

1974 S.C. Op. Atty. Gen. 49 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3697, 1974 WL 21216

Office of the Attorney General

State of South Carolina

Opinion No. 3697

January 22, 1974

***1 In Re: Search and Seizure, Drawing Body Fluids for Analysis**

Honorable Cliff Moyer
Director
Criminal Justice Academy
Greenville Highway
Columbia, South Carolina

Dear Mr. Moyer:

Thank you for taking my SLED class on last Wednesday. I was in court at trial of a case.

You inquire as to the lawfulness of drawing blood or other body fluids for analysis for alcohol or drugs at the scene of an accident or crime before booking.

Whether or not body fluids, such as blood, are taken for analysis before booking or after booking makes no difference with regard to the admissibility of the test results in evidence. The two necessary prerequisites for lawful intrusion into a person's body for the purpose of extracting fluids for test purposes are these:

1. There exists probable cause to believe that the subject is under the influence. An intrusion to extract fluid on the mere chance that alcohol or drugs are present is unlawful in any circumstance.
2. Blood or other fluids may be taken from the body of a subject in custody only in clinical conditions. This means that the extraction must be done by a doctor, nurse or paramedical person - - - never by a police officer - - - and, except in most exigent circumstances, in a clinic or hospital. As a practical matter, extraction at the scene, even if done by a medically trained person, is not advised.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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