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Audit identifies 7 recorded attorney privileged phone calls mistakenly accessed or opened at the jail since 2020; None listened to in substance

Sheriff's Office has resolved data-entry error that led to recording of calls involving 22 attorneys; Most recordings were not accessed or listened to; No malicious intent identified

LAWRENCE — As part of completing an [audit](#) of the Douglas County Jail's phone system and no-record settings related to attorneys' phone numbers, the Douglas County Sheriff's Office has identified seven recorded phone calls since 2020 that were accessed or opened by DGSO or Douglas County District Attorney's Office staff but should not have been recorded due to attorney-client privilege.

Of the seven opened calls in all cases, the person either terminated listening to the call once they determined an attorney was on the line or they did not listen at all. As part of the audit, DGSO was able to verify this by examining the percentage of the recorded call that was accessed. The Sheriff's Office has taken measures to notify attorneys whose numbers were not properly set to not record their calls.

The audit did reveal 1,520 calls among 22 attorneys were recorded in the system since 2010; however, of those, only seven of the 1,520 (0.5%) recordings were ever opened or accessed. DGSO has properly identified all attorney phone numbers in the system and set them not to record in the future. Changing this setting also prevents DGSO from being able to open recordings of past privileged calls – even if they were never opened. The error had occurred sporadically with entering some of the attorney phone numbers over a number of years, going back to 2010.

The Sheriff's Office conducted the audit in recent weeks after staff in late August and September identified three initial calls in the jail's phone system that should not have been recorded due to attorney-client privilege. The Sheriff's Office discovered a data-entry error led to incorrect settings on certain phone numbers provided by defense attorneys to communicate with clients in custody.

"Conversations between an attorney and client are constitutionally protected. We discovered a mistake that put those protections at risk, but through this audit we have worked swiftly and with prosecutors to rectify it and implement protections to correct it from occurring in the future," Sheriff Jay Armbrister said. "The public can also see we did not find any malicious intent or prejudice to any party as those who accessed the seven calls terminated listening once they realized an attorney was on the line."

DGSO worked on the audit with its contractor ICSolutions, a vendor providing phone and video communications services for people in custody, to identify the number of calls that were recorded that should have been privileged. The Sheriff's Office has used ICSolutions since 2004.

"We have reviewed the audit report completed by Douglas County Sheriff's Office," Douglas County District Attorney Suzanne Valdez said. "Only two privileged calls were accessed by members of this office. We have determined that both instances were inadvertent, and members of this office acted appropriately in immediately disconnecting the calls. We support the decision of the Douglas County Sheriff's Office to conduct a prompt audit and to institute additional safeguards to protect the confidentiality of privileged communications."

The audit determined:

- 10,399 total phone numbers were in the Douglas County Jail account in ICSolutions.
- Of those numbers, 241 were attorneys' numbers correctly set not to record calls, and 29 total phone numbers from attorneys were incorrectly set to record. The 29 numbers were tied to 22 attorneys, because some attorneys used more than one phone number to call the jail.
- Of those 22 attorneys, 1,520 phone calls were recorded. The audit also identified 961 calls involving these numbers as recordings, but the calls never connected, so there was no content.
- Seven of the 1,520 recordings were found to have been accessed by DGSO or Douglas County District Attorney's Office staff. Generally, DGSO staff at times listen to non-privileged recorded calls as part of reviewing potential threats to the safety and security of the facility as well as to assess potential dangers to other people in custody or victims or witnesses in cases.
- Of the seven calls DGSO and DA's Office staff did open, based on the small percentage of the call listened to, this indicates training and awareness on attorney-client privilege did kick in for staff who unknowingly accessed those calls because they terminated listening once they realized the call involved a conversation with an attorney.
- That said, the data-entry error that caused these conversations to be recorded was a mistake, and the Sheriff's Office is committed to taking measures to fix the problem and enact better safeguards using ICSolutions in the future.
- The Sheriff's Office has taken all measures to notify all attorneys affected. Staff have set their existing phone numbers to not record future calls, and this setting means the Sheriff's Office lost the ability to access or open those recordings from the past as well.
- The Sheriff's Office is in the process of developing a training manual on new phone number entries into the ICSolutions system, including a reminder to verify with defense attorneys all possible phone numbers they will be using to communicate with clients in custody.
- Formal training for staff has and will continue to stress the importance of protecting privileged communications with attorneys.

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