

March 10, 2008

Scott DeVries
General Counsel
Indiana Bureau of Motor Vehicles
100 North Senate Avenue; N 440
Indianapolis, Indiana 46204

Re: Your informal inquiry

Dear Mr. DeVries:

This is in response to your informal inquiry dated February 21, 2008. Pursuant to Ind. Code § 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 Act (“APRA”)(Ind. Code 5-14-3), the BMV is a public agency. I.C. § 5-14-3-2. Your inquiry is 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 request the names, addresses and other information related to companies found on vehicle titles and registrations. The companies include 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.

Based on the foregoing provisions, it is clear the BMV may not disclose upon request, information that identifies an individual. Your inquiry is whether this exception to disclosure prohibits the BMV from disclosing information about lenders which is contained in vehicle registration and title records.

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 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.

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 the 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 violates neither the DPPA nor the APRA.

Please do not hesitate to contact me if I can provide any further assistance.

Best regards,



Heather Willis Neal
Public Access Counselor