

Opinion No. 59-213

December 30, 1959

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. John A. Anderson City Attorney Lordsburg, New Mexico

QUESTION

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1. Are accident reports made by police officers as a part of their regular course of duty considered public records?
2. May you restrict the furnishing of such accident reports to only the parties involved and their attorneys?

CONCLUSIONS

1. Yes.
2. No.

OPINION

{*327} ANALYSIS

The answer to your first question may be found in Attorney General's Opinion No. 5840 rendered November 4, 1953. In that opinion a distinction was pointed out between an accident report filed by the police officer in the regular course of his duty and the report filed pursuant to Section 64-17-13, N.M.S.A., 1953 Compilation. Not only is this opinion still controlling, but it is the opinion of this office that it is strengthened by Chapter 245, Laws 1959, Section 2-C which states as follows:

"'Public records' means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business . . ."

Under Section 64-17-7 (c), N.M.S.A., 1953 Compilation, the law enforcement officer is required to make a report of any motor vehicle accident which he investigates. You will note this section suggests that the information for the report should be obtained by interviewing participants or witnesses to the accident.

There is no doubt that the accident report filed by the police officer is a public record.

In answer to your second question, Section 71-5-1, N.M.S.A., 1953 Compilation, provides as follows:

"Every citizen of this state has a right to inspect **any public records** of this state except records pertaining to physical or mental examinations and medical treatment of persons confined to any institutions and except as otherwise provided by law."
(Emphasis supplied.)

Section 71-5-2, N.M.S.A., 1953 Compilation, provides the manner that the records will be made available and the time. If you will note, the examination may be made by any person having the occasion {*328} to make such an examination for any lawful purpose.

It is the opinion of this office that the procurement of these accident reports by an insurance adjuster constitutes a lawful purpose and you may not restrict the furnishing of these reports to only the parties involved or their attorneys.

By: B. J. Baggett

Assistant Attorney General