

FPC Informational Memorandum: Social Security Numbers

Issue:

During traffic stops and field interviews, some Milwaukee Police Department (MPD) members may ask citizens for their social security numbers. Requesting a social security number can lead to an adverse confrontation. Citizens are often within their legal rights to refuse to provide the number. In a case brought to the attention of the FPC, an MPD officer is alleged to have insisted that a citizen provide his number. When the citizen in question refused to provide their social security number, they claim they were threatened with a citation and/or arrest¹. Such encounters may damage police-community relations. This memorandum examines the policy, procedure and customs of the MPD pertaining to the circumstances in which a social security number should be requested by a member.

Findings:

MPD Standard Operating Procedure (SOP) 710 – Field Interview/Traffic Warning Cards (February 15, 2000) states that members who initiate contact with suspicious persons, or persons involved in faulty driving habits or minor traffic violations are to submit a Field Interview/ Traffic Warning Card (FI card). It denotes the fields to be entered, which include: Officer's Payroll Number, Date and Time of Stop, Name of Person Stopped, Associates of Person Stopped, Date Of Birth, Age, Sex, Race, Division of Interest (such as Gang, Vice, Homicide, etc.) and Vehicle Information. The information requested for the FI cards include space for a social security number. Although not explicitly stated, there is no requirement to record a social security number. The SOP is silent concerning the circumstances in which the social security number should be requested. The FI card is to be turned in to the member's supervisor as soon as practicable after the contact occurred. The completed FI cards are forwarded to clerical staff on a daily basis for entry into the department's database. The FI cards are kept on file for seven (7) days at the work location after entry into the database, and then destroyed.

The majority of members carry FI cards on their person. Some members may write the information in their memo book and either transfer the information to a FI card at a later time, or enter it directly into the database when they return to their work location.

If a citizen is arrested, he/she is transported to the district station and booked. During the booking process, the member enters the citizen's personal information into the arrest report database. The database includes a field for the social security number.

¹ In one instance, as a member was investigating a burglary of a business, he came across a citizen in a business in the vicinity of the burglary. As the member motioned to the citizen to come out of the business, the citizen waved the member off and continued closing his business for the day. When the member saw the citizen standing outside the business and watching the investigation, the member spoke with the citizen and allegedly demanded his social security number. The citizen refused to give his social security number and as a result was allegedly threatened with arrest.

A telephone survey of several police departments in Wisconsin and other states revealed that the procedures for requesting the social security number varied. Some departments indicated that their members ask citizens for their social security number, but if they refuse, the members do not insist that the number be provided. Departments that authorize members to request a social security number did so under varied circumstances, including:

- During traffic stops and investigations of suspicious persons.
- When a citizen is arrested and booked.
- When determining whether the citizen is lying about their identity.
- When there is an open warrant on a citizen with the same or a similar name, to determine if it is the person with a warrant.
- If the citizen does not pay their fine, or appear in court and is found guilty, the social security number is used to request payment through the state's tax refund interception program. The police department certifies the debt to the Wisconsin Department of Revenue (DOR) and receives payment through the program once the citizen's income tax refund is available. In lieu of a social security number, DOR accepts the citizen's name and driver's license number and verifies that information with tax records.

Most of the departments surveyed do not require members to obtain a citizen's social security number. No department surveyed authorizes arrest or threat of arrest if a citizen refuses to provide the social security number

In one out-of-state department, members are prohibited from requesting social security numbers during traffic stops, investigations, or during the booking process. The department revised its policy and stopped asking citizens for their social security numbers entirely due to concerns about identity theft laws.

Legal Summary:

The Privacy Act of 1974² protects government records pertaining to individuals. The Act covers systems of records that an agency maintains and retrieves by an individual's name and other personal identifiers, including social security numbers.

Section 7 of the Act requires all federal, state and local authorities who request a citizen's social security number to inform the citizen whether the disclosure is mandatory or voluntary, how the social security number will be used, and under what statute or authority the number is requested. A citizen cannot be denied any right, benefit or privilege if they refuse to disclose their social security number, unless the disclosure is required by federal law or where a law existed prior to January 1975 requiring disclosure. No federal law was located that requires a citizen to provide their social security number to a municipal

² 5 U.S.C. § 552a.

law enforcement officer. No state law prior to January 1975 was located that requires disclosure to a law enforcement officer.

Congress enacted the 1998 Identity Theft and Assumption and Deterrence Act³ and made identity theft a felony. The U.S. Government Accountability Office reported the increased potential for identity theft using social security numbers in a 2006 report. As a result, the President's Task Force on Identity Theft by Executive Order 13402 was established on May 10, 2006. This Task Force subsequently issued its report on identity theft and this influenced many states to limit the inclusion of social security numbers in public records and to explore alternatives to using the numbers as identifiers. Identity theft can occur from police records, through open records requests for police document files, by inadvertent release of records, and by failure to properly redact government records.

Technology Alternatives:

Since the Field Interview/Traffic Warning Card SOP was last revised in 2000, technological innovations have been developed or improved. These innovations provide members with improved means to confirm the identity of persons that provide correct information and also recognize when persons are likely providing false identification information. None of the technology alternatives rely upon the social security number as an identifier.

MPD has been using the Morpho RapID mobile fingerprint scanner for just over a year. MPD purchased 130 scanners with grant funding and is in the process of deploying them throughout the department. With the citizen's consent, the citizen places his/her index finger onto the scanner screen for the device to read the fingerprint. If the citizen has been fingerprinted by MPD in the past, their name, date of birth, race, gender and Bureau of Identification number appear in approximately 20 seconds.

MPD Standard Operating Procedure 370 – Field Identification (April 13, 2007) states that during a field interview and the citizen's identity is in question, the citizen may consent to use the fingerprint scanner as part of the identification process. If a person does not consent, the member does not have authority to demand fingerprint identification. The scanner provides a quick and accurate confirmation of the citizen's identification, which allows the citizen to be released on the street instead of from a district station or the prisoner processing section. It is an effective method of deterring false identification.

In addition, the Wisconsin Department of Motor Vehicles maintains a database of driver's records and motor vehicle registrations. The database is accessible during any traffic stop or field interview via police radio or Mobile Data Computer in police vehicles. A properly trained member can query a citizen and corroborate the information provided with the Department of Motor Vehicle records to confirm a person's identification. The database also allows an experienced member to establish that false identification is being provided to a reasonable certainty in many instances.

³ 18 U.S.C. § 1028.

Discussion:

Social security numbers have usefulness for municipal law enforcement in very limited circumstances. The Social Security Administration will not release an individual's information upon request by a municipal police department even if the police department possesses the citizen's social security number.

Social security numbers are typically beneficial to police departments in verifying the identification of a citizen if a warrant was entered into the CIB or NCIC database, along with a social security number. In such cases, members can compare a citizen's social security number with the number referenced on the warrant as one tool to help determine if it is the same person, in addition to utilizing other personal identifying characteristics that are entered into the database. Positive verification of warrants can be established through fingerprint analysis, which may or may not be accomplished in the field.

Requiring citizens to provide their social security number during traffic stops or field interviews may be contrary to federal law. In some instances, requesting a social security number during a traffic stop or field interview places a citizen in the uncertain position of appearing uncooperative when their primary concern is the potential for identity theft. Such encounters have the potential to reduce police-community relations. Uncertainty by the member or citizen has the potential to elevate an innocuous citizen-police contact into an adverse confrontation.

A properly trained and experienced member, by utilizing appropriate interview techniques can often detect a person that is providing false identification information. When identification of a person is an issue, more effective alternatives are available such as mobile fingerprint scanners, photo identification cards, and corroborating information that is available through the Department of Motor Vehicles.

Conclusion

In an effort to reiterate federal law and clarify in explicit terms that a citizen is not required to provide a social security number, a directive should be issued by the Office of the Chief of Police that outlines the Milwaukee Police Department's policy regarding social security numbers. That policy statement will include that:

- members may request, but not require, a citizen to provide their social security number only when no other means exists to confirm a person's identity in a community setting, or when booking an arrestee at a police facility.
- citizens are not required to provide their social security number during a traffic stop, field interview or other investigation;
- members are not to intimidate, harass or threaten arrest if a citizen chooses to not provide a social security number; and
- the Milwaukee Police Department adheres to all federal privacy standards.

This directive will improve police-community relations, clarify existing policy for members, and protect citizens from identity theft, while not significantly affecting the ability of members to identify citizens and conduct investigations into criminal activity.