



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-231

December 30, 1985

Mr. Jim Clark, Director
State Crime Laboratory
#3 Natural Resources Drive
P.O. Box 5274
Little Rock, AR 72215

Dear Mr. Clark:

You have requested the opinion of this Office concerning two(2) statutes which deal with the taking and handling of blood from dead bodies for the purpose of determining whether chemical agents may have played a part in the death. You note in your opinion request that Ark. Stat. Ann. §42-333 allows such blood samples to be taken by county coroners and their appointed deputies who have received instruction and have been deemed qualified by the State Medical Examiner to take and handle blood samples for these purposes. You also note that Ark. stat. Ann. §75-1045(c)(2) states that "when a person shall submit to a blood test at the request of a law enforcement officer under the provisions of this section, blood may be drawn by a physician or a person acting under the direction and supervision of a physician." You further note that Ark. Stat. Ann. §75-1045(b) states that "any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this section and the test may be administered subject to the provisions of subsection (c) of this section." Your question is whether a county coroner who is not a physician or who does not draw the blood under the direction and supervision of the physician may continue to draw blood from dead bodies pursuant to Ark. Stat. Ann. §42-333 in cases which could conceivably be covered by Ark. Stat. Ann. §75-1045.

The answer to your question is yes. The language of Ark. Stat. Ann. §75-1045 states only that blood may be drawn by physician or person acting under the direction and supervision of a physician. Nothing in the Act can be interpreted to take away the authority of duly authorized county coroners to draw blood from dead bodies.

You also ask whether the instruction given to the county coroners and their deputies by the State Crime Laboratory's Medical Examiner satisfy the requirement of direction and supervision of physician. Since the answer to your first question was that coroners may continue to draw blood, this question could be considered moot. However, to the extent that an answer to this question is required, the term "direction and supervision of a physician" entails more than is contemplated in the qualifications found in Ark. Stat. Ann. §42-333 for certification by the State Medical Examiner. Therefore, such certification would not be deemed unnecessary to satisfy the requirement for direction and supervision found in Ark. Stat. Ann. §75-1045.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Tim Humphries.

Sincerely,



STEVE CLARK
Attorney General

SC/TCH/ljm