

STATE OF NORTH DAKOTA

ATTORNEY GENERAL'S OPINION 88-2

Date issued: February 4, 1988

Requested by: James W. Wold, Griggs County State's  
Attorney

- QUESTION PRESENTED -

Whether N.D.C.C. ' 43-17-41 requires a physician or other medical or mental health professional to report injuries or other physical trauma suffered by an intoxicated driver as a result of a motor vehicle accident.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that N.D.C.C. ' 43-17-41 does require a physician or other medical or mental health professional to report to the sheriff or state's attorney injuries or physical trauma received by an intoxicated driver as a result of a motor vehicle accident if the physician or other medical or mental health professional has reasonable cause to suspect that the injuries or physical trauma were inflicted in violation of any criminal law of this state.

- ANALYSIS -

N.D.C.C. ' 43-17-41 provides as follows:

**43-17-41. Duty of physicians and others to report injury -- Penalty.--**

1. Any physician or other medical or mental health professional, who has under his charge or care or performs any professional services for any person suffering from any wound, injury, or other physical trauma inflicted by his own act or by the act of

another by means of a knife, gun, or pistol, or which he has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the same to the sheriff or state's attorney of the county in which such care was rendered. The report shall state the name of the injured person, if known, his whereabouts, and the character and extent of his injuries.

2. The reports mandated by this section shall be made as soon as practicable and may be either oral or in writing. Oral reports shall be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.

3. Any person required to report as provided by this section who willfully fails to do so is guilty of an infraction.

4. Any person making a report in good faith pursuant to this section shall be immune from liability for making said report.

This statutory provision, adopted by the 1977 North Dakota Legislature, imposes specific duties upon a physician or other medical or mental health professional to report to the state's attorney or sheriff the fact of injuries or physical trauma suffered by a patient in the circumstances set forth in that section. This duty to report occurs when either:

1. The patient is suffering from any wound, injury, or other physical trauma inflicted by his own act or by the act of another by means of a knife, gun, or pistol; or

2. The physician or other medical or mental health professional has reasonable cause to suspect that the wound, injury, or other physical trauma suffered by a patient was inflicted in violation of any criminal law of this state.

N.D.C.C. ' 43-17-41 does not require the physician or other medical or mental health professional to have reasonable cause to suspect that a criminal law had been violated if the patient has suffered an injury as a result of a knife, gun, or pistol. The fact that these weapons were used to inflict the injury mandates compliance with the reporting requirement.

However, absent an injury inflicted by a knife, gun, or pistol, N.D.C.C. ' 43-17-41 requires the reporting of the injury only if the physician or other medical or mental health professional has reasonable cause to suspect that the injury was inflicted in violation of any criminal law of this state. If the physician or other health professional does not have reasonable cause to suspect that the injury was inflicted in violation of a criminal law of this state, that person has no statutory duty to provide the information as required by N.D.C.C. ' 43-17-41.

The intent and purpose of this act is to require the reporting of all injuries which were, or may have been, suffered as a result of a criminal act. This reporting requirement will permit the law enforcement authorities to immediately begin an investigation to determine the cause and circumstances surrounding the infliction of the injuries or physical trauma.

In an opinion to Thomas B. Jelliff, Grand Forks County state's attorney, dated June 20, 1977, it was stated that N.D.C.C. ' 43-17-41 did not require the reporting of injuries sustained in automobile accidents. To the extent that this opinion conflicts with the January 20, 1977, opinion to State's Attorney Jelliff, this opinion should be followed.

- EFFECT -

This opinion is issued pursuant to N.D.C.C. ' 54-12-01. It governs the actions of public officials until such time as the question is decided by the courts.

Nicholas J. Spaeth  
Attorney General

Assisted by: Robert P. Bennett  
Assistant Attorney General

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