

## OPINION NO. 73-123

**Syllabus:**

1. Under R.C. 313.11 and R.C. 313.12 the coroner does not have jurisdiction over the body of a deceased person unless the death has occurred "as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner."

2. When none of the above circumstances are present, the coroner has jurisdiction only if the deceased is unknown, or if those who are entitled to custody of the body do not claim it. R.C. 313.08.

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To: Thomas R. Spellerberg, Seneca County Pros. Atty., Tiffin, Ohio  
By: William J. Brown, Attorney General, December 5, 1973

You have requested my opinion as to the jurisdiction of the county coroner in cases in which a patient, who has been brought to the emergency room of a hospital, is found by hospital personnel to be "dead on arrival." It appears from correspondence with the coroner, which you have supplied to me, that the hospital routinely regards such instances as "coroner's cases"; that the physicians on call in the emergency room refuse to examine the body and make a finding of death; and that one of the nurses usually notifies the coroner of the death without providing any information as to the circumstances.

The coroner's chief function is to take charge of the bodies of persons who have died under suspicious circumstances; to conduct an inquest into the cause of the death; and to submit to the prosecuting attorney a report of the facts determined at the inquest when further investigation is believed necessary. R.C. 313.08, 313.09, 313.13, 313.15, 313.17 and 313.19. The coroner's jurisdiction arises when a death has occurred "as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner." R.C. 313.11 and 313.12. In all such instances any person who discovers the body or first becomes aware of the death is required under R.C. 313.11 to notify the coroner. That Section provides:

Any person who discovers the body or acquires the first knowledge of the death of any person who died as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner, shall immediately notify the office of the coroner of the known facts concerning the time, place, manner, and circumstances of such death, and of

any other information which is required by sections 313.01 to 313.22, inclusive, of the Revised Code. In such cases, if request for cremation is made, the funeral director called in attendance, shall notify the coroner immediately. No person shall willfully touch, remove, disturb the body of any such person, or disturb the clothing or any article upon or near such body.

And the physician called to attend a person who dies under such suspicious circumstances is specifically required to give notice to the coroner under R.C. 313.12 which provides:

When any person dies as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner, the physician called in attendance shall immediately notify the office of the coroner of the known facts concerning the time, place, manner, and circumstances of such death, and any other information which is required pursuant to sections 313.01 to 313.22, inclusive, of the Revised Code. In such cases, if a request is made for cremation, the funeral director called in attendance shall immediately notify the coroner.

The plain language of these Sections clearly indicates that the General Assembly intended the coroner's jurisdiction to attach only under the specifically enumerated causes of death. It would be improper, therefore, for a hospital to summon the coroner in every instance in which a patient is pronounced "dead on arrival." There must be many cases, for example, in which a patient, with a history of coronary trouble, suffers a further attack which proves fatal in the ambulance en route to the emergency room. There would be no reason to notify the coroner in such a case since a physician can readily determine that the death was not the result of violence and did not occur under suspicious or unusual circumstances. Some such factor must be present before the coroner's jurisdiction may be invoked. The only other instance in which the coroner takes charge of the body of a deceased is where relatives entitled to custody of the body do not claim it. R.C. 313.08.

Before the coroner can be notified of a death someone must obviously determine that the patient is dead. In a recent opinion I held that such pronouncement of death can be made only by a duly licensed physician. The syllabus of Opinion No. 72-116, Opinions of the Attorney General for 1972, reads as follows:

Since R.C. Chapter 4731 limits the diagnosis and treatment of diseases of, and injuries to, the human body to duly licensed physicians alone, only such a physician can make the final diagnosis that the body has become a corpse which must be prepared for burial.

This does not mean that the physician must, in all instances, actually examine the body immediately before making the pronouncement. If the deceased has been under medical care, if a physician is thoroughly familiar with his medical history, and if a nurse or some other competent observer recites the facts of the deceased's present medical condition to the physician by telephone, the physician, if satisfied that death has occurred from normal causes, may make the final

diagnosis and pronouncement then and there. If, however, the nurse's recitation of the facts gives any indication of violence or of suspicious and unusual circumstances, the provisions of R.C. 313.12 require that the coroner be notified at once by the physician.

One of my predecessors has noted the necessity for the presence of trained physicians in the emergency room of a hospital. Opinion No. 3197, Opinions of the Attorney General for 1962, at p. 626. Consequently, if a patient arrives in the emergency room under circumstances which indicate that he is already dead, and if his own physician is unknown or unavailable, R.C. 313.12 requires that he be examined by one of the physicians on duty, and that that physician make the pronouncement of death if the facts so indicate. Only if there are indications of violence, or any other suspicious or unusual circumstances, does R.C. 313.12 direct that the examining physician notify the office of the coroner. See Opinion No. 163, Opinions of the Attorney General for 1937. Of course, R.C. 313.11 imposes a duty also on anyone who discovers the body, or first acquires knowledge of a death under the specified circumstances, to give prompt notice to the coroner.

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

1. Under R.C. 313.11 and R.C. 313.12 the coroner does not have jurisdiction over the body of a deceased person unless the death has occurred "as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner."

2. When none of the above circumstances are present, the coroner has jurisdiction only if the deceased is unknown, or if those who are entitled to custody of the body do not claim it. R.C. 313.08.