

STATE OF MICHIGAN

IN THE 7th CIRCUIT COURT FOR THE COUNTY OF GENESEE

S.L., T.L.L., T.L., C.L., M.L., J.L., N.L., D.L.,
and H.L., by their next friend Onisha Lyle,
Z.T.E., Z.W., K.W., by their next friend
Monica Garfield, A.H., by her next friend
Karla Darling, A.B. and E.B., by their next
friend Brya Bishop, O.W., by her next friend
Martreanna Browning, LE'ESSA HILL,
FLORENCE MARBLE, and PAUL
MARBLE, individually and on behalf of a
class of similarly situated persons,

Plaintiffs,

v.

SHERIFF CHRISTOPHER SWANSON,
GENESEE COUNTY, GLOBAL TEL*LINK
CORPORATION (D/B/A VIAPATH
TECHNOLOGIES), and DEB ALDERSON,

Defendants.

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GENESEE COUNTY CLERK

Case No. 2024- 20001 -CZ

CELESTE D. BELL

P-41453

Hon. _____

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL**

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CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

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)

TABLE OF CONTENTS

INTRODUCTION	4
PARTIES	8
JURISDICTION AND VENUE	13
FACTUAL ALLEGATIONS	14
a. Defendants Prohibit In-Person Visits at the Genesee County Jail.	14
i. Each year, thousands of people spend months in the Genesee County Jail, many of whom have not been convicted of any offense.	14
ii. The County Defendants prohibit face-to-face visitation in the Genesee County Jail, preventing families from visiting their loved ones.....	15
iii. Plaintiffs are or were unable to visit their parents and children in the Genesee County Jail.	21
b. Defendants’ Visitation Ban Inflicts Grievous Harm on Children and Parents.	33
i. The parent-child relationship is a cornerstone of society.....	34
ii. Physical presence and touch are vital to the parent-child relationship.....	35
iii. Keeping children and parents from being together harms them both.	38
iv. In-person contact visits mitigate the harms of family separation.....	44
v. Video calls do not provide the benefits of in-person contact.	46
vi. State and international government agencies—including the Michigan Department of Corrections—recognize that allowing families to visit each other furthers compelling state interests.	51
c. Defendants’ Scheme to Ban Visits Emerges From a Broader Business Strategy.....	57

i.	GTL dominates the market for jail and prison calls and exploits families desperate to stay in touch with their jailed loved ones.	58
ii.	GTL pays municipalities hundreds of thousands of dollars to prohibit in-person visiting in order to increase profits.	61
d.	Defendants Continue to Ban In-Person Visits to Maximize Revenue from Expensive Phone and Video Calls.	64
i.	For years, the County Defendants and GTL have worked together to extract money from the families of people in the jail.	65
ii.	GTL’s actions—including its ongoing conspiracy to deprive Genesee County families of in-person visits—are personally directed by CEO Deb Alderson.	67
e.	Defendants’ Family Visitation Ban Places Severe Financial Burdens on Families and Forces Children into a Web of Digital Surveillance.	68
i.	Low-income families bear the cost of Defendants’ profiteering.	69
ii.	Prohibiting visits forces the intimate communications of children into a web of corporate and government surveillance.	71
f.	Defendants’ Family Visitation Ban Serves No Important State Interest and Actually Damages Jail and Community Safety.	73
i.	In-person contact visits make the jail safer.	74
ii.	In-person contact visits make the broader community safer.	78
iii.	Jails and prisons across the country have restored in-person visitation after its suspension without undermining safety or security.	80
	CLASS ACTION ALLEGATIONS	82
	CLAIMS FOR RELIEF	86
	REQUEST FOR RELIEF	88

INTRODUCTION

1. On September 22, 2014, Genesee County officials enacted 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 no longer be able to hug their loved one or look into their eyes. It made electronic communications—phone and 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 initial decision in 2014 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 people 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. As one County official put it, “That video visitation is going to work . . . A lot of people will swipe that Mastercard and visit their grandkids.”¹

5. At then-Undersheriff (now-Sheriff) Christopher Swanson's direction, in 2018, the jail's captain told an account executive for Global Tel*Link Corporation (GTL)—the other major jail telecommunication company in the country—that the County Defendants wanted to make

¹ Ron Fonger, *Jail Inmates Targeted as New Genesee County Revenue Source*, MLive (Sept. 5, 2012), https://www.mlive.com/news/flint/2012/09/jail_inmates_targeted_as_new_g.html.

more money from phone and video calls than the cash-incentive arrangement with Securus: “We need the best deal you can do,” he wrote. And he got it.

6. The County Defendants switched providers for the jail, negotiating and then signing a contract with GTL in 2018. Under that contract, which remains in effect, GTL pays the County Defendants \$180,000 per year from the company’s phone call revenue, an annual cash payment called a “technology grant” of \$60,000, and 20% of the cost of every video call (the contract priced video calls at: \$10.00 for 25 minutes). GTL projected that the County would receive another \$16,000 per year from its cut of the video call revenue alone. The contract also gives GTL the right to terminate its video call service if the Sheriff does not produce sufficient cash revenue from the video calls for the Defendants to split between themselves. In total, the GTL agreement promises the County that it will receive at least \$240,000 in incentive payments each year based on its current policies.

7. The jail’s captain explained the reason for switching to GTL in the simplest terms: money. “GTL offers a set guaranteed commission that is more than the average monthly commission we currently get [from Securus].”

8. The 2018 contract has been extended, with additional revenue-generating “services,” through 2027. Defendant Christopher Swanson runs the Genesee County Jail like a profit center, seeking to make the facility a “revenue generating machine,” first as Undersheriff, and now as Sheriff.

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

10. 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 \$10.00 for 25 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.

11. 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, than 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.

12. 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.

13. Under Defendants' Family Visitation Ban, children and parents are unable to maintain the in-person connections that are essential to intimate family relationships.

14. 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.

15. 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.

16. 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, increases 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.

17. 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

18. **S.L.** is a 17-year-old resident of Genesee County, Michigan. Pursuant to MCR 2.201(E)(2)(a)(i), S.L. nominates her mother, Onisha Lyle, to serve as next friend in this action. S.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. S.L. also represents a subclass of similarly situated people seeking injunctive relief.

19. **T.L.L.** is a 16-year-old resident of Genesee County, Michigan. Pursuant to MCR 2.201(E)(2)(a)(i), T.L.L. nominates his mother, Onisha Lyle, to serve as next friend in this action. T.L.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. T.L.L. also represents a subclass of similarly situated people seeking injunctive relief.

20. **T.L.** is a 15-year-old resident of Genesee County, Michigan. Pursuant to MCR 2.201(E)(2)(a)(i), T.L. nominates his mother, Onisha Lyle, to serve as next friend in this action. T.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. T.L. also represents a subclass of similarly situated people seeking injunctive relief.

21. **C.L.** is a 12-year-old resident of Genesee County, Michigan. Pursuant to MCR 2.201(E)(2)(a)(i), C.L. nominates his mother, Onisha Lyle, to serve as next friend in this action. C.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. C.L. also represents a subclass of similarly situated people seeking injunctive relief.

22. **M.L.** is an 11-year-old resident of Genesee County, Michigan. M.L.'s mother, Onisha Lyle, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as M.L.'s next friend

in this action. M.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. M.L. also represents a subclass of similarly situated people seeking injunctive relief.

23. **J.L.** is a 7-year-old resident of Genesee County, Michigan. J.L.'s mother, Onisha Lyle, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as J.L.'s next friend in this action. J.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. J.L. also represents a subclass of similarly situated people seeking injunctive relief.

24. **N.L.** is a 6-year-old resident of Genesee County, Michigan. N.L.'s mother, Onisha Lyle, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as N.L.'s next friend in this action. N.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. N.L. also represents a subclass of similarly situated people seeking injunctive relief.

25. **D.L.** is a 4-year-old resident of Genesee County, Michigan. D.L.'s mother, Onisha Lyle, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as D.L.'s next friend in this action. D.L. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. D.L. also represents a subclass of similarly situated people seeking injunctive relief.

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

27. **Z.T.E.** is a 10-year-old resident of Genesee County, Michigan. Z.T.E.'s grandmother, Monica Garfield, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as Z.T.E.'s next friend in this action. Z.T.E. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. Z.T.E. also represents a subclass of similarly situated people seeking injunctive relief.

28. **Z.W.** is a 6-year-old resident of Genesee County, Michigan. Z.W.'s grandmother, Monica Garfield, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as Z.W.'s next friend in this action. Z.W. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. Z.W. also represents a subclass of similarly situated people seeking injunctive relief.

29. **K.W.** is a 4-year-old resident of Genesee County, Michigan. K.W.'s grandmother, Monica Garfield, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as K.W.'s next friend in this action. K.W. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy. K.W. also represents a subclass of similarly situated people seeking injunctive relief.

30. **A.B.** is a 5-year-old resident of Genesee County, Michigan. A.B.'s mother, Brya Bishop, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as A.B.'s next friend in this action. A.B. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

31. **E.B.** is an 8-year-old resident of Genesee County, Michigan. E.B.'s mother, Brya Bishop, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as A.B.'s next friend in this action. E.B. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

32. **A.H.** is a 15-year-old resident of Genesee County, Michigan. Pursuant to MCR 2.201(E)(2)(a)(i), A.H. nominates her mother, Karla Darling, to serve as her next friend in this action. A.H. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

33. **O.W.** is a 2-year-old resident of Wayne County, Michigan. O.W.'s mother, Martreanna Browning, pursuant to MCR 2.201(E)(2)(a)(ii), nominates herself to serve as O.W.'s next friend in this action. O.W. brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

34. **Le'Essa Hill** is an 18-year-old resident of Genesee County, Michigan. Ms. Hill brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

35. **Florence Marble** is a 53-year-old resident of Genesee County, Michigan. Ms. Marble brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

36. **Paul Marble** is a 57-year-old resident of Genesee County, Michigan. Mr. Marble brings this action individually and on behalf of a Class of similarly situated people injured by Defendants' Family Visitation Ban and conspiracy.

37. **Genesee County Sheriff Christopher Swanson.** The Genesee County Sheriff is the chief law enforcement officer for Genesee County and the operator of the Genesee County Jail located at 1002 South Saginaw Street, Flint, MI 48502. 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.² The Sheriff negotiated the telecom contracts and kickbacks that led to the jail's prohibition on in-person visits and enforces the jail's visitation ban. Defendant Swanson is sued in his official capacity for declaratory, injunctive, and monetary relief.

38. **Genesee County.** Genesee County, Michigan (the "County") is a municipal corporation formed under the laws of Michigan. The County Board of Commissioners approved the contract between the Sheriff's Office and GTL and signed the first and second amendments to the contract. The County is sued for declaratory, injunctive, and monetary relief.

39. Defendants Genesee County and Sheriff Christopher Swanson are referred to throughout the complaint as the "County Defendants."

40. **Global Tel*Link Corporation.** Defendant Global Tel*Link Corporation ("GTL"), currently doing business as ViaPath Technologies,³ is one of the two largest providers of prison and jail telecommunications in the United States. GTL has contracts requiring incarcerated people and their families to use its products in approximately 2,300 facilities, including 32 state departments of corrections and over 650 counties.⁴ GTL is sued for declaratory, injunctive, and monetary relief.

41. **Deb Alderson.** Defendant Alderson is CEO of GTL, a position she had held since 2018. As CEO, Alderson is responsible for determining and controlling GTL's actions. She

² MCL 51.75, MCL 51.281.

³ Jail telecommunications companies frequently change their names in order to create distance from their past documented exploitative practices. GTL rebranded as ViaPath Technologies in 2022. This complaint uses "GTL," the name of the company at the beginning of the alleged conspiracy, and the name by which the company is commonly known.

⁴ About GTL, <https://www.gtl.net/about-us/> (last visited Mar. 13, 2024).

personally participates in designing and maintaining the policies of GTL, including by ratifying, adopting, and approving the policies relating to calls, visits, and financial incentives. Defendant Alderson is sued in her individual capacity for declaratory, injunctive, and monetary relief.

42. Defendants GTL and Deb Alderson are referred to throughout the complaint as the “GTL Defendants.”

JURISDICTION AND VENUE

43. This Court has jurisdiction over all Defendants.

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

45. The Court has jurisdiction over Defendants Genesee County and Sheriff Christopher Swanson because they committed the torts alleged in this Complaint in Genesee County, Michigan.

46. The Court has jurisdiction over Defendant GTL because the corporation carries on a continuous and systematic part of its general business in Michigan.⁵ The Court further has jurisdiction over GTL because the corporation owns, uses and possesses property in Michigan, has entered into contracts to perform services in Michigan, and has committed and conspired to commit the torts alleged in this Complaint in Michigan.⁶

47. The Court has jurisdiction over Defendant Alderson because she committed the torts alleged in this Complaint in Genesee County, Michigan by ratifying, adopting, and approving Defendants’ policies.

⁵ MCL 600.711.

⁶ MCL 600.715.

48. Venue is proper in this Court because all Defendants reside or do business in Genesee County, Michigan, and because the facts giving rise to the claims occurred there.⁷

FACTUAL ALLEGATIONS

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

49. The County Defendants enforce—in coordination with the GTL Defendants—a Family Visitation Ban in the Genesee 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 Genesee County Jail, many of whom have not been convicted of any offense.

50. The Genesee County Jail detains hundreds of people for weeks, months, and years, most of whom are presumed innocent and awaiting trial.

51. The jail is overcrowded. Although the jail has a maximum capacity of 580 people, the Sheriff acknowledges that it “continually exceeds capacity” with a daily population reaching 620 people.⁸

52. 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 Most of the named Plaintiffs’ parents and children have been or were detained for over a year.

⁷ MCL 600.1621.

⁸ Office of Genesee County Sheriff, *Corrections Division*, <https://www.gcsomichigan.com/corrections-division> (last visited March 13, 2024).

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>.

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

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

54. The Genesee County Jail was designed to facilitate in-person visits.

55. Until late 2014, in-person contact visits were permitted, encouraged, and common. These visits were free.

56. In 2014, then-Genesee County Sheriff Robert Pickell and then-Undersheriff Chris Swanson enacted a plan to end these family contact visits in order to access and maximize cash payments offered by Securus Technologies. Due to Defendants' prohibition on in-person visiting, people outside the jail are now unable to visit with their jailed parents or children for months, or even years in some cases.

57. The County Defendants even enforce the blanket policy in the aftermath of childbirth for detained individuals who give birth—they are shackled after giving birth and returned to jail just hours later, with minimal opportunity to have skin contact with their newborn baby in the days, weeks, months, and years that follow.

58. For the past ten years, the only way for people in the jail to regularly talk to their loved ones on the outside has been through expensive phone and video calls.¹⁰

¹⁰ There is one jail-based program called Motherly Intercession that provides an opportunity for a small number of parents in the jail to spend one hour every 12 to 16 weeks with their minor children. Incarcerated parents are required to enroll in a parenting or social support class, which has limited capacity. There is not space for many parents who wish to enroll in the program to participate. Parents may only enroll in the program at the beginning of each class cycle, and are

59. Without in-person visits, staying in even minimal contact is expensive. Calls with someone in the Genesee County Jail cost \$0.21 per minute. The rate negotiated by Defendants is the maximum allowed by law. By comparison, the families of individuals in Michigan state prisons pay about a third of that rate. The rate does not include fees. According to the carefully negotiated contract, if payment for a phone call is made through a live operator, the fee for the call is \$5.95. If paying through credit or debit card, the fee is \$3.00, and if using a third party (like MoneyGram or Western Union), the fee depends on what the third party charges. In total, a 15-minute call costs as much as \$9.10.

60. Video calls are even more expensive, costing \$10.00 for 25 minutes and \$22.00 for 55 minutes, according to the negotiated agreement between Defendants.

61. Messages cost money as well. Each message costs one \$0.25 “credit.” Ten credits cost \$2.50. Defendants charge additional fees ranging from \$3.35 to \$5.95 to add money to the accounts from which the baseline costs are paid. “We can’t afford to dump \$100 on there at a time,”

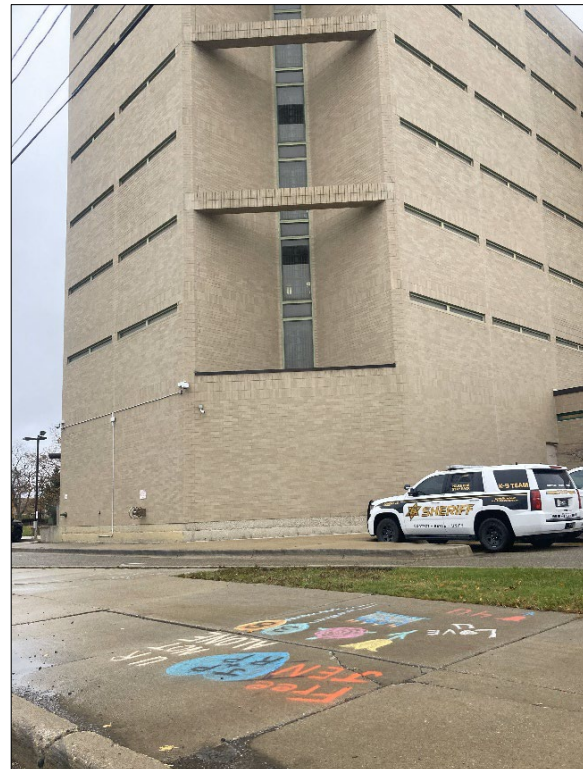
dismissed from the class if they miss one class. Parents who are lucky enough to get a spot in the class must attend one-hour sessions each week for at least 10 weeks for mothers and 12 weeks for fathers. Once one class cycle ends, another might not begin for weeks or months.

Toward the end of the 10 or 12-week course, minor children are permitted to spend one hour in person with their incarcerated parent. That means if a mother has three children, she gets one hour with all three together, after not having seen any of them for at least 3-4 months. Sometimes the visitation hour occurs during a regular school day. If the child’s caregiver refuses to take the child out of school or cannot miss work, the child will miss the opportunity to see their parent for another 3-4 months. Adult children cannot visit their incarcerated parents through this program, and parents of incarcerated adult children cannot visit their incarcerated children.

The only other option for family contact are “graduations” from various educational programs in the jail. Visitors can see their detained loved one from afar and are permitted a hug for several seconds at the end of the graduation. Each “graduate” is permitted only one visitor at graduations. In general, minors are not permitted to attend.

explains Florence Marble. “We’ll put \$20 or \$30 on [our daughter’s] GTL account, but then there’s a \$5.95 fee taken out of each transaction. That money only lasts for two or three days.”

62. 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.¹¹



Families who cannot visit their loved ones leave chalk art for them outside the Genesee County Jail

63. Video calls are arranged through a digital GTL application and are charged directly to the family member. The person detained in the jail joins the call through a “kiosk,” or small video screen encased in metal and bolted to the wall, with a phone receiver attached. Outside the

¹¹ 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/>.

jail, people join the call through a GTL application installed on a computer, smartphone, 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 GTL application to begin the call.

64. The jail's on-site kiosks are located in the jail lobby, directly adjacent to the Sheriff's offices. For those who use the on-site video kiosks, anyone in the jail's lobby can see the video screen and hear the conversation.

65. 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 to show only a green screen where the caller should be.

66. 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 often disrupts conversations and leads people to constantly interrupt and speak over each other. Sometimes the technology just does not work at all.

67. Even when a video call does not work—whether because the detained person was not released from their cell on time or at all, 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.¹²

¹² 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.

68. In what amounts to an empty gesture, Defendants claim to offer each person detained at the jail one free 25 or 55-minute video call per week and one free 5-minute phone call per week, which can be used only on Mondays. The free video calls must be scheduled in advance. Available times are limited. If a family member is unable to secure a coveted slot because they have all been booked, they cannot have their free call. Many families and incarcerated people are not even aware of the free video call option.

69. Regardless of whether the visitor tried to schedule a free or paid call, if the detained person is not brought out for the scheduled call—or the video and/or audio technology fails, as is common—that call is considered spent. The calls are sometimes cancelled without notice on the day of.

70. Two video kiosks are located in each jail pod's communal area. There is also a back room with video kiosks, where correctional staff bring individuals for their scheduled video calls. Noise from other conversations or the nearby showers makes it difficult for individuals in the jail to hear their loved ones. Furthermore, many detained individuals must stand on a stool in order for the camera to capture their face, but because guards do not always allow this, individuals in the jail face punishment just for trying to make sure their loved one can see them. Since the kiosks are spaced closely together in the separate room or out in the open common space, the video kiosks offer no privacy to either the incarcerated person or to their child or loved one on the screen.

71. Each jail pod has only two video kiosks for roughly 60 to 70 people, and it is common for only one of the kiosks to be working at any given time. Service outages and technological issues frequently render one or both kiosks unusable. These kiosks are used for commissary, video calls, messaging, and to access the law library. Since the kiosks can be used by only one person at a time, individuals must compete to use the kiosks.



Two kiosks inside the pod and two kiosks outside the pod are typically shared by over 60 people

72. These policies and practices breed resentment, jealousy, and conflict in the jail, especially between those whose families are able (though often at a great personal and financial cost) to scrounge money to pay for video calls and those who do not receive calls. Physical altercations, often involving multiple parties, regularly occur over access to the video kiosks.

73. Women confined in the jail are permitted only one hour each day out of their cells. (This does not include women who are in isolation, who receive less or none.) They must attempt to use this limited time each day to tend to a variety of needs: to shower, talk to peers, go to religious services, and call family members and loved ones.

74. For pre-scheduled video calls, the recipient must be escorted out of their cell by an officer. Officers routinely fail to bring them to the kiosk on time, or at all. Even if the incarcerated person is brought out with just five minutes left on the call, the full cost of the scheduled call is deducted from the person's account. As a general policy, Defendants do not reschedule the call or reimburse anyone for the call.

75. The on-site kiosks and at-home apps are often glitchy. Even if a family member schedules a free call and the call never actually happens, the family member will have to wait until the following week to try again.

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

77. 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.

78. During video calls, friends and family 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 Genesee County Jail.

79. **S.L., T.L.L., T.L., C.L., M.L., J.L., N.L., D.L., and H.L.** are the children of Troy Lyle, who has been incarcerated in the Genesee County Jail since January 2023. Troy's children range from 2 to 17 years old. They have only seen their dad one time, all together, for just an hour, in the fourteen months that they have been separated.

80. The children are all suffering without their dad. The harms of parental incarceration are drastically exacerbated due to the fact that they cannot hug their dad, or spend time with him one-on-one without worrying about the lack of privacy and the mounting costs of the phone and video calls. Troy was the one who woke the kids up to get ready for school, encouraged them to

go outside, and took them on vacations and to water parks. Now, 12-year-old C.L. says his siblings sit at home on their phones or watching television. Without their dad, the siblings fight more and spend less time together.

81. Being unable to hug their dad is even more painful for the family on holidays like Christmas, or in the wake of tragic events such as the passing of the children's great-aunt. C.L. asked: "How can we celebrate holidays without our full family? Without my dad, there are no holidays really. It's not the same."

82. Not being able to speak with their father in-person has been hard on the teenagers in the family, who rely on their father for guidance as they navigate the challenges of young adulthood. Without Troy there, Onisha Lyle, the children's mother, has become the family's sole source of income. S.L., the eldest daughter, has taken on the responsibility of caring for her younger siblings and ensuring that the house is in order while her mother works extra shifts to provide for the family.

83. Several of the children struggle in school in Troy's absence. S.L. has found it challenging to focus on school since she has taken on these additional duties and been separated from her dad. Her dad calls her, but in tough times, what she really wants is to be able to see him. C.L., likewise, has a hard time paying attention in class as he thinks about his dad constantly.

84. When Troy's children speak with their dad on the phone, the entire family is there. The children have to divide up their precious call minutes, leaving everyone short. Troy's 16-year-old son T.L.L. remarks that all of his siblings have something to say to their dad, and never enough time to say it.

85. It is impossible to have intimate heart-to-heart conversations over the phone, in the short slivers of time that each child gets. Troy's teenaged children feel embarrassed sharing with

their dad over a recorded call. T.L. is fifteen—he is quiet, withdrawn, and struggles to open up over the phone without being physically with his father. His brother T.L.L. feels the same way. Their sister S.L. shares their discomfort. As the only teenage girl in the household, there are serious and intimate things she wants to ask her dad about, but S.L. doesn't feel comfortable asking in front of her siblings or on a recorded line.

86. Troy's younger children struggle over the phone, too, because they can't spend time in their favorite way: playing together. Inspired by their father's painting hobby, 11-year-old M.L. and 7-year-old J.L. love to draw with their dad. They can't draw together over the phone. His 4-year-old daughter D.L. recognizes her dad's voice, but cannot stay still for long if she is not seeing her dad in person. Her attention is captivated by the people around her, laughing with her siblings beside her, or hugging her mom's legs. Phone and video calls do not work for her.

87. Troy's youngest child, H.L., was only about a year old when her Dad was locked up. He recently missed her second birthday. "H.L. is moving through her firsts," her older sister S.L. explains, "and our dad is missing them." For instance, Troy didn't see H.L. learning how to talk and was surprised when she suddenly spoke a sentence into the phone. Without regular visits, Troy has missed half of H.L.'s life and she's become a totally new person. The whole family wishes he could watch her standing and walking on her own, experience her emotions with her, or giggle as they make eye contact and goofy faces with one another. Part of being a family is experiencing the joy of a baby growing up, together.

88. In the fourteen months that they have been separated from their dad, Troy's children have only been able to see him once, when they visited all together. When 7-year-old J.L. hugged his dad, he was so happy. But the visit was not long enough to maintain the connection they had before their dad was incarcerated. Leaving the visit upset J.L. so much that his stomach hurt. J.L.

wishes he could visit his dad in person “30 times in a row,” while J.L.’s six-year-old sister N.L. keeps asking when she will get to see her dad again.

89. S.L., T.L.L., T.L., C.L., M.L., J.L., N.L., D.L., and H.L. would visit their dad in person if they could, but they cannot due to Defendants’ Family Visitation Ban.

90. S.L., T.L.L., T.L., C.L., M.L., J.L., N.L., D.L., and H.L. are members of the proposed Class and Prospective Relief Subclass.

91. **Z.T.E., Z.W., and K.W.** are the children of Sabrina and DeMarcus Williams, who have been incarcerated in the Genesee County Jail since February 2023. Z.T.E., the eldest daughter, is ten years old. Her sister, Z.W., is six. Their brother K.W. is four. In the thirteen months since their parents have been detained, Z.T.E., Z.W., and K.W. have seen their mom in-person just a few times, and their dad only once.

92. The Williams family was tight knit prior to their separation. When Z.T.E. and Z.W. had their first birthdays without their mom, Sabrina still organized a birthday party for them from jail. Z.T.E. and Z.W. each kept asking their mom, “Are you coming to my birthday?”

93. Separating Z.T.E., Z.W., and K.W. from their parents has inflicted indelible emotional damage. Over the past thirteen months, the children have been repeatedly cycled through the homes of different family members and family friends. They are now being cared for by their maternal grandmother. The trauma of their unstable living situation has been deepened by the fact that the children cannot see their parents. The children suffered physical abuse at a prior placement. In the aftermath of these incidents, the children are being profoundly harmed by not being able to feel the reassuring embraces of their mom and dad, and not being able to experience regular touch that is gentle, safe, and nurturing from the adults who they love and trust.

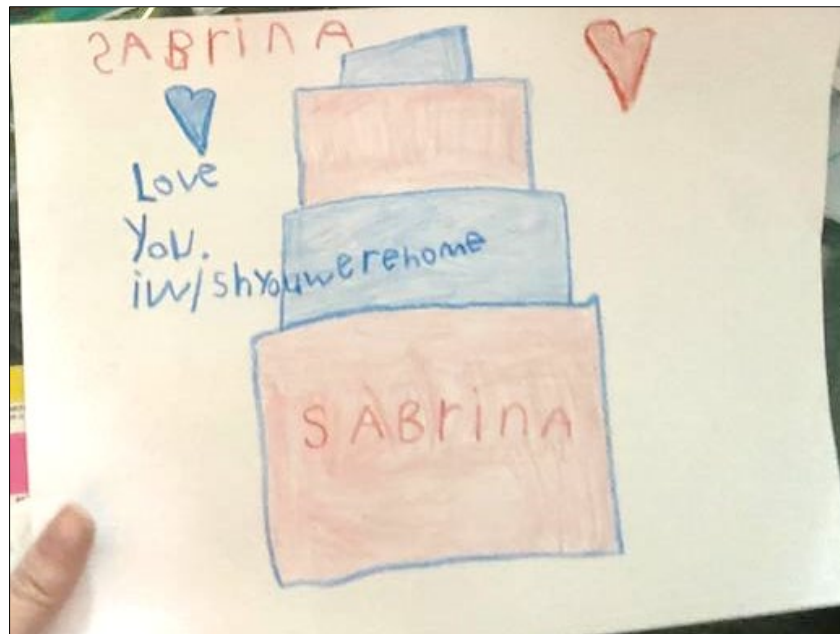


Drawing by K.W. of him with his mother: "here's how my mamma's hair is"

94. Z.T.E., Z.W., and K.W. struggle to keep in touch with their parents because of the high cost of calls. DeMarcus cannot call every night because his family does not have enough money to pay for calls. Sabrina relies on her father to pay for phone calls so that she can stay in minimal contact with her children.

95. Z.T.E., who is only ten years old, has been forced into the position of trying to hold the family together. Sabrina tries to call Z.T.E. twice a week. Z.T.E. then updates Sabrina on how her siblings are doing, and passes around the phone. Sometimes the calls suddenly disconnect in the middle of a conversation. Sometimes there is not enough money on her mom's books to call. Z.T.E. explains, "At the end of the call, a lady says 'There are 60 seconds left' and then Mommy tells me she loves me and she'll call me as soon as there is more money." Once, when Z.T.E. was talking with her mother about where the children could live, her mother ran out of money and had to hang up with her children's shelter unresolved.

96. Phone calls cannot soothe 6-year-old Z.W., who has been breaking down in the wake of her family's separation. Z.W.'s grandmother explains, "Because her mom ain't here and her dad ain't here, she gets angry and will lash out or shut down in outbursts. Sometimes [Z.W.] is in so much distress we take her to be seen by an emergency mental health professional." Z.W. told her mom that she wanted to be in jail with her mom, even though she knew it was a really bad place. When DeMarcus asked Z.W. why she was acting out, Z.W. responded "Because I can't be with you or see you. I miss you."



Drawing by Z.W. for her mom: "Love you. i wish you were home."

97. With only video and phone calls and no in-person visits, it is nearly impossible for Sabrina to support her children's mental and emotional well-being. She has been unable to parent, help her family unit, or assist her children with the challenges that they have experienced due to their separation.

98. Unlike most kids with parents in the jail, Z.T.E, Z.W., and K.W. were allowed a few short visits with their mom over the period of 13 months through the Motherly Intercession program. They hugged, played together, and ate snacks. After an hour, the children were told they

had to leave. They and Sabrina all left in tears, knowing that they will not see each other again for months. One short visit every few months is nowhere near enough for the kids to maintain their bond with their mom. Z.T.E., Z.W., and K.W. would visit their mother and father regularly if they were allowed to do so.

99. Z.T.E., Z.W., and K.W. are members of the proposed Class and the Prospective Relief Subclass.

100. **A.B. and E.B.** are the daughters of Brya Bishop. Ms. Bishop was detained pretrial in the Genesee County Jail from May 2020 to November 2022 except for a short period from May 2021 to June 2021 when Ms. Bishop was released on supervision. When her mother was jailed, A.B. had just turned one and was still breastfeeding. Her older sister E.B. was four years old. The children were not allowed to see, touch, or be held by their mother the entire period she spent in the jail—a total of nearly two and a half years.

101. When A.B. was separated from her mother, she barely ate for over two weeks. At the time of separation, she was forced to immediately transition from breastfeeding to being bottle-fed, which she often refused.

102. The family tried to remain in contact, but video calls paled in comparison to spending time together, especially because of the young ages of the children. The family's scheduled video calls were interrupted or canceled by frequent jail lockdowns, during which incarcerated people are not permitted to leave their cells.

103. And with her children only able to interact with their mom only through glitchy, sporadic phone and video calls. Brya worried that her daughters would forget who she was. "I think E.B. thought I abandoned her," said Brya. "She grew very depressed." E.B. says, "It felt like my mom was gone forever."

104. Brya has since been reunited with her daughters. However, the trauma of not being able to see, touch, smell, or hug their mother has left lasting wounds on both children. Brya explains that “A.B. cries over the smallest things” and has become “very physically clingy.” “She struggles with people leaving,” she continues, “even when they are people who she’s just met.”

105. Due to Defendants’ Family Visitation Ban, A.B. and E.B. were unable to visit their mother for nearly two and a half years. A.B. and E.B. would have visited their mother frequently in the Genesee County Jail if they were allowed to do so.

106. A.B. and E.B. are members of the proposed Class. They appear through their mother and next friend, Brya Bishop.

107. **Le’Essa Hill and A.H** are the daughters of Adam Lee Hill, who was incarcerated in the Genesee County Jail from July 2022 until August or September 2023. Le’Essa was sixteen years old at the time she was separated from her father. A.H. was fourteen. While their father was incarcerated in the Genesee County Jail, for more than a year, Le’Essa and A.H. were unable to see, hug, or have an in-person conversation with their father.

108. Le’Essa and A.H. called their father whenever their mother, Karla Darling, could spare money to put on his books. When Le’Essa and A.H.’s grandmother passed away in 2023, Karla overdrew her bank account to pay for video calls between the girls and their dad. “The kids just lost their only remaining grandparent. They needed their dad,” she explained. But these video calls were entirely inadequate for Le’Essa and A.H. to maintain a sufficient connection with their dad or to receive the support that a father can provide during traumatic times.

109. Without the ability to visit, Le’Essa and A.H. struggled to remain in touch with their dad. For several months, most of their scheduled video calls were cancelled without explanation, or started even though their father had not been brought out of his cell for the call. Even when the

calls did work, Le'Essa and A.H. were frustrated by their poor quality. Most of the time, the girls couldn't even see their dad's face. Often, they could hardly hear him. Sometimes, the sound on the call wouldn't work at all.

110. "The families are the ones that ultimately get punished," explained Karla. "If we paid for calls, we went into more debt. If we didn't, our family suffered . . ."

111. Le'Essa and A.H.'s dad had previously been incarcerated in the Genesee County Jail, in 2008, years before the County Defendants ended in-person visitation. Le'Essa and A.H. visited, hugged, and held hands with their father. During their hour-long visits, Adam held A.H., who was only six months old. Le'Essa, who was three years old at the time, credits the in-person visits with helping her recognize and form a parental bond with her father. "We could actually see each other's facial expressions and understand how the other person was truly feeling," says Karla.

112. Le'Essa and A.H. would've visited their father in the Genesee County Jail if they were allowed to do so, but they could not due to Defendants' Family Visitation Ban.

113. Le'Essa Hill and A.H. are members of the proposed Class.

114. **O.W.'s** father, Tamar Watkins, was incarcerated in the Genesee County Jail from April 2023 to December 2023. O.W. was separated from her father when she was only three months old. She was also barred from visiting him at the facility he was previously detained in. From the time she was three months old until she was almost three years old, O.W. spent just 45 minutes with her father.

115. While her father was in the Genesee County Jail, O.W.'s mother tried to arrange weekly video calls with him. Those calls were meaningless for O.W., a toddler at the time. A boisterous and vibrant child, O.W. rarely sits still for more than five minutes. The inability to play

with her father, make eye contact with him, smell him, and touch and be held by him has severely hindered her ability to bond with her dad.

116. Unable to physically connect with her father during her formative developmental years, O.W. struggled to cement a strong child-parent attachment. Whenever O.W. saw a bearded stranger in public, she often called out “Dada!”



*Tamar holds his newborn daughter O.W. in the hospital (L)
Two-year-old O.W. sees Tamar for the first and only time in the Genesee County Jail (R)*

117. Since Tamar and O.W.’s mother, Martreanna, could not talk in person, their parenting dynamic was distant. The lack of privacy on phone calls made it challenging for them to work through the sensitive and complicated questions that arose in the process of learning how to be parents for the first time.

118. During the eight months O.W.’s father was in the Genesee County Jail, she received one short unaccompanied visit with him. It was entirely insufficient. While seeing her father helped her understand who he is, it did not allow her father to parent her in any meaningful way. O.W.’s

mother was not allowed to accompany O.W. on the visit to introduce her to her father. It took most of the visit for O.W. to warm up in the strange environment. By the time she and her dad were starting to get comfortable, it was time for her to leave.

119. Due to Defendants' Family Visitation Ban, O.W. was able to see her dad only once in eight months. O.W. would have regularly visited her father in the Genesee County Jail if she was allowed to do so.

120. O.W. is a member of the proposed Class.

121. **Florence and Paul Marble** are the parents of Jasmin Jones-Bonner, who was incarcerated in the Genesee County Jail from February 27, 2023 until March 8, 2024. In those 12 months, Florence was able to see her first-born child just a few times at program graduation ceremonies for minutes at a time. Paul was not able to see his daughter at all.¹³

122. Being apart from her daughter was "hell" for Florence. Before Jasmin was jailed, Florence could not recall going more than three days without physically seeing her. On the phone and video calls, Florence was unable to hold her daughter or assess her well-being with her own eyes. Towards the end of one video call, Jasmin said, "It's getting so hot in here." Then, she appeared to faint and disappeared from the video screen. Afterwards, Florence was not given any information about her daughter's condition for nearly six hours. "As a mother, that was torture," she says.

123. Communicating through phone and video calls strained the family's relationships with one another. Florence and Jasmin quarreled occasionally, whereas they rarely used to, as they tried to process stressful circumstances without seeing each other in person. While Jasmin was

¹³ Paul is Jasmin's longtime step-father.

detained, Florence and Paul cared for Jasmin's daughter, T.D. Jasmin's relationship with her daughter was strained by the need to constrain Jasmin's parenting time to the precious minutes that they were able to talk. Unable to sit in person or draw together like they used to, Jasmin struggled to connect with her pre-teen daughter.



Paul and Florence with Jasmin at her high school graduation

124. Florence and Paul spent around \$600 each month to purchase basic hygienic items, food, medicine, and phone calls for their daughter. In particular, they were compelled to buy food for Jasmin due to maggots in the jail food. To provide for their family, Florence and Paul drastically altered their own dietary habits. On most days, Florence ate one meal a day. Although she is diabetic, those meals frequently consisted of pasta and other carbohydrate-heavy food items which were relatively inexpensive, but spike blood glucose levels.

125. Paul and Florence exhausted their savings, including their retirement funds, to pay the costs associated with their daughter's incarceration. Florence states that the costs have "financially ruined" their family. To pay a bill, Florence had to sell off her mother's bracelet. Prior to Jasmin's incarceration, the family had been middle-class and always felt financially "okay."



Christmas 2022: Florence and Paul's last holiday with their daughter

126. Frequent issues with the phone and video calls compound indignity with injustice. Video calls regularly froze. Phone calls did not go through, failed to ring, or hung up on the users. Often, jail staff brought Jasmin to her video call ten minutes late—meaning that nearly half of the 25 minutes that the family paid for went to waste. Lock-downs occurred every few days, during which incarcerated individuals were unable to meet their attorneys or take phone and video calls.

127. Paul and Florence Marble would have regularly visited their daughter in the Genesee County Jail if they were allowed to do so, but they could not due to Defendants' Family Visitation Ban.

128. Florence and Paul Marble are members of the proposed Class.

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

129. 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.

130. 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.

131. 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.

132. 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.

133. 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.

134. 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.

135. 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.¹⁴

136. 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 . . .”¹⁵

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

137. 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-

¹⁴ 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.”).

¹⁵ 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.

to-face encounter.”¹⁶ 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.

138. 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.

139. 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.¹⁷

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

¹⁶ Kenneth L. Karst, *The Freedom of Intimate Association*, 89 Yale L.J. 624, 630 (1980).

¹⁷ 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).

141. 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.¹⁸ 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.¹⁹

142. 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.²⁰

143. 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.²¹ Typically, when we are under stress, blood, and the

¹⁸ Darcia Narvaez, et al., *The Importance of Early Life Touch for Psychosocial and Moral Development*, 32 *Psicol Reflex Crit.* 16 (2019).

¹⁹ *Id.*

²⁰ 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).

²¹ James Coan, et al., *Lending a Hand: Social Regulation of the Neural Response to Threat*, 17 *Psych. Sci.* 12 (2006).

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.

144. 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.

145. 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.

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

147. 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.

148. 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.

149. 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.

150. 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.

151. 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.

152. 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.

153. 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.²²

²² John Hagan & Holly Foster, *Intergenerational Educational Effects of Mass Imprisonment in America*, 85 *Sociology of Education* 3 (2012).

154. A landmark study surveyed 17,000 participants to study the effect of “Adverse Childhood Experiences” (“ACEs”) on one’s health as an adult.²³ 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.

155. **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.

156. 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 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.

²³ Centers for Disease Control and Prevention, *CDC-Kaiser ACE Study*, <https://www.cdc.gov/violenceprevention/aces/about.html> (last visited March 13, 2024).

157. 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 [my daughter] went to jail the longest I’d ever gone without seeing her since she was born was three days,” said Plaintiff Florence Marble. “I don’t think people understand what it’s like not being able to see your child when you want, just to know that they’re okay or to provide that little bit of comfort.”

158. The effect of separating a child from a 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.²⁴ 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.²⁵

²⁴ 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>.

²⁵ *Id.* at 5.

159. Mothers, in particular, tend to experience additional trauma and grief from the “slow death” of family separation.²⁶ Those feelings are worsened when they are unable to hold their incarcerated child.

160. For parents, the dissolution of the attachment relationship with the child elicits severe anxiety and other negative emotions associated with loss. Plaintiff Florence Marble compared the experience of being separated from her adult daughter to “having my heart ripped out.” She stated: “Not knowing how she’s doing day-to-day—that is soul-crushing to a mother. There are days that they’d be locked down and I wouldn’t hear from her all day. You don’t want to know the things that ran through my head: worrying about her being in infirmary, whether she got beat up, if she passed away and the jail was keeping it from me. It’s those kinds of things that run through your head when you don’t hear from your loved one. It’s a parent’s worst nightmare.”

161. 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.²⁷

162. 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

²⁶ Stephen Lee, *Family Separation As Slow Death*, 119 Columbia L. Rev. 8 (Jan. 8, 2020), <https://columbialawreview.org/content/family-separation-as-slow-death/>.

²⁷ 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.²⁸

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

163. 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.

164. 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.

165. 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.²⁹ This holds true in the context of both maternal incarceration and paternal 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.³⁰

²⁸ 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).

²⁹ 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), https://static.prisonpolicy.org/scans/Haverkate_Wright_2020.pdf.

³⁰ *Id.*

166. 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.”

167. 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.

168. 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 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.”³¹

³¹ Melinda Tasca, et al., *Families Coming Together in Prison: An Examination of Visitation Encounters*, 18 *Punishment & Soc’y* 4 (2016).

169. 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.

170. 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 GTL, the Genesee County Jail has gone much farther, prohibiting all in-person visits.

171. 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.”³² The gulf between in-person and video-mediated communication has many sources, some logistical and others psychological.³³

³² 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/>.

³³ 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-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).

172. **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.

173. 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.”³⁴ 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.

174. A lack of technological literacy also prevents many from using video communications. Many family members, especially the elderly, cannot navigate the countless websites, accounts, and applications required to arrange for a video call with their loved one.

175. 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.³⁵

176. Even when people have access to the technology, navigate it successfully, and the software works, a 25-minute non-private video call cannot compare to the benefits and meaning conveyed through an in-person contact visit.

³⁴ Federal Communications Commission, *Notice of Proposed Rulemaking and Order*, FCC 23-19, 16 (2023), <https://docs.fcc.gov/public/attachments/FCC-23-19A1.pdf>.

³⁵ 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>.

177. **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.

178. 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.³⁶ 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.³⁷

179. 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.

180. Loved ones also find it is easier to assess the mental and physical health of a loved one face-to-face than by video. "My brother was in jail for 18 months and I could only visit him through video," said one woman. "There's no privacy. We couldn't make eye contact. I couldn't

³⁶ Teresa Farroni, et al., *Mechanisms of Eye Gaze Perception During Infancy*. 16 J. Cogn. Neurosci. 8 (2004).

³⁷ Niclas Kaiser, et al., *Eye Contact in Video Communication: Experiences of Co-creating Relationships*, 13 Front Psychol. (Apr. 25, 2022).

tell if he was healthy, if he looked pale or wasn't getting enough food, or if he was getting beat up. . . I couldn't pick up on any bodily cues or emotions.”³⁸

181. 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. 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. As the mother of Plaintiff O.W. observed, “[s]he’s a bubbly, active toddler. She loves to run around, play, and climb on things, but she couldn’t do that on the calls.” They may not even comprehend who is on the other end of the call.

182. **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.

183. 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.

³⁸ Wendy MacNaughton, *Behind Bars, and Pixels Too: How Technology Makes Jail Even Bleaker*, N.Y. Times (Aug. 29 2019), <https://www.nytimes.com/2019/08/29/business/video-visit-jail-prison.html>.

184. 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.³⁹

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

186. **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.

³⁹ Katrin Shoenenbergh, *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).

187. 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. “There are lots of things that I, as a 17 year old girl, need to talk to my dad about that I can’t,” says Plaintiff S.L.

188. 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. 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.

189. 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.

190. **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.

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

192. 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.”⁴⁰

193. In 2023, the Michigan Department of Corrections (“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.”⁴¹

194. As a result, most people in MDOC custody are entitled to receive contact visits.⁴² 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

⁴⁰ Mich. H. Rep No. 104, at 556 (May 9, 2023), available at: <https://tinyurl.com/yzb3hm35>.

⁴¹ *Policy Directive: Family Reunification* at 1, Mich. Dep’t of Corrections, No. 03.02.102 (Jan. 25, 2023), available at <https://tinyurl.com/2utrdc9f>.

⁴² Under certain circumstances, a person may temporarily lose their contact visitation privileges.

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.⁴³ These same rights are denied to people—many of whom are presumptively innocent—in the Genesee County Jail.

195. The financial barriers to family communication are also lower in MDOC. Phone and video call fees for people in MDOC custody—where GTL is also the provider—are less than half of what Defendants charge in the Genesee County jail.⁴⁴

196. 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,”⁴⁵ 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.”⁴⁶ 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.⁴⁷ The state is *not* relieved of its duties to preserve family relationships merely because that parent is incarcerated.

197. **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

⁴³ Mich. Dep’t of Corrections, *Policy Directive: Prisoner Visiting* 4-5, No. 05.03.140 (Dec. 2, 2019), available at <https://tinyurl.com/nfz3nvad>.

⁴⁴ 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).

⁴⁵ MCL 722.27a(3)

⁴⁶ MCL 722.27a(1).

⁴⁷ MCL 712A.19a(2).

video calls are an inadequate substitute for in-person visits between noncustodial parents and their children.⁴⁸

198. 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.⁴⁹

199. **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.

200. 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.⁵⁰

⁴⁸ 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 A3d 875 (Pa Super Ct 2013).

⁴⁹ 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”).

⁵⁰ 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).

201. 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 that “[t]raditional, in-person visiting is a best practice that should continue in all correctional settings when possible.”⁵¹

202. 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.”⁵²

203. 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.⁵³ “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

⁵¹ 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>.

⁵² 28 C.F.R. § 540.40.

⁵³ 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.

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.”⁵⁴

204. 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.*”⁵⁵

205. The ABA notes that the need for in-person visitation is even more acute in jails like Genesee County, where much of the population is awaiting trial and presumed innocent.⁵⁶ “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.”⁵⁷

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

207. 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

⁵⁴ *Id.*, 23-8.5(e) commentary.

⁵⁵ *Id.*, 23-8.5(e) (emphasis added).

⁵⁶ *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.)”).

⁵⁷ *Id.*

reasonable conditions and restrictions as specified by law or lawful regulations.”⁵⁸ Similarly, the U.N.’s Standard Minimum Rules for the Treatment of Prisoners calls for detained people to “be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals” by “receiving visits.”⁵⁹

208. 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.”⁶⁰ “The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.”⁶¹

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

209. The conspiracy between the County Defendants and GTL 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.

⁵⁸ Principle 19.

⁵⁹ 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.

⁶⁰ European Prison Rules, Rule 24.1, <https://tinyurl.com/mvj63pd3>.

⁶¹ *Id.*, Rule 24.4.

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

210. 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 “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.

211. GTL and its main competitor—Securus—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.⁶² In 2017, GTL and Securus revenues exceeded \$1.1 billion. The companies have been repeatedly accused of price-fixing and other anti-competitive practices.

212. 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, GTL can charge above-market rates to a population with nowhere else to turn.

⁶² 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/>.

213. For decades, GTL has relied on charging extraordinary rates for common phone calls to generate hefty profit margins. Recently, as advocates across the country have won demands for capped phone rates (and in some cases, free phone calls) for incarcerated individuals,⁶³ GTL 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.⁶⁴

214. GTL 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 Genesee County, the contracting parties' assessment of how to maximize total revenue.

215. The result of this pricing model is a stark disparity across facilities as families are charged vastly different rates for identical products. While GTL charges Genesee 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.⁶⁵

⁶³ 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>.

⁶⁴ 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>.

⁶⁵ Editorial, *By Lowering Inmate Calling Rates, Dallas County Put Principle Over Profit*, *The Dallas Morning News* (Feb. 20, 2020),

Families of people incarcerated in Michigan prisons pay \$3.20 for a 20-minute video call through GTL.⁶⁶ And families of people incarcerated in Mecklenburg County, North Carolina, pay \$6.25 for a 25-minute video call with GTL.⁶⁷ Yet for a 25-minute video call at the Genesee County Jail, the terms negotiated by the County and GTL Defendants require families to pay \$10.00, nearly twice as much as families in many other counties and over three times as much as families pay as soon as their loved ones are transferred to a Michigan prison. They pay this much for a lower-quality version of the technology that most people today can use for free through Zoom, Google, or FaceTime.

216. GTL's other services also bear no resemblance to their free world cost. A person in the Genesee County Jail must pay \$0.25 to send a written message to a loved one. Detained individuals who are enrolled in one of the jail's educational programs have access to a digital tablet for several hours a day. The tablet is connected to a marketplace where they can then pay further fees to read articles, listen to music, or rent movies. Access to media content on digital tablets is charged by the minute: \$0.05 per minute for a standard profile and \$0.03 per minute for a promotional profile.

<https://www.dallasnews.com/opinion/editorials/2020/02/20/by-lowering-inmate-calling-rates-dallas-county-put-principle-over-profit/>.

⁶⁶ *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).

⁶⁷ *Mecklenburg County, NC, Internet Video Visitation*, <https://mecklenburgcountync.gtlvisitme.com/app> (last visited Mar. 13, 2024).

217. GTL has even begun to charge incarcerated people by the minute to read books, including books that are available to the public for free online.⁶⁸

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

- ii. GTL pays municipalities hundreds of thousands of dollars to prohibit in-person visiting in order to increase profits.

219. Across the country, GTL and similar companies win monopoly contracts by promising contracting counties hundreds of thousands of dollars each year—or other perks like Caribbean cruises⁶⁹—to increase the use of expensive video calls, including by prohibiting the 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, and otherwise ensure that the money keeps flowing through various discretionary policies and practices that expand the ability to monetize isolation and limited human contact.

⁶⁸ C.J. Ciaramella, *West Virginia Inmates Will Be Charged by the Minute to Read E-Books on Tablets*, Reason (Nov. 22, 2019), <https://reason.com/2019/11/22/west-virginia-inmates-will-be-charged-by-the-minute-to-read-e-books-on-tablets/>.

⁶⁹ 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/>.

220. **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.⁷⁰

221. Kickbacks are a key part of GTL's business model. In their contracts and negotiations surrounding those contracts, the companies offer to pay sheriffs' offices and/or the contracting jurisdictions a specified percentage of their revenue from the communications inside jail facilities. Giving Genesee County and the Genesee County Sheriff a cut of the money from calls accomplishes two key goals. First, it convinces the county 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."⁷¹ Second, kickbacks based on the number of video calls give the people running the jail a financial incentive to protect GTL's profits (which they now share) by maximizing call revenue. 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.

⁷⁰ 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).

⁷¹ 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.

222. 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.

223. Genesee County admitted that adding video call services at the jail was a strategy to make more money. Genesee County Interim Corporation Counsel Brian MacMillan explained how the County chose among providers: “Whoever we chose gave us the biggest commission and agreed to give us an annual technology payment (or whatever it was called), and that’s why we went with them.” Ultimately, the County chose to contract with GTL because it offered the largest kickbacks amounting to the most total revenue.

224. Video calling contracts negotiated by the GTL Defendants also frequently predicate a county’s commission on maintaining a minimum number of calls and allow for renegotiation if the county fails to hit that minimum. For example, Genesee County’s contract with GTL obligates them to guarantee enough “traffic and/or revenue to warrant the continuation of the [video call] service.” GTL retains the right “to remove or relocate [the video call] equipment” or terminate the video call service if the County Defendants fail to meet that benchmark.

225. The profitability of the video calling business, including the size of commissions paid to jail facilities, is directly dependent on a high utilization of its services by the jail population. Most incarcerated individuals and their families would choose in-person visits over video calls given the option. To receive the money promised by GTL, a county typically has to explicitly or implicitly agree to eliminate any alternatives in competition with 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 Genesee County.

226. **Requiring Prohibition of In-Person Visitation.** For years, GTL 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 calls and video calls, contracts with GTL—including the contract with Genesee County—specifically provide for on-site video call kiosks, which would never be necessary if in-person visitation were permitted.

227. Even when, for fear of negative publicity, GTL does not require the contracting jurisdiction to promise in writing to prohibit in-person contact visits in exchange for use of their technology, GTL negotiates financial incentives and kickbacks that are intended to promote, and do promote, the same result.

228. GTL pays contracting jurisdictions to continue denying in-person visitation and threatens to cancel the contract if minimum revenue benchmarks are not met. The success of GTL's business model continues to require that its expensive, glitchy, and ineffective video calls not be undermined by free in-person visits.

229. To ensure they meet these metrics, and to maximize the kickbacks they receive, county officials like those in Genesee prohibit free in-person visitation. The GTL and County Defendants conspire to maximize revenue by prohibiting in-person contact visits.

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

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

in order to force families to pay for exorbitantly priced 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 GTL have worked together to extract money from the families of people in the jail.

231. The County Defendants first began conspiring with Securus in 2012 to eliminate in-person contact visits in order to maximize the income the jail and company could make off of families desperate to stay in touch with their loved ones in the jail through phone and video calls.

232. Enticed by the financial promise of ending in-person visits, the Genesee Board of Commissioners signed on. Jamie Curtis, the Chairperson of the Board of Commissioners, approved: “That video visitation is going to work . . . A lot of people will swipe that Mastercard and visit their grandkids.”⁷²

233. The County Defendants’ Family Visitation Ban went into effect on September 22, 2014. In the weeks and months that followed, then-Sheriff Robert Pickell implemented policies at the jail intended to drive up use of the paid video and phone calls and reduce access to the free, on-site kiosks. The goal in making these changes was to force families to pay for remote video calls by eliminating their ability to contact loved ones for free, especially during non-work times.

234. The County Defendants profited handsomely from this original contract, but in 2018, they went looking for a better deal.

235. On March 9, 2018, then-Undersheriff Swanson instructed Captain Jason Gould to tell Dave CHaklos, an account executive at GTL, to “give us the BEST deal he can!” Captain

⁷² Ron Fonger, *Jail Inmates Targeted as New Genesee County Revenue Source*, MLive (Sept. 5, 2012), https://www.mlive.com/news/flint/2012/09/jail_inmates_targeted_as_new_g.html.

Gould conveyed the message to Chaklos. Gould made progress negotiating with GTL, leading Swanson to congratulate Gould by exclaiming: “You are not Captain Gold for nothing!”

236. In May 2018, Swanson instructed Gould to “Have GTL write a contract for their phone services. Make it 3 years with (2) 1 year extensions. The sooner the better.” In July 2018, GTL made a contract offer directly to Genesee County for a five-year-term contract, with the potential for two one-year extensions. This “single-bid” contract was not offered, and negotiations were not conducted, as part of an RFP process.

237. GTL’s financial offer included a fixed commission on the phone call system of \$15,000 per month, or \$180,000 per year, regardless of the monthly call usage. This represented a 25% increase over the County’s phone revenue kickback payments from its prior Securus contract, promising the County an extra \$45,000 per year. In addition, GTL offered a \$60,000 yearly cash bonus it called a “technology grant” and 20% of video call revenue, estimated at \$16,644 annually, an subject to considerable increases if the County Defendants could accomplish large video-call volume. In sum, the company promised that the County would receive a minimum of \$240,000 for each year of the contract, and likely much more.

238. On top of the new phone call system, GTL promised to replace the jail’s video call system with a total of 30 jail video kiosks and a scheduling kiosk in the lobby. GTL guaranteed the County a commission of 20% on video call revenue.

239. Finally, GTL dangled the prospect of a new tablet program to be integrated into the jail over the term of the contract. Providing a “defined migration path to add more enabling technology solutions (tablets),” GTL provided assurance that the tablets would “provide an additional revenue/commission stream for the coming years.”

240. On July 20, 2018, then-Sheriff Robert Pickell requested permission from Bryant Nolden, the Chairperson of the Governmental Operations Committee of the Genesee County Board of Commissioners, to sign a new contract with GTL to provide phone and video calls to the jail because GTL offered the jail more money.

241. And on August 17, 2018 GTL and Genesee County signed a new master services contract for phone and video call services. The contract set remote video calls at \$10 for a 25 minute call and stipulated that Genesee County would receive a 20% commission, paid out monthly. As with Securus, the contract guaranteed that the jail would have the ability to monitor and record video calls, messages, and other communications. The contract established GTL's right to terminate the kiosk system and services if "there is insufficient revenue to warrant the continuation of the Flex Kiosk Service at such Location." The company can cut off the gravy train at any time if the County Defendants don't produce enough revenue.

242. Additionally, Genesee County and GTL agreed to promote the use of video calls by making video calls available for at least 12 hours each day, allowing GTL to promote video services by distributing promotional material at the jail through press releases, online, automated phone recordings, and on the video call services themselves.

- ii. GTL's actions—including its ongoing conspiracy to deprive Genesee County families of in-person visits—are personally directed by CEO Deb Alderson.

243. GTL's aggression in setting high prices and cutting off alternative forms of family connection can be traced to its ownership and management. GTL was bought by the private equity firm American Securities in 2011 for approximately one billion dollars.

244. American Securities manages around \$27 billion dollars in assets. The goal of American Securities in managing the affairs of GTL is to extract as much profit as possible for the

investors it recruited into the fund through which it purchased and manages the company. For example, American Securities collected a \$215 million dividend from GTL in February 2022.

245. GTL's policies to maximize its profit by offering and negotiating incentive packages with jail and municipal officials are directed by its senior executive leadership, including its CEO Deb Alderson. In March 2018, around the time Genesee County was considering a switch in providers from Securus to GTL, GTL named Deb Alderson as Chief Executive Officer. She served in that position at the time GTL and Genesee County entered into an agreement for video calls at the jail. As CEO, Alderson had final decision-making authority for policies pursued by GTL and has since ratified, adopted, and approved the policies of the company.

246. 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 GTL'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 and Alderson, who continue to keep them in place as part of an intentional business strategy to maximize profit.

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

247. 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.

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

249. 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.

250. Each year, families spend more than \$1 billion dollars on jail and prison calls to remain in contact with their loved ones.⁷³

251. 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 supporting incarcerated loved ones and meeting the basic needs of family members who are outside.

252. 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

⁷³ 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>.

responsible, 87% were women.⁷⁴ One study found that low-income women spend 26% of their income on visits, calls, and packages.⁷⁵

253. The mother of Plaintiffs Le’Essa Hill and A.H. summarized the impossible predicament that families are forced into: “On many occasions, I couldn’t pay for calls without being unable to pay for something important like groceries or the electricity bill, so we just didn’t do them.”⁷⁶

254. 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.⁷⁷

255. 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

⁷⁴ Saneta deVuono-powell, et al., *Who Pays? The True Cost of Incarceration on Families* 30, Ella Baker Center (Sept. 2015), <https://static.prisonpolicy.org/scans/who-pays%20Ella%20Baker%20report.pdf>.

⁷⁵ 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).

⁷⁶ 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.”).

⁷⁷ 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>.

following suit. Connecticut and California recently became the first states to make all prison calls free.

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

256. 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. GTL'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.

257. 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.

258. Through these recordings, GTL 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.

259. **Surveillance Databases.** As a byproduct of its monopoly control, GTL has built a sprawling database 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 company's 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.

260. To meet their customers' demands, GTL offers mass surveillance tools like "Data IQ" to jurisdictions like Genesee County. GTL describes Data IQ as a "suite of biometric applications" that can "isolate all inmate 'touch points' with the outside — phone calls, video visitation sessions, in-person visitation sessions, commissary deposits, financial transactions, and more." It claims to use automated systems to generate call transcripts, detect keywords, measure the emotion of the call participants, and map out a network of associations for incarcerated people.⁷⁸ Data IQ 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 GTL operates.

261. 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

⁷⁸ GTL, *Investigative Technology: Analysis and Insight to Support Active Investigations* (2017) https://www.gtl.net/wp-content/uploads/2016/04/GTL-Tech-Brief-Investigative-Technology_TB-IQTECH-01.pdf.

who were not incarcerated, but who had at some point communicated with incarcerated people over the Securus network.

262. **Voiceprint Surveillance.** GTL has also 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.

263. GTL 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 activity.” These voiceprints are retained even upon a person’s release and can identify and profile anyone whose voice reaches into their jails or prisons, including all the parents, children, lovers, and friends of incarcerated people.

264. GTL proclaims that its suite of voiceprint identification tools not only “records and saves inmate voiceprints in a repository,” but even “enables investigators to query for any calls where an inmate’s voice is heard.” “GTL handles over 275 million inmate telephone calls annually, totaling over 3.3 billion call minutes,” said Eric Gonzalez, GTL Executive Director, Inmate Telephones and Intelligence Tools. “Voice IQ can scan for a specific voice print through every single inmate call recorded on GTL’s system, regardless of facility.”⁷⁹

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

265. Although Genesee County prohibits in-person visits for primarily financial reasons, municipalities and companies sometimes claim that concerns about “security” support ending in-

⁷⁹ *GTL Increases Inmate Identification and Fraud Prevention with New Voice Biometrics Feature*, GTL (Aug. 29, 2017), <https://www.gtl.net/about-us/press-and-news/gtl-increases-inmate-identification-and-fraud-prevention-with-new-voice-biometrics-feature>.

person visits. The evidence does not support those assertions. To the contrary, prohibitions on visits harm jail security and public safety outside the facility.

266. 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.

267. 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.

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

269. 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.”⁸⁰

270. 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

⁸⁰ 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).

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.

271. 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.

272. 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.”

273. 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.

274. 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.”

275. 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.⁸¹

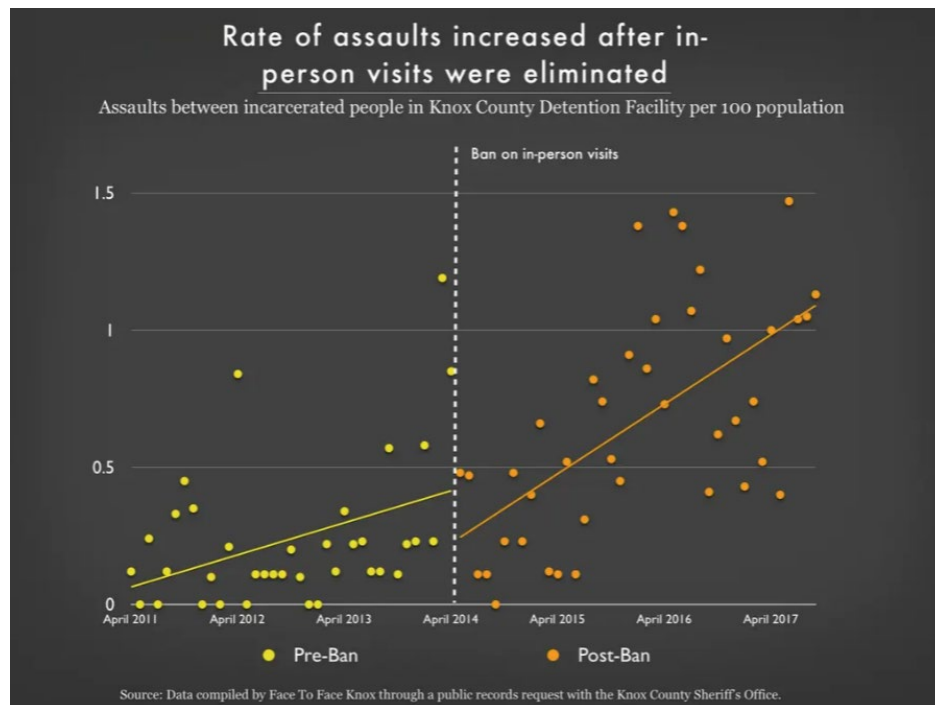
276. People who are currently or formerly detained in the Genesee County Jail widely describe competition over the video kiosks as a major source of conflict in the jail. Plaintiff O.W.’s father Tamar Watkins found that the video kiosks bred jealousy and resentment among the men, as others could clearly see who had money and family to talk to. Because the two kiosks are shared between 60 or 70 individuals in each “pod,” are used for calls, messaging, and to access the law library, and can only be used by one person at a time, any perceived “hogging” of the kiosks fomented tension in the pod. Coupled with the tension of being utterly physically isolated from their loved ones, it was unsurprising that regular fights erupted as a result.

277. 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.⁸² Two years after the initial change, Travis County legislators brought back in-person visitation to the jail.

⁸¹ Any argument Defendants might make that eliminating family visits is necessary to jail security is undermined not only by the circumstances showing that the policy was adopted to make money, but also by the numerous programs the Sheriff touts, which permit dozens of members of the public to routinely access the jail. If these strangers can be safely managed, there is simply no reason that the children and parents of people detained cannot be as well.

⁸² 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.texascjc.org/system/files/publications/TCJC%20GL%20Video%20Visitation%20Report%20%28Oct%202014%29.pdf>.

278. 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.⁸³



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

279. 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

⁸³ *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>.

department or correctional system, yielding greater job satisfaction, less turnover, fewer vacancies, a drop in mandatory overtime, and increased staff retention.”

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

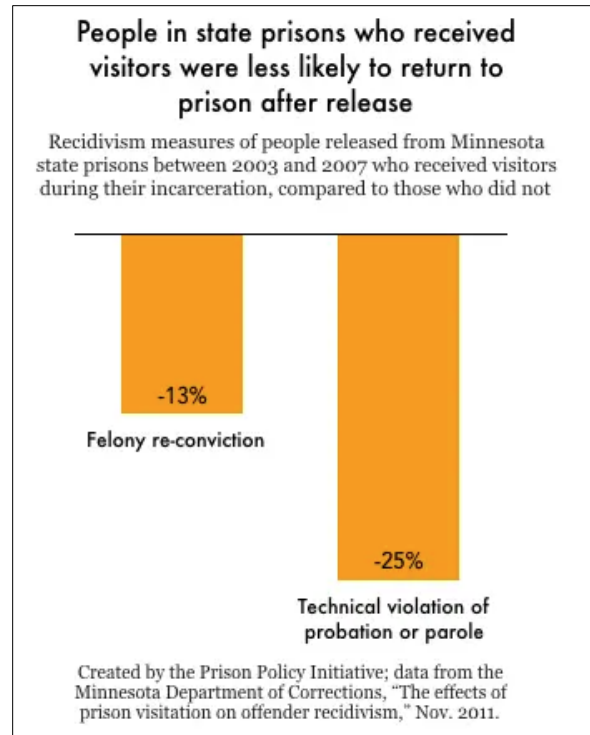
ii. In-person contact visits make the broader community safer.

281. 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.

282. 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.

283. 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.⁸⁴ 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.

⁸⁴ 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>.



284. 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.⁸⁵ The frequency of visits matters too. More frequent visits amplify the positive effects of visitation.

285. 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

⁸⁵ 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.⁸⁶ Other studies have reached similar conclusions about the employment-boosting power of in-person visits.

286. 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.⁸⁷ 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.

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

288. 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.

289. 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

⁸⁶ Grant Duwe & 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>.

⁸⁷ 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_relationship_recidivism_study_1972.pdf.

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.⁸⁸
- 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.”⁸⁹
- 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.⁹⁰

290. 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 members attributed the deterioration of their loved ones’ mental health to the

⁸⁸ 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>.

⁸⁹ 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/>.

⁹⁰ 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>.

shutdown of in-person visits. Despite overcrowding problems that increased staff-to-inmate ratios, the county decided to bring back in-person visitation.⁹¹

- 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.”⁹²
- 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.”⁹³

291. 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

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

293. 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 Genesee County Jail at any point since March 15, 2021.

⁹¹ 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/>.

⁹² 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>.

⁹³ 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 Genesee 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.

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

295. **Numerosity.** Upon information and belief, the Class and Subclass each have hundreds or thousands of class members. In 2015, 15,853 people were admitted to the Genesee County Jail.⁹⁴ 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.

296. **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.

297. 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

⁹⁴ Vera Institute of Justice, *Incarceration Trends for Michigan* 3 (2019), <https://www.vera.org/downloads/pdffdownloads/state-incarceration-trends-michigan.pdf>.

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.

298. 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 GTL Defendants to enforce and profit from a prohibition on family visits, the Court must apply the common evidence of such a conspiracy to determine 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 Genesee 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 Genesee County Jail?

299. **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.

300. **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.

301. **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.

302. Plaintiffs are represented by attorneys from Civil Rights Corps; Public Justice; and 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

All Plaintiffs, individually and on behalf of the Class,

Against the County Defendants for Damages

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*

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

304. 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.⁹⁵ 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.

305. 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

⁹⁵ See, e.g., *Reist*, 396 Mich at 341–42 (“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.”).

connected to any legitimate penological interest, and because the ban is both pursued for profit and an inappropriate response to any purported legitimate interests.

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

307. 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**

*All Plaintiffs, individually and on behalf of the Class,
Against All Defendants for Damages
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*

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

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

310. The GTL 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 Genesee County Jail, violating Plaintiffs' constitutional rights to family integrity and intimate association.

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

312. Throughout the conspiracy, the County Defendants have directly violated Plaintiffs' constitutional rights by enforcing a jail-wide ban on in-person visitation. Throughout the conspiracy, the Company 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.

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

REQUEST FOR RELIEF

314. 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 ¶¶ 18–33, *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 Genesee County and Sheriff Swanson, enjoining them from continuing to enforce the Family Visitation Ban;

- A permanent injunction against Defendants GTL and Deb Alderson, 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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**Application for admission pro hac vice forthcoming*