

Opinion No. 37

UNIFORM ACCIDENT REPORTING ACT: Law enforcement personnel: authorized to make automobile accident reports; PUBLIC OFFICERS: Law enforcement personnel are; AUTOMOBILES: Accident reports. SECTIONS 32-1207, 32-1208, 32-1209, 32-1210, 32-1211, 32-1212, 32-1213, 59-512; TITLE 32, Chapter 12, Revised Codes of Montana, 1947.

- Held:**
1. **Motor vehicle accident reports prepared by law enforcement officers pursuant to the provisions of the Uniform Accident Reporting Act are public records.**
 2. **Such accident reports are not open to public inspection.**

February 26, 1962

Mr. Thomas J. Hanrahan
County Attorney
Lewis and Clark County
Helena, Montana

Dear Mr. Hanrahan:

You have requested my opinion on the following question:

Are motor vehicle accident reports, which are prepared by Sheriff's Officers, City Police Officers, or other authorized law enforcement personnel open to public inspection?

The only statutory authorization for motor vehicle accident reports is contained in the Uniform Accident Reporting Act, Title 32, Chapter 12, RCM, 1947; therefore, by necessity your inquiry must be limited to the reports contemplated by that Act.

It is a basic proposition of government that the citizens have a right to information which will enable them to keep advised of the governmental operation. Our statutes so provide; Section 59-512, RCM, 1947, provides in part:

"The public records and other matters in the office of any officer are at all times, during office hours, open to the inspection of any person, ***"

This statutory right is not unlimited. Some public records are expressly precluded from public inspection by statute or judicial determination, 45 Am. Jur. Records and Recording Laws, Section 26, Page 433. Moreover, the inspection statute, Section 59-512, supra, is not extended by the statutes governing the admissibility of evidence at trial.

Our Supreme Court, in the case of *Steiner v. McMillan* (1921) 59 Mont. 30, 36, 195 Pac. 836, defined "public records" as:

"To constitute a public record, it must be a written memorial made by a public officer, which he must be authorized by law to make."

By adhering to these fundamentals, your inquiry may be answered upon the determination of two questions; Are law enforcement personnel public officers; Are automobile accident reports prepared pursuant to the Uniform Accident Reporting Act subject to the provisions of Section 59-512, RCM, 1947?

Law enforcement personnel are "public officers," as Supreme Court, in the case of *Poorman v. State Board of Equalization* (1935) 99 Mont. 543, 550, 45 P. 2d 307, said:

"*** Suffice it to say that the definition [public officer] is sufficient to include all individuals who hold public office either by election or appointment, for a definite period, great or small, and whether such office be state, county or municipal."

The Uniform Accident Reporting Act, Section 32-1208 (a), RCM, 1947, provides:

"(a) The **driver** of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of one hundred dollars (\$100), or more shall within ten (10) days after such accident forward a written report of such accident to the board." (Emphasis added.)

The Act further provides: that the occupants, or the owner, of a vehicle involved in an accident must make accident reports under certain conditions, Section 32-1209, RCM, 1947; that coroners must make accident reports, Section 32-1211, RCM, 1947; that garage or repair shop operators must make accident reports, Section 32-1212, RCM, 1947. The Act also requires the driver of a vehicle involved in an accident of this nature must give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the highway patrol, Section 32-1207, RCM, 1947. However, the duty of law enforcement officers to prepare accident reports is not so clear. A rule of statutory construction, as enunciated in the case of *State ex rel. Snidow v. State Board of Equalization* (1932) 93 Mont. 19, 29, 17 P. 2d 68, provides:

"The statute must be read and considered in its entirety, and no word is to be considered meaningless if a construction can be found which will give it effect. ***The legislative intent in the enactment of a statute may not be gained from the wording of any particular section thereof, but only from a consideration of the Act as a whole, since it was passed as an entirety, and its divisions into sections is merely a matter of convenient reference. ***In con-

struing a statute the court must endeavor to give meaning to every word, phrase, sentence and section, if it is possible to do so, and will never declare any part of it inoperative if it is reasonably possible to reach any other conclusion."

The entire Act must be given meaning. The Act discloses the legislative intent to authorize law enforcement officers to prepare vehicle accident reports in two different instances. Those instances are:

"32-1208 (c) Every law enforcement officer who in the regular course of duty, investigates a motor vehicle accident, of **which report must be made** as required in this act, ***shall*** forward a written report of such accident to the board. (Emphasis added.)

32-1210 (a) The board shall prepare and upon request supply to police departments, coroners, sheriffs, garages ***forms for accident reports **required** hereunder, ***The written reports to be made ***by investigating officers shall call for sufficiently detailed information to disclose with references to a traffic accident the causes, conditions then existing, and the persons and vehicles involved." (Emphasis added.)

To give the Act any construction other than that law enforcement officers are required to make accident reports under the circumstances provided in Section 32-1208 (a) supra, would deprive the last two quoted sections of meaning, and would be contrary to the rule in the **Snidow Case**, supra.

The accident reports prepared pursuant to the Uniform Accident Reporting Act comply with our Court's definition of "public records." However, the Act provides that such public records are not open to public inspection, as Section 32-1213, RCM, 1947, provides:

"(a) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the **confidential** use of the board or other state agencies having use for the records, for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the board may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident." (Emphasis added.)

Therefore, it is my opinion, and I so hold, that:

1. Motor vehicle accident reports prepared by law enforcement officers pursuant to the provisions of the Uniform Accident Reporting Act are public records.
2. Such accident reports are not open to public inspection.

Very truly yours,
FORREST H. ANDERSON
Attorney General