

Policy #29

Subject: Motor Vehicle Privacy Act Effective Date: December 2000

Reference: Standard Operating Procedures

Distribution: All Personnel

POLICY:

- A. It is the policy of this agency that motor vehicle records be obtained or released only as provided by applicable state and federal law. Any request from members of the public for driver or vehicle information should be directed to the Department of Safety
- B. The procedures contained herein will be implemented regarding the release of any information derived from the forms, records, and databases of the Department of Safety of this or another state.

PURPOSE:

- A. All users of driver and vehicle registration records, must comply with the US Supreme Court ruling in *Reno v. Condon* (#98-1464, US Supreme Court, 1/12/2000) regarding the federal Driver's Privacy Protection Act of 1994 (DPPA), which regulates the disclosure of personal information contained in motor vehicle records by placing restrictions on its disclosure and use.
- B. The New Hampshire Legislature, by amending RSA 260:14, has placed additional, more stringent restrictions on the release of motor vehicle records. Among the purposes of these laws are to protect victims of domestic violence, stalking targets, and persons in witness protection programs from inadvertent disclosure of their whereabouts or identities.

- C. Any government agency or employee with access to DMV driver or vehicle files may be fined up to \$5,000 per day, and individual employees can be prosecuted in federal court if this personal information is provided for an impermissible use without proper release from the person to whom the information pertains.
- D. It is also a misdemeanor under New Hampshire law to improperly disclose such information.

I. DEFINITIONS:

A. DMV: The Division of Motor Vehicles of the NH Department of Safety, or a similar agency in any other state, nation or territory.

B. Law Enforcement Agency: A Sheriff, Deputy Sheriff, State Trooper, Constable, or Police Officer of any city or town, an official of any jail or correctional institution, a Conservation Officer, a Probation/Parole Officer, or any federal law enforcement officer.

C. Official Business: Business conducted by a government agency, including executive, legislative, or judicial, to fulfill its statutory or constitutional responsibilities.

D. Motor Vehicle Record: Any personal information obtained from a database, application, report required by law, registration, driver history, certificate or license issued or revoked by the Department of Safety. Includes but is not limited to social security numbers, dates of birth, addresses, telephone numbers, medical or disability information, or driver's license numbers.

II. PROCEDURES

A. Personal information found on or associated with a motor vehicle record can only be disclosed to another person as permitted under the DPPA and RSA 260:14. Permissible uses include use by any government agency, including any employees of any court or law enforcement agency, in carrying out its functions and acting in the capacity of official business.

B. Motor vehicle record information may be released by the DMV only at its option, and in response to a request from a state, a political

subdivision of a state, the federal government, a law enforcement agency for use in official business or pursuant to a court order.

1. Requests are evaluated on a case-by-case basis.

2. Records received or transferred from DMV shall not be further transferred to a non-governmental agency or otherwise made available to any person or listed entity not authorized by law.

C. Access to the State Police On-Line Telecommunications System (SPOTS) by law enforcement personnel for use in official business is considered a case-by-case release of DMV information.

D. The Commissioner of Safety may deny access to DMV records, even to a government agency, if he/she determines that the request may be used for other than official business, constitutes an unwarranted invasion of privacy, disclosure would be contrary to the public interest, or the records cannot be generated because DMV lacks the resources to process the request.

E. The only allowed transfer of DMV information by this agency to a third party is that the Commissioner of Safety is authorized to grant to **only the chief law enforcement officer of an agency or his/her designee**, permission to New Hampshire law enforcement agencies to release **only the name, age and motor vehicle offense(s)** to the public.

F. State accident reports forms (DSMV 159 and DSMV 400) filled out by police officers or motorists and forwarded to DMV are motor vehicle records and their release must be in accordance with the law.

1. Law enforcement agencies can make available to the owner of any vehicle involved, or operator, passenger, or pedestrian who was hit, or owner of any property damaged, a copy of the report that is filled out by the agency.

2. It shall be the policy of this department that the copy(s) shall only be provided after the requesting person has provided a:

- a) written request,
- b) positive I.D. (photo required),
- c) paid all associated fees in full and,
- d) read, acknowledged and signed the DPPA notice form (sample form attached).

This agency will retain the written request and a copy of the I.D. and signed DPPA notice in the individual accident report file, along with all other request for copies of the accident report.

3. Accident reports shall not be made available to witnesses, attorneys, the media, or members of the general public. The only way these individuals can obtain such information is directly from DMV.

G. DMV record information for law enforcement background investigations is not considered "official business" of a government agency, and may be obtained only if the subject of the investigation has executed a waiver for the background investigation that specifically mentions motor vehicle record information.

1. DMV will charge a fee for the copy, or you can require the applicant to obtain a copy of his or her own motor vehicle history record from DMV for a fee of \$7 for non-certified copies, or \$10 if the record is to be certified. Copies of registrations are \$5.

2. If motor vehicle record information on any person other than the applicant who has signed a waiver for the release of such information is contained in a background investigation report, it shall be deleted from the report before the report is released to anyone other than another law enforcement agency.

3. Motor vehicle record information contained in any other report that contains personal information contained in a DMV record shall be deleted from the report before it is released to other than a law enforcement agency, a prosecuting agency, or an attorney representing a defendant charged with a crime, for use in official

purposes, or in response to a discovery request or court subpoena.

H. The name, age (but not the address) and motor vehicle offense(s) of an individual may be disclosed to the news media at the discretion of a law enforcement agency.

1. If the information involves a motor vehicle collision, the agency may also release the location of the collision, the town, city or state where the individuals involved reside (but not street addresses), and the presumed cause of the collision.

2. DMV information can also be used to locate persons who have not paid parking fines, provided the law enforcement agency has authority over parking tickets, but personal information may not be transferred to a non-government agency for the purpose of parking ticket enforcement.

I. Unless specifically authorized by the Chief or Deputy Chief of Police, no member of this department other than Administrative Services personnel will be permitted to copy and release motor vehicle accident information pursuant to this policy