

**STATE OF MICHIGAN
IN THE 31st CIRCUIT COURT FOR THE COUNTY OF ST. CLAIR**

M.M., by her next friend Danielle McDonald,
C.P. and A.P., by their next friend Brianna
Griffin, MARIE BILLS, and KATHLEEN
TANTON, individually and on behalf of a
class of similarly situated persons,

Plaintiffs,

v.

SHERIFF MAT KING, ST. CLAIR
COUNTY, SECURUS TECHNOLOGIES,
LLC, PLATINUM EQUITY, LLC, TOM
GORES, MARK BARNHILL, and DAVID
ABEL,

Defendants.



**CLASS ACTION COMPLAINT FOR
INJUNCTIVE RELIEF AND DAMAGES**

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ST. CLAIR COUNTY
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CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

There is no other civil action between the parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this court.

/s/Robin B. Wagner (P79408)

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INTRODUCTION

1. On September 22, 2017, St. Clair County officials decided to implement a new policy: a Family Visitation Ban prohibiting people from visiting their family members detained inside the county jail.

2. The Family Visitation Ban ensured that parents and children of people in the jail would not be able to hug their loved one or look into their eyes. It made electronic communications—phone call, video calls, and electronic messaging—the sole way for the families of people detained in the jail to talk with their loved ones inside.

3. The County's decision was part of a quid pro quo kickback scheme with Securus Technologies, a for-profit company that contracts with jails to charge the families of incarcerated persons exorbitant rates to communicate with one another through "services" such as low-quality phone and video calls.

4. The County officials agreed to prohibit in-person visits at the jail in exchange for a substantial cut of Securus's future revenue. Securus and the County officials calculated that they could maximize their shared profits if they ended the jail's longstanding practice of allowing people to visit their jailed loved ones in person, leaving Securus's costly communication systems as the only remaining means for human connection.

5. Under the parties' 2017 contract, which remains in effect, the Securus Defendants pay the County Defendants kickbacks based on the number of video and phone calls purchased by jailed individuals and their families. Securus pays the County 50% of the \$12.99 price tag for every 20-minute video call and 78% of the \$0.21 per minute cost of every phone call. The contract promises the County an entirely new revenue stream, as well as a minimum guaranteed annual payment of \$190,000 paid up front. And the contract gives Securus the right to terminate its video

call service or pay the County less money if the jail population decreases by more than 5% or if the jail fails to ensure a minimum number of monthly paid video calls.

6. The end of in-person visitation was certain as soon as the ink on the contract was dry. For years, Securus had explicitly required contracting counties to promise to end in-person visitation. By 2017, Securus no longer needed to get the promise in writing; the result was the same. Securus even installed the new video kiosks in the same areas of the jail dormitories formerly used for in-person visitation.

7. Before in-person visits were prohibited, people detained at the St. Clair County Jail were able to talk with their loved ones face-to-face. Children and parents could look into each other's eyes. Now, children and parents cannot do any of this for the months or years they are confined there.

8. The contract and resulting Family Visitation Ban forces families into an impossible position. Families desperate to maintain some form of contact with their loved one, however inferior, must choose between paying \$12.99 for 20 minutes of painfully inadequate video or paying for other necessities of life, like food, rent, gas, and hygiene products. Even these low-quality video calls are completely inaccessible to many because of their price tag, because of the required technology, or because the video call format is meaningless for infants, neuro-divergent children, and people with various disabilities. Many people will not see their loved one's face—even as a frozen or pixelated image on a screen—for months or years until they are released or transferred.

9. The parent-child relationship is universally recognized as a profound source of emotional, physical, psychological, and social support and well-being. More than that, the ability of children and parents to associate without undue government interference is a bedrock of our

culture and values. Few things are as important to our history as a people, or to our continued vitality as a society, as protecting the sacred bond between child and parent. For this reason, the Michigan Constitution enshrines family integrity and intimate association as “fundamental” rights subject to rigorous constitutional protection.

10. The integrity of the parent-child relationship depends on physical presence and contact. The ability to sit across from each other, to make eye contact, to make physical contact, for a baby to smell her mother, and for a father to rub his child’s back keeps those relationships healthy and alive.

11. Under Defendants’ Family Visitation Ban, children and parents are unable to look directly into each other’s eyes, hold each other’s hands, give each other a hug, or otherwise maintain the in-person connections that are essential to intimate family relationships.

12. The implications of preventing children from visiting their parents are dire. Doctors and psychologists have equated the psychological impact of completely separating children from their parents—keeping them from seeing and touching one another—to torture. Such separation causes children and parents serious adverse health effects that follow them into adolescence and adulthood. As a result of Defendants’ Family Visitation Ban, the children and parents bringing this case have experienced grievous harm that will change them for the rest of their lives.

13. Defendants’ policy of eliminating family visits and the severe harms that policy causes are not justified by any conceivable governmental interest. The policy does not meet any standard of constitutional review, much less the strict scrutiny the Michigan Constitution requires when the government interferes with the child-parent relationship.

14. In fact, denying in-person visits *undermines* every arguably important state interest. Empirical studies and correctional best practices demonstrate that allowing families the

opportunity for in-person connection helps mitigate the tremendous emotional and physical health consequences of child-parent separation, improves safety inside jails, promotes staff retention, improves employment prospects after release, reduces recidivism, and saves the government money. Motivated by these considerations, many jails across the U.S. permit and encourage in-person visitation with positive results.

15. Defendants cannot, consistent with the Michigan Constitution, conspire to prohibit in-person family contact as part of a scheme to make money. This scheme violates Michigan law, offends basic principles of human connection and dignity, and imposes profound costs on families. It also harms individual and public safety without serving any compelling government interest. Because Defendants' conduct violates Plaintiffs' fundamental rights, Plaintiffs come to this Court and seek declaratory, injunctive, and monetary relief.

PARTIES

16. **M.M.** is a 12-year-old resident of St. Clair County, Michigan. M.M.'s mother, Danielle McDonald, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as M.M.'s next friend in this action. M.M. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. M.M. also represents a subclass of similarly situated people seeking injunctive relief.

17. **Marie Bills** is a 23-year-old resident of St. Clair County, Michigan. Ms. Bills brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. Ms. Bills also represents a subclass of similarly situated people seeking injunctive relief.

18. **Kathleen Tanton** is a 63-year-old resident of St. Clair County, Michigan. Ms. Tanton brings this action individually and on behalf of a Class of similarly situated people injured

by Defendants' Family Visitation Ban and conspiracy. Ms. Tanton also represents a subclass of similarly situated people seeking injunctive relief.

19. **C.P.** is a 3-year-old resident of St. Clair County, Michigan. C.P.'s mother, Brianna Griffin, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as C.P.'s next friend in this action. C.P. brings this case individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

20. **A.P.** is a 4-year-old resident of St. Clair County, Michigan. A.P.'s mother, Brianna Griffen, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as A.P.'s next friend in this action. A.P. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

21. M.M., Marie Bills, Kathleen Tanton, C.P., and A.P., are referred to throughout the complaint as the "Plaintiffs."

22. **St. Clair County.** St. Clair County, Michigan (the "County") is a municipal corporation formed under the laws of Michigan. The County Board of Commissioners approved the County's contract with Securus Technologies, LLC. The County is sued for declaratory, injunctive, and monetary relief.

23. **St. Clair County Sheriff Mat King.** The St. Clair County Sheriff is the chief law enforcement officer for St. Clair County and the operator of the St. Clair County Jail located at 1170 Michigan Rd, Port Huron, MI 48060. He is the final policymaker for the conduct challenged in this complaint. He is responsible under state law for the jail, the people confined in the jail, and the jail's policies, rules, and regulations.¹ The Sheriff negotiated the telecom contracts and

¹ MCL 51.75; MCL 51.281.

kickbacks that led to the jail's prohibition on in-person visits and enforces the jail's visitation ban. Defendant Mat King, the current elected Sheriff, is sued in his official capacity for declaratory, injunctive, and monetary relief.

24. Defendants St. Clair County and Sheriff Mat King are referred to throughout the complaint as the "County Defendants."

25. **Securus Technologies, LLC.** Defendant Securus Technologies, LLC ("Securus") is one of the two largest providers of prison and jail telecommunications in the United States. Securus contracts with over 3,400 facilities across North America.² The company describes itself as "the largest provider of Inmate Telephone Services to Michigan Counties and . . . a long term supporter of the Michigan Sheriff's Association."³ Securus is sued for monetary relief.

26. **Platinum Equity, LLC.** Defendant Platinum Equity, LLC ("Platinum Equity") is a private equity firm with nearly \$50 billion dollars in controlled assets.⁴ Platinum Equity purchased Securus as a portfolio company in 2017, and thereafter folded Securus into a newly created parent company called Aventiv Technologies, LLC ("Aventiv").⁵ Platinum Equity owns, operates, and manages Aventiv, which is in turn owns, operates, and manages Securus. Since Platinum Equity's acquisition of Securus in 2017, it has ratified, adopted, and approved Securus's

² Securus Technologies, *About Us*, <https://securustech.net/about-us/index.html> (last visited March 13, 2024).

³ Securus Technologies, *RFP Proposal to Genesee County* 30 (Mar. 29, 2012) <https://static.prisonpolicy.org/phones/exhibits/singlecall/Exhibit3.pdf>.

⁴ Platinum Equity, <https://www.platinumequity.com> (last visited March 13, 2024).

⁵ Platinum Equity, *Aventiv*, <https://www.platinumequity.com/our-company/aventiv> (last visited March 13, 2024).

policies relating to calls, visits, and financial incentives. Platinum Equity is sued for declaratory, injunctive, and monetary relief.

27. **Tom Gores.** Defendant Tom Gores is the Chairman and CEO of Platinum Equity. Defendant Gores controls Aventiv and its subsidiary Securus, determining its management and policies. Defendant Gores has personally participated in determining and maintaining the policies of Securus, including by ratifying, adopting, and approving the policies relating to calls, visits, and financial incentives, and he knew about and at all times has had the ability to change the company's conduct and policies relevant to this case. Defendant Gores has instead chosen to maintain the relevant conduct and policies, and has profited significantly from them. Defendant Gores is sued in his individual capacity for declaratory, injunctive, and monetary relief.

28. **Mark Barnhill.** Defendant Barnhill is a partner at Platinum Equity. Barnhill is responsible for executing Defendant Gores's policy decisions relating to Securus's actions. Defendant Barnhill knew about the relevant policies when Platinum Equity purchased Securus, has chosen to maintain them, and has profited significantly from them. Defendant Barnhill has also personally participated in determining and maintaining the policies of Securus, including by ratifying, adopting, and approving the policies relating to calls, visits, and financial incentives, and at all times he, Gores, and Platinum Equity have had the ability to change the company's policies relevant to this case. Defendant Barnhill is sued in his individual capacity for declaratory, injunctive, and monetary relief.

29. **David Abel.** Defendant Abel is President and CEO of Securus and Aventiv. Abel is responsible for executing Defendant Gores's policy decisions relating to Securus's actions. Since being named CEO in 2020, Abel has personally participated in determining and maintaining the policies of Securus, including by ratifying, adopting, and approving the policies relating to calls,

visits, and financial incentives. Defendant Abel is sued in his individual capacity for declaratory, injunctive, and monetary relief.

30. Defendants Securus, Platinum Equity, Tom Gores, Mark Barnhill, and David Abel are referred to throughout the complaint as the “Securus Defendants.”

JURISDICTION AND VENUE

31. This Court has jurisdiction over all Defendants.

32. The events giving rise to this cause of action—the prohibition of in-person jail visits and resulting injuries suffered by Plaintiffs and the proposed class members—occurred and continue to occur in St. Clair County, Michigan.

33. The Court has jurisdiction over Defendants St. Clair County and Sheriff Mat King because they committed the torts alleged in this Complaint in St. Clair County, Michigan.

34. The Court has jurisdiction over Defendants Platinum Equity and Securus because the corporations carry on a continuous and systematic part of their general business in Michigan.⁶ The Court further has jurisdiction over Platinum Equity and Securus because the corporations own, use and possess property in Michigan, have entered into contracts to perform services in Michigan, and have contributed to and committed the torts alleged in this Complaint in Michigan.⁷

35. The Court has jurisdiction over Defendants Gores, Barnhill, and Abel because they committed the torts alleged in this Complaint in St. Clair County, Michigan.

36. Venue is proper in this Court because all Defendants reside or do business in St. Clair County, Michigan, and because the facts giving rise to the claims occurred there.⁸

⁶ MCL 600.711.

⁷ MCL 600.715.

⁸ MCL 600.1621.

FACTUAL ALLEGATIONS

a. Defendants Prohibit In-Person Visits at the St. Clair County Jail.

37. The County Defendants enforce—in coordination with the Securus Defendants—a Family Visitation Ban in the St. Clair County Jail. As a matter of policy, parents and children are not allowed to sit with, touch, or hug each other. Defendants have caused lasting harm to Plaintiffs’ relationships with their parents and children, as well as to thousands of other families’ intimate connections.

- i. Each year, thousands of people spend months in the St. Clair County Jail, many of whom have not been convicted of any offense.

38. The St. Clair County Jail detains hundreds of people for weeks, months, and years, many of whom are presumed innocent and awaiting trial.

39. In 2023, the St. Clair County Jail booked 3,714 people, and the average daily jail population was 358 people. On a typical day, many—if not most—of the people in the jail are awaiting trial or other legal proceedings, often solely because they cannot afford a financial condition of pretrial release.

40. Lengths of stay for people in the jail vary widely. Over 82% of people detained in Michigan jails have been—or will be—detained for longer than one month.⁹ For example, the 362 people in the jail on January 10, 2024, had been detained for an average of 81 days. Forty people had been in the jail for over six months.

41. Each of the individuals confined in the jail is connected to people on the outside, like the named Plaintiffs, who are deprived of physical contact with the people they love and

⁹ Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations (Jan. 10, 2020), at <https://www.courts.michigan.gov/48e562/siteassets/committees,-boards-special-initiatves/jails/jails-task-force-final-report-and-recommendations.pdf>.

depend on most in the world. Due to Defendants' blanket visitation ban, they will be separated from their families for prolonged and indefinite periods.

ii. The County Defendants prohibit face-to-face visitation in the St. Clair County Jail, preventing families from visiting their loved ones.

42. Since at least 2018, the County Defendants have denied children and parents any way to visit their loved ones in person at the St. Clair County Jail.

43. The jail, which was built in 2005, was designed to feature in-person visits—opportunities for incarcerated people and their family and friends to sit close together in the same physical space. And until late 2017, in-person visitation was permitted and common. People in the jail were allowed one weekly in-person visit with up to three visitors, including their children.

44. These visits were free. They were either contact visits without any barriers or non-contact visits, taking place with a pane of plexiglass separating the detained person from their visiting loved one, depending on the jail's classification of the person in custody. Individuals who agreed to perform various kinds of work inside the jail, for example preparing food in the kitchen, were allowed weekly contact visits where they were permitted to hug, sit with, and play with their loved ones for fifty minutes. Contact visits took place in visiting rooms connected to each housing pod, rooms which are still used today for attorney visits.

45. In late 2017 or early 2018, then-St. Clair Sheriff Tim Donnellon and then-Captain Mat King, in concert with the Securus Defendants, ended these family visits. Due to Defendants' prohibition on in-person visiting, people outside the jail are unable to visit with their jailed parents or children for months, or even years in some cases.

46. For the past six years, the only way for people in the jail to talk to their loved ones on the outside has been through expensive phone and video calls.

47. Without in-person visits, staying in even minimal contact is expensive. Calls with someone in the St. Clair County Jail costs \$0.21 per minute, or \$4.20 for a 20-minute call. The rate negotiated by Defendants is the maximum allowed by law.

48. Video calls are more than four times as expensive, costing \$12.99 for 20 minutes.

49. Messages cost money as well. Each message costs a \$0.50 “stamp.” Replying to that message costs another “stamp.” There is an additional \$3.75 “transaction fee” to purchase stamps. For example, if a family member buys five \$0.50 “stamps,” they pay a total of \$6.25.

PAYMENT SUMMARY	
(5) Stamps - ST CLAIR COUNTY JAIL, MI:	\$2.50
Taxes & Regulatory Charges :	\$0.00
Transaction Fees:	\$3.75
Total Charges:	\$6.25

Families purchasing “stamps” for their jailed loved ones pay enormous fees

50. Families of people in the jail regularly spend hundreds of dollars each month on communication, often forgoing basic necessities of life like food, rent, gas, clothes, and hygiene products so they can maintain some form of contact with a person they love.

51. Video calls are arranged through a digital Securus application and are charged directly to the family member. The call must be scheduled 24 hours in advance. Each morning, jail staff are supposed to post a schedule for the day’s video calls. The person detained in the jail joins the call through a “kiosk,” or small video screen encased in metal and bolted to the wall of the jail dormitory, with a phone receiver attached. Outside the jail, people join the call through a Securus application installed on a smartphone, computer, or tablet (such as an iPad). At the designated time, the detained person must log into a video kiosk and their loved one must open the Securus application to begin the call.

52. The video calls are full of problems. In the best-case scenario, the video feed is a grainy and jerky depiction of a loved one's face, which often freezes for seconds at a time. Other times, the video malfunctions and shows only a green screen where the caller should be.

53. The call audio is frequently muffled or garbled, preventing the caller from hearing their loved one's words. Family members must shout to overcome the background noise in their loved one's housing pod. Other times, there is no audio at all. A time-delay lag of a second or two disrupts conversations and leads people to constantly interrupt and speak over each other. Sometimes the technology just does not work at all.

54. Even when a video call does not work—whether because the detained person was not released from their cell on time, because the call did not connect, because the kiosk malfunctioned, or because the call quality was too poor to communicate—the money spent on the call is not refunded.¹⁰

55. Securus records every call and collects data about the people who speak or show their face. Securus then provides the recordings, transcripts, and other surveillance data to local law enforcement officials in jurisdictions across the country.

56. In what amounts to an empty gesture, Defendants claim to offer each person detained at the jail one free “on-site” video call per week, Sunday through Thursday. Defendants require that the video calls must be scheduled 24 hours in advance. The detained person's would-be visitor must travel to the jail where, despite being just a few feet away from their jailed loved

¹⁰ Plaintiffs in this case do not challenge the existence, cost, or quality of Defendants' video call system. Their claims challenging the Family Visitation Ban would be no different if the video calls worked perfectly. These details provide important context concerning the scope of the deprivation of rights caused by the ban on in-person contact, the lack of even a basically functional alternative means of communication, and the profit motive underlying Defendants' conspiracy.

one, they will not be allowed to visit. If a visitor does not show up on time for the scheduled call—or if the video call technology fails, as is common—that week’s call is still considered spent.

57. The jail’s on-site kiosks are located in a small room adjacent to the jail lobby. The jail’s video call room for visitors holds seven kiosks set about two feet apart from each other, with no dividers. Plastic chairs sit in front of each kiosk. Anyone waiting in the jail’s lobby can see the video screen. Those attempting to speak with an incarcerated loved one can hear each other’s conversations.



A young person does a video call in the video room next to the St. Clair jail lobby

58. Glitches with the on-site video calls are at least as common as they are when people use their own technology at home, if not more so. Defendants generally do not assist with these technical difficulties, allow the person to move to a different kiosk, or reschedule the call for another time slot. Even if unsuccessful, the family member has used their one free call and will have to wait until the following week to try again.

59. In November 2023, Plaintiff Kathleen Tanton drove to the jail and sat at a video kiosk in the hopes of seeing her son Bobby on the screen. But when Kathleen started the video call the kiosk screen was completely green and Kathleen could not see or hear her son. Kathleen was distraught, and she was able to convince the jail staff on duty to reschedule her call, in violation of the jail's policy, for the next available day, which was Thanksgiving. Jail staff assured her the equipment would be working by then. Kathleen returned on Thanksgiving with Bobby's sisters, all of them excited to share thirty minutes of their holiday with Bobby, even through a low-quality video screen. However, after logging on, the screen was once more completely green. The family could not see each other. Jail staff would not reschedule the call. Kathleen and her daughters drove home in tears.

60. Even when Plaintiffs are able to call their incarcerated loved ones, those communications are inherently changed because of the digital nature of the communication, the poor technology, and the lack of privacy. Plaintiffs cannot share the most intimate moments of their lives, ask personal questions, seek unfiltered advice, or share the types of personal details one would share with a loved one in a private conversation. They cannot engage in any of the many forms of intimate non-verbal communication that form some of the most powerful forms of human connection.

iii. Plaintiffs are or were unable to visit their parents and children in the St. Clair County Jail for the entire time that they were jailed.

61. **M.M. and Marie Bills.** On October 6, 2023, M.M. and Marie Bills were separated from their father, Clayton Bills, when Clayton was arrested and jailed in the St. Clair County Jail. M.M. and Marie have not been able to see, touch, or hug their father for over five months.

62. M.M. is Clayton's 12-year-old daughter. She is silly and loves to crack jokes, including about her two dogs.

63. M.M. is in seventh grade, where she plays volleyball, softball, and the trumpet. M.M. also has danced all her life (hip hop, ballet, and jazz; jazz is her favorite). She enjoys swimming at the recreational center, but she prefers the lake because her dad, Clayton, used to take her and the family there all the time. She and her dad share a love of swimming in the summertime, especially at the lakeside beach.

64. M.M. misses her dad, but she does not like talking to him through phone or video calls. “M.M.’s mother, Danielle, tried to set up a video call for M.M. and Clayton to talk, but it did not work.



Marie and Clayton at the beach

65. Marie Bills is Clayton’s 23-year-old daughter. She misses her father and would visit him if she were allowed. Initially, she tried to talk to her dad through video calls, but she stopped because of how expensive the calls are, and because they are so frustratingly inferior to being

together in person. Knowing the calls are recorded, she is unable to share particularly personal details with him, like telling him about her boyfriend.

66. Being apart has harmed M.M. and Marie's relationships with their dad. Clayton has missed dance recitals and volleyball competitions, family dinners and family funerals. Because they are unable to visit, his absence from these milestones hurts even more. M.M. and Marie wish they could visit their dad in person, and would visit frequently if it were allowed.

67. Due to Defendants' Family Visitation Ban, Marie and M.M. have been unable to see or touch their father for the past five months.

68. Ms. Bills and M.M. are members of the proposed Class and Prospective Relief Subclass. M.M. appears through her mother and next friend, Danielle McDonald.

69. **Kathleen Tanton** is the mother of Robert "Bobby" McIntyre, who has been incarcerated in the St. Clair County Jail since October 17, 2023. She has not been able to see, touch, or hug her son for nearly five months.

70. Kathleen loves Bobby and feels passionately about supporting him. Kathleen is an involved mother. She cared for her children throughout their childhood and has supported them into their adulthood. Their family remains close.

71. Bobby has always been an involved and supportive son to his mother. Bobby is her "everything." Bobby is Kathleen's go-to person to for fixing things around her house. Before Bobby was in jail, they saw each other several times a week. Kathleen's attempts at using video calls have been disrupted by technical problems. They freeze constantly and sometimes show a completely green screen where her son's face should be. Says Kathleen, "He's not a movie star. I don't want to see him on a TV screen." Kathleen finds it difficult to have genuine and honest conversations with her son, knowing all calls are recorded.

72. Being apart has harmed Kathleen's relationship with her son. Bobby and Kathleen's relationship is built on quality time, like fishing or playing with the dogs together, and acts of care, like making a meal or doing chores around the house. Sharing quiet, comfortable time together is just not possible through a screen.

73. Kathleen is a fierce caretaker, but through the video screen she cannot tell if her son is healthy and worries about him constantly. She finds her role and identity as a mother threatened by her inability to give her son physical affection and love when he needs it most.



Kathleen with her son, Bobby

74. "If I were allowed to visit Bobby in person at the jail, I would visit him every day if they let me," she said. "He's my son and I love him."

75. Due to Defendants' Family Visitation Ban, Kathleen has been unable to see or touch her son for nearly five months.

76. Ms. Tanton is a member of the proposed Class and Prospective Relief Subclass.

77. **C.P. and A.P.** On May 31, 2022, A.P. and C.P. were separated from their father, Taurean “Tray” Proch, when their father was booked into the St. Clair County Jail. C.P. was one and a half years old when they were separated. His older sister A.P. was just shy of her third birthday. The children were not allowed to see, touch, or be held by their father during the entire time he was in the jail—almost eight months.

78. At the time of his jailing, Tray was an involved father and the household’s sole source of income. The family struggled in his absence. Left with no income at all, the children’s mother, Brianna Griffin, dug into the family’s savings to support them all.



C.P. and A.P. spend quality time with their father

79. The family tried to remain in contact, but video calls paled in comparison to actually spending time together, especially because of the young ages of the children. Just a toddler, C.P.

was too young to interact with his father through a phone or video call. Even A.P., only three years old, was barely able to hold a conversation with her dad without having him there by her side.

80. C.P. and A.P. missed their father, and Ms. Griffin would have taken them to visit him in person if they had been allowed.



Drawing made by A.P. of her family: "I love my family"

81. The low quality of the video calls was frustrating and made them seem like a waste of money. Brianna noted the children's confusion: "A.P. would run back and forth, it was so hard for her to pay attention. Toddlers don't stay on the phone. C.P. was walking and moving around. He couldn't understand or focus on the video call." "It was like playing charades," said Tray, referring to the garbled and mismatched audio on the calls. "With how bad the quality was, it wasn't even worth it," he continued. "It left you disappointed, even more than not having the visit at all."

82. Being apart harmed C.P. and A.P.'s relationship with their father. "Children don't really understand why this is happening or what's going on or why they can't see or hug their

parent,” explained Tray. “Without good communication, you can’t have that connection, that bond between parent and child.”

83. Tray has since been reunited with his children. However, the trauma of not being able to see, touch, smell, or hug their father has left lasting wounds on both children. “A.P. was so traumatized that she would get scared each day when he left for work, worried that he wasn’t going to come back home,” observed Brianna. “People leaving make her feel so afraid. Every time we have guests visit, and they leave, A.P. cries and cries. She never did that before she was separated from her father without physical contact.”



A.P. and C.P. embrace their father for the first time in more than seven months

84. Due to Defendants’ Family Visitation Ban, C.P. and A.P. were unable to see or touch their father for almost eight months. C.P. and A.P. would have visited their father frequently in the St. Clair County Jail if they were allowed to do so.

85. C.P. and A.P. are members of the proposed Class. They appear through their mother and next friend, Brianna Griffin.

b. Defendants' Visitation Ban Inflicts Grievous Harm on Children and Parents.

86. The relationship between a child and their parent is one of our society's oldest and most revered bonds. Incarceration strains that relationship by physically separating families and removing children from their caregivers. The primary way to mitigate the harm of parent-child separation by incarceration is through regular in-person visitation. The complete separation that occurs without in-person contact inflicts irreparable damage on children, parents, families, and communities.

i. The parent-child relationship is a cornerstone of society.

87. Our culture and legal system cherish few things above the relationship between a child and their parent. The parent-child relationship is universally recognized as a fundamental source of emotional, physical, psychological, and social support throughout a person's life.

88. The relationship between parents and their children plays a crucial role in the physical, emotional, cognitive, and social development of young adults. Children depend on stable relationships and physical contact with their primary caregivers to build future strong and trusting relationships. A positive bond between parent and child lays the groundwork for children to grow into happy, independent adults. Loving, secure relationships help build the resiliency needed to cope with challenges and recover from setbacks.

89. Likewise, children also hold a significant part of their parents' identity and wellness as they age. Parents not only find joy and comfort in raising their children, but they also depend on this relationship for feelings of accomplishment, validation, and peace.

90. Beyond the individual benefits, the parent-child relationship has profound importance on a societal level. Family is considered the foundation of society, with the parent-child relationship its chief building block. Through this relationship, parents influence the values

and moral behavior of their children, and children also influence their parents. The parent-child relationship is key to encouraging prosocial behavior, or helping and caring acts.

91. In short, the ability of children and parents to associate is a foundation of our culture, our history, our values, and our well-being. Few things are as important to our history as a people, or to our continued vitality as a society, as the sacred bond of child and parent.

92. For these reasons, Michigan courts have long recognized the fundamental rights to family integrity and intimate familial association as core interests protected by the state constitution.¹¹

93. But the enormous value placed on family integrity is not a uniquely American tradition. The European Court of Human Rights has often recognized “that the mutual enjoyment by parent and child of each other’s company constitutes a fundamental element of family life.” And the United Nations Convention on the Rights of the Child calls on all nations to “respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis . . .”¹²

¹¹ See, e.g., *Reist v Bay Cnty. Cir. Judge*, 396 Mich 326, 339–42 (1976) (“The interest of parent and child in their mutual support and society are of basic importance in our society and their relationship occupies a basic position in this society’s hierarchy of values.”).

¹² Art. 9, United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>. The Convention is built on the notion of family integrity. It grants children “as far as possible, the right to know and be cared for by [their] parents.” Art. 7. It demands that nations “respect the right of the child to preserve his or her identity, including nationality, name and family relations.” Art. 8. And it emphasizes a child’s right to remain with her parents, requiring “that a child shall not be separated from his or her parents against their will.” Art. 9.

ii. Physical presence and touch are vital to the parent-child relationship.

94. Physical presence and touch are essential human needs and vital components of a loving, successful parent-child relationship. “Intimate association [] implies an expectation of access of one person to another particular person’s physical presence, some opportunity for face-to-face encounter.”¹³ Consistent parent-child contact is necessary for a child to successfully bond with a parent and has positive implications for forging healthy relationships later in life.

95. The importance of physical touch to the family relationship is well known. Touch is the earliest form of sensory experience for a developing human being. Beginning at birth, skin-to-skin contact is recommended as a way to lower stress in both baby and parents, and to promote bonding and breastfeeding. Positive, nurturing touch, such as cradling a child, holding hands, kissing a cheek, or sharing a hug, triggers the release of the “bonding hormone,” oxytocin. In the context of the family, positive touch increases feelings of closeness and facilitates parent-child attachment and social-emotional adjustment. It connects parent to child and helps them each feel accepted and loved.

96. Children learn to be human through physical touch. Children are touched by their parents in the majority of their everyday joint interactions. Mothers touch their infants between 33 and 61% of the total time that they interact with them, making touch one of the principal means of communication between parents and children.¹⁴

97. Touch is critical to child development. Nurturing physical touch promotes development of children’s physiological systems involved in regulating emotions and stress

¹³ Kenneth L. Karst, *The Freedom of Intimate Association*, 89 Yale L.J. 624, 630 (1980).

¹⁴ Dale Stack, et al., *Tactile Stimulation as a Component of Social Interchange: New Interpretations for the Still-Face Effect*, 8 British J. of Dev. Psychology 2 (1990).

responses. Physical touch such as holding and rocking calm and soothe a distressed baby; repeated experiences of being soothed when distressed attunes the stress-response system and prepares children's ability to self-regulate and to identify ways to calm strong feelings such as anger or frustration.

98. Children who have this ability to calm their strong feelings have greater levels of empathy: they are better able to understand that other people have feelings and thoughts, which can lead to them having more positive relationships. In this way, nurturing physical touch supports children's prosocial development (*i.e.* their ability to be kind, caring, and helpful). Children whose mothers more often hug them when they are upset tend to be more concerned and caring about others.¹⁵ And children whose mothers provide more positive touch when they are 18 months old are more likely to demonstrate prosocial behavior at 24 and 30 months old, further demonstrating that nurturing touch helps children develop important relationship skills.¹⁶

99. The positive effects of touch in childhood persist throughout one's life. Positive parental touch throughout childhood has positive implications for later well-being, including the development of empathy, mental health symptoms, and romantic relationships. For example, undergraduate students who received higher levels of positive parental touch as children reported lower levels of depression and more satisfactory romantic relationships in adolescence and early adulthood.¹⁷

¹⁵ Darcia Narvaez, et al., *The Importance of Early Life Touch for Psychosocial and Moral Development*, 32 *Psicol Reflex Crit.* 16 (2019).

¹⁶ *Id.*

¹⁷ Mika Takeuchi, et al., *The Effect of Interpersonal Touch During Childhood on Adult Attachment and Depression: A Neglected Area of Family and Developmental Psychology?*, 19 *J. of Child and Fam. Studies* 1 (2010).

100. Adults need touch too. In a particularly influential set of controlled experiments, study participants were put under threat of mild electric shock, either alone or while holding the hand of someone they knew and trusted.¹⁸ Typically, when we are under stress, blood, and the glucose and oxygen within, flows to the prefrontal cortex, the region of the brain associated with threat vigilance and emotion regulation. This was true for participants who were alone—but not for those holding hands with someone they were close with. This discrepancy goes a long way toward explaining why touch is so important. In order to relax, the brain needs to know that it has backup—that someone else is there to help should the need arise. Physical contact is the simplest, most powerful way of communicating that.

101. In sum, the parent-child relationship requires physical presence and touch to nurture the relationships that function as a cornerstone of individual and societal well-being. For this reason, contact visits are essential to maintaining healthy parent-child relationships with an incarcerated loved one. Without them, family bonds inevitably weaken, and a parent and child's health and well-being suffer.

iii. Keeping children and parents from being together harms them both.

102. Jailing a family member has intergenerational effects. The incarceration of a parent or child strains the parent-child relationship, causing severe, negative consequences that can affect the rest of their lives. Left unmitigated, these separations increase the intergenerational persistence of poverty and criminal behavior.

103. **Separating Children from their Parents Harms Children.** Most people in jails and prisons are parents to minor children, including over 75% of the 2 million women jailed each

¹⁸ James Coan, et al., *Lending a Hand: Social Regulation of the Neural Response to Threat*, 17 Psych. Sci. 12 (2006).

year. A staggering 2.7 million children currently have a parent in jail or prison. Half of those children are under ten years old. If having an incarcerated parent was classified as a chronic health condition, it would be the second most prevalent chronic condition in the United States for children under the age of 18—just behind asthma.

104. Incarceration creates an unnatural separation between child and parent, harming this crucial relationship. Children who are kept from hugging and touching their parent are more likely to experience the following exacerbated and cascading harms as a result of their parent’s incarceration.

105. Most obviously, incarcerating a parent has immediate material impacts on dependent children. A child who loses a parent to incarceration experiences an increased short- and long-term risk of living in poverty, an increased likelihood of becoming homeless, and an increased likelihood of becoming involved in the criminal legal system.

106. Separating a child from their caregiver has a profound impact on children’s ability to develop future healthy relationships. Attachment theory holds that children rely on a secure bond, or attachment, with their caregiver(s) for normal social and emotional development. Secure attachment gives children the needed sense of love and stability to mature normally, enabling children to take risks and grow and to sooth intense emotions. Children who form secure attachments to their caregivers exhibit higher levels of well-being as they grow older, including fewer behavior problems, more curiosity, better emotion regulation, and more social competence compared to children who have formed what are known as “insecure” attachments.

107. When a caregiver is incarcerated and no longer present in a child’s life, it leads to insecure attachment that can leave the child with profound and long-lasting challenges. Children who are suddenly deprived of parental care and affection experience traumatic loss combined with

feelings of rejection, social stigma, and shame that surround the parent's incarceration. The internalization of this stigma and shame heightens children's risk of insecure attachment, leading to externalized negative behavior, emotional hardship, and heightened risk for adverse effects to a child's neurological, physical, behavioral, educational, and material health.

108. The consequences of insecure attachment are wide-ranging. Separating a child from a caregiver places the child at a higher risk of developing anxiety and depression, learning disabilities, behavioral or conduct problems, developmental delays, and speech or language problems. Children who experience parental incarceration demonstrate increased aggression, attention deficits, and delinquency, with these studies finding that the effects in young children persist and continue to manifest into middle childhood and adolescence.

109. The absence of a stable support system also leaves children vulnerable to substance use and dangerous behaviors as a method of coping. Compared to their peers whose parents are free, children with an incarcerated parent are over twice as likely to report abuse of or dependence on drugs or alcohol, less likely to report overall good health, around four times more likely to report engaging in theft and physical fighting, and nearly three times as likely to report suicidal ideation.

110. The loss of emotional and psychological support from an absent parent also leads to poorer educational outcomes. The incarceration of a parent leads to lower educational achievement, impaired teacher-student relationships, and increased likelihood of school disciplinary issues, special education placement, being held back in school, or dropping out entirely. Children whose fathers are jailed for the first time when the children are between ages one and nine experience decreased cognitive capacities equaling a two-month loss of schooling

for Black boys and a four-month loss for white boys compared to peers whose fathers remain free during their early childhood.¹⁹

111. A landmark study surveyed 17,000 participants to study the effect of “Adverse Childhood Experiences” (“ACEs”) on one’s health as an adult.²⁰ The study found Adverse Childhood Experiences have a profound and negative impact on adult mental and physical health. The 17,000 participants surveyed were asked about their experiences with potentially traumatic events occurring in childhood and adolescence, including parental incarceration. The responses revealed a strong link between parental incarceration or other childhood trauma and adult onset of health-related risk behaviors, many health conditions, and even early mortality. Further, the survey responses demonstrated parental incarceration increases the risk of other, non-incarceration traumatic experiences, compounding the negative health outcomes children with incarcerated parent’s experience. These differences persist after adjusting for child and parent characteristics. In short, experiencing parental incarceration as a child hurts that child’s health as an adult.

112. **Separating Parents from their Children Harms Parents.** Parents whose children are incarcerated experience similar challenges, as they struggle to cope with the burdens of parenting from a distance, negative social reaction, and carrying the burden of caring for an imprisoned loved one.

113. Parents are regarded as the primary caregivers and providers for their children, and their role is to protect, nurture, and guide them through life. A parent’s identity as a caregiver and

¹⁹ John Hagan & Holly Foster, *Intergenerational Educational Effects of Mass Imprisonment in America*, 85 *Sociology of Education* 3 (2012).

²⁰ Centers for Disease Control and Prevention, *CDC-Kaiser ACE Study*, <https://www.cdc.gov/violenceprevention/aces/about.html> (last visited March 13, 2024).

their love or loyalty for their children does not disappear as their children age. Many adults, both middle aged and elderly, have extraordinary love for their own adult children. The well-being of those children, and the ability to communicate with, touch them, and look into their eyes are among the most profound pleasures and, indeed, needs of their existence.

114. Many parents acknowledge that their relationship with their adult children evolves into a deeper connection, a friendship that is unique and unlike friendships with peers. “Before Bobby was in jail, we would see each other at least twice or three times a week,” says Plaintiff Kathleen Tanton, whose adult son is locked up in the St. Clair Jail. “I would take him to dinner, or he would come to my home for a meal.”

115. The effect of separating a child from their parent has been likened to torture. Physicians for Human Rights, an international organization that applies medicine and science to document mass atrocities and severe human rights violations, conducted psychological evaluations of asylum-seeking parents and children who were separated by the U.S. government in 2018 for an average of 60-69 days. A majority of both parents and children displayed at least one mental health condition—such as post-traumatic stress disorder, major depressive disorder, or generalized anxiety disorder—consistent with, and likely linked to, the trauma of family separation.²¹ The PHR experts found that the psychological impact of being suddenly separated from family members—including the inability to see one’s family, to know where they are and that they are safe—rose to the level of torture.²²

²¹ Physicians for Human Rights, *“You Will Never See Your Child Again” : The Persistent Psychological Effects of Family Separation* 3 (Feb. 2020), <https://phr.org/wp-content/uploads/2020/02/PHR-Report-2020-Family-Separation-Full-Report.pdf>.

²² *Id.* at 5.

116. Mothers, in particular, tend to experience additional trauma and grief from the “slow death” of family separation.²³ Those feelings are worsened when they are unable to hold their incarcerated child.

117. For parents, the dissolution of the attachment relationship with the child elicits severe anxiety and other negative emotions associated with loss. To Kathleen Tanton, the anxiety of separation cannot be dispelled through a phone or video call. Even when she hears her son’s voice, Kathleen can never know whether he is okay without being by his side. “In the video, I can’t see Bobby’s whole body to make sure he is okay,” Kathleen explains. “I am terrified for my son’s health . . . Without being able to see him face-to-face, I can’t tell [] if he’s just telling me he’s ok to make his mom feel better.”

118. A feeling of ambiguity, or not knowing what will happen next to their child, contributes to the harm of separation. Similar to the way mothers who lose their children to the foster system develop higher rates of anxiety and substance use disorders within two years of separation, mothers who lose their children to incarceration may develop similar symptoms due to the trauma of separation.²⁴

119. In sum, the trauma of family separation puts children with incarcerated parents and parents with incarcerated children at higher risk of negative emotional and physical health. Such children experience higher likelihoods of delinquency, incarceration, family instability, economic hardship, school failure, poor health, and incarceration themselves. It also places extreme strain

²³ Stephen Lee, *Family Separation As Slow Death*, 119 Columbia L. Rev. 8 (Jan. 8, 2020), <https://columbialawreview.org/content/family-separation-as-slow-death/>.

²⁴ Vivek Sankaran, et al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 Marq. L. Rev. 4 (2019), <https://repository.law.umich.edu/articles/2055/>.

on parents with incarcerated children. However, research shows that these risks can be mitigated through regular contact visits.²⁵

iv. In-person contact visits mitigate the harms of family separation.

120. Visiting a jailed parent or child, particularly contact visits that allow a child to touch and hug her parent, can substantially decrease the negative effects of separation on a family.

121. In-person visits between children and their incarcerated parents benefit children emotionally and behaviorally. These visits have a number of advantages, including that they:

- allow children to know that their parent is safe.
- allow children to express their emotional reactions to the separation from their parent.
- allow children to maintain existing relationships with their parents – contributing to a successful family reunification.
- help the child develop a realistic understanding of their parent’s circumstances and allow parents to model appropriate interaction.
- help parents deal with separation and loss issues.
- help parents develop and maintain the role of a parent figure.

122. By fortifying the relationship between parent and child, in-person visits strengthen the child’s well-being. Children who visit their incarcerated parents report higher quality parent-child relationships.²⁶ This holds true in the context of both maternal incarceration and paternal

²⁵ Rebecca Shlafer, et al., *Children With Incarcerated Parents — Considering Children's Outcomes in the Context of Family Experiences* (St. Paul, MN: University of Minnesota, 2013); Julie Poehlmann-Tynan, *Children’s Contact with Incarcerated Parents: Summary and Recommendations*, in *CHILDREN’S CONTACT WITH INCARCERATED PARENTS* 183 (Julie Poehlmann-Tynan ed., 2015).

²⁶ Danielle Haverkate & Kevin Wright, *The Differential Effects of Prison Contact on Parent–Child Relationship Quality and Child Behavioral Changes*, 5 *Corrections: Policy, Practice, & Research* 222-44 (2020), available at: https://static.prisonpolicy.org/scans/Haverkate_Wright_2020.pdf.

incarceration. Indeed, in-person contact visitation has a robust ability to improve parent-child relationship quality, a significantly larger positive effect than contact by mail or by phone.²⁷

123. While all in-person visits help mitigate the traumatic effects of the incarceration of a loved one, research shows that in-person contact visits are more beneficial than non-contact visits where physical barriers separate visitors from their incarcerated loved ones. Professor Julie Poehlmann notes that “[i]n-person contact visits are the most affirming of children’s attachment relationships with their parents because children and parents can see, hear, and touch each other. Touch is an essential component of parent-child relationships, and close relationships in general, from infancy onward.” Poehlmann quotes an incarcerated parent, who stated, “Giving your child a hug is worth a hundred video visits.”

124. A stronger parent-child relationship yields a range of positive outcomes for children. Parent-child visits promote positive psychological outcomes, including improved feelings of life purpose and reduced feelings of depression and loneliness among children who visit. Physical contact and privacy during parent-child visitation also reduce feelings of abandonment and promote emotional security. And children who communicate frequently with their incarcerated mothers—including by visiting in-person—have better educational outcomes.

125. Parents of incarcerated adults are influenced by expectations of parental care and sacrifice for their children, and also benefit from maintaining contact throughout their separation. Frequent visitation allows parents on the outside to nurture the well-being of their children while simultaneously nurturing their own in their role as a caregiver. One mother described visiting her

²⁷ *Id.*

son and making meals for him with food from vending machines as a rare moment of normalcy: “We sit down and have a meal, just like you would at home.”²⁸

126. Thus, in-person visits are a critical intervention when it comes to mitigating the trauma of separation and the risks associated with having an incarcerated parent or child.

v. Video calls do not provide the benefits of in-person contact.

127. In recent years, prisons and jails across the country have partnered with private companies to introduce video-calling services. Many experts and impacted families agree that these products can be a useful *supplement* for family and friends to maintain their relationships with incarcerated people, particularly when a loved one is incarcerated far from their community. But, working in concert with Securus, the St. Clair County Jail has gone much farther, prohibiting all in-person visits.

128. Video calls are not an adequate substitute for in-person visits. By definition, video calls do not allow for physical presence or touch. Yet our need for physical touch is primordial. But the profound difference between in-person and electronic communication goes far beyond physical contact. As one researcher puts it, video “appears to be an impoverished social communication system relative to in-person conditions.”²⁹ The gulf between in-person and video-mediated communication has many sources, some logistical and others psychological.³⁰

²⁸ Melinda Tasca, et al., *Families Coming Together in Prison: An Examination of Visitation Encounters*, 18 Punishment & Soc’y 4 (2016).

²⁹ Beth Connolly, *Zoom Conversations vs In-Person: Brain Activity Tells a Different Tale*, Neuroscience News (Oct. 26, 2023), <https://neurosciencenews.com/zoom-conversations-social-neuroscience-24996/>.

³⁰ Linoy Schwartz, et al., *Technologically-Assisted Communication Attenuates Inter-Brain Synchrony*, NeuroImage, Volume 264 (2022) (finding that video communication results in less neurological activity representing connection between mothers and children than in-person communication); Joy Hirsch, et al., *Separable Processes for Live “In-Person” and Live “Zoom-*

129. **Video calls introduce technological barriers.** Relying on technology to provide an essential service introduces several unique barriers to access for people desiring to use the service to talk to a jailed loved one.

130. Many people do not have access to the technology required for a video communication. Video calls require an updated tablet, computer, or smartphone, in addition to a fast and reliable WiFi or data connection. As articulated by the Federal Communications Commission, would-be callers “may lack sufficient broadband service or equipment to enable video [calling] from their home or elsewhere.”³¹ Moreover, these services all cost money that may put them out of reach of family members who already tend to come from low-income communities.

131. A lack of technological literacy also prevents many from using video communications. Many family members, especially the elderly or those with disabilities, cannot navigate the countless websites, accounts, and applications required to arrange for a video call with their loved one. For example, Plaintiff M.M’s 91-year-old great-grandmother could not manage the video call software to see her grandson Clayton’s face. While Clayton was in the jail, his grandmother’s health went downhill. They were not able to see each other before she died on December 23, 2023, while Clayton was still in jail.

like” Faces, Imaging Neuroscience (2023) (finding that individuals engaged two-person interactions over Zoom experience significantly less neural signaling than those involved in live, two-person interactions); Stefan Stieger, et al., *Face-to-Face More Important Than Digital Communication for Mental Health During the Pandemic*, 13 Sci Rep 1 (2023) (finding face-to-face communication was significantly more important for mental health during the pandemic than digital communication, including video calls).

³¹ Federal Communications Commission, *Notice of Proposed Rulemaking and Order*, FCC 23-19, 16 (2023), <https://docs.fcc.gov/public/attachments/FCC-23-19A1.pdf>.

132. Additionally, frequent technical problems mean that the communication often does not happen at all. Family members may not be able to hear each other, or the audio lags, leading to frustrating miscommunications and interruptions. Other times, the images are pixelated or screens freeze.³²

133. Even when people have access to the technology, navigate it successfully, and the software works, a 20-minute non-private video call cannot compare to the benefits and meaning conveyed through an in-person contact visit.

134. **Video calls lack key features of in-person communication.** The pandemic has highlighted the limitations of video conferencing tools. Anyone who has attended a virtual funeral or wedding, or even just a virtual happy hour or one-on-one meeting, quickly realizes that it feels drastically inadequate when compared to the in-person experience it aims to recreate.

135. Video calls also do not permit direct eye contact between callers. This is especially important when communicating with infants, for whom facial recognition largely depends on direct eye contact.³³ Yet because the video camera is located above the screen, a parent and their child have to choose between looking into the camera and looking at the screen, making mutual eye contact impossible. The absence of eye contact decreases the sense of connectedness, which in turn limits the ability to discuss complex topics or enjoy a meaningful conversation.³⁴

³² Bernadette Rabuy & Peter Wagner, *Screening Out Family Time: The For-Profit Video Visitation Industry in Prisons and Jails*, Prison Policy Initiative (2015), <https://www.prisonpolicy.org/visitation/report.html>.

³³ Teresa Farroni, et al., *Mechanisms of Eye Gaze Perception During Infancy*. 16 J. Cogn. Neurosci. 8 (2004).

³⁴ Niclas Kaiser, et al., *Eye Contact in Video Communication: Experiences of Co-creating Relationships*, 13 Front Psychol. (Apr. 25, 2022).

136. Video calls further inhibit people's ability to read important visual cues. During in-person conversations, nonverbal communication is often more important than words. These visual cues are difficult to recognize in video calls, which can show only a small portion of a caller's body at a time, particularly if the call quality is not high or there is a lag or delay in the video feed. The missing nonverbal cues cause a loss of trust and emotional connection with the person on the screen.

137. Loved ones also find it is easier to assess the mental and physical health of a loved one face-to-face than by video. "When my dad was arrested, we all worried about him so much," said 12-year-old M.M. "I know he was going through a lot. It was hard not being able to be there for each other. It would be really great if we got to see how he is doing now to know if he is healthy."

138. These critical differences render video communication functionally inaccessible to large groups of people. Video calls are particularly challenging for neuro-divergent individuals and people with disabilities. For example, people on the autism spectrum have extra difficulty picking up non-verbal cues, and the distracting nature of background noise or video can make focusing even more difficult for those with ADHD. M.M. explains, "I was diagnosed with ADD...This means it's hard for me to sit still in general. I move from one thing to another a lot." Her mom observes, "Because M.M. is twelve and has a short attention span, it's also hard for her to remember when she gets messages and settle in to respond . . . for M.M. to feel less worried for her Dad and more joy in their time together, it's essential they spend time together in person where they can share a laugh and share a hug." Infants and toddlers—children of an age most in need of continuous contact with a caregiver—cannot use video calls at all. And young children struggle to

sit still without physical forms of engagement. They may not even comprehend who is on the other end of the call.

139. **Lower quality communications.** Interacting without touch, eye contact, and body language cues means that key information is not communicated, particularly the shared emotional understanding of a conversation. Video calls thus make it harder to create trust, harder to sit in silence, and harder to concentrate.

140. Establishing trust takes longer via video communication than in face-to-face conversations where almost spontaneous trusting behaviors can occur. This is especially worrisome for video conversations between parents and their young children, where trust is pivotal to a healthy conversation and relationship.

141. Video calls also prevent people from sitting comfortably together in silence. In typical in-person conversation patterns, the presence of silence creates a natural rhythm and signals comfort. However, when it occurs in a video call, the participants become anxious and uncomfortable. They may be conscious of the limited few minutes they have to speak to one another, or they may not know whether someone has gone silent because they can no longer hear what they are saying. This is particularly problematic where video call technology is glitchy or delayed because such disconnects shape our views of people negatively. One study found that even a 1.2 second transmission delay made people perceive the responder as less friendly or focused.³⁵

142. Additionally, video calls are exhausting. Despite the apparent ability of video calls to re-create face-to-face conversation, participants' brains have to work much harder to translate what they are seeing, and to send signals in return. Participants are forced to consciously monitor

³⁵ Katrin Shoenenbergl, *Why Are You so Slow? – Misattribution of Transmission Delay to Attributes of the Conversation Partner at the Far-End*, 72 Int'l J. of Human-Computer Studies 5 (2014).

nonverbal behavior and to send cues to others that are intentionally generated. Examples include centering oneself in the camera's field of view, nodding in an exaggerated way for a few extra seconds to signal agreement, or looking directly into the camera (as opposed to the faces on the screen) to try and mimic direct eye contact when speaking. "I try to make eye contact," explains Kathleen Tanton, "but I can't tell if he's seeing me. Knowing he is close but being physically unable to see him, I get anxiety. The whole time you can see the timer counting down." This constant monitoring of behavior adds up. People also tend to examine their own face if they can see it on screen, adding an extra layer of self-conscious stress that has been shown to distract from the ability to connect.

143. **Additional strain on relationships.** The barriers inherent to video communication place additional strain on relationships that undermines the typical healing power of time spent in physical proximity.

144. It is more difficult for people to express intimacy and social connection with video communication as compared to in-person visits. This problem is aggravated further with correctional video calls, where the callers have no privacy. Family members are told that every word they say is being recorded, tempering their willingness to speak freely about sensitive or emotional topics that are necessary to a trusting relationship. Twenty-three year old Marie said, "I feel creeped out knowing someone can listen to or see all our conversations. Sometimes I want to talk to my dad about things just between us."

145. Barriers to connection in general make addressing and healing conflict particularly difficult. Arrest and separation are distressing to a family relationship. While family members often feel fierce love and a need to protect their loved one, this often occurs simultaneously with complex feelings of anger, sadness, and betrayal. Plaintiff M.M.'s mom observes, "Seeing him in person,

especially if he says something funny, it will break down her walls really quickly. After a couple of minutes, you can even see that she relaxes and eases into the conversation. When she was really young, sometimes she would be mad at him, but after she saw him in-person everything would be okay.” The privacy and reassurance of physical presence and contact are crucial to the conversations necessary to working through conflict and healing the relationship.

- vi. State and international government agencies—including the Michigan Department of Corrections—recognize that allowing families to visit each other furthers compelling state interests.

146. Jurisdictions across the world recognize the governmental interest in families maintaining contact through in-person family visits, and the inadequacy of video calls as a substitute.

147. **Michigan.** Statewide policy has long emphasized the importance of contact visits among family members who do not live together, and especially for parents to have such visits with their children. Both the legislature and the state prison system have pursued policies supporting the rights of non-detained people to have contact visits with their incarcerated parents and children.

148. People who are convicted and receive long sentences are transferred to the custody of the Michigan Department of Corrections (“MDOC”).

149. The Michigan House of Representatives recently declared May 2023 National Prisoner Family Month. After noting that “[a] number of policies and procedures of the criminal legal system and prison system are harmful and build walls between families and prevent family inclusion,” Resolution No. 104 proclaims that “[c]hildren of incarcerated people deserve to have a meaningful relationship with their parent and should not be further separated or punished by the taking of their family visits if the family members have not violated visiting rules.” It also

acknowledges that “visitation, mail, phone, and other forms of contact between incarcerated people and their families have positive impacts for everyone—including better health, reduced recidivism, and improvement in school.”³⁶

150. In 2023, MDOC issued its Family Reunification Policy in an explicit effort to “take steps to ensure prisoners are able to interact with their family throughout their term of incarceration . . .” To that end, the Family Reunification Policy explicitly commands that “[w]hile incarcerated, prisoners shall be permitted to have [in-person] visits with family members.”³⁷

151. As a result, most people in MDOC custody are entitled to receive contact visits.³⁸ During visits, prisoners and visitors are permitted to kiss and embrace. In addition, prisoners and visitors are permitted to have their arms around the shoulders of one another or to hold hands. A prisoner who is a parent or grandparent also may touch and hold their child or grandchild if the infant is under two years old and may bottle feed the infant while visiting.³⁹ These same rights are denied to people—many of whom are presumptively innocent—in the St. Clair County Jail.

152. The financial barriers to family communication are also lower in MDOC. Phone and video call fees for people in MDOC custody are less than half of what Defendants charge in the St. Clair County jail.⁴⁰

³⁶ Mich. H. Rep No. 104, at 556 (May 9, 2023), available at: <https://tinyurl.com/yzb3hm35>.

³⁷ *Policy Directive: Family Reunification* at 1, Mich. Dep’t of Corrections, No. 03.02.102 (Jan. 25, 2023), available at <https://tinyurl.com/2utrdc9f>.

³⁸ Under certain circumstances, a person may temporarily lose their contact visitation privileges.

³⁹ Mich. Dep’t of Corrections, *Policy Directive: Prisoner Visiting* 4-5, No. 05.03.140 (Dec. 2, 2019), available at <https://tinyurl.com/nfz3nvad>.

⁴⁰ Mich. Dep’t of Corrections, *Michigan Department of Corrections Lowers Prisoner Phone Rates by Nearly 40%* (Sept. 29, 2022), <https://tinyurl.com/mr43nekz> (announcing drop to 8.7 cents per minute).

153. Michigan’s commitment to preserving family relationships is also reflected in the state’s child custody laws. The Child Custody Act guarantees that “[a] child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child’s physical, mental, or emotional health,”⁴¹ and that “[i]t is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents.”⁴² Relatedly, when a child is in foster care, the State bears an obligation “to reunite the child and family”—an obligation that ceases to exist only in exceptional circumstances that do not include parental incarceration:⁴³ The state is *not* relieved of its duties to preserve family relationships merely because that parent is incarcerated.

154. **Other States.** Judges in family courts have addressed the negative impact video calls can have on families, especially parent-child relationships. Courts have repeatedly found that video calls are an inadequate substitute for in-person visits between noncustodial parents and their children.⁴⁴

⁴¹ MCL 722.27a(3)

⁴² MCL 722.27a(1).

⁴³ MCL 712A.19a(2).

⁴⁴ See, e.g., *Gilbert v Gilbert*, 730 N.W.2d 833 (ND 2007) (“Virtual visitation is not a substitute for personal contact.”); *RM v NF*, No. 09-02791, 2013 WL 9930839, at *8 (Pa Com Pl May 20, 2013) (“[I]t is unrealistic to believe that such limited visits are a fair substitute for the frequent regular contact Father now has with Abygail, or that video conferencing through the internet is the same as face-to-face contact, particularly with a young child.”), *aff’d*, 87 A.3d 875 (Pa. Super Ct 2013).

155. Numerous state legislatures have removed the decision from judges' hands altogether, recognizing the deficiencies of video calls by drawing bright-line rules in family law statutes that forbid judges from equating the use of phone or video calls with in-person visits.⁴⁵

156. **National Correctional Organizations.** National correctional organizations also recognize that video calls are no substitute for in-person visitation, and that jails and prisons must allow for in-person family visits.

157. The American Correctional Association, the oldest and largest trade association and accrediting body for the corrections industry, has declared that emerging technologies like video calls should be used only *to supplement* existing in-person visitation, not replace it.⁴⁶

158. According to the National Institute of Corrections (“NIC”)—which provides training and policy development assistance to federal, state, and local corrections agencies— “[s]tudies confirm that incarcerated individuals have better outcomes when they receive in-person visits from family members and supportive community members.” For this reason, NIC concludes

⁴⁵ See Utah Code Ann. § 30-3-32(3)(f) (2012) (“Virtual parent-time is designed to supplement, not replace, in-person parent-time”); Wis. Stat. Ann. § 767.41(4)(e) (2013) (“Electronic communication with the child may be used only to supplement a parent’s periods of physical placement with the child. Electronic communication may not be used as a replacement or as a substitute for a parent’s periods of physical placement with the child”); Tex. Fam. Code Ann. § 153.015(d) (2013) (“The availability of electronic communication under this section is not intended as a substitute for physical possession of or access to the child where otherwise appropriate”); Fla. Stat. Ann. § 61.13003(4) (2013) (“Electronic communication may be used only to supplement a parent’s face-to-face contact with his or her minor child. Electronic communication may not be used to replace or as a substitute for face-to-face contact”).

⁴⁶ American Correctional Association Standard 2016-1, Policy Statement, [https://www.aca.org/common/Uploaded%20files/Publications/ACA%20Policy%202024%20-%20Each%20policy%20\(ordered\).pdf](https://www.aca.org/common/Uploaded%20files/Publications/ACA%20Policy%202024%20-%20Each%20policy%20(ordered).pdf).

that “[t]raditional, in-person visiting is a best practice that should continue in all correctional settings when possible.”⁴⁷

159. The Federal Bureau of Prisons (“BOP”) adheres to this guidance as well. Acknowledging the myriad benefits of visitation, the BOP specifically “encourages visiting by family, friends, and community groups to maintain the morale of the inmate and to develop closer relationships between the inmate and family members or others in the community.”⁴⁸

160. Similarly, the American Bar Association (“ABA”), in its Standards on Treatment of Prisoners, states that visitation bans are improper. The ABA emphasizes that “[c]orrectional officials should implement visitation policies that assist prisoners in maintaining and developing healthy family relationships,” including contact visits between family members.⁴⁹ “Because physical contact between parents and small children is so psychologically important, correctional officials should permit more extensive physical contact during such visits. For example, a child might be allowed to sit on her mother’s lap and read during a visit, or a prisoner might be allowed to play ‘pat-a-cake’ with his toddler.”⁵⁰

⁴⁷ Nat’l Inst. Of Corrections, *Video Visiting in Corrections: Benefits, Limitations, and Implementation Considerations* 3-4 (2014), <https://dept.camden.rutgers.edu/nrccfi/files/NIC-Video-Visiting-Guide.pdf>.

⁴⁸ 28 C.F.R. § 540.40.

⁴⁹ American Bar Association, Treatment of Prisoners Standards 23-8.5(b), available at: https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/treatment_of_prisoners.pdf.

⁵⁰ *Id.*, 23-8.5(e) commentary.

161. The ABA exhorts correctional officials to “develop and promote other forms of communication between prisoners and their families, including video visitation,” but cautions “*that such options are not a replacement for opportunities for in-person contact.*”⁵¹

162. The ABA notes that the need for in-person visitation is even more acute in jails like St. Clair County, where much of the population is awaiting trial and presumed innocent.⁵² “Detainees have a greater need for all kinds of contact with families and friends, including visits, to deal with the results of incarceration—to get a lawyer, try to arrange bail, pay the rent, get children taken care of, communicate with employers, get the car keys into the family’s possession, etc.”⁵³

163. **International Standards.** International organizations also recognize the compelling state interest in in-person visitation with family members.

164. The United Nations’ (“U.N.”) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that detained or imprisoned people must have “the right to be visited by and to correspond with, in particular, members of [their] family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.”⁵⁴ Similarly, the U.N.’s Standard Minimum Rules for the Treatment of Prisoners calls for detained people to “be

⁵¹ *Id.*, 23-8.5(e) (emphasis added).

⁵² *Id.* (“Visiting is particularly important for pretrial detainees, who are in jail because of arrests that they and their families generally did not plan for. (By contrast, people who are sentenced to prison generally have advance notice of what is coming and time to get ready for it.)”).

⁵³ *Id.*

⁵⁴ Principle 19.

allowed under necessary supervision to communicate with their family and reputable friends at regular intervals” by “receiving visits.”⁵⁵

165. The European Prison Rules also emphasize that incarcerated people shall be allowed to receive visits from their families, friends, and representatives of outside organizations. These rules provide that “Prisoners shall be allowed to communicate as often as possible...with their families, other persons and representatives of outside organisations, and to receive visits from these persons.”⁵⁶ “The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.”⁵⁷

c. Defendants’ Scheme to Ban Visits Emerges From a Broader Business Strategy.

166. The conspiracy between the County Defendants and Securus Defendants emerges from a broader business strategy. For decades, a handful of for-profit “jail technology” companies owned by private equity firms have been exploiting the country’s historic incarceration levels to extract money from tens of millions of Americans who have done nothing wrong and are desperate to stay in contact with their loved ones.

i. Securus dominates the market for jail and prison calls and exploits families desperate to stay in touch with their jailed loved ones.

167. For incarcerated people and their families, resources that people on the outside use every day—phone and video calls, educational resources, data storage, music and podcasts, word-processing software, and messaging platforms—are all controlled by just a few companies. These

⁵⁵ Rule 58(1)(a), *The United Nations Standard Minimum Rules for the Treatment of Prisoners*, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

⁵⁶ European Prison Rules, Rule 24.1, <https://tinyurl.com/mvj63pd3>.

⁵⁷ *Id.*, Rule 24.4.

“jail technology” companies generate substantial profits by charging incarcerated people and their loved ones exorbitant rates to connect with one another. The business model thrives on negotiating agreements with jail officials to create conditions of isolation and desperation under which families are forced to spend as much money as possible.

168. Securus and its main competitor—Global Tel*Link, or GTL⁵⁸—dominate the market for prison and jail “technology services.” Together, the two companies control 83% of the phone call market based on total revenue and 74% of the market based on incarcerated people under contract.⁵⁹ In 2017, Securus and GTL revenues exceeded \$1.1 billion. The companies have been repeatedly accused of price-fixing and other anti-competitive practices.

169. Both companies employ a similar business model, which depends on having a monopoly on providing telecommunications within a particular facility. People in jails cannot choose between multiple service providers. Instead, government officials contract with a single company to provide calls and other communication services in each facility by entering into negotiations with the company and attempting to negotiate more lucrative terms with different providers. The company that wins the contract becomes a monopoly seller. Without any competition, Securus can charge above-market rates to a population with nowhere else to turn.

170. For decades, Securus has relied on charging extraordinary rates for common phone calls to generate hefty profit margins. Recently, as advocates across the country have won demands

⁵⁸ In addition to Securus restructuring as Aventiv, the company formerly known as Global Tel*Link or GTL was recently renamed ViaPath Technologies. See GTL, *GTL Becomes ViaPath Technologies, Launches Expanded Reentry Services* (Jan. 4, 2022), <https://www.gtl.net/about-us/press-and-news/gtl-becomes-viath-path-technologies/>.

⁵⁹ Prison Policy Initiative, *Victory for Phone Justice: Securus and ICSolutions Abandon Attempted Merger* (Apr. 2, 2019), <https://www.prisonpolicy.org/blog/2019/04/02/securus-ics-merger/>.

for capped phone rates (and in some cases, free phone calls) for incarcerated individuals,⁶⁰ Securus has shifted their attention to less regulated services, like video calls. The company tries to incentivize local officials to eliminate in-person visits to increase the use of high-cost video calls and traditional phone calls, eliminate physical mail in favor of costly emails and electronic messages, permit junk fees to inflate the cost of money transfers, and increase commissary prices such that basic necessities like soap, more nutritious food, warmer clothing, and menstrual products are unaffordable to many.⁶¹

171. Securus does not charge the same rate for calls at every facility in which it operates. Instead, it negotiates individual contracts with county and state governments to set the prices incarcerated people and their families pay at the highest level the contracting county will tolerate consistent with, as in St. Clair County, the contracting parties' assessment of how to maximize total revenue.

172. The result of this pricing model is a stark disparity across facilities as families are charged vastly different rates for identical products. While Securus charges St. Clair families \$0.21 per minute to talk to their jailed loved ones by phone—the maximum rate allowed by law—the company lets families in Dallas County, Texas talk to one another at a rate of \$0.01 per minute.⁶²

⁶⁰ See, e.g., Worth Rises, *Connecticut Makes History as First State to Make Prison Calls Free* (June 16, 2021), <https://worthrises.org/pressreleases/connecticut-makes-history-as-first-state-to-make-prison-calls-free>.

⁶¹ Shannon Sims, *The End of American Prison Visits: Jails End Face-to-Face Contact – and Families Suffer*, *The Guardian* (Dec. 9, 2017), <https://www.theguardian.com/us-news/2017/dec/09/skype-for-jailed-video-calls-prisons-replace-in-person-visits>.

⁶² Editorial, *By Lowering Inmate Calling Rates, Dallas County Put Principle Over Profit*, *The Dallas Morning News* (Feb. 20, 2020), <https://www.dallasnews.com/opinion/editorials/2020/02/20/by-lowering-inmate-calling-rates-dallas-county-put-principle-over-profit/>.

Families of people incarcerated in Michigan prisons pay \$3.20 for a 20-minute video call.⁶³ And families of people incarcerated in Harris County, Texas, pay \$5.99 for a 20-minute video call with Securus.⁶⁴ Yet for the same 20-minute video call, the terms negotiated by the County Defendants and Securus require families of people in the St. Clair County Jail to pay \$12.99, over twice as much as families in many other counties and over four times as much as families pay as soon as their loved ones are transferred to Michigan prison. They pay this much for a lower-quality version of a technology that most people today can use for free through Zoom, Google, Skype, or FaceTime.

173. Securus's other services also bear no resemblance to their free world cost. There are fees to deposit money and make purchases. A person in the St. Clair County Jail must pay \$1.99 to leave a voicemail, \$0.50 plus fees to send a written message to a loved one, and \$7.50 per month for access on their digital tablet to a marketplace where they can then pay further fees to read articles, listen to music, or rent movies.

174. These price discrepancies do not reflect public safety determinations or the cost of providing telecommunications services in different facilities. Instead, telecom companies, which are controlled by private equity funds, conspire with and provide kickbacks to local officials to negotiate prices with one primary goal in mind: make as much money as possible. This means both a calculation of how much money the parties can together extract as a matter of available local

⁶³ *Video Visitation*, Mich. Dep't of Corrections, <https://www.michigan.gov/corrections/services/family-information/video-visitation> (listing a 20 minute video call at \$3.20) (last visited Mar. 13, 2024).

⁶⁴ *Harris County Sheriff's Office, Inmate Visitation*, <https://www.harriscountysoc.org/JailInfo/InmateVisitation> (last visited Mar. 13, 2024).

income, as well as how much money local officials can be convinced to permit the companies to extract from a captive market.

- ii. Securus pays municipalities hundreds of thousands of dollars to prohibit in-person visiting and to keep jail populations high in order to increase profits.

175. Across the country, Securus and similar companies win monopoly contracts by promising contracting counties hundreds of thousands of dollars each year—or other perks like Caribbean cruises⁶⁵—to increase the use of expensive video calls, including by prohibiting free in-person visits on which families of people who are incarcerated used to rely. The companies pay the counties and, in return, the counties end in-person visitation, continue to prohibit free in-person visits, to keep the jail population at or above certain specific levels, and to otherwise ensure that the money keeps flowing through various discretionary policies and practices that expand the ability to monetize isolation and limited human contact.

176. **Kickbacks.** Kickbacks, or unearned payments intended as compensation for preferential treatment, are a type of negotiated bribery. A form of collusion between two parties, kickbacks warp competitive practices and can interfere with a public official's ability to make unbiased decisions. Kickbacks are widely seen as unethical and are strictly prohibited in many areas including federal contracts, healthcare, and mortgages.⁶⁶

177. Kickbacks are a key part of Securus's business model. In their contracts and negotiations surrounding those contracts, the companies offer to pay sheriffs' offices and/or the

⁶⁵ Hayden Betts, *Sheriffs Offered Caribbean Cruises and Florida Retreats as Part of Jail Telecom Contracts*, The Appeal (Oct. 17, 2022), <https://theappeal.org/smart-communications-cruises-trips-florida>.

⁶⁶ See, e.g., 41 U.S.C. § 87 (prohibiting kickbacks in transactions related to federal contractors); 42 U.S.C. § 1320a-7b) (federal healthcare); 12 U.S.C. § 2607 (federal mortgages).

contracting jurisdictions a specified percentage of the revenue from the communications inside jail facilities. Giving St. Clair County and the St. Clair County Sheriff a cut of the money from calls accomplishes two key goals. First, it convinces the jurisdiction to award the contract to the company. As the Prison Policy Initiative has observed, “jails and prisons often choose their telecom providers on the basis of which company will pay the facility the most money in kickbacks.”⁶⁷ Second, kickbacks based on the number of phone or video calls give the people running the jail (or prison) a financial incentive to protect Securus’s profits (which they now share) by maximizing call revenues. Under these conditions, companies compete based not on who can provide the lowest priced calls or the best quality services or the highest contribution to public safety, but rather on who can charge families the most and kick back the largest share of revenue to the county holding the power to award the monopoly contract.

178. The kickbacks function as intended: contracting jurisdictions are motivated by the potential profits offered by kickbacks (often sanitized as “commissions”), and they enact and enforce various policies as a result of these incentives.

179. The County Defendants admitted that their decision to replace in-person visits with video calls at the jail was a strategy to make more money. The Sheriff’s Office recommended the contract to the County Board of Commissioners for approval because it would collect an increased kickback of 78% of the money paid by families for all phone calls and “a new revenue stream” in the form of a kickback of 50% of the money paid by families for all video calls. Ultimately, the County Defendants chose to contract with Securus because it offered the largest kickbacks amounting to the most total revenue.

⁶⁷ Peter Wagner & Wanda Bertram, *State of Prison Phone Justice 2022*, Prison Policy Initiative (Dec. 2022), https://www.prisonpolicy.org/phones/state_of_phone_justice_2022.html#sopjtable3.

180. The profitability of the video calling business, including the size of commissions paid to jail facilities, is directly dependent on large jail populations and a high utilization of its services by the jail population. To receive the money promised by Securus, a county typically has to (a) explicitly agree to maintain the jail population at a sufficiently high level to guarantee a satisfactory minimum revenue base; and (b) implicitly agree to eliminate any alternatives to the companies' calls by prohibiting in-person visitation, leaving people in the jail with no choice but to use the company's system—and to pay for it. Such is the case in St. Clair County.

181. **Jail Population and Video Call Minimums.** The video calling contracts drafted by Securus and GTL frequently predicate a local government's commission on maintaining a minimum jail population. For example, in its contract with St. Clair County, Securus reserved the right "to renegotiate or terminate" the entire agreement in the event of a "material reduction in inmate population or capacity."

182. The St. Clair contract is common in this regard. For example, in a 2019 contract with Wood County, Ohio, for example, Securus required that the county's compensation under the contract be renegotiated if the average daily jail population dropped by more than 5%. And in 2021, Summit County, Ohio, for example, lost money it had previously negotiated with Securus when its jail population dipped below the level the county promised to maintain. Officials like the St. Clair County Defendants know that the contractual provisions Securus negotiated with them are not idle threats: if their policies fail to produce sufficient profits for Securus, they will lose an important source of income.

183. Perversely, some of Securus's contracts even offer financial rewards to local governments for *increasing* the jail population. A 2015 contract between Securus and Riverside County, California, for example, made the county's commission directly proportionate to the

average daily jail population. More people in jail translated directly to more money for the county. And a 2016 contract between Securus and Wayne County, Michigan, provided that for every quarter where the jail's population was higher than average, Securus would pay the county "a bonus equal to 80% of the total incremental commissionable revenue."

184. Any conspiracy to create a financial incentive to reward and encourage jailing more people is problematic because incarceration—one of the most solemn and intrusive actions taken by the state—must be based on compelling government interests rather than the pursuit of profit. However, contracts like the ones negotiated by Securus's corporate experts that tie financial incentives to the number of people in custody introduce particularly perverse incentives at the county level, where the official who stands to make money from a higher jail population—the sheriff—is the same person responsible for setting and carrying out law enforcement priorities. This arrangement introduces the possibility that the sheriff would use their law enforcement power to keep more people in the jail than they would otherwise.

185. Video calling contracts negotiated by the Securus Defendants also frequently predicate a county's commission on maintaining a minimum number of calls per incarcerated person and call for renegotiation of a lower commission if the county fails to hit that minimum. For example, St. Clair County's contract with Securus obligates them to "endeavor to reach at least one remote paid Video Visitation session per inmate per month." Securus retains the right "to renegotiate payment [] or discontinue the services" if the County Defendants fail to meet that benchmark.

186. Most incarcerated individuals and their families would choose in-person visitation over video calls given the option. So to ensure they meet these metrics, St. Clair County and other

jails must prohibit visitation, diverting incarcerated individuals and their families into more video and phone calling.

187. **Requiring Prohibition of In-Person Visitation.** For years, Securus worked closely with sheriffs and budget officials across the country who were willing to end free family visits, in violation of industry standards for managing jail facilities and contrary to the empirical evidence about jail safety. They worked with these officials to end visits in combination with introducing costly video calls and calibrating prices and policies to maximize shared revenue. Since they began offering phone and video calls, contracts with Securus have specifically provided for on-site video call kiosks, which would never be necessary if in-person visitation were permitted.

188. As early as 2013, Securus was installing video call systems in Michigan county jails on the explicit condition that the jails eliminate in-person visits.

189. A typical Securus contract, such as one with Newaygo County, Michigan, stated the following: “For non-professional visitors, Customer [the municipality] will eliminate all face to face visitation through glass or otherwise at the Facility [the jail] and [] utilize video visitation for all non-professional on-site visitors.”

During the Term of this Agreement, Customer will utilize its best efforts to allow the full utilization of the Video Visitation System at the Facility for paid remote Video Visitation sessions, including without limitation:

1. Customer agrees that Video Visitation must be available for paid remote sessions seven (7) days a week for a minimum of eighty (80) hours per Video Visitation terminal per week.
2. For non-professional visitors, Customer will eliminate all face to face visitation through glass or otherwise at the Facility and will utilize video visitation for all non-professional on-site visitors.
3. Customer will allow inmates to conduct remote visits without quantity limits other than for punishment for individual inmate misbehavior.
4. Customer will allow Provider to market and promote the use of the Video Visitation System to the inmates, in-person visitors, phone call participants and potential friends and family end users of the System by allowing Provider to (a) distribute Securus' promotional literature in the Facility's visitation lobby; (b) add a recording to the

190. This contractual requirement was common. By 2015, 70% of Securus contracts for video calling services included an explicit no-visitation provision.

191. In 2015, after attracting negative publicity for that provision, Securus removed the explicit language requiring counties to end in-person visitation. Yet the requirement, and all of the incentives that operationalize it, live on. Securus continues to do business with jurisdictions where it had previously required and effectuated the elimination of visits, relying on the continuation of the policy to generate additional profits. Securus pays contracting jurisdictions to continue denying in-person visitation by tying county compensation to total calls made, and threatening to renegotiate to pay the county less if minimum call numbers or jail population figures are not met. And Securus continues to negotiate new agreements with financial incentives and kickbacks that are intended to have, and do have, the same result. The understanding that the contract will require the prohibition of visits is typically out in the open, as in the 2017 contract between Securus and St. Clair County, which called for installing seven on-site video kiosks for “visitors” who were willing to drive to the jail—kiosks that would never be necessary if in-person visitation were permitted. The success of Securus’s business model continues to require that its expensive, glitchy, and ineffective video calls not be undermined by free in-person visits.

192. To ensure they meet these metrics, and to maximize the kickbacks they receive, county officials like those in St. Clair prohibit free in-person visitation. The Securus and County Defendants conspire to maximize revenue by doing the very thing—prohibiting in-person visits—that Securus previously explicitly contracted to do.

193. In Michigan, this scheme has been successful. All 16 of the Michigan jails that contract with Securus for video call prohibit in-person contact visits.

d. Defendants Continue to Ban In-Person Visits to Maximize Revenue from Expensive Phone and Video Calls.

194. Defendants decided to prohibit in-person visitation in order to make them money, not to address any public safety or law enforcement interest. Specifically, Defendants’ banned

visitation in order to force families to purchase phone and video calls as their only way of maintaining even superficial contact with their incarcerated loved ones.

- i. For years, the County Defendants and Securus have worked together to extract money from the families of people in the jail.

195. For more than a decade, the County Defendants and Securus have worked together to make money off of the families of people in the jail.

196. **2011 Contract for Telephone Services.** In 2011, Securus and the County Defendants signed a five-year contract making Securus the exclusive provider of phone services in the jail (video call technology did not yet exist in the jail). Securus retained complete discretion to determine the rates that people in the jail and their loved ones paid to call each other. Under the agreement, Securus issued the County a yearly up-front payment of \$25,000, and 60% of all call income that exceeded the amount of the up-front payment. The payments were contingent on the County Defendants maintaining a certain jail population; Securus kept the right to renegotiate or terminate the contract in the event of a “material reduction” in the number of people in the jail.

197. In the years that followed, Securus and the County Defendants amended their contract to add more “services”—and more streams of revenue—such as adding “inmate debit accounts” and allowing people in the jail to purchase commissary items through the phone system.

198. **2016 Call for Proposals for Video Call Services.** In August 2016, with the County’s telephone services contract set to expire, the County issued a request for information (RFI) for communication services at the jail. This time, consistent with Securus sales pitches, they asked for proposals for a package including phone *and* video calling.

199. For years leading up to that moment, Securus and its competitors had conspired with sheriffs and municipalities across the country to replace free family visits with expensive

video calls. Securus even went so far as to draft video call contracts that *explicitly required* the counties they contracted with to ban in-person visitation.

200. In this context, Securus and the County Defendants began discussing expanding Securus's services to include video calls. Securus noted that by adding video calling, St. Clair County could realize a "new revenue stream." Touting itself as "an industry leader in the rapidly growing video communications market," Securus's response to the County's RFI dangled a tempting proposal: Securus would pay the County 50% on all paid remote video calls, a favorable deal that "[i]ncludes all equipment, installation, maintenance, and network connections needed . . . at no cost."

201. This initial proposal contemplated eliminating in-person visitation. Securus advertised a package to the County including "on-site video visitation," where "[t]he visitor arrives at the facility's visitation area and, after security verification, is allowed to sit at a terminal." Such "on-site" video calls would never be necessary unless a jail were to eliminate the superior option of in-person visitation.

202. The 2016 call for proposals did not result in a contract, but it did inform the County Defendants' RFP process the following year.

ii. The County Defendants and Securus negotiated a contract that would maximize revenue once the County Defendants prohibited visits.

203. After receiving this information on what Securus was willing to do, in 2017, the Sheriff's Office issued a formal request for proposals (RFP) seeking plans to add video call services to the other money-making services at use in the jail. The Sheriff explicitly asked for proposals that would "generat[e] the maximum revenue allowable under the FCC Guidelines."

204. Securus, which held the expiring contract as the sole provider of phone call services, proposed adding video calls to the other services it was already providing to the County.

Securus described its offer as “maximiz[ing] the revenue opportunities” for the County and Sheriff with a deal featuring “guaranteed revenue sharing.”

205. The contract’s key features included a guarantee that Securus would pay the County at least \$190,000 each year:

- Securus agreed to pay the County 78% of revenue collected from phone calls, with a guaranteed minimum annual amount of \$190,000. Once the County’s revenue share for the year exceeds the up-front payment, the County receives the commission rate for all additional phone calls.
- Securus promised the County Defendants a 50% commission on all video calls.
- Additionally, Securus promised the County a “Jail Technology Grant” in the amount of \$100,000 “to pay for technology services or equipment purchased by [the County] from third-party vendors.”

206. In order to ensure that this deal, with its hefty, guaranteed payments to the County, could still be profitable for Securus, the County promised to maximize the number of video calls:

- The County agreed to keep each video kiosk available for paid video calls “seven days a week for a minimum of 80 hours” per week, and to “endeavor to reach at least one remote paid Video Visitation session per inmate per month.” Securus retained the right “to renegotiate payment [] or discontinue the services” if the County failed to meet that benchmark.
- If the County “is not on plan to allow [Securus] to recover [its] upfront funding,” Securus “may recover such unrealized revenue” by billing the County directly.
- Securus reserved the right “to renegotiate or terminate” the entire agreement in the event of a “material reduction in inmate population or capacity,” and to reduce the County’s telephone commission percentage and up-front payment if the jail’s average daily population “decline[s] by more than 5%.”

207. The contracting parties understood and intended that this agreement would be accompanied by a new policy prohibiting in-person visits.

208. In addition to the video kiosks to be installed in the dormitories, the contract also contemplated installing seven video kiosks in the jail for on-site callers to use.

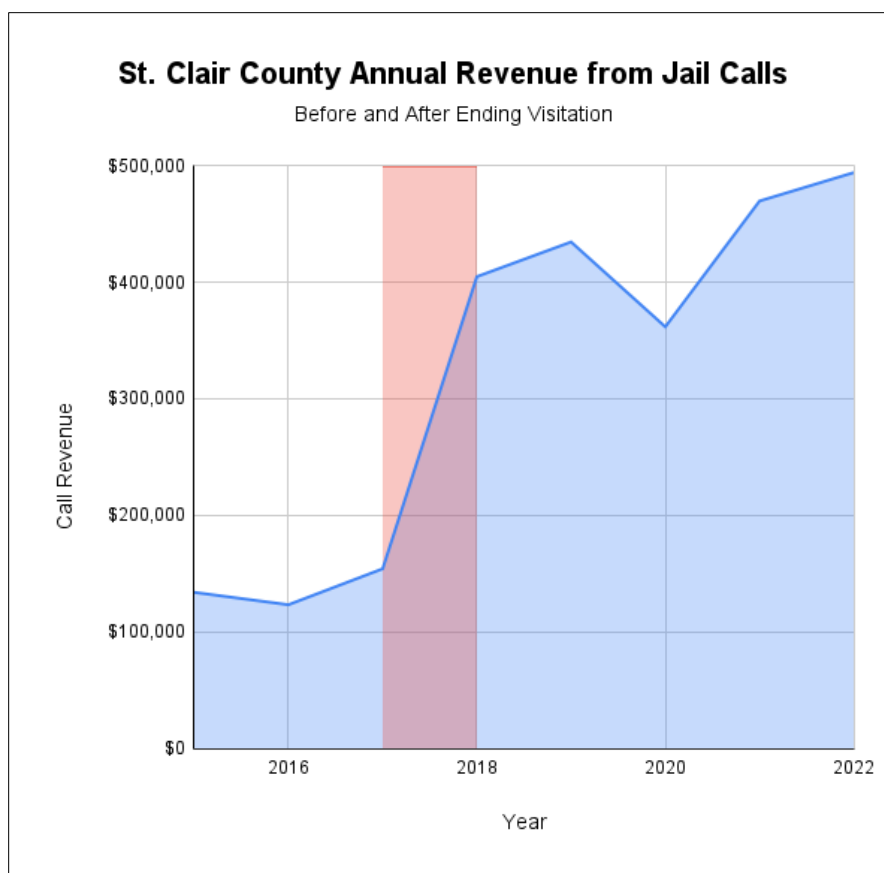
209. In 2017, the Securus contract was submitted to the County Board of Commissioners (the “Board”) for approval. The Sheriff’s Office urged the Board to approve the contract, highlighting that, under the proposed contract, “[t]he County will also see a new revenue stream of 50% of the revenue collected through the Video Visitations.” On September 21, 2017, the Board approved the contract unanimously.

210. In October 2017, the contract took effect. Not long thereafter, the Securus video calling system went live and the County Defendants implemented the Family Visitation Ban. Securus phone and video calls replaced all means of human contact in the jail, including in-person visits, a public function traditionally fulfilled exclusively by the state at no cost. Securus now controls a key element of detention and exerts significant control over detained individuals and their communications with friends and family.

iii. Ending visitation has allowed Defendants to extract unprecedented profits from families who can no longer see their loved ones in person.

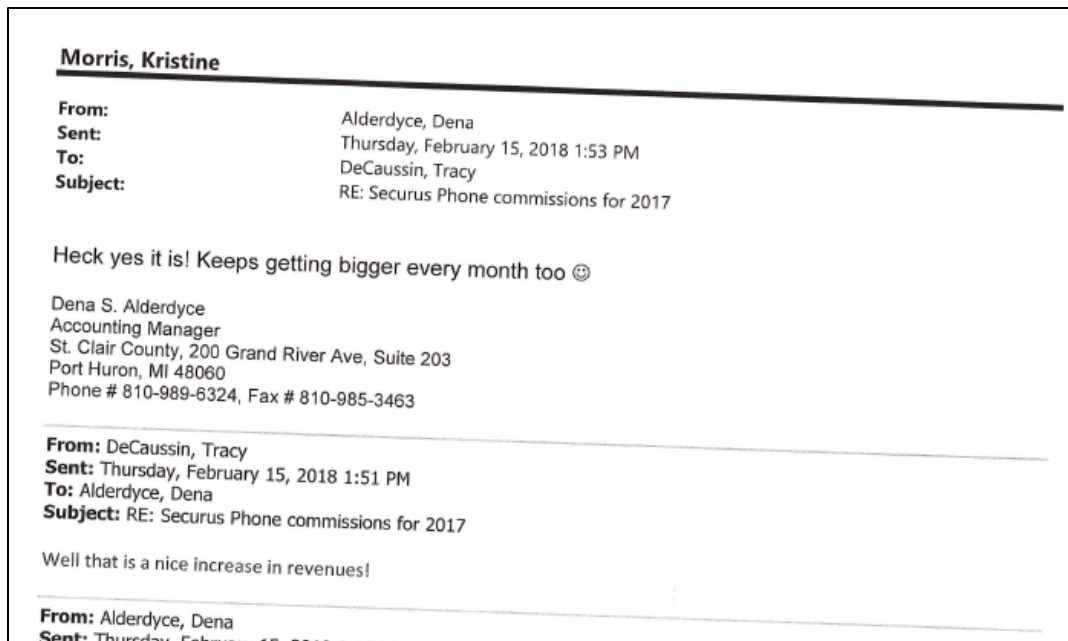
211. Defendants received an immediate financial windfall from ending visits.

212. Securus paid the County \$154,130 in 2017 in phone call commissions. The next year, with the addition of the new guaranteed payment, video call revenue, and the elimination of in-person visitation, that number almost tripled as it climbed to \$404,752. Those gains have steadily continued, reaching nearly \$500,000 in 2022.

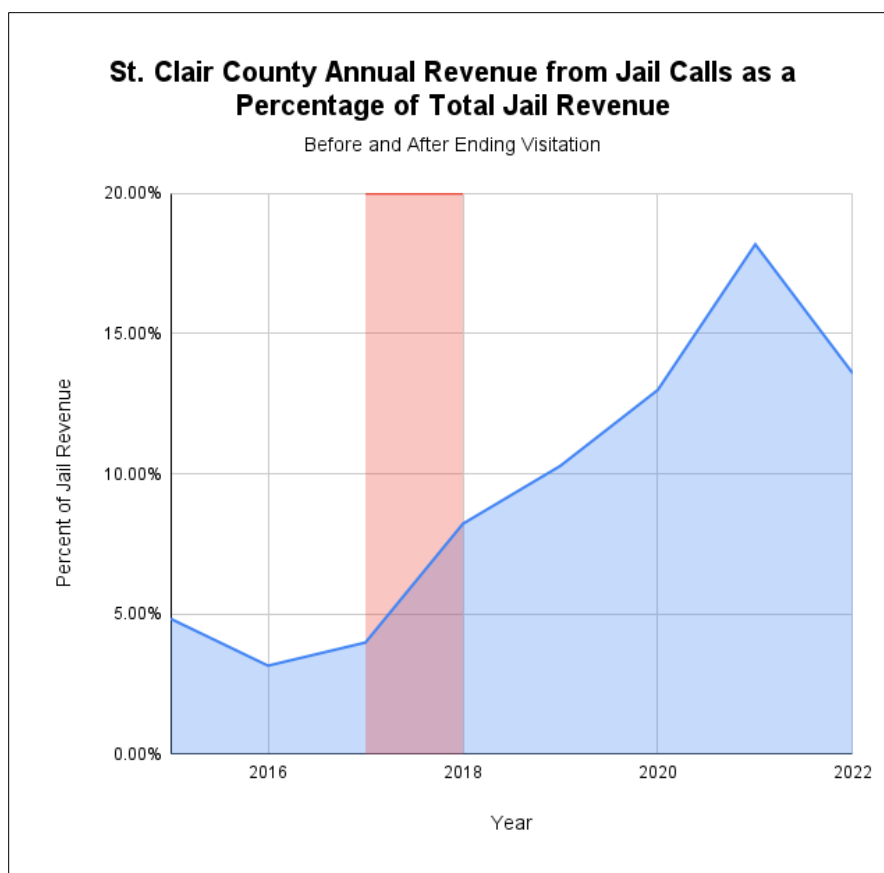


The County's revenue from calls sharply increased following the Family Visitation Ban

213. County employees operate with the goal of increasing revenue and celebrate the revenue increases caused by eliminating in-person visitation in order to increase the use of expensive phone and video calls. On February 15, 2018, Jail Administrator Tracy DeCausin noted to colleagues, "Well that is a nice increase in revenues!" Dena Alderdyce, the County's accounting manager, responded "Heck yes it is! Keeps getting bigger every month too 😊."



214. The County's proceeds from phone and video calls have grown to occupy a significantly larger portion of the jail budget. From 2015 through 2017, during the three years immediately preceding the elimination of jail visitation, jail call revenue averaged a 4% share of the jail's revenue. From 2017 to 2022, the most recent five years for which data is available, that share more than tripled to 14% of jail revenues. In 2021, revenue from family jail calls was over 18% of all jail revenue.



Jail call revenue is an ever-increasing portion of total jail revenue

215. St. Clair employees are anxious to protect the revenue generated by charging families of incarcerated loved ones for phone calls and video calls. On June 30, 2021, Jail Administrator Tracy DeCausin emailed County Finance Director Dena Alderdyce, copying Sheriff Mat King, and other SCCSO staff. Titled “Jail Revenues,” the email linked to a newspaper article titled, “Seen as a long overdue change, Louisville plans to eliminate fees on phone calls from jail.” DeCausin explained, “I do think moves such as this in Louisville will sweep the nation just as jail [sic] bond reform has. We will have to continue to monitor closely as this would have a huge impact on our facility and operations in relation to programming.” She added, “Phone revenue average of the last five years was \$273,144.”

216. Alderdyce promptly responded to everyone on the thread, noting that the County's reliance on the jail call revenue far exceeded the quarter-million-dollar figure provided by DeCaussin. "Thank you for sharing," wrote Alderdyce. "We have \$360,000 budgeted in 2021. The new contract started in 2018 which gave us about \$400,000 in revenues each year." One minute later, Alderdyce forwarded the "Jail Revenues" email on to St. Clair County Controller Karry Hepting accompanied by a single ominous note: "Just an FYI- This is about \$400,000 in revenues if this goes away completely."

From: Alderdyce, Dena
Sent: Wednesday, June 30, 2021 10:51 AM
To: Hepting, Karry
Subject: FW: Jail Revenues

Just an FYI- This is about \$400,000 in revenues if this goes away completely

Dena S. Alderdyce, CGFM
Finance Director, St. Clair County
200 Grand River Ave, Suite 203
Port Huron, MI 48060
810-989-6324

From: DeCaussin, Tracy
Sent: Wednesday, June 30, 2021 10:42 AM
To: Alderdyce, Dena
Cc: Spadafore, Jim ; Hunter, Malissa ; King, Mat
Subject: Jail Revenues

Hello Dena,

I have been following the below information. I do think moves such as this in Louisville will sweep the nation just as jail bond reform has. We will have to continue to monitor closely as this would have a huge impact on our facility and operations in relation to programming.

<https://www.courier-journal.com/story/news/politics/metro-government/2021/06/24/louisville-aims-eliminate-metro-corrections-jail-phone-call-fees/5317998001/>

Phone revenue average of the last five years was \$273,144.

As far as other revenues to my knowledge will remain about the same.

Tracy

Tracy DeCaussin
Jail Administrator
St. Clair County Sheriff's Office
1170 Michigan Road
Port Huron, MI 48060

Office 810.987.1737
Fax 810.985.3219

tdecaussin@stclaircounty.org

217. **Continued Expansion of Jail Revenue Streams.** The County Defendants have continued to work with Securus to extract more revenue from the families of people confined to the jail. In 2020, DeCaussin emailed County officials seeking permission to change the jail’s digital tablet provider to Securus. Alderdyce, at that point serving as the County’s accounting manager, responded to ask, “Will Securus be giving us a commission as well?”

218. The answer was yes. Later in 2020, the County amended its contract with Securus to extend their existing phone and video call contract by another two years through January 2025, and to add digital tablet services to their existing portfolio, dropping the prior tablet provider.

219. Under the 2020 contract amendment, people in the jail receive digital tablets. To use them, they must pay for headphones (that frequently break); pay a monthly \$7.50 fee for access to the tablet’s applications; pay an additional fee to read an article, listen to a song, rent a movie, or play a game; and pay for digital “stamps” that can then be redeemed to send a message or picture to family members and friends.

220. If people in the jail are moved to another facility—for example, if they are convicted and transferred to a state prison—they lose access to their tablet and must repurchase all of their previously purchased digital media, even if their new facility also uses the Securus tablet system.

221. The tablet technology was again provided at “no cost” to the County, based on Securus’s confidence that requiring jailed people to pay high rates for texts, emails, and web browsing when they had no other means of contacting their families and the outside world would allow them to recoup any upfront costs, pay the County a commission on each purchase, and still earn a hefty profit.

222. Once again, the County saw quick financial returns. In April 2022, Alderdyce told the jail's manager, DeCaussin, "Auditors are questioning why the [tablet] revenues went us [sic] so much." DeCaussin thanked Securus for the increase in revenue: "As the revenues show [switching to Securus] was a good move for us."

- iv. Securus's actions—including its ongoing conspiracy to deprive St. Clair County families of in-person visits—are personally directed by Platinum Equity, Chairman Tom Gores, Mark Barnhill, and David Abel.

223. Securus's aggression in setting high prices and cutting off alternative forms of family connection can be traced to its ownership and management.

224. Securus was bought by Platinum Equity in November 2017 for approximately \$1.6 billion dollars.

225. Platinum Equity manages around \$47 billion dollars in assets. The goal of Platinum Equity in managing the affairs of Securus is to extract as much profit as possible for the investors it recruited into the fund through which it purchased and manages the company.

226. While Defendant Tom Gores is perhaps best known as the owner of the NBA's Detroit Pistons franchise, Gores is also Chairman and CEO of Platinum Equity.⁶⁸

⁶⁸ Tom Gores' brother Alec Gores is also a private equity billionaire with investments in the carceral communications market. Alec Gores is the founder and CEO of another private equity firm, the Gores Group, which acquired Securus's primary competitor, GTL. See *The Gores Group and Global Tel*Link Announce Acquisition of Verizon Business' Department of Corrections Division*, Gores Group (Nov. 13, 2006), <https://www.gores.com/wp-content/uploads/2018/01/Press-Release-The-Gores-Group-and-Global-Tel-Link-Announce-Acquisition-of-Verizon-Business%E2%80%99-Department-of-Corrections-Division.pdf>.

227. Gores has attained stratospheric wealth from his investments in companies like Securus. With an estimated net worth of \$9.1 billion dollars, he is one of the 250 wealthiest people in the world.⁶⁹

228. Mark Barnhill is a partner with Platinum Equity, whose stated role primarily involves investor relations. Barnhill identified the Securus investment for Gores and reports to Gores regarding changes to Securus's operations. David Abel is the CEO of Securus.

229. Platinum Equity owns, operates, and manages Aventiv Technologies, the recently created parent company to Securus. As Chairman and CEO, Gores is the managing partner of Platinum Equity.

230. Platinum Equity, Gores, and Barnhill, in concert with one another and with Securus and the County Defendants, have, through their acts and omissions, ratified, adopted, and approved Securus's policies that have resulted in Plaintiffs' injuries.

231. Platinum Equity acquired Securus in November 2017. In an interview with the Detroit Free Press, Gores said Platinum Equity purchased Securus because the firm viewed the company as a "sound investment." He also later stated that, upon acquiring Securus, Platinum "mandated" changes to Securus's operations.

232. Around the same time Platinum acquired Securus, the St. Clair County Defendants prohibited in-person visits. That policy remains today, as ratified, adopted, and approved by Platinum, Gores, Barnhill, and Abel.

233. Securus's policies to maximize its profit by offering and negotiating incentive packages with jail and municipal officials are directed by the senior executive leadership of

⁶⁹ *Profile: Tom Gores*, Forbes (Mar. 14, 2024), <https://www.forbes.com/profile/tom-gores/?sh=5466377a6b39>.

Platinum Equity and Securus. These policies include those described in this complaint. For example, they include, but are not limited to, arranging for kickback payments to encourage jails to prohibit free in-person visits in order to force families desperate to maintain some form of contact to use Securus's services more and to create conditions under which families are more willing to pay higher prices. These internal strategic policies and the resulting and intended policy decisions by jails are well known to executive leadership, who continue to keep them in place as part of an intentional business strategy to maximize profit.

234. Jail telecommunications companies frequently change their names in order to create distance from their past documented exploitative practices. In 2019, following public scrutiny of Platinum Equity's ownership of Securus, the firm rebranded, creating a parent company for Securus called Aventiv Technologies, which allowed Platinum to stop listing Securus on their website as a portfolio company.

235. Commenting on the investment in 2019, Gores acknowledged his close control over his investment, stating that "[t]here are not a lot of things that get me too excited, but [managing Securus] is in a way something where I can get inspired to make a difference to a lot of people."⁷⁰

236. Gores personally directs the actions of Aventiv and its subsidiary Securus. Gores himself is intimately invested in the operations of Securus. In his own words: "I pledged 100% of my personal interest in Securus to meet the challenges of reform, and to be sure all families in need have the opportunity to connect."⁷¹ This includes both the appointment of Securus executives as

⁷⁰ Laurence Darmiento, *Troubled Companies Made Him Billions. A Prison Phone Investment Made Him Enemies*, L.A. Times (Sept. 5, 2019), <https://www.latimes.com/business/story/2019-09-05/la-fi-tom-gores-securus-prison-phone-mass-incarceration>.

⁷¹ Letter from Tom Gores, Founder, Chairman and Chief Executive Officer of Platinum Equity, to Michael Goven, Los Angeles County Museum of Art (Oct. 8, 2020),

well as control over and involvement in specific policies and business decisions. Gores is intimately familiar with Securus’s policies, including the company’s influence over—and financial interest in—ending in-person visitation and its incentive scheme to get jails to agree to accomplish that goal.

237. Gores exerts his direction of Securus’s actions through Platinum Equity partner Mark Barnhill. In or around 2018 and 2019, Barnhill engaged in dialogue with concerned advocacy organizations including Worth Rises, American Federation of Teachers, Color of Change, the Action Center on Race and the Economy, and the Private Equity Stakeholder Project. During these exchanges, the organizations demanded Platinum leadership change Securus’s policies because of their harmful effects on families.

238. On March 19, 2019, Worth Rises wrote a letter addressed to Barnhill regarding “grave concerns about Platinum Equity’s ownership of Securus.” Worth Rises identified several “operational reforms” for Platinum to address at Securus, including addressing the elimination of in-person visitation. Specifically, “[a]s it relates to video calling services,” Worth Rises demanded that Securus “[w]ork with agency clients that removed in-person visits as required by contract or suggested in negotiations to return in-person visits.”⁷²

<https://www.platinumequity.com/wp-content/uploads/2022/07/Letter-to-Michael-Govan-10-08-2020.pdf>.

⁷² Letter from Bianca Tylek, Executive Director of Worth Rises, to Platinum Equity, c/o Mark Barnhill (Mar. 19, 2019), https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5fdd112ccdd31e61c0a92e37/1608323373063/2019.03.19+-+Platinum+Equity+Demand_Redacted.pdf.

239. In response to the March 19th letter, Gores and Barnhill had a call with Worth Rises to discuss the organization's demands. During that call, Gores and Barnhill agreed to meet personally with individuals impacted by Securus's practices.

240. Following the phone call, Barnhill provided updates to Worth Rises regarding Platinum's efforts to address the demands in the March 19th letter. This involved Barnhill, a Platinum partner, sending spreadsheets that tracked each of Worth Rises's demands and the actions Securus was taking to address those demands. Barnhill continued to correspond with Worth Rises regarding plans for he and Gores to meet with impacted individuals.

241. Gores and Barnhill directed Securus's efforts to address the demands from the March 19th letter. For example, in May 2019 Worth Rises became aware of Securus's opposition to the organization's proposed legislation in Connecticut. Citing its demand in the March 19th letter that Securus "[c]ommit to never challenging legislation that regulates the cost of or operation practices associated with Securus' services or products through litigation or lobbying," Worth Rises demanded to Platinum Equity that Securus pull its opposition. Barnhill, at Gores's direction, agreed to direct Securus to pull the opposition to the legislation. Shortly thereafter, Securus pulled its opposition, announcing that it would support the legislation. In order to engage with changes at Securus, Worth Rises spoke directly with Platinum and never once spoke with an official for Securus.

242. Meanwhile, Barnhill and Gores agreed to Worth Rises' suggestion to meet with families impacted by Securus's policies in January 2020.

243. Barnhill and Gores canceled the meeting with Worth Rises just two weeks before it was scheduled to occur.

244. In January 2020, Aventiv released its “Transformation Overview” document. In announcing the document, Platinum stated it was “driving a comprehensive reform agenda at portfolio company Aventiv and its subsidiary Securus Technologies to make services more accessible and affordable for incarcerated individuals and their loved ones.”

245. Among other items, the Transformation Document claimed that, “[u]nder Platinum Equity’s ownership Aventiv-Securus has . . . [m]emorialized [a] ban on contracting practices under prior ownership that limited in-person visitation [and] [d]ropped [its] longstanding opposition to regulation”⁷³

246. The Transformation Document also highlighted that Abel had been “named as President and Chief Executive Officer of both Securus Technologies and its parent, Aventiv Technologies, in January 2020. As his first order of business, Mr. Abel accelerated the reform program and announced an ambitious multi-year program that he pledged would ‘acknowledge past criticism, pursue present opportunities and lead future innovation.’”⁷⁴

247. Despite these statements, none of the Securus Defendants directed Securus to work with customer jurisdictions like St. Clair County to restore in-person visits but rather directed Securus to maintain the financial kickback scheme designed to end in-person visits. The Securus Defendants did not direct Securus to stop working with customer jurisdictions that had eliminated in-person visitation at Securus’s explicit or implicit command and instead continued to conspire with St. Clair County to profit from Family Visitation Ban.

⁷³ *Transformation Overview*, Aventiv, https://www.platinumequity.com/wp-content/uploads/2022/05/Aventiv_Transformation_Overview_02032022.pdf (last visited Mar. 14, 2024).

⁷⁴ *Id.* at 3.

248. Both before and after the release of the Transformation Document, Gores touted his individual involvement in the changes taking place with Securus.

249. In September 2019, when discussing Platinum’s ownership of Securus, Gores stated: “We are not going to pop in, make a few bucks and pop out. We are going to make it right first.”⁷⁵

250. In June 2020, Gores discussed the changes at Securus: “We are pleased to support those same goals both in concept and in action, as change agents who are transforming Securus Technologies and the industry as a whole.”⁷⁶

251. In October 2020, Gores stated that he “pledged 100% of [his] personal interest in Securus to meet the challenges of reform” As to Platinum’s ownership of Securus, he stated: “We are change agents shouldering the hard work of reform in the corrections services industry.”⁷⁷

252. In December 2020, Gores stated: “I really believe . . . that ultimately it’ll be a blessing that I’m in there and that someone cares about what’s happening.” Gores committed to retaining control of Securus to ensure needed reform took place: “I happen to really care about it, and people have asked me, ‘Hey, should you sell the company?’ No, why would I walk away where we can make change?”⁷⁸

⁷⁵ Darmiento, *supra* note 70.

⁷⁶ *Platinum Equity CEO Tom Gores Responds to Former FCC Commissioners on Transformation of Securus Technologies*, Aventiv (June 5, 2020), <https://www.aventiv.com/platinum-equity-ceo-tom-gores-responds-to-former-fcc-commissioners-on-transformation-of-securus-technologies>.

⁷⁷ Letter from Tom Gores, *supra* note 71.

⁷⁸ Tyler J. Davis, *Why Detroit Pistons’ Tom Gores Says It’s a “Blessing” to Own Prison Telecom Firm*, Detroit Free Press (Dec. 28, 2020), <https://www.freep.com/story/sports/nba/pistons/2020/12/28/tom-gores-detroit-pistons-securus-worth-rises/4050901001>.

253. Also in December 2020, Barnhill stated that Platinum was “collaborating with a broad coalition of groups and individuals on the sweeping transformation of Securus Technologies.”⁷⁹

254. In February 2022, Barnhill reemphasized that the team at Platinum was “acting as change agents to ensure Securus is an industry leader in terms of best practices.”⁸⁰

255. Gores personally selected David Abel to serve as President and CEO of both Aventiv and Securus. Abel carries out Gores’ direction with respect to setting Securus’s policies. “We have a lot of models that we use to be able to work with our government customers,” said Abel. “Some government customers require commissions to be able to provide a full suite of services. Some of them budget for those services,” he continued, confirming that the charging of commissions is an entirely discretionary practice that Platinum—and Gores—have decided to continue. “There’s certainly a lot of criticism in the market. It’s an easy target for people to be able to say that commissions are bad.” But, Abel concludes, they do not monitor whether their financial pressure and inducements could be contributing to violations of people’s constitutional rights: “We will provide our services to any organization or entity that has a mechanism by which we can get appropriately paid for those services.”⁸¹

⁷⁹ Laurence Darmiento, *Activists Urge NBA to Oust Pistons Owner Tom Gores Over Prison Phones Investment*, L.A. Times (Dec. 20, 2020), <https://www.latimes.com/business/story/2020-12-20/tom-gores-sell-detroit-pistons-securus>.

⁸⁰ *Response from Mark Barnhill, Partner at Platinum Equity*, Real Estate Capital USA, <https://media.recapitalusa.com/uploads/2022/02/Prisons-Responses.pdf> (last visited Mar. 14, 2024).

⁸¹ *CEO: How Public-Private Partnerships Are “Essential” in the Transformation of Aventiv/Securus*, Platinum Equity (Aug. 10, 2020), <https://www.platinumequity.com/news/ceo-how-public-private-partnerships-are-essential-in-the-transformation-of-aventiv-securus>.

256. Gores has acknowledged that making a profit from people in jails and prisons and their families may not be ethical. “Ultimately, I think this industry really should be led probably not by private folks. I think it probably should be—I’ll get killed for saying this, but—the nonprofit business, honestly,” said Gores.⁸² But despite acknowledging the immorality of price-gouging families—families who are disproportionately low-income and Black—as they struggle to stay connected to their incarcerated loved ones, Gores has continued to take part in this lucrative trade. Securus’s revenues reached \$767 million in 2020.

e. Defendants’ Family Visitation Ban Places Severe Financial Burdens on Families and Forces Children into a Web of Digital Surveillance.

257. In-person visitation is the only method of communication with a jailed loved one that is traditionally free and that offers relatively private communication. In addition to damaging intimate family relationships, ending in-person visitation places immense financial strain on low-income families, who are forced to pay unaffordable amounts if they need to communicate with their loved ones. Visitation bans also chill private family conversations and force young children to choose between having no contact at all with their parent and being surveilled, recorded, and turned into a digital profile created, retained, analyzed with proprietary artificial intelligence software, and shared across the country without their consent.

i. Low-income families bear the cost of Defendants’ profiteering.

258. Monopoly contracts to monetize jail communication add a costly financial burden on the families of those incarcerated. The enormous profits received by the Defendants are a direct

⁸² Omar Sankofra II & Angie Jackson, *Detroit Pistons Owner Tom Gores Speaks About Controversy Over Securus*, Detroit Free Press (Feb. 4, 2021), <https://www.freep.com/story/sports/nba/pistons/2021/02/04/tom-gores-detroit-pistons-securus-prison-phone-calls/4139871001/>.

tax on low-income families who have no other choice than to pay that money to keep their family minimally connected.

259. The economic burden of having an incarcerated family member is worsened by the financial costs of phone calls, video calls, commissary fees, and sending packages.

260. Each year, families spend more than \$1 billion dollars on jail and prison calls to remain in contact with their loved ones.⁸³

261. Many people cannot afford the high cost of phone and video calls. More than 1 in 3 families goes into debt to cover the costs of keeping in touch with their incarcerated loved one. Families are often forced to choose between communicating with their incarcerated loved ones and meeting the basic needs of family members both inside and outside of the jail.

262. “I can just barely cover my own rent and food,” said Plaintiff Marie Bills. “We only do phone calls; we can’t do the video calls because they’re too expensive and just not even close to being the same as seeing each other in person.”⁸⁴

263. Low-income women in particular bear the brunt of the financial burden. In one comprehensive survey, 82% of participants reported that family members were primarily responsible for the costs of maintaining contact during incarceration. Of the family members

⁸³ Rosalie Chen & Belle Lin, The High Cost of Phone Calls in Prisons Generates \$1.4 Billion a Year, Disproportionately Driving Women and People of Color into Debt, Business Insider (June 30, 2021), <https://www.businessinsider.com/high-cost-prison-communications-driving-debt-racial-wealth-gap-2021-6>.

⁸⁴ See also Erica Ayers, *Take Profit Out of Jail Calls. Make It Free to Talk to Loved Ones Behind Bars*, Detroit Free Press (May 8, 2021), <https://www.freep.com/story/opinion/contributors/2021/05/08/take-profit-out-prison-jail-calls/5008015001> (“I spend more than \$100 every month to hear my son’s voice for just 15 minutes a day, time I split with his children. And I spend hundreds more to get him everything he needs inside: real food, basic toiletries, fresh linens and clean socks. I often have to choose between utility bills and supporting him, a choice no mother should ever have to make.”).

responsible, 87% were women.⁸⁵ One study found that low-income women spend 26% of their income on visits, calls, and packages.⁸⁶

264. The financial cost of connection to incarcerated loved ones also reinforces the racial wealth gap. Nearly one in every four women is related to someone who is incarcerated, but Black women are more substantially affected than their white peers: 44% of Black women have a family member who is imprisoned, compared to 12% of white women.⁸⁷

265. In St. Clair County, the cost of connection mounts atop a staggering heap of fines and fees. The County charges the individuals it detains up to \$60 for each day of incarceration. Not only do families pay the psychological and emotional costs of separation, they must also foot the bill for the loss of their loved one's freedom. A.P. and C.P.'s family was billed over \$13,000 for the time that their father spent inside the jail.

266. Individual jurisdictions are gradually recognizing that monetizing human isolation and connection is wrong. In 2018, New York City became the first city to offer free jail calls. Since then, San Francisco, Miami, Louisville, and other cities have done the same. Entire states are following suit. Connecticut and California recently became the first states to make all prison calls free.

⁸⁵ Saneta deVunono-powell, et al., *Who Pays? The True Cost of Incarceration on Families* 30, Ella Baker Center (Sept. 2015), <https://ellabakercenter.org/wp-content/uploads/2022/09/Who-Pays-exec-summary.pdf>.

⁸⁶ Olga Grinstead, et al., *The Financial Cost of Maintaining Relationships with Incarcerated African American Men: A Survey of Women Prison Visitors* 6 J. of Afr. Am. Men 59 (2001).

⁸⁷ Hedwig Lee, et al., *Racial Inequalities in Connectedness to Imprisoned Individuals in the United States*, 12 Du Bois Rev. 2 (2015), <https://tinyurl.com/muuwnuv5>.

ii. Prohibiting visits forces the intimate communications of children into a web of corporate and government surveillance.

267. Defendants' Family Visitation Ban also ensures that every communication between outsiders and their loved ones is recorded and combed for data with increasingly sophisticated artificial intelligence algorithms. Securus's communications systems capture children and other non-incarcerated family members in an expanding web of surveillance, depriving them of the intimacy of private moments and intruding on their digital privacy.

268. Without in-person visitation, the only remaining avenues for families and friends of people in jails and prisons to communicate are not only expensive, they are also surveilled and recorded. This includes phone calls, video calls, and written communications like texts and emails. The knowledge that communication is recorded changes the nature of that communication, especially for a child.

269. Through these recordings, Securus harvests and use the personal data of not only incarcerated people, but the friends and family they are communicating with. Families of incarcerated people are forced to choose between being surveilled or not communicating with their loved ones at all. This is a coerced choice for all, but particularly for children, who cannot consent to sharing their private conversations with their mom or dad with companies that sell their personal information for profit across the country. Nor can children consent to having an artificial intelligence algorithm study and report on the child's mood and emotions to government agencies or corporate entities looking to sell that data. Entire communities, people who are charged with no crime, become enveloped in a vast net of invasive for-profit surveillance.

270. **Surveillance Databases.** As a byproduct of its monopoly control, Securus has built sprawling databases of recorded calls, texts, and emails from people in jails and prisons, a wealth of personal information that they market to those government and corporate entities willing to pay

for it. The companies' software records phone conversations and uses artificial intelligence to monitor and transcribe them. Although much is unknown about the extent of this surveillance and how it is used, the company's technology, at a minimum, flags words and phrases within conversations and forwards them to police and prosecutor agencies for review.

271. Such intrusive surveillance tools are vulnerable to abuse. In 2018, Securus was found to be providing hundreds of correctional facilities and county sheriffs' departments—including the St. Clair County Jail—with a tool to identify the GPS coordinates *of any cell phone an incarcerated person called*—resulting in the warrantless tracking of thousands of people whose only “crime” is knowing someone who is incarcerated. The cell-tracking service was reportedly discontinued after being exposed in media reports.

272. To meet their customers' demands, Securus offers other mass surveillance tools like THREADS to jurisdictions like St. Clair County. Described in Securus's contract with St. Clair County as a platform that “allows authorized law enforcement users to analyze corrections and communications data from multiple sources to generate targeted investigative leads,” THREADS is a sprawling database of recorded calls, phone records, billing names and addresses, data pulled from cell phones confiscated from people in the jail, and scanned detainee mail—all of it pooled and shared between the thousands of facilities where Securus operates.

273. Securus's THREADS database not only monitors people in the jail, it also collects information on anyone who communicates with those incarcerated people, including the Plaintiffs in this case. In language from its website in 2017, language which has since been scrubbed, Securus boasted that THREADS already included the names and billing addresses of over 600,000 people who were not incarcerated, but who had at some point communicated with incarcerated people over the Securus network.

274. **Voiceprint Surveillance.** Securus has also have expanded into voice-recognition surveillance, which relies on machine learning to associate unique biometric identifiers with each voice that is recorded during a company-provided phone or video call.

275. Securus now pitches government officials that their technologies can create digital voiceprints of incarcerated people, which are put into a database and used to identify people who engage in “suspicious activities.” These voiceprints are retained upon a person’s release and can identify and profile anyone whose voice reaches into their jails or prisons, including all the parents, children, family, and friends of incarcerated people.

276. Securus touts “state-of-the-art voice analysis technology,” boasting to prison and jail officials “You’ve Never Seen Voice Biometrics Like This.”⁸⁸ Securus claims to provide St. Clair and other county officials with tools to identify incarcerated individuals by name, to isolate a voice and search all calls for other appearances of that voice, and to provide “Fast Facts” about voices and called numbers. A Securus patent for “Multi-party conversation analyzer and logger” contemplates using voiceprints to facilitate “the investigation of networks of criminals, by gathering associations between phone numbers, the names of persons reached at those phone numbers, and voice print data.”⁸⁹ Jail officials have confirmed that voiceprints are captured for non-incarcerated people calling into the Securus system.⁹⁰

⁸⁸ *Investigator Pro*, Securus Technologies, <https://securustechnologies.tech/investigative/investigation/investigator-pro> (last visited Mar. 14, 2024).

⁸⁹ U.S. Patent No. 10,069,966, <https://uspto.report/patent/grant/10,069,966> (last visited Mar. 14, 2024).

⁹⁰ George Joseph & Debbie Nathan, *Prisons Across the U.S. are Quietly Building Databases of Incarcerated People’s Voice Prints*, The Intercept (Jan. 30, 2019), <https://tinyurl.com/y7umfjxc>; George Joseph & Debbie Nathan, *Why is a Prison Company Storing the Voice Prints of Even Innocent People?* FastCompany.com (Feb. 14, 2019), <https://tinyurl.com/mbwnc6jp>.

f. Defendants' Family Visitation Ban Serves No Important State Interest and Actually Damages Jail and Community Safety.

277. Although St. Clair prohibits in-person visits for primarily financial reasons, municipalities and companies sometimes claim that concerns about “security” support ending in-person visits. The evidence does not support those assertions. To the contrary, prohibitions on visits harm jail security and public safety outside the facility.

278. Decades of research establish that in-person visits between loved ones yields a cascade of profound positive effects, including for jail security. Visits buoy the psychological and social health of incarcerated people, decrease the likelihood of misconduct or disciplinary action, and increase safety for both jail staff and people in their custody.

279. Moreover, visitation decreases the likelihood of arrest and incarceration after release, increasing public safety, saving money (for families and the government), and mitigating the damage incarceration wreaks on families and communities.

i. In-person contact visits make the jail safer.

280. In-person visits reduce misconduct and violence, creating a significantly safer jail environment.

281. Jails and prisons physically isolate incarcerated people from their loved ones and communities, causing severe emotional distress and lasting damage to their mental, physical, and cognitive health. Harsh jail conditions—including solitary confinement, violence, and the stress of daily life—produce “a form of traumatic stress” that is “severe enough to produce post-traumatic stress reactions once released.”⁹¹

⁹¹ Craig Haney, *Criminality in Context: The Psychological Foundations of Criminal Justice Reform* 380 (2020) (pointing to the staggering number of collateral effects of incarceration, many of which can have significant criminogenic consequences).

282. Incarcerated parents also suffer tremendous harm when separated from their children. They face stressors including general worry about the well-being of their children, lack of control associated with forced separation, caregiver conflict, custody issues, concerns regarding transparency about their criminal behavior, and loss of identity as a parent. These stressors have been associated with more anxiety symptoms, more frequent institutional misconduct, and more in-facility aggression for parents who are incarcerated.

283. Regular in-person visitation is a key intervention to alleviating the traumatic and often irreparable harms of incarceration. The ability to connect face-to-face is considered a vital bonding opportunity for detainees and their families or friends. The moral support and continued human connections provided by families through visitation helps to lessen some of the psychological damage incurred as a result of the experience of incarceration.

284. Incarcerated people who receive more frequent, regular visits with their family members tend to be less depressed, anxious, and stressed. “Improving optimism of incarcerated people could be easily overlooked as a policy target,” observes Professor Josh Cochran, Ph.D., a national expert on visitation and correctional policy evaluation, “but it is likely important—for safety and order, for treatment effectiveness, and for reentry—that jails and prisons promote conditions for optimism.”

285. Just as isolation contributes to self-harm and distress among incarcerated people, regular visitation helps maintain a more peaceful environment within detention facilities. Incarcerated people who receive consistent visits are substantially less likely to engage in misconduct. Even one visit can have an effect, and visits from parents or guardians are particularly effective.

286. According to Dora Schriro, a corrections administrator with nearly 35 years running jails and prisons, “more contact visits are correlated with a decrease in the severity and number of inmate-on-inmate, inmate-on-staff, and staff-on-inmate incidents of violence, as well as a decrease in acts of self-harm, uses of force, the trafficking of contraband, and revocations or recidivism after their release.”

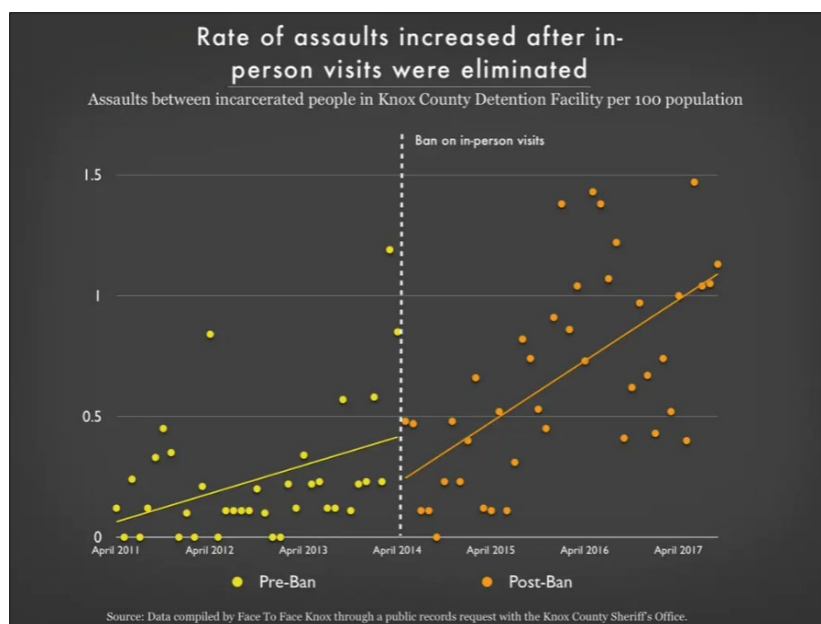
287. Unsurprisingly, the available evidence shows visitation bans lead to heightened jail misconduct, and when visits are replaced by expensive and error-ridden video calls, violence and disciplinary issues tend to dramatically increase.

288. After in-person visitation was eliminated in Travis County, Texas, to take one representative example, the jail experienced a 20% surge in altercations between incarcerated people, and a 100% increase in the number of detainee-on-staff assaults.⁹² Two years after the initial change, Travis County legislators brought back in-person visitation to the jail.

289. Similarly, in Knox County, Tennessee, the replacement of family visits with video calls coincided with more jail violence—including more assaults on staff—and higher numbers of disciplinary infractions. The jail’s own data showed that the change made detainees and jail staff all less safe.⁹³

⁹² Jorge Renaud, Video Visitation: How Private Companies Push for Visits by Video and Families Pay the Price at 9, Tex. Crim. J. Coalition (Oct. 2014), <https://www.texasjc.org/system/files/publications/TCJC%20GL%20Video%20Visitation%20Report%20%28Oct%202014%29.pdf>.

⁹³ *To What End?: Assessing the Impact of the Knox County Jail’s Ban on In-Person Visits*, Face to Face Knox Report (Jan. 29, 2018), <https://tinyurl.com/bdz6jpc5>.



Jail violence went up after Knox County, TN, prohibited family visits

290. Perhaps because of their positive effect on jail safety, in-person visits also boost staff morale. In short, when incarcerated people have something to look forward to, the better their interactions with the jail’s workforce. In her decades of experience, Dora Schriro has observed that “[i]n-person contact visits improve staff safety and job satisfaction, both of which contribute to improvements in staff recruitment and retention.” She continues to note that “[t]he chemistry that begins with an effective visitation program can and will run through the facility and its sheriff’s department or correctional system, yielding greater job satisfaction, less turnover, fewer vacancies, a drop in mandatory overtime, and increased staff retention.”

291. On the whole, prohibiting visits makes everyone in jails—those who work there and those who are incarcerated there—less safe and more vulnerable to violence.

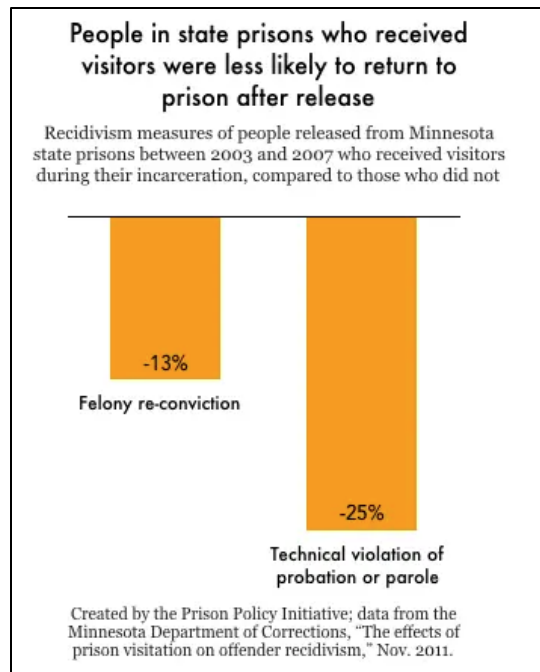
ii. In-person contact visits make the broader community safer.

292. Restricting visits also harms community safety. There is strong evidence that incarcerated people who receive sustained family contact through visitation are far less likely to return to jail or prison after release.

293. The beneficial effects of visitation on future contact with the criminal system have been well-known for decades. Seeing loved ones face-to-face provides crucial emotional support to people coping with the pains of family separation and incarceration, and helps to maintain, repair, and strengthen the social bonds that are crucial to leading joyous and productive lives following release.

294. A study by the Minnesota Department of Corrections, the largest and most thorough of its kind, concluded that people who received visits while incarcerated were substantially less likely to recidivate.⁹⁴ Tracking over sixteen thousand individuals released from Minnesota prisons, the study showed that, when controlling for numerous other factors, prisoners who received visits were 13% less likely to be reconvicted of a felony after release and 25% less likely to have their probation or parole revoked.

⁹⁴ Grant Duwe & Valerie Clark, *Blessed Be the Social Tie that Binds: The Effects of Prison Visitation on Offender Recidivism*, 24 *Crim. Just. Pol'y Rev.* 271, 277 (2013), <https://journals.sagepub.com/doi/10.1177/0887403411429724>.



295. If anything, the Minnesota study is an *underestimate* of the salutary effects of visitation on community safety. A meta-analysis examining findings from 16 different empirical studies found that people who experienced in-person visits while incarcerated were 26% less likely to recidivate than their unvisited peers.⁹⁵ The frequency of visits matters too. More frequent visits amplify the positive effects of visitation.

296. Visitation also makes it more likely someone will be employed after release. A large-scale study of more than 15,000 individuals released from Minnesota state prisons found that in-person visits significantly predicted employment in the short and long term. In fact, visitation's effect was comparable to the more targeted interventions offered in state prisons, such as

⁹⁵ Meghan M. Mitchell, *The Effect of Prison Visitation on Reentry Success: A Meta-Analysis*, 47 J. Crim. Just. 74 (Dec. 2016), <https://www.sciencedirect.com/science/article/abs/pii/S0047235216300575..>

vocational rehabilitation or work release, in its beneficial impact.⁹⁶ Other studies have reached similar conclusions about the employment-boosting power of in-person visits.

297. In sum, in-person jail visits directly contribute to higher rates of employment, lower rates of criminal activity, safer communities, and less expenditure of taxpayer dollars. For these reasons, researchers refer to in-person family visits as the “prime treatment agent,” a panacea that leaves everyone better off.⁹⁷ There is no evidence that video calls have a comparable effect. Prohibiting in-person visits as Defendants have done imperils the health and safety of incarcerated persons, visitors, staff, and the public at large.

iii. Jails and prisons across the country have restored in-person visitation after its suspension without undermining safety or security.

298. In-person visits do not pose an unmanageable risk to institutional safety or security.

299. In-person visitation is the norm in state and federal prisons. But the earliest days, weeks, and months of incarceration are the most painful and chaotic, and therefore the period of time when contact with one’s community outside the jail or prison is likely to have the largest mitigating effect. In most jails, nearly everyone who is incarcerated is experiencing the early pains of adjusting to incarceration. Thus, in-person visits likely present even greater benefits in jails than in the prison setting.

⁹⁶ Duwe and Clark (2017). Grant Duwe & and Valerie A. Clark, *Nothing Will Work Unless You Did: The Predictors of Postprison Employment*, 44 *Crim. Just. & Behavior* 657 (2017), <https://journals.sagepub.com/doi/abs/10.1177/0093854816689104>

⁹⁷ Norman Holt & Donald Miller, *Explorations in Inmate-Family Relationships*, Cal. Dep’t of Corrs. (1972), https://www.prisonlegalnews.org/media/publications/holt_miller_prisoner_and_family_relations_hip_recidivism_study_1972.pdf.

300. Jails or prisons operate appreciably better when those who are in custody are able to maintain family and community ties. Jurisdictions that reinstated in-person visits after suspending them cited the positive impact in-person visits can have on people in the facilities and their families without undermining the safety and security of the facilities.

- In Multnomah County, Oregon, Sheriff Dan Staton reversed the ban on in-person visits in Portland jails to give families the opportunity to visit incarcerated loved ones via video or in-person.⁹⁸
- In Dallas County, Texas, the county government reversed its ban on in-person visitation in its jail. As Dallas County Judge (an executive position) Clay Jenkins stated, “[p]sychology and common sense tells you that it’s better for the prisoners and families to sit across from each other and see each other, rather than talking through an iPad.”⁹⁹
- In Mecklenburg County, North Carolina, Sheriff Gary McFadden proudly defended his jail’s return to in-person visitation, noting that it improves public safety, reduces recidivism, and reduces the likelihood that someone will commit an infraction inside the jail.¹⁰⁰

301. Other jurisdictions that suspended in-person visits at the outset of the COVID-19 pandemic have since recognized the importance of visits and reinstated them.

- In April 2020, the Michigan Department of Corrections temporarily halted in-person visits and turned to video calling as an interim replacement. In March 2021, the MDOC restored families’ access to in-person contact visitation. “Connections with family and the community lead to greater offender success,” said MDOC Director Heidi Washington.
- King County, Washington, eliminated in-person visitation during the pandemic and subsequently saw a sudden rise in the number of deaths by suicide in the jail. Family

⁹⁸ Street Roots, *Multnomah County Sheriff to Preserve In-Person Visitations* (Mar. 3, 2015), <https://www.streetroots.org/news/2015/01/27/mult-co-sheriff-preserve-person-visitations>.

⁹⁹ Mindy Fetterman, *Face-to-Face Family Visits Return to Some Jails*, Stateline (Feb. 15, 2017), <https://stateline.org/2017/02/15/face-to-face-family-visits-return-to-some-jails/>.

¹⁰⁰ WFAE 90.7, *In-Person Visitations Restored at Mecklenburg County Jails, Sheriff’s Office Says*, (Jan. 16, 2019), <https://www.wfae.org/post/person-visitations-restored-mecklenburg-county-jails-sheriffs-office-says#stream>.

members attributed the deterioration of their loved ones' mental health to the shutdown of in-person visits. Despite overcrowding problems that increased staff-to-inmate ratios, the county decided to bring back in-person visitation.¹⁰¹

- Ottawa County, Michigan, eliminated in-person visits for several months at the height of the pandemic but reinstated them thereafter. Ottawa County Sheriff Steve Kempker stated: “We realize that it is an important piece, not only for the communication with their families and friends . . . but also for the citizen that is lodged in our jail, for . . . their mental health.”¹⁰²
- In Illinois, the Cook County Department of Corrections eliminated in-person visits at the jail during the COVID-19 pandemic. Sheriff Thomas J. Dart later reinstated in-person visitation, explaining that “nothing can replace seeing loved ones face-to-face[.] . . . We believe this is not only beneficial for those in our custody, but also for our staff, since it reduces anxiety among individuals in custody.”¹⁰³

302. The experiences of these and many other jurisdictions demonstrate that ending in-person visitation is not necessary to run a safe and secure jail—indeed, ending in-person visitation undermines those very goals.

CLASS ACTION ALLEGATIONS

303. Plaintiffs bring this action as a class action, pursuant to Michigan Court Rule 3.501, on behalf of themselves and all others similarly situated.

304. Plaintiffs seek to certify one class and one subclass of similarly situated people defined as follows:

- The Class consists of all individuals with a parent or child detained at the St. Clair County Jail at any point since March 15, 2021.

¹⁰¹ Sydney Brownstone & David Gutman, *Amid Spike in Suicides, King County Jail to Restore Visits, Services*, Seattle Times (Sept. 19, 2022), <https://www.seattletimes.com/seattle-news/times-watchdog/amid-spike-in-suicides-king-county-jail-to-restore-visits-services-within-two-years/>.

¹⁰² Beenish Ahmed, *One Man's Fight to Bring Back Visits in the Wayne County Jail*, Mich. Public Radio (Jan. 30, 2023), <https://www.michiganradio.org/criminal-justice-legal-system/2023-01-30/jail-visitation>.

¹⁰³ Matt Masterson, *Cook County Sheriff Resumes In-Person Visits for Jail Detainees*, WTTW (June 8, 2020), <https://news.wttw.com/2020/06/08/cook-county-sheriff-resumes-person-visits-jail-detainees>.

- The Prospective Relief Subclass consists of all individuals whose parent or child is currently detained or will become detained in the St. Clair County Jail. The Prospective Relief Subclass is, by its nature, a transitory class seeking only declaratory and injunctive relief on behalf of people whose own individual claims for prospective relief would be capable of repetition yet evading review absent the ability to proceed as a class.

305. The class allegations and law are set forth in this Complaint and also in detail in the accompanying Motion for Class Certification.

306. **Numerosity.** Upon information and belief, the Class and Subclass each have hundreds or even thousands of class members. In 2023, 3,714 people were booked into the St. Clair County Jail. The members of the proposed Class and Subclass are so numerous that joinder of all members is impracticable. A class action is the only practicable means by which Plaintiffs and class members can challenge Defendants' unconstitutional policies and practices.

307. **Commonality.** There are multiple questions of law and fact common to all members of the Class. Because this case is a quintessential class action challenging the application of a blanket government policy to a group of people harmed by it, the entire set of dispositive factual and legal questions, as well as the subsidiary ones on which they rely, are shared. These include questions about what the policies are, how the scheme works, and whether the policies are lawful.

308. Plaintiffs' claims are based on the factual allegation that Defendants bar them from visiting loved ones at the jail, and that Defendants uniformly apply this policy to all Class members. Every form of evidence and proof concerning how, why, and when those policies were and are enforced, who developed them (including how Defendants acted in concert), and what effective alternative policies exist that would not require prohibition on visits are common questions of fact. Similarly, the evidence concerning the empirical research—including expert

testimony—showing how such policies affect parents and children and jail administration presents common questions of fact. There are also ample and dispositive questions of law that must be resolved to address all claims. First, Plaintiffs assert fundamental rights to the integrity of the parent-child relationship and to intimate familial association, which have been infringed by Defendants. The Court will, therefore, be required to define the scope of these rights under the Michigan Constitution in this context and, relatedly, whether the actions taken by Defendants are properly considered an infringement of those fundamental protections. Second, in answering those questions, the Court will be required to determine the level of scrutiny that is warranted when those important rights are infringed. Third, the Court will be called upon to apply the common facts to the common questions of law to determine whether Defendants’ violation of the Plaintiffs’ rights is necessary to further a compelling government interest. Fourth, as Plaintiffs allege a conspiracy between County Defendants and Securus Defendants to enforce and profit from a prohibition on family visits, the Court must apply the common evidence of such a conspiracy to liability for the entire Class. Thus, common questions include, but are not limited to:

- Do Defendants prohibit class members from visiting their parents and children at the St. Clair County Jail?
- Do children and parents enjoy a constitutional right to family integrity and a constitutional right to intimate familial association?
- Does Defendants’ blanket prohibition of in-person visits infringe on the class members’ right to family integrity and to familial association?
- What level of scrutiny is warranted when Plaintiffs’ fundamental rights to family integrity and familial association are infringed?
- Do Defendants meet the standard of constitutional scrutiny required to justify such a deprivation?
- Did Defendants act in concert to make money by prohibiting in-person visits to children and parents whose family members are in the St. Clair County Jail?

309. **Superiority.** A class action is the superior method to adjudicate the claims as questions of law and fact predominate over questions affecting only individual class members. Defendants have acted and failed to act in a manner that applies generally to the Class and Subclass as a whole, rendering class-wide relief appropriate.

310. **Typicality.** Plaintiffs' claims are typical of the claims of the Class and Subclass. That typicality stems from the fact that Defendants have denied each class member family contact in violation of the same constitutional and legal rights. Additionally, Plaintiffs, like every other Class member, are injured by the same unconstitutional policies and practices maintained by Defendants.

311. **Adequacy.** Plaintiffs will fairly and adequately represent the interests of the Class and Subclass. Plaintiffs do not have any conflicts with the unnamed members of the proposed Class or Subclass.

312. Plaintiffs are represented by attorneys from Civil Rights Corps; Public Justice; Pitt McGehee Palmer Bonanni & Rivers, PC, each of whom has experience litigating complex civil rights class action matters and extensive knowledge of both the details of Defendants' practices and the relevant law. Plaintiffs' counsel have the resources, expertise, and experience to prosecute this action.

CLAIMS FOR RELIEF

COUNT I:

Rights to Family Integrity and Familial Association Under the Michigan Constitution

By all Plaintiffs, individually and on behalf of the Class,

Against the County Defendants for Damages; and

By all Named Plaintiffs seeking to represent the Prospective Relief Subclass,

individually and on behalf of the Prospective Relief Subclass,

*Against the County Defendants for Declaratory, Preliminary Injunctive,
and Permanent Injunctive Relief*

313. Plaintiffs re-allege and incorporate by reference the preceding allegations in this Complaint as if fully set forth herein.

314. Plaintiffs have a fundamental right to family integrity under the Due Process Clause of the Michigan Constitution, Mich. Const. art. 1, § 17, the Equal Protection Clause of the Michigan Constitution, Mich. Const. art. 1, § 2, and Article 1 § 23 of the Michigan Constitution which protects rights that are not explicitly enumerated in the state Constitution.¹⁰⁴ Plaintiffs also have a fundamental right to intimate familial association under Article 1 § 3 of the Michigan Constitution, Mich. Const. art. 1, § 3, and Article 1 § 23 of the Michigan Constitution.

315. Plaintiffs' fundamental rights may be infringed only where the government demonstrates that the infringement is necessary to further a compelling government interest. Defendants' ban on in-person visiting does not meet such a standard. Even if a lesser standard applied, Defendants could not meet it because the blanket Family Visitation Ban is not reasonably connected to any legitimate penological interest, and because the ban is both pursued for profit and an inappropriate response to any purported legitimate interests.

316. Defendants' Family Visitation Ban violates Plaintiffs' fundamental rights to family integrity and familial association by preventing them from hugging, touching, making eye contact with, intimately communicating with, or spending time in the same room with their incarcerated parents and children. The prohibition on physical presence and contact causes irreparable harm to

¹⁰⁴ See, e.g., *Reist*, 396 Mich at 341 (1976) ("The interest of parent and child in their mutual support and society are of basic importance in our society and their relationship occupies a basic position in this society's hierarchy of values. Clearly any legal adjustment of their mutual rights and obligations affects a fundamental human relationship. The rights at stake are 'protected' and encompassed within the meaning of the term 'liberty' as used in the Due Process Clause."); *id.* at n 21 (citing to the Michigan Constitution); see also *In re Rood*, 483 Mich 73, 91 (2009) ("A natural parent has a fundamental liberty interest 'in the care, custody, and management' of his child that is protected by . . . article 1, § 17, of the Michigan Constitution.").

the parent-child relationship and inflicts significant, lasting trauma. The ban is arbitrary, irrational, and unnecessary to further any conceivable penological interest.

317. In coordinating, implementing, and enforcing the Family Visitation Ban, Defendants willfully and intentionally violated Plaintiffs' constitutional rights and acted with reckless indifference to such rights.

COUNT II:

Conspiracy

*By all Plaintiffs, individually and on behalf of the Class,
Against All Defendants for Damages; and
By all Named Plaintiffs seeking to represent the Prospective Relief Subclass,
individually and on behalf of the Prospective Relief Subclass,
Against All Defendants for Declaratory and Permanent Injunctive Relief*

318. Plaintiffs re-allege and incorporate by reference the preceding allegations in this Complaint as if fully set forth herein.

319. Defendants conspired to violate Plaintiffs' constitutional rights by unnecessarily and indiscriminately prohibiting in-person visits, separating children from their parents.

320. The Securus Defendants and the County Defendants, in concert with one another, have, through their acts and omissions, ratified, adopted, and approved the policies that have resulted in Plaintiffs' injuries. Specifically, they have prohibited in-person visitation at the St. Clair County Jail, violating Plaintiffs' constitutional rights to family integrity and intimate association.

321. The Securus Defendants and the County Defendants each intended that their actions would lead to prohibiting Plaintiffs' ability to visit their parents and children in-person at the county jail in order to increase cash payments to themselves. And the combined actions of the Securus Defendants and the County Defendants did and do in fact prohibit in-person visitation at the jail, violating Plaintiffs' constitutional rights.

322. Throughout the conspiracy, the County Defendants have directly violated Plaintiffs' constitutional rights by enforcing a total jail-wide ban on in-person visitation. Throughout the conspiracy, the Securus Defendants have encouraged, lent aid to, and financially incentivized the County Defendants to prohibit in-person visits, and continue to pay, assist, and encourage the County Defendants to maintain their total and unlawful visitation ban.

323. The Securus Defendants and County Defendants have known of each other's tortious conduct and have intended to aid in its commission. The Securus Defendants and County Defendants' tortious conduct has caused grievous and lasting harm to Plaintiffs.

REQUEST FOR RELIEF

324. WHEREFORE, on the basis of the foregoing, Plaintiffs request that this Court enter judgment in their favor and issue the following relief:

- Pursuant to MCR 2.201(E)(2), appoint the next friends as nominated in ¶¶ 16, 19, 20, *supra*;
- Class certification under Michigan Court Rule 3.501 as described in the contemporaneously filed Motion for Class Certification;
- A declaration that Defendants violate Plaintiffs' rights under the Michigan Constitution by enforcing a blanket denial of Plaintiffs' ability to visit their parents or children in person;
- Preliminary and permanent injunctions as to Defendants St. Clair County and Sheriff King, enjoining them from continuing to enforce the Family Visitation Ban;
- A permanent injunction against Defendants Securus, Platinum Equity, Tom Gores, Mark Barnhill, and David Abel, enjoining them from continuing to conspire to prohibit in-person visits;
- Compensatory and exemplary damages to be determined at a jury trial;
- Equitable monetary relief in the form of disgorged profits made from depriving parents and children of in-person visits;
- Reasonable expenses and costs of litigation;

- Reasonable attorney's fees; and
- Such other relief as the Court deems just and proper.

Date: March 15, 2024,

Respectfully submitted,

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