

HIGHWAY PATROL:

Information compiled under subsection (4), Section 43.120, RSMo 1949, available to peace officers only.

April 8, 1953



Honorable Hugh H. Waggoner
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri 65101

Dear Sir:

Reference is made to your request for an official opinion of this department, reading as follows:

"Recently questions have arisen as to whom information may be furnished regarding an individual's criminal record and other types of information contained in our files.

"It is requested we be furnished an official opinion on the following questions:

"1. When an attorney representing his client in a civil case requests the Highway Patrol furnish any criminal record on witnesses in that civil case, should the attorney be denied this information?

"2. Is the Highway Patrol required to furnish information compiled from its various sources, to attorneys who may be seeking information to be used in connection with representing clients in various other capacities? In this connection we had in mind reports and records compiled as results of investigations conducted by members of this department."

It is important at the outset to determine what records are required to be maintained by the Missouri State

Honorable Hugh H. Waggoner

Highway Patrol with respect to the matters mentioned in your letter of inquiry.

Subsection (4) of Section 43.120, RSMo 1949, reads as follows:

"The superintendent shall collect, compile and keep available for the use of peace officers of the state such information as is deemed necessary for the detection of crime and identification of criminals."

(Emphasis ours.)

While it is true that under many circumstances public records are available to inspection by persons having an interest therein, yet it is further true that the supreme legislative body of a state may surround public records with restrictions relating to the persons or classes of persons to whom inspection of such records may be made available.

We direct your attention to the following which appears in 53 C.J., page 625:

"A state has the power to grant by statute the right of inspection of public records to all persons, regardless of interest, or as to particular records, or to any person it may see proper for the purpose of transcribing particular records for such purposes as it may deem the public interest requires; and the legislature may surround the privilege of inspection with such restrictions and limitations as it deems necessary and proper, where they apply to all persons and all are equally bound thereby. * * *"

Even where a general statute authorizes the inspection of public records, yet such a statute is inapplicable to records whose availability to inspection has been limited by the act requiring such records to be kept. Your attention is further directed to the following quotation from 53 C.J., pages 626, 627:

"* * * A statute providing for inspection of public records by all persons is intended to include only those records intended for the use of the public and

Honorable Hugh H. Waggoner

not those intended only for the use of particular public officers. * * * On the other hand records that have been held not subject to inspection are: * * * police records * * *."
(Emphasis ours.)

Examining subsection (4) of Section 43.120, RSMo 1949, quoted supra, in the light of these general rules, and giving due regard to the obvious purpose for the establishment of such records which has been expressed in the statute, that is to say, that such records are for the use of peace officers, it seems quite apparent that it was not the intention of the General Assembly that the public in general have access thereto.

We are further persuaded to this opinion by reason of the fact that such records peculiarly relate to the duties of peace officers, and the information contained therein is germane to the discharge of the duties of such officials.

What we have said heretofore relates primarily to the first question which you have proposed.

With respect to the second question, you have advised us that you receive many requests for copies of accident reports, particularly those involving injuries to persons or property. These reports, as we understand it, are prepared by members of the State Highway Patrol who are called to the scene of collisions or wrecks involving motor vehicles.

We have carefully examined the provisions of Chapter 43, RSMo 1949, relating to the State Highway Patrol, and we do not find that such reports are required to be made under any statute. On the contrary, they are but matters which relate to the internal organization and functioning of the department. It is true that in some instances the factual matters contained therein may be useful to law enforcement officials, yet they are not within the scope of subsection (4) of Section 43.110, RSMo 1949, as relating to the "detection of crime and identification of criminals." For that reason we do not believe that they attain the status of "public records" to which the public generally may have access.

CONCLUSION

In the premises, we are of the opinion:

Honorable Hugh H. Waggoner

(1) That the records compiled and maintained under the provisions of subsection (4) of Section 43.120, RSMo 1949, are not available to the public generally, and that their inspection is limited to the class of officials designated in the statutes as "peace officers;" and,

(2) That other records maintained by the State Highway Patrol merely for the convenience of the department and relating to the internal organization and functioning of that department, based upon field reports made by members of the patrol as a result of their observations, and statements taken at the scene of wrecks or collisions involving motor vehicles, are not "public records" and that no duty is imposed upon the State Highway Patrol to supply copies thereof to interested persons.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General