

- 1. It has been suggested that your current notification policy (related to someone's Social Security number being made public by mistake) violates the Privacy Act and the Office of Management and Budget's guidance. What is your response?**

OMB guidance (M-07-16) provides that an agency should notify individuals when there is a reasonable risk of harm, but should avoid creating unnecessary concern or confusion when the risk level is low. We do not notify an individual unless we identify misuse. If we find a case of misuse, we will notify the affected individual immediately and offer credit monitoring or other appropriate identity theft protection services. However, since 2008 when we began reviewing persons erroneously listed on the DMF to look for patterns of misuse, we have not identified any cases of misuse.

We are reviewing our policy to determine whether it strikes the right balance and is respectful of public perception. We expect to complete our review in 90-120 days. Not having to release death information to the public would largely resolve this issue with regard to the Death Master File.

- 2. Your Inspector General has criticized the agency for not notifying the 14,000 living people who are erroneously put on the Death Master File (DMF) each year. I understand the Social Security Administration (SSA) has a contractor review these cases for patterns of possible misuse. Would you tell us more about that process? How much time does it take for the SSA to discover and remove the errors for those living from the DMF? If there are patterns of misuse would you then notify the individual directly? You mentioned during the hearing that you were reviewing your notification policy. When can we expect the results of your review?**

We contract with ID Analytics, a leading identity risk management firm, to review the cases in which we have erroneously placed a living person on the DMF. ID Analytics operates the ID Network, a cross-industry collaboration of data sharing for the purpose of identity fraud prevention. ID Analytics examines risk events, primarily new account opening or account changes, for the likelihood that these events represent identity fraud. ID Analytics reviews these cases quarterly for a period of three years. To date, it has not identified any patterns of misuse. If it were to identify misuse, we would promptly notify individuals and offer credit monitoring.

While we do not track how long it takes to identify an error on the DMF, we act quickly to correct an error when we discover it. We expect to complete our review in 90-120 days and will share the results with you.

- 3. I understand the SSA offers a consent-based SSN verification system that includes death information. Would you tell us more about this system and your views regarding whether it could be a source for death information should Congress change the law to prevent the Death Master File from being made public?**

Private companies and Federal, State, and local agencies pay to use our Consent Based Social Security Number Verification Service (CBSV) to verify Social Security numbers (SSN). In order to use CBSV, entities must have a properly signed consent form, and they may only use the verification results for the reason the client specifies.

CBSV verifies whether a name/SSN combination matches data in our records. Each name/SSN combination submitted to CBSV is returned with a “yes” or “no” verification code, which indicates that the submission either does or does not match our records. If the name/SSN match and our records show that the SSN holder is deceased, the response includes the fact of death but not the date of death.

We do not believe CBSV would be a satisfactory alternative to the DMF in most cases. Unlike the DMF, CBSV requires the consent of the Social Security number holder and provides only an indication of death, not the information most users want, such as date of death. In addition, CBSV is a one-time verification process. Users enter one name/SSN combination at a time. In contrast, the DMF is a database of death information, which can be run against the purchaser’s own records.

- 4. Under the Social Security Act, the SSA may give states death data to administer benefits “wholly funded by the state.” In the case of state retirement benefits, the employees help fund the pension through their contributions. Since state retirement benefits are not “wholly” funded by the State, state benefit retirement agencies must obtain death records to administer their programs by purchasing the Death Master File. I don’t think this was the intent of the law. What is your opinion?**

Section 205(r)(3) of the Social Security Act provides that we may share our death information with Federal and State agencies to ensure proper payment of federally-funded benefits, while section 205(r)(4) states that we may provide our death information to States for their use in programs only if those programs are wholly funded by the States. By including “wholly,” Congress left no discretion to share the full DMF with State agencies to administer programs that are funded by employees as well as State governments.

However, State retirement systems should be able to get State deaths from their State department of vital records.

- 5. Would you explain your policy of issuing new Social Security numbers (SSNs) to children whose identities have been compromised? Children usually have no wages so why not respect a parent's wishes to protect their child? How do you know that the number won't be used in the future for some harmful purpose? Does your agency at least flag the number as stolen in your verification processes?**

In light of the increase in identity theft, we are currently reviewing our policy to ensure it is responsive, especially to children.

Our current SSN policy tries to balance appropriate and necessary control over the issuance of SSNs with the need to address unique events that warrant a new number. We assign a new SSN when a person provides evidence that criminal or harmful misuse of the number has caused recent economic or personal hardship. We also advise the person that a new number may not solve all problems. Because of the widespread use of the SSN, the person may have difficulty transitioning to the new number with employers, banks, credit bureaus, and other entities. Even the SSNs of children who have no earnings may have already been shared with many entities, beginning with pediatricians and health insurance providers.

Once we assign a new number, we refer the person to the Federal Trade Commission to request a fraud alert be placed on credit records. We also flag the old number in our records. Employers, State agencies issuing driver's licenses and identification cards, and CBSV users see this flag when they use our verification routines.

- 6. Has the National Association for Public Health Statistics and Information Systems participated in the interagency working group? Further, when you contract with states for their death data, what kind of agreements are there? Please indicate the general terms of these agreements. Are all state agreements similar? Are there restrictions on the use and sharing of this data to other parties including other federal agencies?**

To our knowledge, the National Association for Public Health Statistics and Information Systems has not participated in the OMB-led review of the policy behind the availability of death information.

Our contractual agreements with the States to provide death information are based on the provisions of section 205(r) of the Social Security Act. These agreements outline the data we can exchange and its permissible uses, including rules for sharing the data. Each State contract contains the same language, regardless of whether the State participates in Electronic Death Registration (EDR), an initiative to automate the paperbound death registration process.

Section 205(r) prohibits us from redisclosing death information provided to us by the States, except to Federal and State agencies that provide federally-funded benefits and States that administer benefit programs wholly funded by the State. Additionally, the law provides us with discretion to provide death information to Federal and State agencies for research and statistical purposes.

We have attached a blank copy of a State contract for your information.

- 7. Social Security shares the death information in its internal databases with other agencies that also provide benefits, such as the Department of Veterans Affairs (VA). Do these agencies make this information available to the public? Do your data sharing agreements prevent these agencies sharing this information publically or with any other agency?**

We share death information with Federal benefit-paying agencies following the computer matching and privacy protection requirements of the Privacy Act. These agreements prohibit agencies from redisclosing the data we send them.

- 8. What would it cost to bring all remaining non-participating states into the Electronic Death Registration system?**

We defer to the Department of Health and Human Services (HHS) with respect to the costs involved in the development of EDR systems.

- 9. In considering potential solutions as to how we ensure that entities using the information contained on the Death Master File are still able to access the data, would there be a way for the SSA to work directly with the entities that have a need for the Death Master File to receive the information directly from Social Security rather than through a third party?**

OMB has been working with us and the Departments of Treasury, Justice, and Defense to craft a legislative approach to limit the public availability of death information. The Administration has previously presented the specifications for a draft bill to Committee staff, and will soon formally submit that draft bill for the consideration of the Congress, which reflects our preferred balance between protection of personally identifying information (PII) and allowance of limited access with strict accountability. We look forward to working with the Committee on that draft bill. Please note that there is no benefit to SSA to share this information. We do so because FOIA requires it.

- 10. I learned about a North Dakotan who is having a similar issue to some of the one's we've been discussing with the Death Master File. The person was notified for the second time of his wrongly reported death listing by the VA. The incorrect information regarding his death also made it onto the Internet. However, we did receive a notice from the VA about the error. I would like to know, if the VA can catch this kind of error, and then notify the affected individual, do you think the SSA could use a similar process so that the individual can take steps to protect their personal information?**

We will contact the VA during our notification policy review to learn more about its breach notification processes. We will adopt any cost-effective measures to more quickly identify

errors on the DMF, without relying on self-reports. Early identification of these errors would limit PII exposure and lessen any hardship for affected individuals.

Attachment

Blank State contract