

VOLUME NO. 51

OPINION NO. 8

INSURANCE - An insurance carrier of an individual involved in a traffic accident is entitled to receive copies of accident reports and supplemental information;

POLICE DEPARTMENTS - Law enforcement personnel must release reports of accident investigations to persons specifically listed in statutes;

SHERIFFS - Law enforcement personnel must release reports of accident investigations to persons specifically listed in statutes;

MONTANA CODE ANNOTATED - Sections 44-5-101 to -602, -103(2)(d), -303, 61-7-109, -114.

HELD: The insurance carrier of an individual involved in a traffic accident is entitled to receive copies of the accident report and supplemental information, including witness statements, whether or not the insurance carrier is referred to or named in the accident report.

August 17, 2005

Mr. Gary Matthews, Speaker
Montana House of Representatives
P.O. Box 201706
Helena, MT 59620-1706

Dear Mr. Speaker:

You have requested my opinion concerning the following question, which I have rephrased as follows:

Is an insurance carrier of an individual involved in a traffic accident entitled to receive copies of the accident report and supplemental information, including witness statements, whether or not the insurance carrier is referred to or named in the accident report?

The definition of confidential criminal justice information includes all criminal justice information made confidential by law. Mont. Code. Ann. § 44-5-103(2)(d). Montana law specifically makes accident reports confidential information. Mont. Code Ann. § 61-7-114.

The dissemination of confidential criminal justice information is governed by the provisions of the Montana Criminal Justice Information Act of 1979 (The Act). Mont. Code Ann. § 44-5-101 to -602. The Act states that dissemination of confidential criminal justice information is restricted “to criminal justice agencies, **to those authorized by law to receive it**, and to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure.” Mont. Code Ann. § 44-5-303 (emphasis supplied).

Montana has adopted the Uniform Accident Reporting Act (Reporting Act). The Reporting Act requires that any driver involved in a motor vehicle accident or any law enforcement officer who investigates a motor vehicle accident in which a person is injured or killed or in which damage to property exceeds \$1,000, file a written report with the Department of Justice (DOJ) within ten days. Mont. Code Ann. § 61-7-109. Section 61-7-114 of the Reporting Act provides guidance to the DOJ on the purpose, handling, and dissemination of these reports.

61-7-114. Accident reports confidential. (1) All required accident reports and supplemental reports must be without prejudice to the individual reporting and must be for the confidential use of the department or other governmental agencies for accident prevention, roadway design, motor carrier safety monitoring 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. The department may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies being present at the accident.

(2) Except as provided in this section, all accident reports and supplemental information filed as required by this part are confidential and not open to general public inspection. Except as provided in subsection (2)(e), copying of lists of reports is not permitted. The report and supplemental information, including witness statements, filed by law enforcement personnel, as required by this part, may be examined and copied, without obtaining a court order, by:

- (a) a person named in the report or involved in the accident;
- (b) the representative of the person referred to in subsection (2)(a), designated in writing, or the insurance carrier of that person;
- (c) a party to a civil action arising from the accident;
- (d) the executor, the administrator, or the attorney representing the executor or administrator if the person is deceased; or
- (e) the general public, including commercial entities, for purposes of research into the history of vehicles, but the department may not disclose the

name, address, or telephone number of, or other information allowing the identification of, any reporting person, accident victim, peace officer, or other person or any insurer named in a report or supplemental information, including witness statements.

Mont. Code Ann. § 61-7-114 (emphasis supplied).

Statutes must be construed or interpreted in accordance with the intent of the legislature. State v. Christensen, 265 Mont. 374, 376, 877 P.2d 468, 469 (1994). In construing a statute, I must look first to the plain meaning of the words of the statute; if the language is clear and unambiguous, no further interpretation is necessary. Id. Another fundamental rule of statutory interpretation requires that all statutes concerning a subject be read together, with each given effect, if reasonably possible. Crist v. Segna, 191 Mont. 210, 212, 622 P.2d 1028, 1029 (1981). Mont. Code Ann. § 61-7-114 explicitly provides that the insurance companies of a person named in the report or involved in the accident are authorized by law to receive a copy of the accident report. The Act provides that law enforcement must release confidential criminal justice information to those authorized by law to receive it. Mont. Code Ann. § 44-5-303. The statutory language of these statutes when read together is clear and unambiguous. The language indicates that the legislature fully intended for insurance companies of individuals involved in traffic accidents be provided accident reports and supplemental information.

Further, Attorney General Greely issued a similar opinion, holding that “County Attorney, law enforcement personnel, and coroners must release reports of accident investigations, autopsies, and related tests to persons specifically listed in statutes.” 37 Op. Att’y Gen. No. 112 (1978). Attorney General Greely further opined that “[o]ther reports covered by statutes elsewhere may be subject to disclosure under this section if they are prepared as part of the investigation itself and therefore are ‘supplemental information’ within the statute.” Id.

THEREFORE, IT IS MY OPINION:

The insurance carrier of an individual involved in a traffic accident is entitled to receive copies of the accident report and supplemental information, including witness statements, whether or not the insurance carrier is referred to or named in the accident report.

Mr. Gary Matthews
August 17, 2005
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Very truly yours,

MIKE McGRATH
Attorney General

mm/pdb/jym