

OPINION NO. 67-024**Syllabus:**

There is no authority in the law for the coroner, by request of law enforcement officials or otherwise, to take the blood from a deceased driver victim of an automobile accident for the purpose of compiling data for a study of the relationship between driving under the influence of alcohol and fatal automobile accidents.

To: Harry A. Sargeant, Jr., Sandusky County Pros. Atty., Fremont, Ohio
By: William B. Saxbe, Attorney General, February 17, 1967

Your request for my opinion reads as follows:

"The Sandusky County Coroner has been requested by one of the law enforcement agencies serving our County to take a blood specimen from the driver-victim of every fatal automobile accident, for use in making a blood alcohol test. The basic purpose for this test is not to assist the Coroner in establishing the cause of death but rather to compile data for a study of the relationship between driving under the influence and fatal automobile accidents.

"Is the Coroner authorized to take blood samples for such a purpose?"

Chapter 313 of the Revised Code relating to coroners does not authorize the coroner to take the blood from a deceased driver victim of an automobile accident for the purpose of compiling data for a study of the relationship between driving under the influence of alcohol and fatal automobile accidents.

The coroner may inquire into a suspicious death. Section 3705.27, Revised Code, provides in part:

"* * *If there is reason to believe that the death was caused by unlawful or suspicious means, the funeral director shall immediately notify the office of

the coroner. The coroner shall make inquiry, as provided by section 313.17 of the Revised Code, and make the medical certificate of death or stillbirth required for a burial permit, except as otherwise authorized by regulation of the public health council."

Section 313.13, Revised Code, provides as follows:

"The coroner or deputy coroner may go to the dead body and take charge of it. If, in the opinion of the coroner, or, in his absence, in the opinion of the deputy, an autopsy is necessary, such autopsy shall be performed by the coroner, deputy coroner, or pathologists. A detailed description of the observations written during the progress of such autopsy, or as soon after such autopsy as reasonably possible, and the conclusions drawn therefrom shall be filed in the office of the coroner."

Neither Section 3705.27, Revised Code, nor Section 313.13, Revised Code, provides for blood to be taken for the purposes of a study relating to the cause of automobile accidents.

The coroner has no "owner" of the body to whom he can look for permission to make the test. 16 O. Jur. 2d, Dead Bodies, Section 5, provides as follows:

"The established rule of the common law that a corpse is the property of no one prevails in Ohio. Thus, a dead body cannot become the subject of a lien, and it has been held that an instrument which disposes of nothing but the maker's body after death disposes of no property, is not a will, and is not entitled to probate."

Section 1713.42, Revised Code, provides:

"No person shall be in possession of a corpse for the purpose of medical, surgical, or anatomical study, except as provided by law."

Section 1713.34, Revised Code, provides:

"Superintendents of city hospitals, directors or superintendents of city infirmaries, county homes, or other charitable institutions, directors or superintendents of workhouses, founded and supported in whole or in part as public expenses, superintendents or managing officers of state benevolent, correctional, penal, and reformatory institutions, boards of township trustees, sheriffs, or coroners, in possession of bodies not claimed or identified, or which must be buried at the expense of the state, county, or township, before burial, shall notify the professor of anatomy in a college which by its charter is empowered to teach anatomy, or the secretary of the board of embalmers and funeral directors of this state, of the fact that such bodies are being so held. If after a period of thirty-six hours the body has not been accepted by friends or relatives for burial at their expense, such superintendent, director, or other officer, on the written application of such professor, or the secretary of the board of embalmers and funeral directors, shall deliver to such professor or secretary, for the purpose of medical or surgical study or dissection or for the study of embalming, the body of any such person who died in any of such institutions from any disease which is not infectious. The expense of the delivery of the body shall be borne by the parties in whose keeping the body was placed."

Nothing in Section 1713.34, Revised Code, gives the coroner power to make the blood alcohol test for the compilation of data for a study of the relationship between driving under the influence of alcohol and fatal automobile accidents.

Section 2923.08, Revised Code, provides:

"No person, not lawfully authorized to do so, shall mutilate or destroy any portion of a dead human body.

"Whoever violates this section shall be fined not more than ten thousand dollars or imprisoned not less than one nor more than ten years."

The law, as indicated in Section 2923.08, Revised Code, is indeed protective of those who have deceased.

In conclusion, it is my opinion that there is no authority in the law for the coroner, by request of law enforcement officials or otherwise, to take the blood from a deceased driver victim of an automobile accident for the purpose of compiling data for a study of the relationship between driving under the influence of alcohol and fatal automobile accidents.