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Medical Examiner/Coroner Jurisdiction in Cases Involving Federal Interests

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ABSTRACT: Under state laws, a medical examiner or coroner is charged with the investigation of sudden, unexpected, violent, and unexplained deaths. In several situations where there are federal interests, there may be conflict as to whether the jurisdiction belongs to state or federal authorities. Some situations of possible conflict—death on a military installation, military aircraft accidents, mass transportation disasters, and executive and congressional assassinations—are reviewed.

KEYWORDS: pathology and biology, jurisdiction, death, medical examiner jurisdiction

In this country the majority of investigations into deaths are carried out by local coroners or medical examiners. They are charged with the investigation of all sudden and unexpected, suspicious, violent, and unexplained deaths. In some situations, the federal government may have interests in an investigation, for example in situations involving insurance benefits, civil or criminal litigation, national security, or public safety. These interests are usually established by federal law.

Most of the interests under federal law relating to death investigations arise in the areas of national defense and interstate commerce. Congress has broad legislative powers under the Constitution to define and protect federal interests in these areas. In a few cases, federal interests as established by federal law may conflict with state or local interests. Such cases may present jurisdictional problems, especially when they involve deaths occurring on a military installation, military aircraft accidents, mass transportation disasters, and executive and congressional assassinations. Each of these areas of potential conflict between state and federal interests will be discussed in this paper.

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Deaths Occurring on Military Installations²

Probably the most likely area of conflict between state and federal interests occurs with a death on a military installation. Because the death occurs (or the body is found) on a military reservation, there may be a question as to who is authorized to conduct the death investigation. In coroner or medical examiner systems with large case loads, the question of jurisdiction has probably been confronted long ago and, based on the knowledge of federal and state laws, is easily resolved. In some localities, however, sudden and unexpected, unexplained, or violent death occurs very infrequently, and both federal and local authorities may be confused as to who has jurisdiction to investigate the death.

Jurisdiction in such a case depends primarily on the nature of the acquisition of the military installation. Jurisdiction may be either *concurrent* or *exclusive* and has usually been determined by federal security requirements at the time of acquisition of the property.

Exclusive Jurisdiction

Under exclusive jurisdiction, the federal government has the sole jurisdiction in the investigation of all sudden and unexpected, unexplained, suspicious, and violent deaths that occur on a military installation. If an autopsy is required because of the circumstances of death, the three military branches (Army, Air Force, and Navy) have regulations authorizing the commanding officer of the installation to order a postmortem examination [1]. The authority to order an autopsy under military regulations is similar to the authority of the medical examiner or coroner under state law.

The following case gives an example of how exclusive jurisdiction operates. A 30-year-old civilian man threatened to kill his estranged wife and her mother. The latter was able to slip away and call the local sheriff for help. When the sheriff and his deputy arrived, the subject fled the scene in his car and was then chased onto a nearby military reservation by the sheriff and deputy in the sheriff's car. After a chase of several miles on the military reservation, the subject suddenly stopped. As the sheriff and the deputy started to exit the sheriff's car, the subject shot twice at them with his shotgun, slightly wounding the sheriff. The deputy then shot and killed the subject.

In this case all parties involved in the death were civilians. The investigation was performed by the military because the death occurred on a military reservation under the exclusive jurisdiction of the federal government. Pursuant to the applicable Army regulation, the commanding officer authorized an autopsy.

Concurrent Jurisdiction

Concurrent jurisdiction involves the investigation of *only* military deaths on a military reservation. It would seem to imply that both the civilian medical examiner (or coroner) and the military have equal jurisdiction in the investigation of the death of an active-duty member on a military installation, if the death is sudden and unexpected, suspicious, violent, or unexplained. Actually, the medical examiner has the authority to take charge in the investigation of the death. He may choose to waive jurisdiction to the military. Some medical examiners, by local practice, always waive jurisdiction in a military death investigation to the military.

²Only jurisdictional problems arising on military installations will be reviewed here. Many other installations or properties are under the control of the federal government, for example, Indian reservations, national parks, and national monuments. Unless there is a federal interest in the general areas of national defense or interstate commerce, however, the federal government will not seek to exercise jurisdiction. The local or state medical examiner will officiate in investigations of deaths on such federal installations.

Others always retain jurisdiction. The military authorities should report to the local medical examiner or coroner all sudden and unexpected, violent, and unexplained deaths—whether military or civilian—that occur on a military installation. The local official can then decide whether or not to exercise jurisdiction or waive it to the military.

Concurrent jurisdiction does not apply to civilian deaths on a military installation. Only the medical examiner or coroner can exercise jurisdiction in these cases.

The following case offers an example of the operation of concurrent jurisdiction. Two civilian teenaged boys decided to go to a firing range on a nearby military reservation to pass the time. On the way they walked past a sign warning of the danger of going onto the range and, specifically, of picking up expended ordnance or “duds.” One of the boys ignored the warning and began picking up “dud” fragmentation grenades. His companion was more than 100 m away when an explosion occurred. He immediately ran from the area to get assistance, after seeing his friend on the ground. The victim was pronounced dead when the military authorities arrived. The local coroner certified the manner of death as accidental and decided that an autopsy was unnecessary. Military authorities desired an autopsy because of potential civil litigation. An autopsy was performed on the victim after consent had been granted by the next of kin.

In this case, only the local coroner could exercise jurisdiction because concurrent jurisdiction existed on the military reservation and the violent death involved a civilian. Since the military did not have jurisdiction in the investigation of the death, the commanding officer could not authorize an autopsy. An autopsy could be performed by the military in this case only after permission was obtained from the next of kin.

Military Aircraft Accidents

In fatal light aircraft accidents, the local coroner or medical examiner usually investigates the death. In the crash of a military aircraft, protection of federal interests becomes more important. Paramount among these interests are flight safety and national defense. The investigation of military aircraft accidents is currently an area of potential conflict because federal law does not cover the federal interests.

The military, because of its experience in investigating military aircraft accidents, is better equipped to investigate the crashes. Special teams frequently go to the crash site and perform autopsies on the victims. Documentation of the injury patterns may be very important in determining the cause of the accident and improving flight safety.

If the aircraft accident occurs on a military installation with exclusive jurisdiction, there is no question that the military will exercise its power to investigate and will perform the necessary autopsies on the flight crew. Where the crash occurs on an installation where concurrent jurisdiction exists, the local coroner or medical examiner should waive jurisdiction to the military experts.

If the crash occurs outside a military installation, jurisdiction over the death investigation varies from state to state. In some states, such as California, the state attorney general has rendered an opinion that the military should have jurisdiction in such cases [2]. A federal law that would place all military aircraft accidents under the exclusive jurisdiction of the federal government is currently under study.

Mass Transportation Disasters

In contrast to military aircraft accidents, federal law has long protected federal interests in civilian mass aircraft disasters. The principal federal interest involved here is flight safety in interstate commerce. Since 1958, the National Transportation Safety Board (NTSB, originally the Civil Aeronautics Board) has had overall investigatory jurisdiction in civil aviation accidents. The NTSB may choose not to become involved in the investigation of fatal light

aircraft accidents. If so, the local coroner or medical examiner will exercise his jurisdiction and determine whether an autopsy is necessary. With major mass transportation disasters, the NTSB will always exercise jurisdiction. Under federal law the NTSB has overall jurisdiction and is empowered to draw on local and state assistance in carrying out its investigations [3]. In recent major aircraft accidents in San Diego and Chicago, the local coroner (San Diego) and medical examiner (Chicago) offices participated fully, under the direction of the NTSB.

The federal statute also enables the NTSB to obtain the assistance of other federal agencies. Thus, fingerprint experts from the FBI may be obtained to assist in the identification of the victims. The NTSB also has an agreement with the Armed Forces Institute of Pathology (AFIP) whereby pathologists from the Division of Aerospace Pathology will perform autopsies on the flight crew.

Executive and Congressional Assassinations

Federal legislation was passed in 1965 and in 1970 that vests investigatory jurisdiction in the FBI in the event of the assassination of certain members of the executive and congressional branches of the U.S. government [4,5]. The statute concerning the executive branch covers assassinations of the president, vice-president, president-elect, and vice-president-elect. The congressional statute covers any member of Congress or a member of Congress-elect.

The FBI has overall investigatory jurisdiction in such deaths. By statute, the FBI is authorized to request assistance from any local or state agency and from any federal agency. The FBI has an agreement with the AFIP under which a forensic pathologist from the institute will perform an autopsy in the event of an executive or congressional assassination.

The federal laws regarding assassinations do not apply to members of the third branch of the United States government, the judiciary. For example, if a U.S. Supreme Court justice were assassinated, no federal law would apply. The death investigation would be carried out by the local coroner or medical examiner. These statutes also do not apply outside the jurisdiction of U.S. law, that is, in foreign countries.

Conclusion

In some situations involving death investigations, federal jurisdiction may conflict with that of the local coroner or medical examiner. Most frequently the conflict is in the event of a death on a military reservation. Conflict may also arise in the event of aircraft accidents or executive or congressional assassinations. Most of the time, the conflict can be avoided or resolved by simple communication and knowledge of the applicable federal law.

References

- [1] Military regulations authorizing autopsies: (Army) AR 40-2, Chapter 4-4; (Air Force) AFR 168-4; and (Navy) *Manual of Medical Dept.*, Article 17-2.
- [2] 1 Ops. Atty. Gen. 176 (California).
- [3] 49 U.S. Code 1441.
- [4] 18 U.S. Code 1751.
- [5] 18 U.S. Code 351.

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