

NOV 20 1978

Director of Data Processing and Accounts L78-613

M-42

General Counsel

Request from State of Illinois Department
of Public Aid

This is in reply to your memorandum of November 1, 1978, in which you requested my opinion as to whether the Board could comply with the most recent request for information which it has received from the Illinois Department of Public Aid. The Department of Public Aid has asked whether or not the Board could match a computer tape of Illinois public aid recipients against the Board's records of compensation and, presumably, also its benefit tapes. The Board would then inform the Department of any matches which occur.

In General Counsel's opinion L-78-303 it was held that the Board could not, consistent with the Privacy Act, provide the Illinois Department of Public Aid with Board records showing compensation and benefit data. Subsequent to the issuance of General Counsel's opinion L-78-303, a similar request was received from the Ohio Department of Public Welfare. General Counsel's opinion L-78-381, which concerned the Ohio request, elaborated on the segment of General Counsel's opinion L-78-303 which pertained to the routine use exception contained in the Privacy Act and stated that General Counsel's opinion L-78-303 should be read as holding only that the requested records could not be provided under any routine use established by the Board. General Counsel's opinion L-78-381, while following the holding in General Counsel's opinion L-78-303, reserved the question as to whether a routine use could be established to cover computer matches with welfare agencies. I am of the opinion that the Board could, if it so desired, establish a routine use to permit disclosure of certain of the data desired by public aid departments for computer matches.

Neither General Counsel's opinion L-78-303 nor General Counsel's opinion L-78-381 considered the applicability of section 12(d) of the Railroad Unemployment Insurance Act to the requests at issue in those opinions. However, in view of my opinion that a routine use could be established to permit,

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under the Privacy Act, disclosure of certain information for welfare policing, the restrictions imposed by section 12(d) must be examined. Section 12(d) of the Railroad Unemployment Insurance Act, which is incorporated into the Railroad Retirement Act by section 7(b)(3) of that Act provides, in pertinent part, as follows:

"Information obtained by the Board in connection with the administration of this Act shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: Provided, however, That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this Act; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; and (iii) any claimant of benefits under this Act shall, upon his request, be supplied with information from the Board's records pertaining to his claim. * * *

This office has consistently taken the position that section 12(d) does not apply to benefit data such as amounts of benefits, dates of issuance of benefit checks, and the fact of entitlement to benefits. However, virtually every other item of information which pertains to an individual is covered by section 12(d), including records of compensation. Since release of benefit data is not restricted by section 12(d), such information could be provided to public aid departments under an appropriate routine use. However, compensation records provided to the Board by employers would fall within the purview of section 12(d) and may only be released if one of the exceptions contained in that section would apply to the disclosure. It is my opinion that none of the exceptions provided for in section 12(d) of the Railroad Unemployment Insurance Act would permit disclosure of compensation records to state departments of public aid for welfare computer matches. That section would likewise prohibit the Board from engaging in the procedure proposed by the Illinois Department of Public Aid, except to the extent of running a computer match of welfare recipients against railroad retirement benefit tapes in accordance with an appropriate routine use.

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If the Board should establish a routine use to permit disclosure of benefit data to public aid departments for computer matches or to run such checks on our own computer and release the results, the Board could charge for such services.

Dale G. Zimmerman

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