

Judge to make jail audits public as Utah grapples with inmate deaths

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FARMINGTON — A judge has allowed the release of Davis County Jail audits compiled by outside evaluators and its own employees, a decision cheered by civil rights advocates who have called for greater transparency in Utah jails.

The reviews designed to determine whether the jail is meeting its standards are subject to Utah's open records law, 2nd District Judge David Connors ruled Friday from the bench, though copies of the reports won't be released just yet. The judge said he will review them first to determine if portions should be redacted because they would pose security risks at the jail.

"In my view, there's no argument that those are government records," Connors said.

His decision does not fully settle the case waged by the American Civil Liberties Union of Utah and the Disability Law Center, who sued the Davis County Jail last year to obtain copies of the jail standards and the compliance audits.

Connors has yet to decide whether the standards can also be made public. After more than an hour of arguments from a lawyer for the advocacy groups and an attorney for the county, he took the issue under advisement and said he would rule at a later date.

Davis County is fighting a possible release of the guidelines, saying Gary DeLand, a consultant who once ran the Utah Department of Corrections, wrote and owns the standards. Making them public would be a breach of contract, the county contends, noting DeLand has a copyright to the document.

After the State Records Committee last year sided with Davis County, the advocates sued to overturn the decision. They contend the law doesn't consider those factors to be strong enough to shield the regulations from public scrutiny.

On Friday, Connors zeroed in on why Davis County may want the records to remain in the dark.

"What's the county trying to hide?" the judge asked.

"There is no hiding with respect to the county, and the county really has no personal interest in what's transpiring here," replied Davis County Deputy Civil Attorney Michael Kendall. He and his colleagues feel they are stuck between DeLand's legal claim to the standards and the push from the advocates. DeLand, however, has not attempted to intervene in the case, he said.

A copyright restricts certain types of duplication of a record but doesn't bar public access, attorneys for groups argue. Moreover, they are seeking them for education and advocacy, not to compete with DeLand's business, said Jeremy Brodis, a lawyer for the groups.

"There's an extreme public interest in knowing what these standards are," Brodis said. The reviews shed light on whether the jail is meeting its own goals, something the public to date hasn't had a chance to evaluate, he said.

Those seeking to force greater accountability on Utah jails include Cynthia Farnham Stella, whose daughter Heather Ashton Miller died in the Davis County Jail in 2016 when she fell from her top bunk.

"Those standards should have met up with policies and procedures in order to save somebody's life, and not just my daughter's. There's many people that have passed here," Stella said outside the courtroom. "Just because my daughter was on a date and got arrested with somebody (with) drugs in the car, doesn't mean she should have gotten the death penalty."

The year Miller died, Utah had the highest rate of jail inmate deaths per capita in the nation, at 22, according to the U.S. Bureau of Justice Statistics. The Utah Attorney General's Office determined her death was not the result of criminal conduct by jail employees.

Aaron Kinikini, legal director for the Disability Law Center, said outside the courtroom his group is eager to review the audits.

"It will be interesting to see whether the timelines, when we have inmate deaths — whether they're suicides or drug overdoses or just kind of bizarre accidents — correspond with any failing grades from the sheriff's association audit. From our perspective in the work we do, that's really important."