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How The Misuse Of DAVID Can Bankrupt An Officer's Career

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What is DAVID?

The Driver and Vehicle Information Database (DAVID) contains information on driver's licenses, registered motor vehicles and traffic crashes.

Permissible uses

Florida Statutes Section 119.0712(2) states the information in DAVID is confidential, and may be accessed only as allowed under the Driver Privacy Protection Act (DPPA). 18 U.S.C. Section 2721(b) of the DPPA provides that law enforcement may access this information in carrying out its official functions. Examples of where access is appropriate include traffic stops, traffic crashes, official investigations, and searches for emergency contacts during natural disasters.

Impermissible uses

18 U.S.C. Section 2722(a) of the DPPA makes it unlawful for anyone to access this information for an unauthorized purpose. Impermissible uses include looking up addresses for a holiday card list, checking a family member's driving record, and obtaining information on celebrities and politicians.

Penalties

Florida Statutes Section 119.10 provides that any officer who misuses DAVID is subject to a civil fine not to exceed \$500. An officer who knowingly misuses DAVID is subject to suspension, removal, impeachment and the charge of a first degree misdemeanor.

In addition, 18 U.S.C. Section 2723(a) of the DPPA mandates an unspecified criminal fine for officers who knowingly misuse DAVID. Section 2724 establishes a civil cause of action for the person to whom the information pertains. The DPPA specifies civil damages of (1) actual damages not less than liquidated damages of \$2,500; (2) punitive damages upon proof of willful or reckless disregard of the law; (3) attorney's fees and costs; and (4) such other relief as the court deems appropriate.

Civil rights implications

Plaintiff attorneys have also been filing civil rights lawsuits for DAVID violations under the authority of 42 U.S.C. Section 1983. Section 1983 provides for civil liability against law enforcement officers who violate a citizen's rights established in either the U.S. Constitution or in a federal statute. Recoverable damages under a Section 1983 claim include emotional distress damages, attorney's fees and punitive damages. Section 1983 is also the mechanism by which law enforcement agencies can be civilly liable for failure to train their officers on DAVID's proper use.

Best practices

Officers should strictly adhere to the Memorandum of Understanding to which agencies accessing DAVID must subscribe. The Memorandum lists the permissible uses of DAVID, and also explains how officers should safeguard the accessed information. Officers should take care that their accessing of DAVID does not allow for unauthorized third persons to obtain the information. For example, information exchanged by electronic means must be stored in a place physically secure from access by unauthorized persons. For agencies, proper training of officers is essential to avoiding liability.

Agencies should consider restricting access to only supervisory personnel to limit their exposure.

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