

## **Conflicting laws, opinions stir questions about death records**

By Kyle Niederpruem  
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Even Gov. Frank O'Bannon has a tough time deciding whether death records should be public.

O'Bannon was a reporter for three years in the late 1950s, covering "everything" for The Corydon Democrat, a weekly newspaper in southern Indiana. He is chairman of the board for O'Bannon Publishing Co., which publishes The Democrat.

The newspaper used to print causes of death routinely, O'Bannon said. Pressure from funeral home directors and readers years ago prompted the newspaper to stop publishing those statistics, even though the information filed with local health departments is public record.

"Now, if it was a suicide or car accident, a public story, they still do it," O'Bannon said of reporting causes of death.

Thus the rub.

In some instances, the former reporter in O'Bannon says it ought to be public. But as governor, he says there are times when

death really should be "a private family matter."

"Generally, I favor disclosure," he said.

The governor said no case illustrates the "need to know" more than the mysterious deaths of more than 100 hospital patients in Vermillion County.

In 1995, police and state health officials began investigating a series of unexplained deaths at a rural hospital. An anonymous letter sent to authorities alleged a staff nurse was involved in at least 24 deaths.

Very little information was released publicly.

During the lengthy investigation, The Tribune Star in Terre Haute sued the Indiana State Department of Health to release death certificates. Because names had not been released previously, the newspaper was seeking any hospital deaths that might have been suspicious.

The case was settled out of court, and 330 death records eventually were released by the state. Those records were used to create a database. The newspaper could then provide the community with more accurate information when bodies were exhumed and as the case dragged on.

Only recently, and after a nearly three-year investigation, was former nurse Orville Lynn Majors charged with six counts of murder. An additional 165 deaths remain in question.

But are death certificates public record?

Two laws conflict. At the county level, death records are public. Once the records are filed with the state, however, officials will release them only to people who have "a direct interest in the record," usually interpreted to mean a relative. In June, a mailing to counties from the Indiana Association of Public Health Physicians complained that the media have "become increasingly aggressive in obtaining this data" and stated incorrectly that cause of death is not a matter of public record. In early January, Attorney General Jeff Modisett issued an official opinion that death records "prepared" by the local health officer are "disclosable public records."

According to a statewide records audit, the county health departments seemed to be best informed about access laws. Immediate access was granted for death records in 67 county departments. But there still were illegal denials and much confusion.

Even so, county health officers easily may claim they no longer

have the records to disclose once the records are forwarded to the state.

The law is also muddled on this point. County health officers "shall collect, record and report" to the state department. The original record, by the fourth day of each month, is then required to be forwarded to the state.

Proposed legislation this session to clear up that conflict was not called for a vote. Sen. Patricia Miller, R-Indianapolis, was the committee chairwoman who deferred the vote after senators expressed numerous concerns.

Miller said she can't recall a time when she wasn't able to read Marion County deaths listed daily in her newspaper, The Indianapolis Star and The Indianapolis News.

But privacy fears, whether real or imagined, are keeping conflicting laws on the books.

O'Bannon believes the laws "ought to be plain one way or the other."

In Corydon, 8,000 people read The Democrat each week. If the governor died, it likely would be a front-page news story.

Most people's names appear in a newspaper twice in a lifetime - when they're born and when they die. Both records have traditionally been public records for decades.

"If Frank (O'Bannon) died, we'd probably want to know what happened to him," said Randy West, editor of the Corydon newspaper.

The Indianapolis Star and The Indianapolis News have published information from Marion County death certificates for more than 25 years. Name, age, place of death and cause of death are published daily as space provides.

**[Illustration]**

Caption: HEAD SHOT: Gov. O'Bannon favors openness but says there are times death is a private matter. HEAD SHOT: Sen. Patricia Miller, R-Indianapolis, deferred a vote on disclosure of information about deaths.

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