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## Corizon ordered to release settlement records

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Luis Sanchez Saturno

Posted: Tuesday, August 16, 2016 11:30 pm | Updated: 12:05 pm, Wed Aug 17, 2016.

By Phaedra Haywood  
The New Mexican

A District Court judge ruled in favor of the public's right to know Tuesday, ordering prison health firm Corizon to release settlement agreements it made with New Mexico inmates who filed lawsuits against the company.

Corizon had argued that its state contract allowed it to keep those deals secret.

The *Santa Fe New Mexican*, the *Albuquerque Journal* and the New Mexico Foundation for Open Government jointly sued Corizon over its refusal to release the settlements, saying the company and the state Corrections Department couldn't dodge New Mexico's public records law

through contract provisions. Judge Raymond Ortiz agreed.

"The settlement agreements are public records subject to disclosure," Ortiz said, moments after lawyers in the case finished their arguments. "Corizon cannot contract away the public's right to know through various contractions."

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Corizon, the largest provider of inmate health care in the nation, until recently held a \$37.5 million-per-year contract with the state to treat inmates in New Mexico prisons. In the nine years it held the contract, it paid out about \$4.5 million to inmates who alleged wrongdoing. The bulk of those settlements were reached with inmates who claimed they were sexually assaulted by a doctor employed by Corizon at two separate state facilities.

But both Corizon and the state Corrections Department had refused to release the agreements in response to public records requests, citing language in the company's contract. The department also said it had entered into confidentiality agreements with the prisoners who had sued, and that releasing the settlements would breach those deals.

"The confidentiality that was negotiated and agreed upon [in the cases] was illegal," attorney Dan Yohalem argued Tuesday on behalf of the newspapers and the advocacy group.

Because Corizon was standing in the place of the Corrections Department when it made the agreements, he added, the company was bound by the same transparency rules that guide government conduct.

"They can't negotiate some kind of secrecy," Yohalem said. "And if you allow that, we are going to see a lot more of that across the state, and that flies in the face of the Inspection of Public Records Act. It would be a terrible blow to the Inspection of Public Records Act and the concept of transparency in the state ... and a large chunk of public conduct would go dark, become obscured."

Corizon attorney Clea Gutterson argued that releasing the settlements could harm prisoners who received payouts — some of whom are still incarcerated — by opening them up to humiliation, harassment or worse from other inmates. Fellow inmates would know their identities and the alleged abuse they suffered, and that they had received a sizable sum of money, the attorney said.

Gutterson asked that Corizon be allowed to redact more information from the documents than is allowed by state law, which in many cases allows removal of personal information such as the last four digits of a individual's Social Security number and year of birth. The attorney requested that the judge also allow the company to redact the details of the complaints.

But Yohalem pointed out the inmates' names and allegations are already public in many cases because they are included in the original court complaints.

Judge Ortiz agreed, directing Corizon to release the documents, with redaction limited to personal information that would connect an agreement to a specific inmate. He ordered the firm to leave the reason for the complaint in the records.

Ortiz also ordered Corizon to pay reasonable attorneys' fees to the plaintiffs in the case.

"We are pleased with Judge Ortiz's decision today, which affirms our position that these settlement documents are public records," New Mexican Foundation for Open Government Executive Director Susan Boe said after Tuesday's hearing. "The public has a strong interest in the adequacy of medical care provided to the state's prisoners. The fact the care was provided by a third party under contract to the state does not change the analysis. The public has a right to know."

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Contact Phaedra Haywood at 505-986-3068 or [phaywood@sfnewmexican.com](mailto:phaywood@sfnewmexican.com). Follow her on Twitter @phaedraann.

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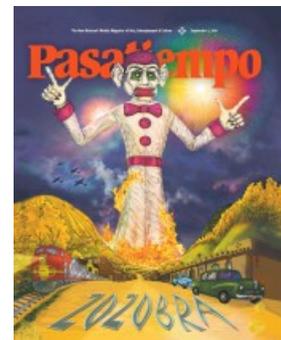
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