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Social Security Numbers: Use

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

July 18, 1978

To: Carl S. Weston, III, Deputy Director, Central
Computer Services

From: Sarah Redfield, Assistant Attorney General

Re: Use of Social Security Numbers

This is in response to your request of June 7, 1978, to Deputy Attorney General Donald Alexander for an opinion as to the propriety of your use of Social Security numbers for record-keeping purposes both prior and subsequent to 1974. Subject to the limitations discussed herein, Central Computer Services may use Social Security numbers for such purposes.

The Federal law governing the use of Social Security numbers is § 7 of the Privacy Act of 1974, P.L. 93-579. This section provides that:

"(a) (1) It shall be unlawful for any Federal, State or local government agency to deny 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 . . . (B) the disclosure of the Social Security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1st, 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 governmental 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."
(emphasis supplied)

You indicate that records have in the past been kept manually in a Social Security number sequence. However, you do not indicate any statutory authority under which this may have been done. In regard to the Central Computer Services, I am unable to ascertain any such authority, see, e.g., Title 5 M.R.S.A. § 283, § 1851. Nor am I aware of any regulation adopted by Central Computer Services prior to 1975 which would govern this question.

The above-quoted statutory provision provides that a system of records in existence and operation before January 1, 1975, which required Social Security numbers would not be affected by the Privacy Act "if such disclosure was required under statute or regulation adopted prior to that date to verify the identity of an individual." Accordingly, unless such a statute or regulation exists, this exemption will not apply.

Without such exemption, the remainder of § 7 would be applicable and would mandate that no individual be denied any legal privilege because of his refusal to disclose his Social Security account number. You will note that this section does not prohibit you from requesting and using Social Security numbers. It does, however, require that should you request and wish to use such numbers, you inform each person whose number you request that his disclosure of such number is not mandatory. You must also inform such person what uses will be made of the number. In this case, presumably you would have to inform the person that the number will be used for record-keeping purposes and for cross references for various governmental functions.

I hope this information has been helpful. If you need further assistance, please feel free to contact this office.



SARAH REDFIELD
Assistant Attorney General

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