

**OPINION
72-356**

May 22, 1972 (OPINION)

Mr. Robert P. Brady

Assistant Attorney General

State Capitol

RE: State - Safety Responsibility - Information Confidential

This is in response to your letter of April 26, 1972, wherein you make inquiry of this office relative to accident reports and inspection thereof. You submit the following observations and inquiry in your letter:

The undersigned acting director of the North Dakota Unsatisfied Judgment Fund respectfully requests your opinion with regard to the following matter:

Subsection 1 of section 39-08-14, North Dakota Century Code provides that:

39-08-14. Public inspection of reports relation to accidents.

1. All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use of 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 department 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.'

Subsection 2 of section 39-08-14, North Dakota Century Code provides that:

2. All accident reports and supplemental information filed in connection with the administration of that laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted.'

Subsection 1 permits confidential access by state agencies of accident reports made by persons involved in accidents for certain specified purposes. Subsection 2 provides that provisions of accident reports relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection.

There is no specific exemption for state agencies in this section insofar as it concerns information relating to proof of financial responsibility.

Section 39-08-14 concludes by allowing information contained on such reports to be made available to officials and agencies of the United States requesting that information.

With regard to the above cited provisions, are authorized representatives of the Unsatisfied Judgment Fund entitled to access to reports filed by persons involved in accidents in order to examine portions of those reports relating to proof of financial responsibility for the purpose of determining whether a defendant in a lawsuit which the Unsatisfied Judgment Fund is or likely will be involved in was an insured motorist at the time of a particular accident giving rise to the litigation, or are the provisions of subsection 2 of section 39-08-14, North Dakota Century Code applicable to the Unsatisfied Judgment fund as well?"

We would note that section 39-08-14 of the North Dakota Century Code, as you have quoted in your letter, provides that such reports "* * * shall be for the confidential use of the department 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, * * *". (emphasis supplied) There appears to be no specific state agency or department named in the statute for which reason it would appear that any state agency having use for such records in the stated connection would be proper. In that connection and in accordance with the stated use and necessity of such information by the agency which you represent, the Unsatisfied Judgment Fund, it would appear clear that such reports and records would be necessary for the purposes which you have stated and that the same would be available to the Unsatisfied Judgment Fund. There can be but little question that the statute contemplates the use which you have suggested and that your agency of the state is contemplated by the statute and is qualified thereunder to have access to such records.

In conclusion, we are of the opinion that in view of section 39-08-14 and subsections thereunder, the duly authorized representatives of the Unsatisfied Judgment Fund are entitled to access to reports filed by persons involved in accidents in order to examine portions of such reports relating to proof of financial responsibility for the purpose of determining whether a defendant in a lawsuit in which the Unsatisfied Judgment Fund is or in which the same is likely to become involved, was an insured motorist at the time of a particular accident and that the provisions of subsection 2 of section 39-08-14 of the North Dakota Century Code relating to the confidentiality of such records do not apply to the Unsatisfied Judgment Fund.

We trust that the foregoing will adequately set forth the opinion of this office upon the matters submitted for determination.

HELGI JOHANNESON

Attorney General