

ROLL CALL TRAINING
FROM NORTH CAROLINA'S 24/7 POLICE
ATTORNEY LAW FIRM

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ALERT: TO GET A SOCIAL SECURITY NUMBER, OR NOT TO GET A SOCIAL SECURITY NUMBER, THAT IS THE QUESTION.
[Apologies to William Shakespeare]
Ralph B. Strickland, Jr.

THE FACTS:

The Uniform Citation Form issued by the Administrative Office of the Courts and used statewide by all law enforcement agencies has a space for the entry of a suspect person's social security number.

THE ISSUE:

The North Carolina State Privacy Act makes it unlawful for a state or local government agency to deny any right, privilege or benefit to a person simply because they refuse to disclose their social security number.

THE PONDERABLE:

So, what's the good law enforcement officer to do?

WELL, READ THE STATUTE FIRST: § 143-64.60. State Privacy Act.

(a) It is unlawful for any 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.

The provisions of this subsection shall not apply with respect to:

- (1) Any disclosure that is required or permitted by federal statute, or*
- (2) The disclosure of a social security number to any 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 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. (2001-256, s. 1; 2001-487, s. 87.)

THE EFFECTIVE DATE WAS: October 1, 2001

NOW WHAT?

Well, recently there has been renewed discussion around the state about the fact that, on the one hand, while the statute prohibits certain uses of a social security number by the government, on the other hand there sits the empty block on the Uniform Citation Form just waiting to be filled by the suspect's social security number. Certainly looks like a conundrum to me. And, I might add, a puzzle, mystery and an enigma as well.

WHAT YOU CANNOT DO:

First, the State Privacy Act authorizes a request for the social security number if such disclosure is required or permitted by a federal statute. All well and good, but that does not apply to the citation form; there is no federal requirement or permission to secure a social security number as an identifier on a state citation form. Strike one!

Also, the Act states that if we have been securing that number in a system of records prior to 1975, we can also request it. The only concern for us here is that it was not a requirement as an identifier on the Uniform Citation Form prior to 1975 (in fact, it was only added in the early 1990's when the citation form was redesigned.) Strike two!!

WHAT FIRST LINE SUPERVISORS SHOULD KNOW:

There is no strike three! When a law enforcement officer asks a person he is citing for his social security number, the statute requires that the suspect be told that providing the number is voluntary, it is merely an agency policy (if that is so) to ask, and that it will be used only to help in preventing the suspect from being misidentified. Thus law enforcement officers may ask for it, but not demand it. I should think any person would not want a long criminal history that included many crimes he did not actually commit. And he should know that proving *any* of them were charges on another fellow with the same name would be difficult at best, impossible at worst. As either Woody Allen or Al Capone said, it would take too much time, too many lawyers and *waaaaaaaaay* too much money to rectify that particular mess. Probably, it would be easier just to change your name. Really.

My friends, if the motorist refuses to give his social security number, so be it. There can be no resist, obstruct or delay charge (G.S. 14-223) for failure to give a social security number as an identifier on the citation form. It is unlikely that the state will change the form anytime in the reasonably near future, you know, the budget being what it is. And do not look for an amendment to the State Privacy Act.

Ask politely. Include it if you have it. Move on to the next block if refused. Make no big deals about it.

NOTICE: The next planned installment of Roll Call Training will be tips from Miss Manners on the most acceptable way to ask people their weight and age (and of course Kevin's personal favorite: "Do you have a glass eye?")

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