



MICHIGAN

OFFICE OF THE AUDITOR GENERAL

AUDIT REPORT



THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

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– Article IV, Section 53 of the Michigan Constitution

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Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit

*Releasing Driver and Vehicle Records
 Bureau of Driver and Vehicle Records
 Department of State*

Report Number:
 231-0290-05

Released:
 November 2006

The Department of State's operations include processing requests for driver and vehicle records from commercial, governmental, nonprofit, legislative, and individual customers. The Department processes these requests in accordance with the federal and State driver privacy protection act guidelines. The Department's Bureau of Driver and Vehicle Records (BDVR) administers four programs through which customers may request driver and vehicle records: Bulk Records Sales, Direct Access, Driving Record Subscription Service, and Record Lookup.

Audit Objective:

To assess the effectiveness of BDVR's efforts to ensure that it released driver and vehicle records as permitted by federal and State requirements.

Audit Conclusion:

BDVR was effective in its efforts to ensure that it released driver and vehicle records as permitted by federal and State requirements. However, we noted a reportable condition related to customer personnel discipline policies (Finding 1).

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Audit Objective:

To assess the effectiveness of the Department's efforts to monitor the use of driver and vehicle records by authorized customers.

Audit Conclusion:

The Department was moderately effective in its efforts to monitor the use of driver and vehicle records by authorized customers. We noted a reportable condition related to the monitoring of authorized customers (Finding 2).

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Agency Response:

Our audit report contains 2 findings and 3 corresponding recommendations. The Department's preliminary response indicates that it agrees with both findings and plans to comply with each of the recommendations.

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Michigan Office of the Auditor General
201 N. Washington Square
Lansing, Michigan 48913

Thomas H. McTavish, C.P.A.
Auditor General

Scott M. Strong, C.P.A., C.I.A.
Deputy Auditor General



STATE OF MICHIGAN
OFFICE OF THE AUDITOR GENERAL
201 N. WASHINGTON SQUARE
LANSING, MICHIGAN 48913
(517) 334-8050
FAX (517) 334-8079

THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

November 15, 2006

The Honorable Terri Lynn Land
Secretary of State
Richard H. Austin Building
Lansing, Michigan

Dear Secretary Land:

This is our report on the performance audit of Releasing Driver and Vehicle Records, Bureau of Driver and Vehicle Records, Department of State.

This report contains our report summary; description of agency; audit objectives, scope, and methodology and agency responses; comments, findings, recommendations, and agency preliminary responses; two exhibits, presented as supplemental information; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

AUDITOR GENERAL

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Description of Agency

The Secretary of State, the Department of State's executive officer, is an elected official who serves a four-year term.

The Department's operations include processing requests for driver and vehicle records, which may include the releasing of personal information*. Section 257.40(b) of the *Michigan Compiled Laws* defines personal information as information that identifies an individual, including the individual's name, address (but not zip code), driver's license number, and official State personal identification number. The Department processes driver and vehicle record requests from commercial, governmental, nonprofit, legislative, and individual customers in accordance with the guidelines set forth in federal and State driver privacy protection acts (DPPA). The federal Driver's Privacy Protection Act of 1994, as amended (Title 18, section 2721 et seq. of the *United States Code*), required states to enact legislation to restrict the use of an individual's information from motor vehicle registration files. As a result, the Legislature enacted Michigan's driver privacy protection statutes, covering Michigan personal identification cards (Sections 28.298 - 28.300 of the *Michigan Compiled Laws*); driver's licenses and vehicle registration information (Sections 257.208b - 257.208d and 257.232 of the *Michigan Compiled Laws*); watercraft registration information (Sections 324.80130a - 324.80130c and 324.80315c of the *Michigan Compiled Laws*); off-road vehicle registration information (Sections 324.81114a - 324.81114c of the *Michigan Compiled Laws*); and snowmobile registration information (Sections 324.82156a - 324.82156c of the *Michigan Compiled Laws*).

Released driver and vehicle records are primarily used in insurance underwriting; manufacturer recalls; legal proceedings; car rental decisions by car rental companies; employment screenings; verification of an individual's information for preventing fraud or recovering debt; notification of owners of abandoned, towed, or impounded vehicles; issuance of hunting and fishing licenses; and location of library materials. Also, commercial data brokers* purchase and aggregate driver and vehicle records with other personal data to create in-depth personal profiles. These profiles are sold to employers, lenders, debt collectors, law offices, and government agencies, among others.

* See glossary at end of report for definition.

The Secretary of State has assigned responsibility for processing driver and vehicle record requests to the Bureau of Driver and Vehicle Records (BDVR). BDVR administers the following four programs through which customers may request driver and vehicle records:

1. Bulk Records Sales

The Department sells lists of bulk information about drivers, personal identification card holders, vehicles, watercraft, snowmobiles, and related subjects. Exhibit 1 provides a listing of commonly released driver and vehicle records that the Department releases upon request to its authorized customers*. Under current State driver privacy protection statutes, the Department cannot sell driver and vehicle records for marketing and/or solicitation purposes. The Department released approximately 60.9 million records in bulk records sales, generating revenue of approximately \$837,000 in fiscal year 2003-04.

2. Direct Access

This on-line service provides users with real-time access to the Department's automated information systems so that users can obtain driver, vehicle, mobile home, watercraft, and recreational vehicle records under certain specified conditions. Direct Access customers use their computers to obtain specific Department records through the Internet. During fiscal year 2003-04, 1,430 Direct Access customers entered on-line requests, resulting in the release of approximately 46.0 million records and generating revenue of approximately \$33.5 million.

3. Driving Record Subscription Service

The Department provides organizations with the driving records of their employees and insured customers on an annual basis and when violations, restrictions, suspensions, or revocations are posted to individuals' driving records throughout the year. The Driving Record Subscription Service processed approximately 650,000 driver record requests from 2,174 customers with revenues of approximately \$2.3 million in fiscal year 2003-04.

* See glossary at end of report for definition.

4. Record Lookup

The Department sells individual driver and vehicle records through its Record Lookup Unit and certain Secretary of State branch offices. The Record Lookup Unit processed approximately 106,000 record lookup requests, which released approximately 198,000 records and generated revenue of approximately \$1.1 million during fiscal year 2003-04.

Section 257.208b of the *Michigan Compiled Laws* requires the Department to charge a fee for records as specified annually by the Legislature. If not specified, a market-based price is established by the Department. Also, the type of customer requesting driver and vehicle records (commercial, governmental, nonprofit, legislative, and individual) determines whether BDVR charges any fees. The Department's Financial Services Division is responsible for the billing and collection of fees.

Exhibit 2 summarizes the number of driver and vehicle records released by program for the fiscal years ended September 30, 2003 and September 30, 2004. As of March 31, 2006, BDVR had 19 employees assigned to the Bulk Records Sales, Direct Access, Driving Record Subscription Service, and Record Lookup programs.

Audit Objectives, Scope, and Methodology and Agency Responses

Audit Objectives

Our performance audit* of Releasing Driver and Vehicle Records, Bureau of Driver and Vehicle Records (BDVR), Department of State, had the following objectives:

1. To assess the effectiveness* of BDVR's efforts to ensure that it released driver and vehicle records as permitted by federal and State requirements.
2. To assess the effectiveness of the Department's efforts to monitor the use of driver and vehicle records by authorized customers.

Audit Scope

Our audit scope was to examine the program and other records of the Department of State. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our methodology included an examination of BDVR's records and activities related to releasing driver and vehicle records primarily for the period October 1, 2002 through March 31, 2006. Our work was performed between April 2005 and April 2006.

We conducted a preliminary review that consisted of interviewing management and program staff and reviewing applicable laws, regulations, policies, and procedures. The purpose of the preliminary review was to obtain an understanding of BDVR's operations and to plan our audit.

To accomplish our first objective, we examined BDVR's process for approving the release of driver and vehicle records. We analyzed the documentation obtained by the Department when it approves customers and their requests prior to releasing the information. We examined BDVR's procedures and management control* over providing inquiry access to driver and vehicle records.

* See glossary at end of report for definition.

To accomplish our second objective, we analyzed the procedures that the Department has in place for monitoring the use of bulk information by authorized customers after releasing driver and vehicle records. We reviewed contract language to determine monitoring opportunities and followed up the Department's actions with regard to these opportunities.

As part of our audit, we also obtained information from BDVR that related to our audit objectives and presented it as supplemental information. Using this information, we compiled a listing of commonly released driver and vehicle records that the Department releases to its customers (Exhibit 1). We also compiled a summary of the number of driver and vehicle records released for the fiscal years ended September 30, 2003 and September 30, 2004 (Exhibit 2). Our audit was not directed toward expressing an opinion on this information and, accordingly, we express no opinion on it.

We use a risk and opportunity based approach when selecting activities or programs to be audited. Accordingly, our audit efforts are focused on activities or programs having the greatest probability for needing improvement as identified through a preliminary review. By design, our limited audit resources are used to identify where and how improvements can be made. Consequently, our performance audit reports are prepared on an exception basis.

Agency Responses

Our audit report contains 2 findings and 3 corresponding recommendations. The Department's preliminary response indicates that it agrees with both findings and plans to comply with each of the recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the Department of State to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

COMMENTS, FINDINGS, RECOMMENDATIONS,
AND AGENCY PRELIMINARY RESPONSES

RELEASE OF DRIVER AND VEHICLE RECORDS

COMMENT

Audit Objective: To assess the effectiveness of the Bureau of Driver and Vehicle Records' (BDVR's) efforts to ensure that it released driver and vehicle records as permitted by federal and State requirements.

Conclusion: **BDVR was effective in its efforts to ensure that it released driver and vehicle records as permitted by federal and State requirements.** However, we noted a reportable condition* related to customer personnel discipline policies (Finding 1).

FINDING

1. Customer Personnel Discipline Policies

BDVR did not confirm that its customers who purchase driver and vehicle records in bulk had written personnel policies regarding the disciplining of customer employees for inappropriate use or disclosure of personal information. Without these policies, BDVR did not have assurance that its customers understood the importance of informing their employees of federal and State driver privacy protection acts (DPPA) requirements to help ensure that personal information is used only for a permissible purpose and that the rights of individuals and of the Department are protected.

BDVR administers three programs that release personal information in bulk: Bulk Records Sales, Direct Access, and Driving Record Subscription Service. State driver privacy protection statutes require BDVR to execute a written contract with each purchaser of information in bulk that includes the appropriate use of personal information in accordance with DPPA. Depending on the customer type, BDVR enters into contracts with its commercial customers and memorandums of understanding with its governmental customers. These written agreements document safeguards deemed necessary and appropriate by the Department, such as a bond requirement.

* See glossary at end of report for definition.

Our review of BDVR's written agreements and contract files for the Bulk Records Sales, Direct Access, and Driving Record Subscription Service programs disclosed:

- a. For Bulk Records Sales commercial customers and Driving Record Subscription Service customers, BDVR's contracts and memorandums of understanding did not include provisions in which the customer agrees to adopt and enforce a written personnel policy of disciplining any employee who uses or discloses released personal information in driver and vehicle records for personal reasons or private gain. Without this contractual provision, BDVR cannot ensure that its customers have sufficient procedures in place to safeguard purchased personal information.

BDVR personnel informed us that they required commercial customers to secure and maintain surety bonds of up to \$25,000 for potential damages caused by the customers' inappropriate use of released driver and vehicle records. BDVR believes that the surety bond provided a cost-effective control. While a surety bond acts as a deterrent to inappropriate use, BDVR should receive assurance from its commercial customers that their personnel are aware of the consequences for inappropriate use of personal information.

- b. BDVR had not obtained personnel discipline policies from 123 (54%) of the 227 Direct Access governmental customers for fiscal year 2003-04. BDVR informed us that it was in the process of updating the customer files and had requested copies of the policies from those customers without such a policy on file.

RECOMMENDATION

We recommend that BDVR confirm that its customers who purchase driver and vehicle records in bulk have written personnel policies regarding the disciplining of customer employees for inappropriate use or disclosure of personal information.

AGENCY PRELIMINARY RESPONSE

The Department agrees and will comply by revising its contractual agreements for customers who purchase driver and vehicle records in bulk to attest to the existence of acceptable written personnel policies regarding the disciplining of customer employees for inappropriate use or disclosure of personal information.

The Department will then periodically request selected customers to submit copies for review to verify compliance.

MONITORING OF THE USE OF DRIVER AND VEHICLE RECORDS

COMMENT

Audit Objective: To assess the effectiveness of the Department's efforts to monitor the use of driver and vehicle records by authorized customers.

Conclusion: **The Department was moderately effective in its efforts to monitor the use of driver and vehicle records by authorized customers.** We noted a reportable condition related to the monitoring of authorized customers (Finding 2).

FINDING

2. **Monitoring of Authorized Customers**

The Department did not include provisions for audits of customer controls in all agreements with its customers. Also, the Department should improve its monitoring of authorized customers through audits of customer controls and inspections of customer listings from authorized customers who resell bulk information that includes personal information.

Upon the release of driver and vehicle records to its authorized customers, the Department is responsible for ensuring that its customers implement appropriate controls to protect the security and integrity of the received data. Also, the Department is responsible for monitoring its customers who resell personal information, including commercial data brokers, as permitted by DPPA. Our review of the Department's monitoring efforts noted:

- a. The Department did not include provisions for audits of customer controls for all Bulk Records Sales and Direct Access agreements.

The Department's Direct Access memorandums of understanding for governmental customers require that governmental customers implement several security requirements and permit audits of customer controls at the expense of the customer. However, Bulk Records Sales contracts and Direct

Access contracts for commercial customers did not contain similar provisions. Without such provisions in all agreements, the Department does not have a legal basis for performing periodic audits of customer controls to ensure that its customers meet all contract requirements.

- b. The Department did not perform audits of customer controls of any customers to verify that sufficient controls were in place to safeguard released driver and vehicle records. Without performing audits of selected customer controls, the Department cannot verify that its customers properly secure and use purchased personal information as permitted by DPPA.
- c. The Department did not request and inspect listings of third parties purchasing driver and vehicle records from its customers who resell personal information on a routine basis. By requesting and inspecting these listings, the Department would be able to determine which customers resold driver and vehicle data and verify that the customers resold personal information and other data legally and in accordance with DPPA.

DPPA states that a recipient who resells or discloses personal information must keep records identifying each person or entity that receives information and the permitted purpose for which the information will be used for five years. DPPA also states that the recipient must make such records available to the Department upon request. Even though Bulk Records Sales and Direct Access contracts require customers to submit these listings upon request, the Department informed us that it has requested listings only when investigating allegations of misuse.

In lieu of performing audits of selected customer controls and inspections of customer records, the Department has focused its efforts on authorizing its customers prior to releasing data. As a result, BDVR has established control procedures to verify the identity of its customers and to document that each customer request complied with DPPA requirements. While these procedures provide some assurance that only authorized customers receive driver and vehicle records, the Department's increased monitoring would provide additional assurance that personal information is safeguarded from improper use or from being resold in violation of DPPA requirements.

The Department informed us that certain customers may be subjected to audits, inspections, or reviews that would provide assurance that the customers had adequate controls in place over purchased personal information. However, the Department has not contacted its customers to determine what other audits, inspections, or reviews were performed to mitigate a concern of information misuse.

RECOMMENDATIONS

We recommend that the Department include provisions for audits of customer controls in all agreements with its customers.

We also recommend that the Department improve its monitoring of authorized customers through audits of customer controls and inspections of customer listings from authorized customers who resell bulk information that includes personal information.

AGENCY PRELIMINARY RESPONSE

The Department agrees with the intent of these recommendations. However, the Department believes that implementation of the recommendations as stated would be very costly given that the Department has over 11,000 authorized customers. The Department is revising its provision for audits of customer controls in contractual agreements for these programs. The cost-effective strategy that is planned is to require major customers to procure periodic audits, by external reviewers, with resulting reports provided to the Department. These reports will be used to further enhance the Department's ongoing efforts to monitor customers. Also, inspections of customer listings will continue with an emphasis on high-risk customers.

SUPPLEMENTAL INFORMATION

RELEASING DRIVER AND VEHICLE RECORDS
Bureau of Driver and Vehicle Records
Department of State
Listing of Commonly Released Driver and Vehicle Records

Driver Licenses

- License number*
- Name*
- Street address*
- City*
- State*
- Zip code
- County
- Birth date
- Gender

Personal Identification Card Holders

- Personal identification number*
- Name*
- Street address*
- City*
- State*
- Zip code
- County
- Birth date
- Gender

Vehicle Registrations

- Vehicle identification number
- Make
- Model year
- Body style
- Weight/fee category
- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County

Vehicle Titles

- Vehicle identification number
- Make
- Model year
- Body style
- Weight/fee category
- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County

Mobile Home Titles

- Dealer number
- Issue date
- Title code
- Model year
- Make
- Serial number
- Weight
- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County

Moped Registrations

- Serial number
- Make
- Model year
- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County

This listing continued on next page.

RELEASING DRIVER AND VEHICLE RECORDS
Bureau of Driver and Vehicle Records
Department of State
Listing of Commonly Released Driver and Vehicle Records

Continued

Snowmobile Registrations

- Serial number
- Make
- Model year
- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County

Watercraft Registrations

- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County
- Make
- Model year
- Transaction (original, renewal)
- Transaction date
- Hull identification number
- Hull material (aluminum, fiberglass, steel, wood, other)
- Fuel (gas, electric, diesel)
- Propulsion (inboard, outboard, sail only, sail with power, other power, no power, jet)
- Length feet
- Length inches
- Type (cabin, canoe, open, personal, pontoon, row, sail)
- Use (commercial, commercial fishing, commercial freight, livery, pleasure, other)
- Owner type (company, individual)

Watercraft Titles

- Owner's name*
- Street address*
- City*
- State*
- Zip code
- County
- Make
- Model year
- Hull identification number
- Length feet
- Length inches
- Type (cabin, canoe, open, personal, pontoon, row, sail)
- Owner type (individual, company)

Driver Record

- Accident
- Conviction
- Civil infraction
- Cancellation
- Denial
- Revocation
- Suspension
- Restriction
- Licensing actions
- Other information required by State statute

* Personal information as defined by Section 257.40b of the *Michigan Compiled Laws*.

Sources: Department of State's List Sales Request Guide.

Sections 28.292(1)(a) and 257.204a of the *Michigan Compiled Laws*.

RELEASING DRIVER AND VEHICLE RECORDS
Bureau of Driver and Vehicle Records
Department of State
Number of Driver and Vehicle Records Released
Fiscal Years Ended September 30

<u>Program and Type of Records</u>	<u>2003</u>	<u>2004</u>
Bulk Records Sales:		
Dealer	42,175	
Driver	17,476,528	8,731,790
Mechanics	489,772	
Mobile home	75,348	32,152
Moped		998
Personal identification		355,894
Snowmobile	113,003	1,079,313
Vehicle	33,271,715	1,659,128
Vehicle - registration	9,051,919	44,329,031
Vehicle - title	51,528	1,197,304
Watercraft	900,070	1,513,800
Watercraft - registration	3,553,619	1,977,007
Watercraft - title		11,610
Subtotal	<u>65,025,677</u>	<u>60,888,027</u>
Direct Access:		
Driver	24,796,331	26,845,716
Vehicle registration	15,993,563	16,798,416
Vehicle title	2,328,868	2,321,260
Miscellaneous	7,542	14,501
Subtotal	<u>43,126,304</u>	<u>45,979,893</u>
Driving Record Subscription Service:		
Driver	<u>668,088</u>	<u>649,531</u>
Record Lookup:		
Driver	130,200	117,900
Driver (certified copy)	16,265	18,615
Vehicle - registration	22,317	20,840
Vehicle - registration (certified copy)	481	929
Vehicle - title	31,062	26,515
Vehicle - title (certified copy)	800	1,037
Miscellaneous	12,033	11,768
Subtotal	<u>213,158</u>	<u>197,604</u>
Total Number of Records Released	<u><u>109,033,227</u></u>	<u><u>107,715,055</u></u>

Sources: Bureau of Driver and Vehicle Records' List Sales Annual Report for fiscal years 2002-03 and 2003-04.

Financial Services Division, Accounts Receivable System.

GLOSSARY

Glossary of Acronyms and Terms

authorized customers	Purchasers of driver and vehicle records that have met all Department requirements to receive personal information.
BDVR	Bureau of Driver and Vehicle Records.
commercial data brokers	Companies that purchase and aggregate sensitive personal data to create in-depth profiles on individuals. These profiles are sold to employers, lenders, debt collectors, law offices, and government agencies, among others.
DPPA	federal and State driver privacy protection acts.
effectiveness	Program success in achieving mission and goals.
management control	The plan of organization, methods, and procedures adopted by management to provide reasonable assurance that goals are met; resources are used in compliance with laws and regulations; valid and reliable data is obtained and reported; and resources are safeguarded against waste, loss, and misuse.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
personal information	Information that identifies an individual, including the individual's name, address (but not zip code), driver's license number, and official State personal identification number.

reportable condition

A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.

