

Utah judge rules county jail inspection documents are public records

Ogden Standard Examiner

Mark Shenefelt

9/6/19

https://www.standard.net/news/government/utah-judge-rules-county-jail-inspection-documents-are-public-records/article_a4ef0b9d-38b2-5450-9f2f-9340733f115d.html

FARMINGTON — In a ruling sought by civil liberties groups, a judge said Friday Davis County's jail inspection documents are public records and will be released.

Reports of internal jail inspections by jail officials, and separate inspections by the Utah Sheriffs' Association, had been withheld by Davis County officials, citing various grounds, including threats to jail security if the reports are made public.

But 2nd District Judge David Connors ruled after a two-hour hearing that the documents are "clearly" records that should be publicly available, except for certain sections that sheriff's officials want to withhold for security reasons.

And the court will review those potential withheld sections in a closed-door hearing with attorneys from both sides, then rule on those specifics.

Connors did not rule on another major issue Friday, saying he needs more time to study whether the Utah Jail Standards are also subject to public release.

After six people died in the Davis County Jail in 2016, and 27 total jail deaths were reported statewide, public scrutiny of jail policies and procedures soared. In 2017, the American Civil Liberties Union and the Disability Law Center sued for access to the records after the county and later the State Records Committee refused to order them released.

Counties have outsourced jail standards and inspections to a private contractor and the Sheriffs' Association, a private, nonprofit entity, to "evade being held accountable" for the operational framework the documents represent, Jeremy Brodis, representing the civil liberties groups, told Connors.

The county has refused access to key sections of the jail standards because they are owned by contractor Gary DeLand.

But Brodis said a court ruling exempting contractor documents from release over copyright concerns would be a "serious threat" to the Utah Government Records and Access Management Act's presumption of openness. Such a ruling could permit new swaths of government contractor records to be locked up, he said.

Michael Kendall, representing the county, said the county is bound to protect jail security, and he argued that the DeLand and Sheriffs' Association documents are not even subject to GRAMA because the county does not own them.

Connors said he would study points made by both attorneys about whether the fair-use standard would allow copyrighted documents to be released in such situations.

As Kendall began his presentation, he asked Connors if he had any questions to start.

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

"There is no hiding," Kendall said. "The county has no personal interest" in whether to release the records. He said the county is "stuck between" the desire for public openness and DeLand's ownership interests in the documents.

Connors asked Kendall whether DeLand had expressed any interest to intervene in the case to protect his documents. Kendall said DeLand was aware of the suit but had taken no such action.

The propriety sections of DeLand's documents deal with advice to the jails regarding the rationale for individual standards, compliance issues, and case law references that justify standards.

Kendall said the county believes it cannot release the records absent a court order. If such an order is issued, "the happier Davis County would be to be out of this," Kendall said.

You can reach reporter Mark Shenefelt at mshenefelt@standard.net or 801 625-4224. Follow him on Twitter at [@mshenefelt](https://twitter.com/mshenefelt).