had "disappeared" to avoid paying child support to their families. The PLS was to use the Social Security number as the principal identifier for following personal information from one record system to another.

The Child Support Enforcement Program makes a search for the missing father mandatory when the mother and children are on welfare, optional for other families to locate fathers who have defaulted on court-ordered child support payments. The search is conducted by combing records, first locally, then in other states, and finally on the federal level. Eventually, any governmental records, and even many private records, could be encompassed in the search. The task becomes easier, of course, if a common identifier is available to serve as a bridge from one record system to another, and so the Parent Locator Service logically gives impetus to broader usage of the SSN.

The November 1976 issue of the Privacy Report discussed the Parent Locator Service at some length. Conceding "that children have the right to be supported by their parents, and that it is proper for the state to take steps to enforce that right," it went on to explore the larger privacy implications of the PLS:

... The PLS exemplifies a danger whose realization privacy advocates have predicted for some years. Its key is the Social Security number. The Parent Locator Service uses the SSN as an identifier to trace the absent parent from one record system to another. This is precisely the kind of record tracking and record linkage facilitated — almost invited — by the development of the SSN as a universal identifier, and precisely the reason for arguing that uses of the SSN should not be allowed to proliferate.

<sup>4</sup> The word "abandoned" may suggest a voluntary action. This was not often the case. Usually, agencies capitulated only under pressure. Many ACLU efforts succeeded on local legislation with state and local agencies which were illegally using the SSN, and by confronting them with lawsuits or evidence of their violations of the Act, were eventually able to effect changes of policy. Among the most important successes were state universities and several vehicle rental agencies.

The first step in the transformation of the SSN into a national identifier was the creation of the Social Security Administration (SSA) in 1935. The SSA was established to administer the Social Security Act, which provided for old-age benefits, disability insurance, and unemployment insurance. The SSN was first used as a means of identifying individuals for the purpose of receiving Social Security benefits. Over time, the SSN became a widely used identifier in various other contexts, such as employment, banking, and government services.

The SSN is a unique, nine-digit number assigned to each individual. It is used to identify individuals in a wide range of contexts, including employment, banking, and government services. The SSN is also used to track an individual's earnings and contributions to Social Security. The SSN is a permanent identifier, and it remains the same throughout an individual's lifetime. The SSN is a key component of the Social Security system, and it is essential for individuals to have an SSN in order to receive Social Security benefits.

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With the passage of the Tax Reform Act, the battle to hold the line on the SSN was effectively lost, at least with respect to governmental record systems. Indeed, it will now be difficult for any important record system to be maintained without the SSN, so strong are the pressures for the exchange of information keyed to a common identifier. The Patient Locator Service is surely only the first of many such record-keeping operations to come. If this prediction seems unduly gloomy, it should be remembered that just as the SSN stands as a symbol of what people most fear about the misuse of personal record systems, it also can be viewed as a symbol of what people most desire — efficiency, productivity, delivery of services, "law and order."

Four days after the Internal Revenue Service was created during the next major step in the transformation of the SSN into a national identifier. By Section 1111 of the Tax Reform Act of 1976, Congress, exercising its authority to create and on the "national" quality of "vehicle title and operating," expanded its use and local government agencies the right to use the SSN to administer their tax laws. motor vehicle registration and driver's license systems, and general public assistance laws. The purpose was to facilitate the use of motor vehicle registration and driver's license records for public searches, and to facilitate the comparison of public assistance program records within or between states to uncover cases of welfare fraud.

But the mystique of the universal identifier as a panacea for society's ills, disorders, and crimes proved too strong. Here is a sampling of the rhetoric that carried the day, from a speech by Russell Long on the floor of the Senate:

...Now, when we are trying to catch a bunch of chiselers, cheaters, liars, fakers, and frauds, here we see an amendment to stop us. Every honest man is carrying credit cards and other identification trying to prove who he is. But if you happen to be some runaway father, trying to avoid doing your duty to your own children, or trying to cheat on welfare by being on there under 18 different names, you do not have to identify yourself.... You do not have to identify yourself when you start chiseling and cheating on Uncle Sam....

My feeling about it is if you want your privacy protected, all you have to do is set out on foot, and between now and sundown, you can be in the beautiful George Washington National Forest and nobody is going to come there looking for you. You can stay there as long as you want to stay in there, you can come out anytime you feel like it, or not come out if you feel like that. Nobody is going to bother you.

In a context of "welfare reform," the right of privacy was cast as a cloak for evil deeds, and the true significance of the common identifier for the millions of people who don't desert their children or bilk the government was completely lost. The balancing of issues and values in this debate suggests that any future attempts to resist claims of administrative need and social utility will not be successful, and that the SSN will in time become officially, as it is now for all practical purposes, the common identifier in all of the personal records which describe the life of each individual.

We must reiterate here the symbolic importance of the SSN as a universal identifier, to combat a tendency either to minimize or to over-emphasize its real significance. While it is correct to say that the SSN is not in the technical sense a true universal identifier,<sup>4</sup> the fact that it is perceived as such by so many people -- both enthusiasts and opponents -- means that it must be regarded as a universal identifier for purposes of developing public policy. To deflect objections to its use by reassuring references to the fallacies of the system is to miss the point. Whatever its technical deficiencies now, with time and "improvements" the SSN will become a true universal identifier because that is the way it is being used.

On the other hand, one should not be lulled into thinking that personal records would not be tracked, linked, and pooled if only the SSN or some other common identifier were unavailable. Basic principles of information policy are established by deliberate decisions to restrict the collection and uses of personal records, and to set up strong legal barriers against their dissemination. The universal identifier may cloud the issue -- its very existence seems almost to invite the pooling of information (as the debate on the Tax Reform Act clearly showed) -- but the search

<sup>4</sup> A true universal identifier would be unique to each person, permanent and unalterable through life, and supported by a mechanism for verifying the identity of its bearers.

for a meaningful right of information privacy must go far deeper than the question of the universal identifier.

In recognition of the basic validity of the public's perceptions, we must acknowledge the acceptance of the SSN as a universal identifier, and go on to examine the long-range implications of that development.

#### TOWARD A NATIONAL IDENTITY DOCUMENT

The next logical step after a universal identifier is a national identity document. The HEW Advisory Committee on Automated Personal Data Systems clearly drew the connection in its 73 report Records, Computers, and the Rights of Citizens.

To realize all the supposed benefits of a universal identifier, mandatory personal identity cards would have to be presented whenever called for. Loss or theft of an identity card would cause serious inconvenience, and the mere threat of official confiscation would be a powerful weapon of intimidation.

Further, the Committee envisioned a national population register as an implicit outgrowth of a universal identifier, serving "as the skeleton for a national dossier system to maintain information on every citizen from cradle to grave." For this reason, the Committee opposed further steps toward the development of a universal identifier.

That was in 1973. We know now that the Committee's recommendation was not heeded. It seems, too, as if the Committee's predictions about the identity document are about to be realized.

Just as Section 1211 of the Tax Reform Act was adopted in a frenzy of rhetoric about "welfare chiseling," the national identity document may come into being in the present ado over illegal immigration. Like welfare, immigration is a vexing and emotionally charged subject, and the problem of illegal immigration, particularly from Mexico, has proved as intractable to straightforward "solutions" as the problem of welfare fraud.

Among the major proposals being studied by the Administration and the Congress for combatting illegal immigration, and especially the employment of illegal aliens, are the development of counterfeit-proof, coded Social Security cards, and legislation forbidding employers to hire persons not possessing the properly coded cards. Social Security cards would be designed to prevent physical alteration, duplication, or forgery, and marked to show whether the bearer is legally entitled to work in the United States (by virtue of citizenship or status as a legal resident alien). An employer would be required to inspect the card before hiring any worker, and to ascertain both the bearer's legal right to work and his or her identity as the rightful holder of the card. An employer who knowingly hires a person not legally entitled to work would be subject to criminal penalties.\*

\* ACLU has long opposed criminal penalties upon employers hiring illegal aliens. Such penalties could only exacerbate existing patterns of racial and ethnic discrimination in employment, by creating greater risks for employers hiring applicants who appear to be foreign-born. Employers' reluctance to hire such persons, even if they are in fact legal residents or citizens, will increase the discrimination now widely practiced against black and hispanic workers.

The transformation of the Social Security card into an official identity document and prerequisite for employment would bring this country perilously close to the adoption of an internal passport. Despite disclaimers by its proponents of any such intention, a document of personal identification whose disclosure is required before any employment can legally be obtained would be in fact, if not in name, a domestic passport. To thwart attempts at fraud or forgery, the card will have to carry such unique personal identifiers as photograph, signature, and fingerprints. It will also carry codings to show the status of the bearer as an "authorized" worker. It will thus become an "employment passport." Employers will be forced to serve as agents of the government for the purpose of determining each applicant's identity and legal right to work.

In time, such an "employment passport" would unquestionably become a national identity document. For a start, the need to verify the identity of the cardholder would require -- as the BEW Advisory Committee foresaw -- the development of a national population register. The signatures, photos, fingerprints, and other identifying information imprinted on the card would have to be compared to something else for verification, and that "something else" could only be a register containing matching signatures, photos, fingerprints, and other personal data. A national register is not encompassed in the current proposals, but is the only logical way to make the system work.

The new Social Security identity card would be the one common document possessed by the majority of the adult population. Once established as a reliable proof of identity, the card would lend itself to many uses flowing quite naturally from its availability. For example:

-- The police would be able to stop people on the street or in their automobiles and demand to see their identity cards. Proponents of the current proposals stoutly deny that this is their intention, and one need not question their sincerity. But such an eventual usage would be terribly difficult to prevent. The legal groundwork has already been laid, in the Supreme Court ruling permitting police officers to conduct a full search of both motorist and vehicle without a warrant when the motorist has been arrested for a traffic violation. *U.S. v. Robinson*, 414 U.S. 218 (1973). The technological groundwork has also been laid, in the increasing use of squad car computer terminals giving instant access by the police officer in the field to centralized state, regional, and national wanted persons, stolen vehicle, and criminal history files. The broad police power to stop, question, and search, added to the technological capability for the instant retrieval of criminal justice information, creates the perfect context for the development of a police identity document. Perhaps we would never go so far as to require by law that people carry their identity documents at all times, but it would become very "convenient" always to have it on hand -- especially if one is black, hispanic, poor, long haired, young, a frequenter of "questionable" gathering places, or given to walling on deserted streets in the dark of the night.

-- A population registry, especially one containing photographs and fingerprints, would inevitably have other compelling uses in addition to the enforcement of the immigration laws. The detection of welfare fraud and the apprehension of criminal fugitives are the two most obvious examples to come to mind. It would be most difficult to forbid the use of such a registry in law enforcement situations hinging on the verification of identity; that would be asking too much of human nature.

-- Both public agencies and private organizations which now employ the SSN as an identifier would naturally find the national identity document a great convenience, and would incorporate it into their information systems. So too would those agencies -- and especially private businesses -- which now require some sort of proof of identity, such as a driver's license. Could one really blame a local merchant for asking to see a customer's identity card before accepting his personal check? Once more, the presumed reliability of the document would lead to its widespread use by the simple process of logic.

-- Although initially encompassing only adults, the system would eventually be applied to children as well. There have already been serious proposals to give children Social Security numbers when they enter school, or even at birth, as a way of preventing illegal aliens from sending their children to public schools and clinics, and, again, as a means of combating welfare fraud through the collection of benefits for fictitious children. Despite the repugnance of the thought to most people right now, a good case could be made for issuing identity documents to children, and ultimately to newborn infants, once the system has become an accepted fact of life in the adult world.

-- If an identity card can be marked to indicate the bearer's entitlement to work, it can also be marked to show other entitlements, or disabilities. Arguments would certainly be made for indicating criminal convictions or status as a welfare recipient on the document. Employers are always eager to investigate the criminal histories of job applicants, and a coded identity document would save a lot of trouble getting access to criminal justice records. If the documents of welfare recipients were coded, employers could be forbidden to hire them just as they would be forbidden to hire illegal aliens -- and conversely, the working poor or the occasionally employed could be prevented from collecting public benefits open only to "certified" welfare recipients. If these speculations sound extreme, they are only adaptations of present practices enhanced by the availability of a national document of entitlement.

-- What more formidable method of social control could be devised than the removal of the identity card on which one's livelihood, or even freedom to walk the streets, may depend, or the coding of the card to make the bearer ineligible for certain privileges, benefits, or basic civil rights and civil liberties?

None of these eventualities is intended or even desired by most of those who view an identity verification system as the answer to the illegal alien problem. But we have learned -- or should have learned -- from past experience that information systems are almost invariably perverted from their original purposes, and we must be extremely cautious in establishing a new one which has such obvious implications for the right of privacy.

It may all turn out that the identity card scheme is a politically unacceptable solution to the illegal alien dilemma just at present, but we can be sure that the idea will not be completely abandoned. The universal identifier and the national identity document will always be attractive -- and dangerous -- because they are

\* Or, employers might be legally required to report the hiring of any such applicant to the welfare agency, so that the person would automatically be removed from the welfare rolls.

effective techniques for controlling people. When frustrations run high over difficult social problems, it is all too easy to turn to "benign" solutions of information control without thought of what those solutions really portend for the quality of our lives. /FRH

#### STATUTE LAW ON THE SOCIAL SECURITY NUMBER

To counteract the prevailing note of pessimism in these pages, it may be useful to remind readers of the Privacy Report that there are still some statutory restrictions on uses of the Social Security number under the Privacy Act of 1974 and the Tax Reform Act of 1976. Here is a summary:

1. It is unlawful for any federal, state, or local government agency to deny a person any right, benefit, or privilege provided by law because the individual refuses to disclose his or her Social Security number, except in the following circumstances:

A. To an agency maintaining a system of records operating before January 1, 1975, which required the disclosure, under a statute or regulation adopted before January 1, 1975, to verify the person's identity.

B. Additionally, as required by federal statute. At present, this exception covers uses by state and local government agencies for the administration of tax, motor vehicle registration, driver's license, and general public assistance laws, and for responses to requests for information by a Parent Locator Service agency.

2. In requesting disclosure of an individual's Social Security number, an agency must inform the individual:

A. Whether disclosure is mandatory or voluntary.

B. By what statute or regulation its request is authorized.

C. What use will be made of the number.

3. It is a misdemeanor for a person to disclose, or use or compel the disclosure of the SSN of an individual in violation of any U.S. law. It is also a misdemeanor for a person to make any "willful, knowing, and deceitful" use of his or her own SSN for any purpose.

4. Private organizations and businesses are neither empowered nor forbidden by law to use the SSN. Thus they have no legal right to require disclosure of the SSN, but one's only ultimate remedy, after argument fails, is to take one's business elsewhere. Obviously, this is not always an option.

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