

UPDATE: Federal Driver's Privacy Protection Act – *Senne v Village of Palatine*

This is to advise our municipal police departments of the potential, significant liability which can arise under the federal Driver's Privacy Protection Act (the "DPPA"), 18 U.S.C. 2721-2725. While certain personal information can be used for specific department uses, the Act prohibits the disclosure of certain personal information that is received from state motor vehicle records. Criminal penalties can be imposed under the Act, as well as civil penalties, which may include actual damages, but not less than \$2,500 in liquidated damages, punitive damages, reasonable attorneys' fees and costs, as well as injunctive relief. The significance of such liability is highlighted by a recent lawsuit brought against the Village of Palatine for alleged violations of the Act, which faced a potential \$80 million in class action damages for placing parking tickets containing prohibited personal information on vehicle windshields. Fortunately, the Seventh Circuit recently found that the Village's particular use was permitted under the DPPA, see *Senne v. Village of Palatine*, No. 13-3671 (7th Cir. April 28, 2015), which provides guidance for the appropriate use of such information.

Recommendation: We recommend that our clients use caution in this area. The courts examined whether the potential or ultimate uses of personal information was for use in connection with the police departments duties, with the courts balancing need for the use of personal information on the ticket against the potential harm. Therefore, hang-on citations, which are placed on vehicles or otherwise posted, should limit or exclude personal information obtained from state motor vehicle records, i.e., information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address, but not zip code, and medical or disability information that is not needed to be included on the ticket to fulfill department duties. Obviously, the date, time and location of the violation, the Village Code section violated and description of the violation should be included on the citation, as well as the vehicle registration number, state and year, and vehicle tag number, if any.

In addition, we recommend that our clients carefully consider Judge Posner's comments, limiting the use of motor vehicle record information where the "risk of a nontrivial invasion of personal privacy from the disclosure would be much greater and probably outweigh the benefits to law enforcement." The examples offered by Judge Posner provide valuable

For more information about matters discussed in this issue, please feel free to contact Klein, Thorpe and Jenkins Ltd.



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guidance for the use of such information. Reasonable use is obviously the key, especially to prevent crimes, such as, stalking and identity theft.

For a more detailed discussion of the *Senne v. Village of Palatine* case decision, you can access the following link:

[*Senne v. Village of Palatine*](#)



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