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The Background Screening Credentialing Council has drafted the following response to a question we have received regarding the US Employment Screening / General Background Screening BSOAP Standard, this letter applies to US Version 2.0, 3.0 and General Version 1.0. This response is provided for *educational purposes only* and does not constitute legal advice, express or implied, of the BSCC, or the Professional Background Screening Association. Consultation with legal counsel is recommended in all matters of employment law.

For the purposes of this Letter, and to ensure our response applies to both Standards, the terms Organization and CRA may both be used.

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**TITLE: Clause 4.5 – Date of Birth as Personally Identifiable Information**

**Question 1:** I have a question regarding accreditation. I'm reviewing our procedures and in reference to Clause 4.5 Information Security, I was wondering if someone would be able to define if personally identifiable information includes full date of birth?

I ask if full date of birth is personally identifiable information as quite a few of our vendors send full DOB on reports via email. The email is not encrypted, and the document is not password protected. I am almost certain that they work with more than one accredited CRA. So, I'm wondering if asking them to redact part of the DOB or send the email encrypted with a full DOB on it is required? Would you be able to clarify this for me?

Clause 4.5 states "*CRA must have and follow a procedure providing a secure means by which public record researchers will receive orders and return search results.*"

*Attributes and Suggestions For Onsite Audit: Security procedures for personally identifiable information should include, but are not limited to: 1) all transmissions should directed to a named party, 2) all transmissions must be clearly marked as "CONFIDENTIAL" and include a request to notify sender if received by someone other than named party, 3) if faxed, a cover page should always be used and must not contain any personally identifiable information, 4) if faxed, CRA shall have verified receiving fax is in a non-public location, 5) if transmitted using CRA network, such network should be secured using a minimum of 128 SSL, 6) if transmitted via Internet, data shall be encrypted or protected in a comparable manner. Auditor will seek evidence of adherence to policies and procedures.*

**Response:** Thank you for your inquiry. Yes. Legal names, social security numbers, driver license numbers and dates of birth when provided in combination are all encompassed within the definition of PII.

As of July 2022, the U.S. Department of Labor defines PII as the following:

*Any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means. Further, PII is defined as information: (i) that directly identifies an individual (e.g., name, address, social security number or other identifying number or code, telephone number, email address, etc.) or (ii) by which an agency intends to identify specific individuals in conjunction with other data elements, i.e., indirect identification. (These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors). Additionally, information permitting the physical or online contacting of a specific individual is the same as personally identifiable information. This information can be maintained in either paper, electronic or other media.*

The focus in determining whether, when and how to protect information is on whether the information being transmitted could be used to steal the identity of or otherwise harm the individual identified. So, a list of first names only with no other identifying information on the page, may not be PII requiring password protection, encryption, or other safeguarding measures. A list of full names together with dates of birth, however, would be PII requiring appropriate security measures to be taken place.

When it comes to the transmission of reports from vendors, it is up to the CRA to dictate and define the manner of report and/or information transmission in accordance with the Standard and for the vendor to adhere to the methodology/methodologies defined.

Thank you for submitting your inquiry and giving the BSCC an opportunity to review. We believe we have responded fully to your inquiry. Please let us know if you have any further questions.