



STATE OF INDIANA

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Elizabeth McGrath
Project Manager
Indiana Bureau of Motor Vehicles
100 North Senate Avenue; N 440
Indianapolis, Indiana 46204

Re: Your informal inquiry

Dear Ms. McGrath:

This opinion is in response to your informal inquiry dated December 10, 2008. Pursuant to I.C. § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

You write on behalf of the Indiana Bureau of Motor Vehicles ("BMV"). Pursuant to the Access to Public records ("APRA")(Ind. Code 5-14-3), the BMV is a public agency. I.C. § 5-14-3-2. Your inquiry follows an inquiry about which I issued an informal opinion on March 10, 2008. In that opinion, I addressed the question whether the BMV may provide certain information to companies which produce publications containing statistical information. The publishers then sell the products to clients who use the information to develop marketing strategies. The publishers specifically requested the names, address, and other information related to companies found on vehicle titles and registrations. The companies included automobile dealers, leasing companies, and lending institutions.

Your inquiry arises because the Driver's Privacy Protection Act of 1994 ("DPPA"), 18 USCS § 2721 *et seq.*, prohibits disclosure of certain information about individuals. But the DPPA defines a person as "an individual, organization, or entity, but not a State or [State] agency." 18 USCS § 2725(2).

Indiana's adoption of the DPPA can be found at I.C. 9-14-3.5. The state's DPPA contains the same prohibition against disclosure of "personal information." I.C. § 9-14-3.5-7. "Personal information" means "information that identifies a person . . ." I.C. §§ 9-13-2-124.5, 9-14-3.5-5.

- (a) 'Person' means, except as otherwise provided in this section, an individual, a firm, a partnership, an association, a fiduciary, an executor,

or administrator, a governmental entity, a limited liability company, or a corporation.

- (b) 'Person', for purposes of IC 9-14-3.5, does not include the state or an agency of the state . . .
I.C. § 9-13-2-124.

As I wrote in my March 10, 2008 opinion, based on the foregoing provisions, it is clear the BMV may not disclose information that identifies an individual. The inquiry then was whether this exception to disclosure prohibits the BMV from disclosing information contained in vehicle registration and title records related to lending institutions with whom the registrants financed the vehicles. The present inquiry is whether the BMV can disclose the names of corporations which register many vehicles to contractual corporate partners so the partners may contact those corporations to let them know about means to register their vehicles other than directly through the license branches.

Ind. Code § 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of the APRA. One such exception to disclosure requires an agency to withhold any information declared confidential by state statute. I.C. § 5-14-3-4(a)(1).

Indiana's DPPA provides the following:

This chapter implements the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. 2721 et seq.) to protect the interest of individuals in personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by an affected individual or by law. The prohibitions of this chapter are in addition to any other prohibitions, including those found in IC 9-14-3-6.
I.C. § 9-14-3.5-1

My analysis in the March 2008 opinion was as follows:

While definition of "personal information" includes a reference to the definition of "person," which includes a firm, corporation, or a number of other entities, it is my opinion the foregoing provision does not prohibit the BMV from releasing, upon request, the information about lenders contained in vehicle registration and title records. It is clear that the DPPA is intended to protect the "interest of individuals in personal privacy . . ." I.C. § 9-14-3.5-1. Further, it is clear that Indiana's legislation is intended to codify the federal law into Indiana law. I think it is clearer when reading the federal DPPA that the law was intended to protect individuals who are subject of the records rather than the lending institutions listed on the records. To the extent the BMV seeks to provide information not related to a specific individual and that information is

being disclosed for use in compiling statistical information, it is my opinion disclosure violations neither the DPPA nor the APRA.

The difference between the March 2008 question and the present question is that the March 2008 opinion involved information related to the lenders listed on the vehicles registration records. Here, the issue involves the entities which register the vehicles. In my opinion, based on the analysis I provided in March 2008, this is the type of information the DPPA seek to protect. Nothing in the law allows the BMV to provide access to this information only to specific requesters. So if the BMV could disclose the information to corporate partners, it would be required to disclose the information to any requester. In my opinion this is contrary to the purposes of the DPPA, which is to protect the information of registrants. As such, it is my opinion that the BMV cannot release the information relating to the individual (or corporation) registrant without consent from the affected individual or a statutory provision specifically allowing or requiring disclosure.

Please do not hesitate to contact our office if we can be of further assistance.

Best regards,



Heather Willis Neal
Public Access Counselor