

OPINION NO. 72-037

Syllabus:

1. The coroner of the county within which a dead body is first discovered under suspicious circumstances has jurisdiction to conduct an inquest, in the absence of supervening Federal jurisdiction. Opinion No. 37, Opinions of the Attorney General for 1923, and Opinion No. 1111, Opinions of the Attorney General for 1929, approved and followed; Opinion No. 470, Opinions of the Attorney General for 1963, disapproved.

2. Where the State has ceded exclusive legislative jurisdiction over an area to the Federal Government, and the Federal Government has properly accepted such jurisdiction, the Federal officials are not obligated under State law to report deaths under suspicious circumstances to the coroner and the coroner has no right to conduct an inquest within the Federal enclave.

To: Reynold C. Hoefflin, Greene County Pros. Atty., Xenia, Ohio
By: William J. Brown, Attorney General, May 8, 1972

Your request for my opinion reads, in pertinent part, as follows:

"Due to the unique relationship between Greene County and Wright-Patterson Air Force Base, a major problem has occurred and reoccurred through the years. A major hospital is located on the grounds of Wright-Patterson Air Force Base which has been acquired by the Government of the United States pursuant to Chapter 159 of the Ohio Revised Code. According to P.C. 159.04, jurisdiction over said land has been ceded to the Federal Government for all purposes except service of process.

"This creates a problem with the office of the Greene County Coroner in particular. There have been cases too numerous to mention wherein a person dies under the description carried under R.C. 313.11 of the Ohio Revised Code. That is to say, the person died as a result of criminal or other violent means or by casualty or by suicide or suddenly while in apparent good health or in other suspicious or unusual manner. The family, rescue squad, et cetera, seeing the person in such a condition and not knowing whether or not they are dead or alive, and they frequently being military dependents, they are rushed to Wright-Patterson Air Force Hospital. Upon their arrival, the base doctor pronounces them dead and the case is never reported to the Greene County Coroner as required by 313.11. In other cases, the person is seriously injured under the terms of 313.11, taken to Wright-Patterson Air Force Base Hospital where he subsequently dies. These cases are not reported to the Greene County Coroner and no investigation is had.

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"My question in particular is: Are the persons at Wright-Patterson Air Force Hospital obligated to report these deaths to the Greene County Coroner? If so, are they subject to the penalty clause of R.C. 313.11 and R.C. 313.99 (A)?"

The answer to your request depends upon the jurisdiction of a county coroner to conduct an inquest under the provisions of Chapter 313, Revised Code. Determination of the coroner's jurisdiction in this particular case rests upon the answer to two questions: (1) should the inquest be conducted in the county in which the dead body was found, or in the county in which the fatal injury was inflicted; and (2) is the coroner deprived of jurisdiction to conduct an inquest when the dead body is found, or the fatal wound is inflicted, on county land as to which the State has ceded legislative jurisdiction to the Federal Government for all purposes except service of process?

1. At common law only the coroner within whose jurisdiction the fatal injury occurred had authority to conduct the inquest, since the coroner took the place of a grand jury and had the right to return an indictment. This could, of course, be done only where the offense had been committed. The old common law rule has been abandoned in England and in most of the states, in which statutes now require the inquest to be conducted in the county where the dead body is first found. 18 Am. Jur. 2d 523.

It is clear from your letter and the material which you have forwarded to me that in many of the cases with which you are concerned the fatal injury was inflicted outside of Greene County, but the fact of death was determined only after the injured person had been brought into the county to Wright-Patterson Hospital. If the common law rule still prevails in Ohio, the Coroner of Greene County would have no jurisdiction to conduct an inquest in such cases. The first question is, therefore, whether Chapter 313, supra, retains the common law rule or confers jurisdiction on the coroner of the county in which the dead body is first found.

Two of my earlier predecessors held that the common law rule

had never been in effect in Ohio, and that jurisdiction to perform the inquest lay with the coroner of the county where the dead body was found. Opinion No. 37, Opinions of the Attorney General for 1923; Opinion No. 1111, Opinions of the Attorney General for 1929. In 1945 there was a revision of the General Code provision governing the office of coroner. In Opinion No. 470, Opinions of the Attorney General for 1963, a later Attorney General, interpreting that revision as evidence of the legislature's intent to restore the common law rule, overruled some aspects of Opinion No. 37, supra.

In 1965, however, two years after my predecessor's Opinion No. 470, supra, the General Assembly amended Section 313.01, Revised Code, by addition of the following emphasized sentence:

"A coroner shall be elected quadrennially in each county, who shall hold his office for a term of four years, beginning on the first Monday of January next after his election.

"As used in the Revised Code, unless the context otherwise requires, 'coroner' means the coroner of the county in which death occurs or the dead human body is found."

My predecessor recognized that this amendment invalidated Opinion No. 470, supra, and reinstated Opinion No. 37, supra. Opinion No. 67-080, Opinions of the Attorney General for 1967.

I conclude, therefore, that the law in Ohio is that the coroner of the county in which a dead body is first discovered under suspicious circumstances has jurisdiction to conduct the inquest. Opinion No. 37, supra, and Opinion No. 1111, supra, are approved and followed. Cf. also Opinion No. 1723, Opinions of the Attorney General for 1947. Opinion No. 470, supra, is disapproved.

Since Greene County is apparently the location in which the death occurred or a dead body was first discovered in all of the cases with which you are concerned, the answer to the first question must be that the Coroner of Greene County has jurisdiction to conduct an inquest into deaths occurring at Wright-Patterson Hospital, unless such jurisdiction has been removed by the State's cession of legislative jurisdiction over the Air Force Base to the United States for all purposes except service of process.

2. Under the United States Constitution the Federal Government may, with the consent of a state legislature, exercise exclusive legislative jurisdiction over territory which it has acquired within such state. Article I, Section 8 of the Constitution provides, in pertinent part, as follows:

"The Congress shall have power * * *

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts,

magazines, arsenals, dockyards, and other
needful buildings; * * *

" * * * * * * * * * *"

The General Assembly has consented, in Chapter 159, Revised Code, to the acquisition of land by the Federal Government within the State, and to the exercise of exclusive jurisdiction therein by the Federal Government except for service of civil and criminal process by the State. Section 159.03, Revised Code, provides:

"The consent of the state is hereby given, in accordance with clause 17, Section 8, Article I, United States Constitution, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in the state required for sites for custom houses, court-houses, post offices, arsenals, or other public buildings whatever, or for any other purposes of the government."

And Section 159.04, Revised Code, provides:

"Exclusive jurisdiction in and over any land acquired by the United States Under section 159.03 of the Revised Code is hereby ceded to the United States, for all purposes except the service upon such sites of all civil and criminal process of the courts of this state. The jurisdiction so ceded shall continue no longer than the said United States owns such lands."

Congress has prescribed that the Federal Government may accept either exclusive or partial jurisdiction over such lands by filing a notice with the governor of the state. Act of October 9, 1940, 40 U.S.C. 255. The Act further provides:

"Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted."

The purpose of Congress in enacting the Act of October 9, 1940, supra, was to create "a definite method of acceptance of jurisdiction so that all persons could know whether the [federal] government had obtained 'no jurisdiction at all, or partial jurisdiction, or exclusive jurisdiction.'" Addams v. United States, 319 U.S. 312, 314 (1942). See also Evans v. Cornman, 398 U.S. 419 (1970); Howard v. Commissioners of Louisville, 344 U.S. 624 (1953); Penn. Dairies v. Milk Control Commission, 318 U.S. 261 (1943); Pacific Coast Dairy, Inc. v. Department of Agriculture of California, 318 U.S. 285 (1943).

Subsequent to the enactment of the Act of October 9, 1940, supra, the Federal Government thrice notified the State of its acceptance of exclusive jurisdiction over lands previously acquired by it for the purposes of Wright-Patterson Air Force Base. By a letter dated April 17, 1943, the Secretary of War notified Governor Bricker that the United States accepted exclusive juris-

dition over all lands previously acquired by it for military purposes within the State. By a letter dated September 28, 1948, the Secretary of the Air Force notified Governor Herbert that the United States accepted exclusive jurisdiction over all lands at Wright-Patterson Air Force Base over which such jurisdiction had not previously been obtained. Notification of acceptance of exclusive jurisdiction over additional land subsequently acquired at the Base was given on November 4, 1949.

I think it clear from the foregoing that the State has ceded exclusive jurisdiction over Wright-Patterson Air Force Base to the Federal Government, and that the Federal Government has accepted such exclusive jurisdiction. The only jurisdiction retained by the State is the right to serve civil and criminal process on the Base. Section 159.04, *supra*. The Federal Government has, however, granted the State permission to extend State highways within the territory of the Base, and a question arose as to the jurisdiction of the State Highway Patrol to enforce State traffic regulations within the Base. My predecessor concluded that jurisdiction over the highways lay with the Federal authorities and that "the state authorities are without jurisdiction to enforce state traffic regulations thereon." Opinion No. 1077, Opinions of the Attorney General for 1952. Subsequently, the Federal Government, in 1954, retroceded concurrent jurisdiction to the State over the highways involved (Pub. L. No. 301-68, U.S. Statutes 18), and the General Assembly accepted the retrocession (126 Ohio Laws, 595). There has, however, been no further return of jurisdiction over the Base to the State, and the reasoning of my predecessor's Opinion still holds as to the other parts of the Federal enclave. See also Opinion No. 649, Opinions of the Attorney General for 1945.

It has been held repeatedly that, where the Federal Government has accepted exclusive jurisdiction over an area within a state, a coroner has no right to conduct an investigation into the cause of a death occurring within the area. Report of Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States, Part II, Text of Law of Legislative Jurisdiction, pp. 4, 6-7, 122, 180-181, U.S. Government Printing Office, 1957. Footnote 10, at pages 180-181, says in pertinent part:

"No State has the authority to insist upon furnishing coroner service or making investigations as to the cause of death occurring on an exclusive Federal jurisdiction area, or to prohibit the shipment of an unembalmed body from such area into the State. Memo Oct. 4, 1951, from Director, National Park Service, Department of the Interior, to Regional Director, Region Two, National Park Service, Department of the Interior. To same general effect: 1 Ops. A.G. Cal. 176 (Mar. 18, 1943); Op. A.G., Ill., No. 98 (Nov. 12, 1941); Op. A.G., Tex., No. V. 380; Ops. J.A.G., Navy, JAG:II:1:REC:wln (Sept. 21, 1953); JG: 6769-21 (July 19, 1911); JG:26250-331 (Feb. 24, 1912); JG: 26283-988.5 (Feb. 18, 1916). It is not necessary for a State permit to be issued by the State of Wyoming for shipment of a body from an exclusive Federal jurisdiction area in Wyoming to a point without the State. Op. Dep. A.G., Wyo. (Oct. 4, 1949). See also County of Allegheny v. McClung, 53 Pa. 482 (1867).":

In specific answer to your question it is, therefore, my opinion, and you are so advised, that:

1. The coroner of the county within which a dead body is first discovered under suspicious circumstances has jurisdiction to conduct an inquest, in the absence of supervening Federal jurisdiction. Opinion No. 37, Opinions of the Attorney General for 1923, and Opinion No. 1111, Opinions of the Attorney General for 1929, approved and followed; Opinion No. 470, Opinions of the Attorney General for 1963, disapproved.

2. Where the State has ceded exclusive legislative jurisdiction over an area to the Federal Government, and the Federal Government has properly accepted such jurisdiction, the Federal officials are not obligated under State law to report deaths under suspicious circumstances to the coroner and the coroner has no right to conduct an inquest within the Federal enclave.