

Public Comment

Meeting Minutes

May 2, 2017

Ontario Public Hearing

**BOARD OF STATE AND COMMUNITY CORRECTIONS
TITLE 15 DIVISION 1, CHAPTER 1, SUBCHAPTER 4
MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES**

PUBLIC HEARING MINUTES

Tuesday, May 2, 2017

4:00PM-7:00PM

Ontario City Library

215 East C Street, Ontario, CA 91764

I. CALL TO ORDER

The meeting commenced at 4:00 p.m.

Good afternoon, I'm Allison Ganter, Deputy Director of the Facilities Standards and Operations division of the Board of State and Community Corrections (BSCC). It is 4:00PM on May 2, 2017, and we are gathered here at the Ontario City Library to receive public comments on proposed rulemaking actions by the BSCC. The BSCC Board has proposed a number of changes to the Minimum Standards for Local Adult Detention Facilities as they pertain to video visitation. Today, we are addressing the regulations contained in Title 15, Division 1, Chapter 1, Subchapter 4.

I would like to remind you all that we are only accepting public comment on those regulations that have proposed changes; please see Exhibit B, Express Terms for a list of regulations that have proposed changes. Comments related to the proposed changes will be included in the rulemaking file and submitted to the Office of Administrative Law with the rulemaking package.

Under the rulemaking provisions of the Administrative Procedures Act, this hearing provides the opportunity for public presentation of statements, arguments, and contentions, verbally or in writing, for or against the adoption of the proposed regulations, notice of which has previously been both published and distributed to interested parties.

The 45-day written public comment period for the Title 15 regulations for the Minimum Standards for Local Adult Detention Facilities began on March 10, 2017 and closed at 5:00 p.m. on April 24, 2017.

This is a quasi-legislative hearing, in which the BSCC Board carries out a rulemaking function delegated to it by the Legislature. Witnesses presenting testimony at this hearing will not be sworn-in, nor will we engage in cross-examination of witnesses. We will take under submission all written and verbal statements submitted or made during this hearing. We will respond to these comments in writing in the final statement of reasons.

This entire Administrative Procedures Act rulemaking hearing will be recorded. The minutes of the hearing and all exhibits and evidence presented during the hearing will be made part of the rulemaking record.

If you have brought written comments with you to submit during the hearing today, please give them to Ginger Wolfe, staff to the BSCC Board. Please fill out an attendance sheet even if you do not wish to speak.

At this point, the rulemaking record includes three exhibits: Exhibit (A) is the notice of the proposed action which was published in the California Regulatory Notice Register on March 10th. Exhibit (B) is the express terms of the proposed action, using strikeout and underline to indicate changes to the California Code of Regulations. Exhibit (C) is the initial statement of reasons.

Do we have any people wishing to make statements during this hearing?

II. PUBLIC COMMENTS

Carole Urie, Director of the Returning Home Foundation

Thank you for review of Title 15 “visitation” and that in person visitation has been identified as an optional visiting mode that must be included in all new future projects that have not been identified by the BSCC as “in construction” or “planned” at this time.

This was an important step, but things that are on paper sometimes do not necessarily succeed in practice, so I am hoping the following issues will be considered when the regulations are reviewed again in two years.

Costs for video: replacing free in-person jail visits with expensive computer video chats was solved by offering the first hour free. But in jails where there are both visiting options, off-site video calling is charged. While the internet is a great tool, it cannot be assumed that everyone has access to this technology or can use it or afford it. A problem in practice: Poor people have less access to high-speed internet and computers at home. Similarly, Blacks and Hispanics are less likely than Whites to have computers and high-speed internet access at home. A problem in practice: Pre-registration for some visitation must be made via the internet. A problem in practice: according to article (d) an inmate needs to make a “request” for in-person visitation instead of a visit by video-call so that the video call cannot be used to fulfill the requirements of that section. A procedural dilemma.

Perhaps problem could be solved if “in-person visitation” were identified as the default visitation mode and per the American Correction Association “emerging technologies are to be used as a supplement to it”.

Finally – visitation itself. Research has shown that in-person visitation reduces recidivism. It is a crucial link to family and community. AB109 moved persons closer to their community. Problem in practice: use of video calls only has shown to reduce the number of visitation due to issues just stated.

I end with the Governor's comments in his veto of BS1157: He is concerned about the trend of making jail facilities unavailable for in-person visits, that the practice could have an adverse impact on achieving rehabilitative goals and might affect in a negative way the families and loved ones of those incarcerated.

The BSCC has been charged with exploring ways to address these issues.

III. CLOSING OF SESSION

Seeing that there were no further persons who wished to comment, the public hearing was closed at 7:00 p.m.

ROSTER OF ATTENDANCE

Public Members

Ms. Carole Urie, Returning Home Foundation

Mr. John Van Whervin, Kitchell CEM

Ms. Elvira Harris, California Correctional Peace Officers Association / California
Department of Corrections and Rehabilitation

BSCC Members

Allison Ganter, Deputy Director, Facilities Standards and Operations (FSO)

Ginger Wolfe, Associate Governmental Program Analyst, Facilities Standards and
Operations (FSO)

Public Comment

Attachment J-2

Prison Policy Initiative

PRISON

POLICY INITIATIVE

BERNADETTE RABUY

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69 Garfield Ave, Floor 1
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April 23, 2017

Ginger Wolfe

Associate Governmental Program Analyst

2590 Venture Oaks Way, Suite 200

Sacramento, CA 95833

Ginger.wolfe@bscc.ca.gov

Dear Ms. Wolfe:

In-person correctional visitation has implications for all Californians. In-person visits reduce recidivism and help families maintain ties during a difficult time. While we are grateful that the Board of State and Community Corrections is moving in the right direction by approving regulations that would require in-person jail visits for some California jails, we do not believe that the regulations go far enough in protecting in-person visitation.

The expansive grandfathering that the approved regulations allow will only lead to more and potentially costly problems for policymakers in the future. The regulations:

- Provide no incentive for counties to reconsider their plans to eliminate in-person visits.
- Allow sheriffs to resist the will of their county governments.

The regulations provide no incentive for counties to reconsider their plans to eliminate in-person visits.

The regulations do not provide any incentive for sheriffs to provide in-person visits, even when it would be relatively easy for them to do so. For example, a recent Valley Public Radio piece interviewed Captain Tim Fosnaugh from the Tulare County Sheriff's Office about a video visitation system the office implemented in January 2017. Fosnaugh said that the technology "is the future" and that he doesn't see it going away anytime soon. Tulare County is building two new jail facilities that will only provide video visitation in addition to the system implemented in January.

We are discouraged by this interview because Tulare County is a perfect example of a county that could relatively easily change its plans to allow for in-person visitation because it is not far along in the construction process. For example, the Sequoia Field Program Facility is in the establishment phase, which is even before the architectural planning. While the Board of State and Community Corrections regulations appear to be focused on protecting in-person visits, the expansive grandfathering works against this goal.

By grandfathering Tulare County's planned facilities, the Board of State and Community Corrections is not giving the Tulare County Sheriff's Office any reason to reconsider its decision to protect essential in-person visits. The quote also shows that sometimes sheriff's offices are basing crucial decisions about whether to allow human contact between incarcerated people and their families on fads. Moreover, it is arguable that video visitation "is the future" as Fosnaugh suggested. Approximately 15% of local jails across the country provide video visitation. Thus, in-person visitation is still the national standard, and some of those jails provide video as a supplement to in-person visits.

The regulations allow sheriffs to resist the will of their county governments.

The Board of State and Community Corrections' decision to protect in-person visits yet grandfather counties and facilities that are in the early stages of construction is making it harder for counties to protect in-person visits. Monterey County is a great example of a county that should not be grandfathered. While the County released a bid for a planned facility that would only provide video visitation, the sheriff's office failed to even communicate this plan with the Monterey County Board of Supervisors.

At the March 28, 2017 Board of Supervisors meeting, Supervisors Parker and Alejo expressed their disapproval of the move to eliminate in-person visits and their frustration that they were just hearing about this plan.¹ In response to the Supervisors' opposition to the video-only visitation plans, the sheriff's office responded, "the jail design had already been approved by the state." Instead of incentivizing the Monterey County sheriff's office to work with the Board of Supervisors in coming up with a plan that accommodates the Supervisors' request for in-person jail visitation, the sheriff's office can use the grandfathering as an excuse for resisting the Supervisors' will.

Conclusion

There is a strong and growing national consensus that a video visit is not the same as a real, in-person visit and that this is a harmful trend that needs to be stopped. For example, last August, the American Correctional Association, unanimously ratified a policy that states that correctional agencies should "use emerging technologies as *supplements* to existing in-person visitation" (emphasis added).² The Board of State and Community Corrections' approved regulations would allow jails in California to violate existing correctional best practices. There is active legislation in Illinois, Massachusetts, New Jersey, and a Congressional bill introduced by Senator Tammy Duckworth that all hope to protect in-person visits from video visitation.³ Moreover, a recent *The New York Times* editorial reiterated that video visitation is no substitute for in-person contact.⁴ At a time when more and more jurisdictions are realizing the shortcomings of replacing traditional in-person visitation with video visitation, the proposed regulations will facilitate the harmful actions of too many California counties.

¹ See Exhibit 1.

² See Exhibit 2.

³ See Exhibit 3.

⁴ See Exhibit 4.

There is no excuse for the expansive grandfathering that these approved regulations would allow. We ask that, at the very least, the Board of State and Community Corrections reduce the list of counties it is grandfathering by requiring in-person visits from the counties that already have the existing space to provide in-person visits and the counties that are in early stages of construction and could relatively easily change their plans to eliminate in-person visits like Tulare and Monterey counties.

Thank you for your continued work. We hope that we will be able to find a solution that recognizes and appreciates how essential visitation is for incarcerated people and their loved ones. Please feel free to reach out if you would like to speak further.

Sincerely,



Bernadette Rabuy
Senior Policy Analyst

Attachment 32

EXHIBIT 1

April 2017
Re: Title 15 Visitation

Monterey County, CA video visitation news articles

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Some county supervisors upset with all-video visitation plan for expanded jail

By [Jim Johnson](#), Monterey Herald

Posted: 03/28/17, 6:38 PM PDT | Updated: 2 weeks ago

[0 Comments](#)

Salinas >> Amid concerns about the prospect of switching to all-video visitation, the Monterey County Board of Supervisors on Tuesday postponed consideration of an operational and staffing plan for an expanded County Jail for two weeks. The board directed county staff to return with details about a plan to also offer in-person visits for inmates and their families.

The delay came as county facilities chief Don Searle told the board the \$88.9 million, 576-bed expansion project had already been put out for construction bids last week. He said it could not be redesigned to accommodate in-person visits due to time and cost constraints. This despite a Sheriff's Office staff report indicating the state needed a board-approved operational and staffing plan before the project could be released for bids. Sheriff's spokesman Cmdr. John Thornburg clarified that the state had already approved the plan and Searle said the supervisors authorized sending the project to bid in December.

The board agreed Tuesday to revisit the jail operations plan at its April 11 meeting, including a proposal to allow post-construction access to the current jail's in-person visitation area where inmates and their families communicate by phone through a glass partition. Sheriff's officials told the board they had created a plan to offer those in-person visits but offered few details. They told the supervisors no in-person visits could be allowed during the nearly two-year construction period anyway because the new section would be attached to the current jail, blocking its main entrance.

Supervisors Jane Parker and Luis Alejo expressed frustration that the board just recently learned about the Sheriff's Office plan to go with an all-video visitation system, which they oppose. They both noted they had expressed concern about the proposal during a budget committee meeting earlier in the month but no changes had been made. Parker strongly disagreed with Sheriff's Corrections Bureau Chief John Mineau's contention that the board must have been aware of the all-video plan when the supervisors approved the jail design in early 2015. Alejo complained the operational and staffing plan that made the all-video proposal clear had just been released earlier in the month despite being dated August last year.

Parker said the early 2015 design review included only a mention of video visitation but there was no way to know the plan was for an all-video system. She said she didn't appreciate the plan being brought to the board at the last minute and being told it had to be approved.

"I need to see the plans," she said, "especially with the way we've been treated today. Vague promises don't give me any assurances."

Alejo noted board reviews of the operational and staffing plan had been postponed multiple times in the past few months. He argued the issue should have been debated much earlier in the process and the public included. He also noted the state appeared to be headed toward requiring at least some in-person visitation.

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Board chairwoman Mary Adams said all-video visitation was "dehumanizing" and predicted "public outrage." She argued the project should be redesigned to accommodate in-person visits now rather than trying to devise a potentially expensive and complicated solution after construction.

Mineau and Capt. Jim Bass said the all-video visitation plan had been part of the project design since the beginning. They argued it would help maximize the use of available space in the newly expanded jail, minimize staffing demands and inmate movement, reduce the potential for contraband smuggling, and potentially allow inmates more visits with family members. They said they only recently learned the state might shift directions on video visitation. Mineau said all-video visitation would get a good test run and feedback during construction because there would be no public access to the current jail for about two years, and inmates would have to communicate with family via video between the jail and a portable video center.

“There are too many goods for this project under this footprint to scape it and start over,” Mineau said.

Supervisor Simon Salinas said if he had known about the all-video plan he would have opposed it, but he argued the project was too important to risk delaying it or risking state funding.

Supervisor John Phillips said he prefers video visitation.

Also Tuesday, the board approved a \$5.9 million increase in the county match for the planned new Juvenile Hall project, whose overall cost has risen to \$58.7 million largely due to higher than expected construction bids even after a second round of bidding. The state will pay all but \$23.7 million of the project cost to replace a current facility built in 1959.

Jim Johnson can be reached at 831-726-4348.

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About the Author



Jim Johnson covers Monterey County government and water issues for the Monterey Herald. Reach the author at jjohnson@montereyherald.com or follow Jim on Twitter: [@JimJohnson_MCH](https://twitter.com/JimJohnson_MCH).

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Independent review of Monterey County Jail plan ordered

By [Jim Johnson](#), Monterey Herald

Posted: 04/11/17, 6:40 PM PDT | Updated: 7 hrs ago

[1 Comment](#)

Salinas >>> In a confrontation with Sheriff Steve Bernal, Monterey County supervisors on Tuesday ordered an independent review of a proposed operational and staffing plan for an expanded County Jail, questioning the revised plan's call for additional staffing to allow in-person visits after construction is finished and Bernal's refusal to consider allowing in-person visits during construction.

Led by Supervisors Jane Parker and Luis Alejo, the board directed County Administrative Officer Lew Bauman to pursue the independent review of the jail plan, which must be approved by the supervisors before a construction contract can be awarded. The \$88.9 million expansion project has already gone out for bids with a May 4 deadline for responses. The review is intended to reconsider the jail's operational and staffing needs, and explore the possibility of allowing in-person visits during construction.

Parker also asked for a copy of the Sheriff's policies and practices, and directed County Counsel Charles McKee to report on whether and how the board could influence them given its budget oversight. She said she would not support the jail plan without the review.

The board's 4-1 vote included a single dissent from Supervisor John Phillips, who expressed concern about delaying the project after retiring Sheriff's Cmdr. Mike Moore told the board the jail design had already been approved by the state and any changes could delay the project for three years.

Bauman said the review would likely not be finished before a construction contract could be awarded next month, but promised a status report.

The board's move came two weeks after it asked the Sheriff's Office to revise an earlier version of the jail plan to incorporate in-person visitation instead of relying entirely on video visitation. In response, Bernal produced a revised plan that called for 10 additional jail staff to accommodate in-person visits, but only after the two-year project construction period.

Parker and Alejo, who questioned Bernal and Corrections Bureau Chief John Mineau at length in a tense back-and-forth about the proposed plan, were clearly frustrated by Bernal's position that post-construction in-person visits would require additional staffing and costs, and insistence that they were totally infeasible and even dangerous during construction.

Parker noted the "huge budget implications" of the jail staffing issue, and argued that "every time something comes forward that the Sheriff doesn't like we're told it will cost more."

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Bernal responded that it was “unfair” to say he didn’t like in-person visits, and he was simply reporting they would cost more and the supervisors would have to approve additional funding if they wanted them.

Alejo noted he had been a big supporter of the jail expansion and fought for increased funding while in the state legislature, but complained that the board was being told the project was too far along to change anything even though it had just recently seen the proposed jail operational and staffing plan.

Meanwhile, Phillips said the board shouldn’t tell the “elected Sheriff” how to staff his jail and that he didn’t “distrust” him. Phillips said later the board’s review was “ill-advised,” and the county was “close to jeopardizing the project” and risked turning the jail over to a federal judge’s oversight if it was unable to meet the terms of a legal settlement aimed at addressing jail safety.

Coincidentally, the jail debate was followed by a budget workshop that included departments, including Bernal’s, expected to be most affected by a projected budget shortfall in the upcoming 2017-18 fiscal year to make their pitches to the board for additional funding.

Also Tuesday, the board appointed Parker to the Monterey Bay Community Power agency’s policy board, with Phillips as alternate.

Jim Johnson can be reached at 831-726-4348.

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About the Author



Jim Johnson covers Monterey County government and water issues for the Monterey Herald. Reach the author at jjohnson@montereyherald.com or follow Jim on Twitter: [@JimJohnson_MCH](https://twitter.com/JimJohnson_MCH).

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EXHIBIT 2

April 2017
Re: Title 15 Visitation

*American Correctional Association Public Correctional Policy on
Family-Friendly Communication and Visitation*

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PUBLIC CORRECTIONAL POLICY ON FAMILY-FRIENDLY COMMUNICATION AND VISITATION

2016-1

Introduction:

Regular communication between offenders and their family and friends is proven to aid the reentry process and is consistent with sound correctional management.

Policy Statement:

Correctional agencies should promote communications between offenders and their family and friends and adopt family-friendly policies that:

- A. Allow visitation, correspondence, phone calls and multiple forms of audio and visual communication;
- B. Use emerging technologies as supplements to existing in-person visitation;
- C. Do not place unreasonable financial burdens upon the offender or their family and friends;
- D. Grant access to a range of reasonably priced telecommunications services that comply with all applicable state and federal regulations;
- E. Establish rates and surcharges that are commensurate with those charged to the general public for like services and that any deviation from ordinary consumer rates should reflect actual costs associated with the provision of services within a correctional setting; and
- F. Provide the broadest range of telecommunications options determined to be consistent with the requirements of sound correctional management.

This policy was unanimously ratified by the American Correctional Association Delegate Assembly at the 146th Congress of Correction in Boston, MA on August 9, 2016.

EXHIBIT 3

April 2017
Re: Title 15 Visitation

*Illinois, Massachusetts, New Jersey, and federal legislation on video
visitation*

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100TH GENERAL ASSEMBLY State of Illinois 2017 and 2018 HB2738

Introduced , by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-7-2

from Ch. 38, par. 1003-7-2

Amends the Unified Code of Corrections. Provides that all of the institutions and facilities of the Department of Corrections shall permit every committed person to receive in-person visitors, except in case of abuse of the visiting privilege or when the chief administrative officer determines that such visiting would be harmful or dangerous to the security, safety or morale of the institution or facility. Provides that an institution or facility of the Department may not charge a fee to either a committed person or visitor for video visitation that results in a profit for the Department.

LRB100 10534 RLC 20750 b

FISCAL NOTE ACT MAY
APPLY

A BILL FOR

HB2738

LRB100 10534 RLC 20750 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-7-2 as follows:

6 (730 ILCS 5/3-7-2) (from Ch. 38, par. 1003-7-2)
7 Sec. 3-7-2. Facilities.

8 (a) All institutions and facilities of the Department shall
9 provide every committed person with access to toilet
10 facilities, barber facilities, bathing facilities at least
11 once each week, a library of legal materials and published
12 materials including newspapers and magazines approved by the
13 Director. A committed person may not receive any materials that
14 the Director deems pornographic.

15 (b) (Blank).

16 (c) All institutions and facilities of the Department shall
17 provide facilities for every committed person to leave his cell
18 for at least one hour each day unless the chief administrative
19 officer determines that it would be harmful or dangerous to the
20 security or safety of the institution or facility.

21 (d) All institutions and facilities of the Department shall
22 provide every committed person with a wholesome and nutritional
23 diet at regularly scheduled hours, drinking water, clothing

HB2738

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LRB100 10534 RLC 20750 b

1 adequate for the season, bedding, soap and towels and medical
2

and dental care.

3 (e) All institutions and facilities of the Department shall
4 permit every committed person to send and receive an unlimited
5 number of uncensored letters, provided, however, that the
6 Director may order that mail be inspected and read for reasons
7 of the security, safety or morale of the institution or
8 facility.

9 (f) All of the institutions and facilities of the
10 Department shall permit every committed person to receive
11 in-person visitors, except in case of abuse of the visiting
12 privilege or when the chief administrative officer determines
13 that such visiting would be harmful or dangerous to the
14 security, safety or morale of the institution or facility. The
15 chief administrative officer shall have the right to restrict
16 visitation to non-contact visits for reasons of safety,
17 security, and order, including, but not limited to, restricting
18 contact visits for committed persons engaged in gang activity.
19 ~~No committed person in a super maximum security facility or on~~
20 ~~disciplinary segregation is allowed contact visits.~~ Any
21 committed person found in possession of illegal drugs or who
22 fails a drug test shall not be permitted contact visits for a
23 period of at least 6 months. Any committed person involved in
24 gang activities or found guilty of assault committed against a
25 Department employee shall not be permitted contact visits for a
26 period of at least 6 months. The Department shall offer every

HB2738

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LRB100 10534 RLC 20750 b

1 visitor appropriate written information concerning HIV and
2 AIDS, including information concerning how to contact the
3 Illinois Department of Public Health for counseling
4 information. The Department shall develop the written
5 materials in consultation with the Department of Public Health.
6 The Department shall ensure that all such information and
7 materials are culturally sensitive and reflect cultural
8 diversity as appropriate. Implementation of the changes made to

9 this Section by this amendatory Act of the 94th General
10 Assembly is subject to appropriation. An institution or
11 facility of the Department may not charge a fee to either a
12 committed person or visitor for video visitation that results
13 in a profit for the Department.

14 (f-5) (Blank).

15 (g) All institutions and facilities of the Department shall
16 permit religious ministrations and sacraments to be available
17 to every committed person, but attendance at religious services
18 shall not be required.

19 (h) Within 90 days after December 31, 1996, the Department
20 shall prohibit the use of curtains, cell-coverings, or any
21 other matter or object that obstructs or otherwise impairs the
22 line of vision into a committed person's cell.

23 (Source: P.A. 99-933, eff. 1-27-17.)

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SENATE No. 1278

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting in-person visitation for inmates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/3/2017</i>

SENATE No. 1278

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1278) of Michael J. Barrett, James B. Eldridge, Mary S. Keefe and Sal N. DiDomenico for legislation to protect in-person visitation for inmates. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act protecting in-person visitation for inmates.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 127 of the of the Massachusetts General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by adding the following section:

3 Section 36 ½. No commissioner or superintendent of a correctional institution of the
4 commonwealth or any jail or house of correction in the commonwealth or the keeper of such jail
5 or house of correction may prohibit, eliminate or unreasonably or unjustifiably limit in-person
6 visitation of inmates, nor may such commissioner, superintendent, or keeper enter into any
7 arrangement with any vendor that prohibits, eliminates or limits in-person visitation of inmates,
8 nor may such commissioner, superintendent, or keeper coerce, compel, or otherwise pressure an
9 inmate to forego or limit in-person visitation. Nothing in this section shall be construed to
10 prohibit temporary suspension of visitation privileges for individual inmates for misbehavior, nor
11 temporary suspension of visitation privileges within a facility for the duration of a bonafide

- 12 emergency, provided that in-person visitation shall be restored as soon as is practicable after the
13 resolution of said emergency.

Attachment J-2

SENATE No. 1335

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to preserve family ties and inmate visitation.

PETITION OF:

NAME:

Mark C. Montigny

DISTRICT/ADDRESS:

Second Bristol and Plymouth

SENATE No. 1335

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1335) of Mark C. Montigny for legislation to preserve family ties and inmate visitation. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to preserve family ties and inmate visitation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 127 of the General Laws is hereby amended by adding the following section:-

Section 36C. Any correctional or penal institution in the commonwealth that elects to use video or other types of electronic devices for inmate visitations shall also provide inmates with in-person visitation. Any correctional or penal institution in the commonwealth may charge a fee for video or other types of electronic communication for inmate visitation, provided that the fee does not exceed the operating cost of the visitation. Any fees collected in excess of operating costs shall be allocated to the Victim's Trust Fund as defined in Chapter 258C.

All correctional and penal institutions in the commonwealth shall provide eligible inmates at least one opportunity for visitation in a seven day period.

Facilities shall have until January 1, 2020 to comply with this section. Any facility that does not comply with these requirements by this date is prohibited from charging any fee for video or other types of electronic communication for visitation.

ASSEMBLY, No. 4389

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED DECEMBER 12, 2016

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

SYNOPSIS

Imposes requirements on video visitation service contracts for inmates in certain correctional facilities; requires correctional facilities to allow contact visits.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning inmate visitation and supplementing Title 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. All video visitation service contracts for inmates in State, county, or private correctional facilities, as defined in section 1 of P.L.2016, c.37 (C.30:4-8.11), shall be subject to the procurement provisions set forth in chapter 34 of Title 52 of the Revised Statutes and chapter 11 of Title 40A of the New Jersey Statutes; provided, however, the State Treasurer or appropriate person on behalf of the county or private correctional facility shall contract with a qualified vendor who charges a per minute rate for video visitation, including video visitation that is accessed by visitors from a location other than a correctional facility, that shall not exceed 11 cents per minute, is the lowest responsible bidder, and does not bill to any party any service charge or additional fee exceeding the per minute rate.

As used in this subsection:

“Lowest price” means the least possible amount that meets all requirements of the request of a contracting agent set forth in the Request for Proposals.

“Lowest responsible bidder” means the bidder: (1) whose response to a request for bids offers the lowest price and is responsive; and (2) who is responsible.

b. A State, county, or private correctional facility shall not accept or receive a commission or impose a surcharge for video visitation usage by inmates in addition to the charges imposed by the video visitation service provider. For the purposes of this subsection, "commission" means any form of monetary payment, in-kind payment requirement, gift, exchange of services or goods, fee, or technology allowance.

c. Any contract entered into pursuant to subsection a. of this section shall include a term that requires monetary penalties to be imposed on a vendor who fails to maintain consistent and reliable quality of the video visitation service.

d. A video visitation service provider shall refund, in a timely manner, the charges imposed for: (1) a scheduled video visitation that does not occur for any reason other than the fault of the visitor; or (2) any video visitation in which communication between the inmate and the visitor is substantially impaired due to low quality audio or video.

2. a. A State, county, or private correctional facility, as defined in section 1 of P.L.2016, c.37 (C.30:4-8.11), shall not impose a charge for video visitation between an inmate and the inmate's attorney, a representative of the attorney, or a member of the clergy. A representative of the attorney shall include, but not be limited to, investigators, investigative aides, expert witnesses, paralegals, and law students.

b. An inmate incarcerated in a State, county, or private correctional facility shall be permitted to have contact visits with approved visitors. A State, county, or private correctional facility may only impose on those visits reasonable conditions necessary for safety and security within the correctional facility.

c. A State, county, or private correctional facility shall implement reasonable visiting hours for contact visits and video visitation.

3. The Commissioner of Corrections shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act.

4. This act shall take effect immediately and section 1 shall apply to any new or renewal contract for inmate video visitation services in effect on or after the date of enactment.

STATEMENT

This bill imposes requirements on video visitation service contracts for inmates in State, county, and private correctional facilities and requires correctional facilities to allow inmates to have contact visits.

Under the provisions of this bill, the State Treasurer or other appropriate person on behalf of the county or private correctional facility is to contract with a vendor who charges a per minute rate for video visitation, including video visitation that is accessed by visitors from a location other than a correctional facility, which is not to exceed 11 cents per minute and who is the lowest responsible bidder. A vendor is not to bill any service charge or additional fee exceeding the per minute rate.

The bill also provides that a State, county, or private correctional facility is not permitted to receive a commission or impose a surcharge for video visitation usage by inmates in addition to the charges imposed by the service provider. Further, under the bill, the contract is to include a term that requires monetary penalties to be imposed on a vendor who does not maintain consistent and reliable quality of the video visitation service.

In addition, a video visitation service provider is required to refund, in a timely manner, any charges imposed: (1) for a scheduled video visitation that does not occur for any reason other than the fault of the visitor; or (2) any video visitation in which communication between the inmate and the visitor is substantially impaired due to low quality audio or video.

The bill prohibits a State, county, or private correctional facility from imposing a charge for video visitation between an inmate and the inmate's attorney, a representative of the attorney, or a member of the clergy. In addition, correctional facilities are required to allow inmates to have contact visits with approved visitors and may only impose reasonable conditions necessary for safety and security within the correctional facility. Finally, correctional facilities are required to implement reasonable visiting hours for both contact visits and video visitation.

114TH CONGRESS
2D SESSION

H. R. 6441

To provide for the regulation of video visitation services by the Federal Communications Commission generally, to establish criteria for the provision of video visitation services by the Bureau of Prisons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2016

Ms. DUCKWORTH introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the regulation of video visitation services by the Federal Communications Commission generally, to establish criteria for the provision of video visitation services by the Bureau of Prisons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Video Visitation in
5 Prisons Act of 2016”.

1 **SEC. 2. FCC REGULATION OF VIDEO VISITATION SERVICE**
2 **AND INMATE CALLING SERVICE.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, the Federal Commu-
5 nications Commission shall promulgate regulations with
6 respect to video visitation service, and amend its regula-
7 tions with respect to inmate calling service (as necessary),
8 to ensure that all charges, practices, classifications, and
9 regulations for and in connection with video visitation
10 service and inmate calling service are just and reasonable.

11 (b) REQUIREMENTS FOR REGULATIONS.—The regu-
12 lations promulgated under subsection (a) shall include the
13 following:

14 (1) Caps on the rates (and any related fees or
15 charges) that a provider of a covered service may
16 charge for such service.

17 (2) A prohibition against a provider of a cov-
18 ered service charging a flat rate for a call, regardless
19 of the duration of the call.

20 (3) A prohibition against a provider of a cov-
21 ered service requiring a correctional facility to re-
22 strict in-person visitation as a condition of providing
23 such service in such facility.

24 (4) A requirement that a provider of a covered
25 service certify annually to the Commission that such
26 provider is in compliance with the prohibition under

1 paragraph (3). If such provider is subject to the an-
2 nual reporting and certification requirement of sec-
3 tion 64.6060 of title 47, Code of Federal Regula-
4 tions, the certification required under this paragraph
5 shall be included as part of the certification required
6 by such section.

7 (5) A prohibition against a provider of a cov-
8 ered service offering or entering into an agreement
9 to provide a covered service as part of a bundle of
10 services that includes any service that is not a com-
11 munications service.

12 (6) Requirements for the offering or entering
13 into an agreement to provide a covered service as
14 part of a bundle of services that ensure that correc-
15 tional facilities are able to review each service sepa-
16 rately during the request for proposals process.

17 (7) With respect to video visitation service,
18 quality standards that are the best commercially
19 available for effective human communication by
20 video. In developing such standards, the Commission
21 shall seek comments that review the academic lit-
22 erature regarding the appropriate thresholds for ef-
23 fective human communication by video.

24 (c) APPLICABILITY.—The regulations promulgated
25 under subsection (a) shall apply to interstate service,

1 intrastate service, and international service. In promul-
2 gating such regulations, the Commission may provide for
3 different requirements for interstate service, intrastate
4 service, and international service.

5 (d) DEFINITIONS.—In this section:

6 (1) CALL.—The term “call” means a voice or
7 video call using a covered service. Such term in-
8 cludes any other session of use that is similar to a
9 telephone call.

10 (2) COMMISSION.—The term “Commission”
11 means the Federal Communications Commission.

12 (3) COVERED SERVICE.—The term “covered
13 service” means an inmate calling service or a video
14 visitation service.

15 (4) VIDEO VISITATION SERVICE.—The term
16 “video visitation service” means a service that allows
17 inmates to make video calls to individuals outside
18 the correctional facility where the inmate is being
19 held, regardless of the technology used to deliver the
20 service. A video visitation service may be classified
21 as an inmate calling service, as the Commission con-
22 sidered appropriate.

23 (5) ADDITIONAL DEFINITIONS FROM REGULA-
24 TIONS.—The terms “correctional facility”, “inmate”,
25 and “inmate calling service” have the meanings

1 given such terms in section 64.6000 of title 47, Code
2 of Federal Regulations.

3 **SEC. 3. BUREAU OF PRISONS OVERSIGHT.**

4 Chapter 301 of title 18, United States Code, is
5 amended—

6 (1) by adding at the end the following:

7 **“§ 4015. Video visitation**

8 “(a) IN GENERAL.—The Director of the Bureau of
9 Prisons shall take such actions as may be necessary to
10 ensure that, in the case of any prisoner in the custody
11 of the Bureau of Prisons, video visitation is available sub-
12 ject to the following:

13 “(1) Video visitation may be used only to sup-
14 plement, not supplant, in-person visitation.

15 “(2) Any equipment or area made available for
16 purposes of video visitation shall maximize privacy
17 to the extent practicable, and shall include measures
18 to ensure the operability of the equipment by visi-
19 tors, including children.

20 “(3) In entering into any agreement to provide
21 covered services, the Director—

22 “(A) shall give priority to bids submitted
23 that require the purchase of equipment for
24 video visitation;

1 “(B) may not enter into any agreement in-
2 cluding a term providing for—

3 “(i) any services other than those that
4 are minimally required by the Director;

5 “(ii) any authority to a person other
6 than a corrections officer to make a deter-
7 mination that affects the terms of a pris-
8 oner’s imprisonment, including visitation
9 schedules or ability of a person to move
10 about within a correctional facility; or

11 “(iii) a covered service as part of a
12 bundle of services that includes any service
13 that is not a covered service; and

14 “(C) may not enter into any agreement
15 that does not include terms requiring—

16 “(i) that the service provider provide
17 a list of each video visitation and each in-
18 dividual fee charged to the visitor and the
19 prisoner;

20 “(ii) that the service provider offer a
21 minimum number of free visits each month
22 based on good behavior (as determined by
23 the head of the correctional facility where-
24 in the service is provided); and

1 “(iii) that the service provider submit
2 quarterly reports including such informa-
3 tion as the Director may require to ensure
4 compliance with the terms of this section.

5 “(b) DEFINITION.—In this section, terms used have
6 the meanings given such terms in section 2(d) of the Video
7 Visitation in Prisons Act of 2016, except that, for pur-
8 poses of this section, the term video visitation service in-
9 cludes a service that allows the use of videoconferencing
10 or analog closed circuit television systems and software to
11 allow inmates and visitors to visit at a distance with an
12 inmate in a correctional facility.”; and

13 (2) in the table of sections, by adding at the
14 end the following:

“4015. Video visitation”.

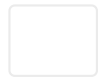
○

EXHIBIT 4

April 2017
Re: Title 15 Visitation

The New York Times editorial

PRISON
POLICY INITIATIVE

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EDITORIAL

A Bad Idea to Cut Prison Visitations



The Clinton Correctional Facility in Dannemora, New York.
JACOB HANNAH FOR THE NEW YORK TIMES

By THE EDITORIAL BOARD
MARCH 28, 2017

Gov. [Andrew Cuomo](#) of New York [likes to trumpet](#) his record as a criminal-justice reformer, pointing to the reduction in the state prison population and the closing of 13 prisons under his watch. A lot more [needs to be done](#), but Mr. Cuomo has shown an understanding of the need for humane justice policies.

So it was all the more inexplicable that his budget for 2017-18 called for slashing family visiting hours at New York's 17 maximum-security prisons, a hugely destructive move that would save the state budget a tiny amount of money.

No one disputes how important these visits are to the inmates and their families. Research shows that prisoners who get regular visits from their families are more likely to do well upon their release, are less likely to commit new crimes and may even be less violent while in prison — keeping people safer and reducing costs to taxpayers. For children in particular — more than 100,000 of whom have a parent behind bars in New York — in-person visits are a crucial part of developing healthy, long-term bonds with their incarcerated parents.

New York was once a pioneer of enlightened visitation policies, establishing visiting hours seven days a week in the aftermath of the prison riots at Attica in 1971. But prison overcrowding in recent decades meant more visitors and led to cutbacks in visitations at medium-security prisons to weekends and holidays only.

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The budget proposal would cut visits at maximum-security prisons from seven days a week to three, which would eliminate the jobs of 39 corrections officers, saving a meager \$2.6 million a year, out of an annual corrections budget of more than \$3 billion. In place of face-to-face visits, inmates and their families are being offered video conferences, which are no substitute for in-person contact.

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Making visits to upstate prisons can be difficult for inmates' families, who are disproportionately poor and often have inflexible work or child-care schedules. But

many make the trip anyway. Ending visits on all but Friday, Saturday and Sunday would only worsen the long lines and weekend overcrowding that already afflict many prison visiting rooms.

The state should be working to make things easier, not harder, on these families — for example, by restoring the [free bus service](#) that tens of thousands of inmates' relatives relied on before it was chopped out of the budget in 2011. (A bill scheduled to be introduced this week by Assemblyman David Weprin, a Democrat from Queens, would do this.)

Fortunately, the proposed visitation cut has not been well received in Albany. Neither the State Senate nor the Assembly cut visiting hours in their budgets, and Mr. Cuomo's office says he will back off this proposal.

That would be the right move. The small cost of maintaining visiting hours makes an enormous difference in the lives of imprisoned New Yorkers. If Mr. Cuomo wants to leave his mark as a justice reformer, he should be making it easier for prisoners to stay connected to their families.

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Public Comment

Ella Baker Center For
Human Rights

April 24, 2017

Ginger Wolfe
Associate Governmental Program Analyst
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833

Dear Ms. Wolfe:

On behalf of the Ella Baker Center, I write to inform you of our recommendations related to maintaining in person visitation in county jails. Based in Oakland, California, the Ella Baker Center works to advance racial and economic justice to ensure dignity and opportunity for low-income people and people of color. Family connection is a critical component to improving the outcomes of incarcerated individuals and enhancing public safety goals.

Fundamentally, AB 109's realignment resulted in geographical shift of incarceration, resulting in unique challenges for county jails. Thousands of individuals are now serving sentences in excess of a year in facilities designed for short-term incarceration, some serving as long as 10 years. In order to ensure that incarcerated people in jail (who would otherwise be incarcerated in state prison pre-realignment) have access to the same rights and privileges, jail policies should provide the same or improved access that prisons provide. The success of AB 109 hinges upon filling the policy gaps that exist in the local criminal justice infrastructure. Providing in person visitation in all county jails is a necessary complement to ensure public safety goals can be met locally.

California families with incarcerated loved ones deserve the right to maintain meaningful relationships with their loved ones through in person visitation while they are incarcerated in county jails. When a person is incarcerated, even for a short period of time, family contact and in-person visits are crucial to maintaining family stability, reducing recidivism, increasing the chances of obtaining employment post-release, and facilitating successful reentry.¹ The regulations under consideration by the BSCC would have a severe impact on the ability of families to maintain this meaningful connection and could have a detrimental impact on public safety.

We are concerned about the number of counties that would be excluded from the requirement to offer in-person visitation space under § 1062 (f). This section grandfathered in facilities that were exclusively video only as of February 2017, even if they have space available for in person visits. This includes nine jails, based on the information provided by BSCC, that have space for in person visitation but do not offer in-person visitation. Allowing these county facilities that have space for in person visits to be excluded from the requirement to provide in person visits is excessive and creates inconsistent visiting privileges based on geography rather than sound public policy or available space. **All facilities that have space for in person visitation should be required to offer in person visitation.**

¹ U.S. Department of Justice, National Institute of Corrections (2015). *Video Visiting in Corrections: Benefits, Limitations and Implementation Considerations*. Washington D.C. P. 3. Retrieved from: <https://s3.amazonaws.com/static/nicic.gov/Library029609.pdf>.

The proposed language under § 1062 (d) allows county jail facilities to only offer video visitation unless in person visits are requested by a person who is incarcerated there. Putting the onus on the incarcerated person to request in person visitation is not sound policy, especially in facilities that have existing space for in person visits. Questions remains as to how this policy would be implemented - what channels of communication exist for incarcerated people to request in person visits, how will they be notified that they can request an in person visit, how will these requests be recorded and processed, and by whom? **These unnecessary complications can be avoided by simplifying this section to read, " Video visitation may be used to supplement existing visitation programs, but shall not be used to fulfill the requirements of this section."**

Section 1062 (f) also grandfathers in facilities that are planned and in construction. Facilities that are in the planning phases still have the flexibility and opportunity to provide in-person visitation space. **In order to create consistency in providing access to in person visits, planned facilities should be required to re-submit plans to the BSCC that include space for in person visits. For facilities that are already under construction or have facilities that do not have in-person visitation space, all future jail funding should be conditioned on their commitment to use a portion of those funds to create space for in person visits.**

These recommended changes will be a step toward ensuring that in person visits are available and accessible at as many facilities as possible so that families can maintain contact, thereby reducing recidivism, increasing the chances of obtaining employment post-release, and facilitating successful reentry.

Sincerely,



Azadeh Zohrabi
Ella Baker Center for Human Rights

Public Comment

Prison Law Office; Ella Baker Center for Human Rights; ACLU; LSPC; Friends Committee on Legislation of California; CIVIC; Youth Justice Coalition; ESSIE; ACCIPP; CURYJ; MILPA; CJCJ; Prison Policy Initiative; Root & Rebound; Community Works; Returning Home Foundation



PRISON LAW OFFICE



ACLU

AMERICAN CIVIL LIBERTIES UNION
of CALIFORNIA

LSPC

Legal Services
for Prisoners
with Children



Friends Committee on
Legislation of California

CIVIC
end isolation



Center on Juvenile
and Criminal Justice

PRISON
POLICY INITIATIVE



Impact Justice

communityworks JUSTICE DEMANDS HUMANITY

Returning Home Foundation

April 24, 2017

Ginger Wolfe
Board of State and Community Corrections
2590 Ventura Oaks Way, Suite 200
Sacramento, CA 95833
Ginger.Wolfe@bscc.ca.gov
Via email

Dear Ms Wolfe,

On behalf of family members, formerly incarcerated people, and policy advocates who support in-person visits, we wish to express our great disappointment at the adoption by the Board of the regulations we commented on in February.

The BSCC Board and staff has expressed support for in-person visitation and as the state agency tasked with providing oversight of and guidance to local detention facilities, the BSCC should be taking proactive steps to limit the number of facilities that ban in-person visitation and helping facilities that have or plan to ban in-person visitation to reverse course. The American Correctional Association, the oldest association developed specifically for practitioners in the correctional profession, unanimously adopted a policy last year stating that video calls should only be used as a supplement, not a replacement for in-person visitation.

The proposed regulations are expansive and unnecessarily allow local detention facilities that have space to provide in-person visitation and facilities that have not even submitted architectural plans to ban in-person visitation. This will result in thousands of family members being cut off from their incarcerated loved ones and will impact institutional behavior, public safety, and rehabilitation throughout the state.

Since the Board made no changes to the regulations other than eliminating the free hour of remote video visitation, we still have all the concerns that we submitted in our February 14 letter, which is attached for reference. Of particular concern is the footnote to 24 CCR § 13-102(b), which contradicts itself and will lead to further confusion as local detention facilities proceed in construction.

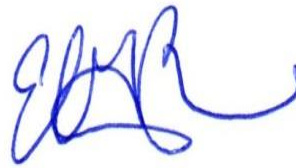
We deeply regret the direction that the Board and the BSCC staff has chosen to take regarding visitation in California's local detention facilities.

Letter to BSCC
Regarding Proposed Visitation Regulations
Page 2

Signed:



Lynn Wu, Staff Attorney
Prison Law Office



Lizzie Buchen, Legislative Advocate
ACLU of California, Center for Advocacy & Policy



JIM LINDBURG
Legislative Director

Friends Committee on Legislation of California



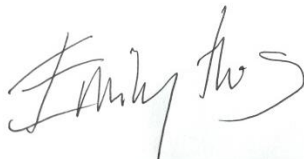
Endria Richardson, Policy Director
Legal Service for Prisoners with Children



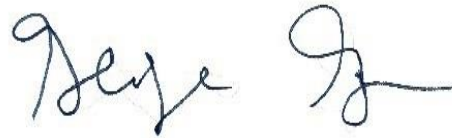
Zoe Willmott, Manager of Advocacy and Programs
Essie Justice Group



Christina Mansfield, Co-Founder/Executive Director
Community Initiatives for Visiting Immigrants in
Confinement (CIVIC)



Emily Harris, State Field Director
Ella Baker Center



George Galvis, Executive Director
Communities United for Restorative Youth Justice
(CURYJ)



Kim McGill, Organizer
Youth Justice Coalition



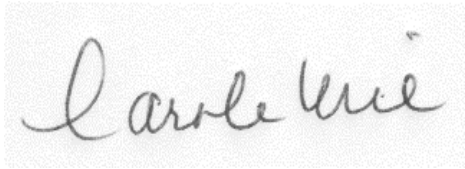
Carol F. Burton, Managing Consultant
Alameda County Children of Incarcerated Parents
Partnership (ACCIPP)



Angela Irvine, Vice President
Impact Justice



Erica Webster, Communications and Policy Analyst
Center on Juvenile and Criminal Justice (CJCJ)



Carole Urie, Founder
Returning Home Foundation



Dr. Vajra Watson, Director, Research and Policy for
Equity, Founder, Sacramento Area Youth Speaks
(SAYS), University of California, Davis



Katherine Katcher, Executive Director
Root & Rebound



Ruth Morgan, Founder and Executive Director
Community Works West



Bernadette Rabuy, Senior Policy Analyst
Prison Policy Initiative

Juan Gomez, Director of Programs and Innovation
MILPA (Motivating Individual Leadership for
Public Advancement)

Attachment J-2

Public Comment

Prison Law Office; Ella Baker Center for Human Rights; ACLU; LSPC; Friends Committee on Legislation of California; CIVIC; Youth Justice Coalition; ESSIE; ACCIPP; CURYJ; MILPA; CJCJ; Prison Policy Initiative; Root & Rebound; Community Works; Returning Home Foundation



PRISON LAW OFFICE



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February 14, 2017

Ginger Wolfe

Board of State and Community Corrections

2590 Ventura Oaks Way, Suite 200

Sacramento, CA 95833

Ginger.Wolfe@bscc.ca.gov

Via email, cited references attached in part

Dear Ms Wolfe,

The importance of in-person visitation cannot be overstated. The U.S. Department of Justice¹ has stated that incarcerated people who get in-person visits have fewer discipline problems, are more likely to get a job when released, and are less likely to commit other crimes. In-person visits have been shown to significantly reduce the likelihood a person reoffends or commits technical violations after being released.² Visitation is an integral part of strengthening family connections and support systems between incarcerated people and their loved ones, especially children. In California alone, 856,000 children have a parent in the criminal justice system. Maintaining family connections during the incarceration of loved ones improves children's success in school, ability to have meaningful relationships with peers and adults, and transition to adulthood without becoming system-involved themselves. Video calls, with their tiny cameras positioned so that no eye contact can be made, that regularly malfunction, freeze, or show grainy images³ do not have the same ability as in-person visits to maintain family connections.

On behalf of family members, formerly incarcerated people, and policy advocates who support in-person visits, we wish to first appreciate the efforts undertaken in recent months by the BSCC staff. Staff members have spent time learning more about this issue from advocates and sheriffs and have been responsive to sharing information. While we wish that more impacted families had been part of the process, we did our best to raise their concerns in our communications with BSCC staff and look forward to more inclusive stakeholder discussions in the future. We also recognize how difficult it has been to get accurate information from counties regarding the use of video calls and the banning of in-person visits and we truly appreciate the efforts of the BSCC staff to gather, summarize, and provide this information. There is, however, still some information that is not clear from the BSCC summary. We would like clarification on the following:

¹ Hollihan, A. and Portlock, M. (2014). *Video Visiting in Corrections: Benefits, Limitations, and Implementation Considerations*. Washington, D.C.: U.S. Department of Justice National Institute of Corrections. Retrieved from: <https://s3.amazonaws.com/static.nicic.gov/Library/029609.pdf>, p.3.

² Minnesota Department of Corrections. (2011). *The Effects of Prison Visitation on Offender Recidivism*. St. Paul, MN: Minnesota Department of Corrections. Retrieved from: <https://www.doc.state.mn.us/pages/files/large-files/Publications/11-11MNPrisonVisitationStudy.pdf>.

³ Rabuy, B. and Wagner, P. (2015). *Screening Out Family Tie: The For-Profit Video Visitation Industry in Prisons and Jails*. Northampton, MA: Prison Policy Initiative. Retrieved from: https://static.prisonpolicy.org/visitation/ScreeningOutFamilyTime_January2015.pdf, p.i, 1, 19-20; Smith, J. (2016, May 5). The End of Prison Visitation. *Mic*. Retrieved from: <https://mic.com/articles/142779/the-end-of-prison-visitation#.k2LjMfj66>; Schenwar, M. (2016, September 29). A Virtual Visit to a Relative in Jail. *The New York Times*. Retrieved from: https://www.nytimes.com/2016/09/29/opinion/a-virtual-visit-to-a-relative-in-jail.html?_r=1

1. The notes on the Imperial County Oren R Fox Medical Security Facility state that there is “In-person visitation access at other county facilities.” Does this mean that they intend to transport people to the other facilities for in-person visits? Will they be exempt from providing the minimum amount of in-person visitation?
2. When the new Napa County Jail is built, will the current jail that only provides video calls be closed? If not, will it provide in-person visits or continue to ban them?
3. The Napa County Jail is listed as having “video visitation out of necessity”. Does the “necessity” mean there is no space for in-person visitation?
4. When the Tehama Community Corrections Reentry and Day Reporting Center is built, will incarcerated people there be able to go to the adjoining facility for visits and will those visits be provided in accordance with the minimum proposed in 15 CCR § 1062?
5. For the facilities that state they do not have space available for in-person visits, is the BSCC taking any steps to certify this assertion?
6. Will the BSCC make a list of the facilities it intends to allow to ban in-person visitation?

We submit the following comments on the proposed amendments to the Titles 15 and 24 regarding visitation.

The definition of “in-person visit” is unnecessarily complicated. It could be clarified in the following way: “In-person visit means an on-site visit during which an incarcerated person is able to see a visitor through glass, has physical contact with a visitor, or is otherwise in an open room without physical contact with a visitor. In-person visit does not include an interaction between an incarcerated person and a visitor through the use of an on-site two-way audio/video terminal.”

15 CCR § 1062(d) should not place the burden on the incarcerated person to request in-person visits. In-person visits should be the default. A facility should only be allowed to provide less than the minimum amount of in-person visits if they can document that the incarcerated person consented to that that week. Furthermore, the terms “video visit” and “video visitation” are inaccurate; the technology marketed by the same companies that provide phone call access in jails and detention facilities are more accurately described as video calls. Thus, (d) should read “Video call technology may be used to supplement existing visitation programs, but shall not be used to fulfill the requirements of this section.”

15 CCR § 1062(e) is a good start to address accessibility, but does not go far enough. Many family members, particularly elderly people or people whose first language is not English, have difficulty accessing video calls because they do not understand how to set up an account. Jails, particularly those that the BSCC proposes to allow to ban in-person visits, must develop policies to provide meaningful assistance with this and certify that these policies are resulting in access to in-person visits and video calls. They also cannot require a credit card to access the free hour of remote video call since that is often a barrier for impacted families. We and additional community stakeholders hope to further collaborate with BSCC to develop concrete language for this section to ensure greater access to visitation. At the very least, (e) should make clear that “If remote or off-site video calls are available, the first hour each week must be provided free of charge and facility policies must include procedures to assist visitors in accessing video calls.”

15 CCR § 1062(f) should not exempt facilities that have space to provide in-person visits. Since video call technology did not exist at the time § 1062 was promulgated, it is questionable whether the term “visitation” in the current version of § 1062 permits video calls. Video call technology is substantially different from in-person visits. While we can appreciate the potential challenges facilities may face in providing in-person visits after banning them, we believe the challenges to families, especially children, and incarcerated people caused by facilities banning in-person visits are far greater

and will also lead to far greater societal costs associated with undermining rehabilitation and reentry, and negatively impacting child development.

According to the BSCC's information, the following operating facilities have banned in-person visitation, but have the space to provide it:

- Imperial County – Herbert Hughes Correctional Center
- Placer County – South Placer Jail
- Solano County – Claybank Facility
- Tulare County – Tulare County Jail
- Tulare County – Pre-Trial Facility
- Tulare County – Bob Wiley Detention Facility
- Tulare County – Men's Correctional Facility
- Tuolumne County – Tuolumne County Jail

Instead of changing § 1062 to allow these facilities to continue banning in-person visitation, the BSCC should work with them to develop a timeline to begin providing in-person visits and an accountability structure that ensures adherence to the timeline. Thus, we recommend that (f) reads as follows, "Applicability of subdivision (d) shall be delayed until a date determined by the BSCC for facilities which, prior to February 16, 2017, (1) did not have space for in-person visitation or (2) were designed without in-person visitation space and for which bids for construction have begun and that do not have space for in-person visitation."

24 CCR § 1231.2.18, fn.1 proposes to exempt, from the requirements of 24 CCR § 1231.2.18, any county that has "submitted a letter of intent" to the BSCC banning in-person visitation based on 24 CCR § 13-102(b). The applicability of 24 CCR § 13-102(b) here is questionable because, similar to § 1062, it is unclear whether facilities that provide space for video calls, but not in-person visits are in compliance with the current version of 24 CCR § 1231.2.18.

Even if the BSCC continues to defend its current interpretation of 15 CCR § 1062 and 24 CCR § 1231.2.18, allowing facilities to meet the minimum visitation requirements by providing video calls instead of in-person visits, 24 CCR § 1231.2.18, fn.1 contradicts itself. In BSCC construction RFPs, "[p]roposals submitted to the BSCC will suffice as a Letter of Intent to build, expand, or remodel a facility as required by CCR Title 24, sec.13-102(c) 1." In other words, the BSCC proposes to allow any county that has applied for jail construction funding to not provide space for in-person visits. This is a bizarre interpretation of 24 CCR § 13-102(b). For one, it would mean that any county that applied for funding, even those that were not awarded a construction grant would be included in this exemption. The footnote goes on to quote 24 CCR § 13-102(b), "Title 24 of the California Code of Regulations, Sections 13-102 and 2-1013 which pertain to planning and design of detention facilities shall be applicable to facilities for which architectural drawings have been submitted to the Board for review. These requirements shall not be applicable to facilities which were constructed in conformance with the standards of the board in effect at the time of initial architectural planning ..." Thus, the footnote contradicts itself – is the BSCC proposing to allow a ban on in-person visits in facilities where a county "submitted a letter of intent" or "for which architectural drawing have been submitted to the Board"?

"[T]he time of initial architectural planning" cannot reasonably be interpreted as the time when a county submits a response to an RFP. An architect does not become involved in jail construction until the "design" phase" when the county contracts with an architecture and engineering firm to start designing their project. After this phase, the county submits its preliminary plan to the State Public Works Board and once approved, proceeds to the working drawing phase. At this point, there is still time to change the design and include in-person visitation space before the State Public Works Board approves the final construction drawings allowing the county to go to bid for construction.

According to the BSCC's information, the following facilities that plan to ban in-person visitation are in various stages of planning/construction:

- Imperial County Oren R Foy Medical Security Facility – “in construction”
- Orange County James A Music Facility Addition - “working drawings”
- Placer County South Placer Jail Spirit Facility – “establishment phase
- Riverside County – East County Detention Center – “in construction”
- San Benito Adult Detention (new) – “working drawings”
- Tehama Community Corrections Reentry and Day Reporting Center – “establishment phase”
- Tulare South County Detention Facility – “in construction”
- Tulare County Sequoia Field Program Facility – “establishment phase”

Of these, the following facilities are in phases that occur before “the time of architectural planning” and should not be exempted from the requirement of providing in-person visits:

- Placer County South Placer Jail Spirit Facility – “establishment phase
- Tehama Community Corrections Reentry and Day Reporting Center – “establishment phase”
- Tulare County Sequoia Field Program Facility – “establishment phase”

The following facilities have not submitted their final construction drawings to the State Public Works Board:

- Orange County James A Music Facility Addition - “working drawings”
- San Benito Adult Detention (new) – “working drawings”

Instead of changing § 1062 to allow these Counties to spend hundreds of millions of dollars to build facilities that ban in-person visits, the BSCC should support them to develop ways to provide in-person visits. Orange County and San Benito have not submitted their final construction drawings; the BSCC should begin working with them immediately to determine how they can provide space for in-person visits. Riverside County has already indicated they can provide in-person visits at the East County Detention Center even though it is “in construction. It is unclear whether the Imperial County Oren R Fox Medical Security Facility plans to transport people to the other facilities for in-person visits; the BSCC should work with Imperial County to plan for this. The BSCC should also work with county representatives to determine what it would take to provide in-person visitation in Tulare South County Detention Facility and Imperial County Oren R Fox Medical Security Facility, which are both “in construction”, but only broke ground about 6 months ago.

Thus, 24 CCR § 1231.2.18 fn.1 should be deleted and 24 CCR § 1231.2.18 should read “Space shall be provided in all Types I, II, III and IV facilities for in-person visiting unless subject to delay from providing in-person visitation pursuant to 15 CCR § 1062(f).”

The following facilities are in operation and have asserted to the BSCC that they have banned in-person visits and do not have space to provide in-person visits:

- Kings County Jail Facility
- Kings County Branch Jail
- Madera County Adult Correctional Facility
- San Bernardino High Desert Detention Center
- San Mateo Maple Street Correctional Facility
- Solano County Stanton Correctional Facility

Since the BSCC has acknowledged the great benefits to in-person visitation, we urge the BSCC to work with these facilities to move toward providing in-person visits and complying with § 1062. Many

questions still remain that must be answered before wholesale changing the regulations to allow these facilities to forever ban in-person visits, leaving thousands of family members with no real contact with their incarcerated loved ones for the foreseeable future.

- Kings County banned in-person visits in 2006, but there was no renovation at the time. What did they do with the visitation space? Can it be reverted to provide in-person visitation?
- San Mateo is eligible for SB844 funding to retrofit the Maple Street Facility that has a Zen garden, but no space for visits. Can BSCC encourage them to apply for funds to retrofit their facility?
- Stanton Correctional Facility in Solano County is attached to the Claybank Facility by a breezeway. Can they develop a policy for transporting people for visits?
- Stanton Correctional Facility in Solano County was designed to have space for in-person visitation⁴. What is that space being used for?

Furthermore, the BSCC must put in place a process to ensure that facilities they propose to allow to ban in-person visits are compliant with the Americans with Disabilities Act. Not only must those facilities provide ADA accessible options like video phones, which are different from regular video calls and preferable for people with disabilities, but must certify that the video call technology is working the way it is designed to work. We have heard from many families and it is well documented in national research that video call technology has many problems that can disproportionately impact people with disabilities.

We appreciate that the BSCC Board wants to finalize action on video calls and in-person visits, but we urge you to take the extra time to get answers to the questions we have presented above to make sure that the regulations are comprehensive and result in as many people having access to in-person visits. Before adopting these proposed regulations, the BSCC should certify the status of counties that have been awarded construction funding and certify which facilities would be allowed to ban in-person visitation. Though delays in construction or setting up available space for in-person visits may take time and resources now, there is too much at stake to cede dealing with this issue to other policymakers. We urge you to take the lead on this issue. Thank you for the work that has already been done. We look forward to continuing to work together to provide access to in-person visits throughout California.

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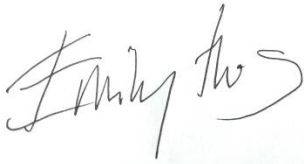
⁴ Rogness, J. (2014, October 9). Stanton Correctional Facility in Fairfield Touts New Technology, More Programs. *The Reporter*. Retrieved from: <http://www.thereporter.com/article/zz/20141009/NEWS/141008614>.



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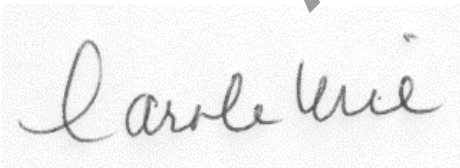
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Attachment J-2



VIDEO VISITING IN CORRECTIONS: BENEFITS, LIMITATIONS, AND IMPLEMENTATION CONSIDERATIONS



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Video Visiting in Corrections: Benefits, Limitations, and Implementation Considerations



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Transforming Lives, Communities
and the Criminal Justice System

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FROM THE ACTING DIRECTOR

Visits from family members, children and other sources of support can be a lifeline in the lives of incarcerated men and women. Visits provide an opportunity to maintain connection, re-build relationships and actively begin to form links to the community both for support and to assist in the reentry process. Yet, visiting takes on added dimensions with the challenges imposed by geographical distance between facilities and visitors, cost implications for transportation, lodging, childcare, lost wages and the roadblocks often presented from institutional security procedures. Emerging research speaks to the importance of building and maintaining healthy family and community connections for men and women, during their period of incarceration as well as for planning and implementing the reentry process. Traditional methods of communication such as phone calls, mail and on-site visiting have their limitations, some of which are noted above. The advent of video visiting has enhanced traditional methods of building and sustaining those critical connections for incarcerated individual, it is also an industry which is expanding exponentially. Little replaces the opportunities for families to see one another in person, but in those situations where that is not possible, video visiting is a viable option. This guide will address the importance of visitation, introduce video visiting as a resource, ideally in concert with in-person visitation, discuss implementation of video visiting, address the importance of setting up a process and outcome evaluation of visiting programs and provide a set of resources for agencies interested in introducing or enhancing their current visiting capacity.

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FOREWORD

The impetus for this document came from stakeholders who are keenly aware of the importance of visiting for incarcerated men and women. The benefits of visiting with family and other supportive individuals are well-documented throughout the literature, research, and in the voices of the incarcerated and their families. Visiting policies vary among the over 1,000 prisons and 3,300 plus jail systems across the country. What should be consistent is the acknowledgement by correctional leadership, via policy, that visiting can build and strengthen family connections and provide hope and encouragement for incarcerated men and women. Visiting creates bridges to community supports that promote productive reentry and contributes to improved outcomes, in particular, community safety and reduced recidivism rates.

Virtual events are now commonplace in today's environment and this modality has extended to criminal justice practice through web-based events, telemedicine, and video court hearings, to provide just a few examples. Video visiting software and equipment for jails and prisons are prominent in the exhibit halls at national correctional conferences. There are a wide variety of models emerging and as the technology continues to become more commonplace, affordable, and accessible, an increasing number of correctional systems will be using video visiting. It must be noted that video visiting should not be deemed as an invitation to discontinue in-person visiting. With video visiting come great opportunities as well as cautions and challenges. Creating the capacity to incorporate both visiting approaches in policy and practice provides a resource that captures the advantages that both in-person and video provide to incarcerated populations, families, and other support systems. Well-designed visiting practice can provide advantages to correctional systems through increased engagement in programmatic activities and reductions in negative behavior. With that in mind, the National Institute of Corrections awarded a cooperative agreement through a competitive process to the Osborne Association in New York, a well-established agency that has on-the-ground experience with both in-person and video visiting and a long history of working to strengthen families affected by incarceration. Through the cooperative agreement, the Osborne Association has written a well-researched document that provides 1) an overview of the importance of visiting to include the use of video visiting; 2) considerations for implementing video visiting; 3) an overview for evaluating a video visiting program; and 4) appendices that provide examples, resources, checklists and evaluation tools.

Each chapter of the guide is valuable to assist correctional administrators and staff, as well as potential external partners and stakeholders, to enhance current visiting policy and practice or design a system that incorporates video visiting into overall practice. Taken together, each chapter builds upon the preceding chapter, and the research, practical examples, and tools that are provided throughout the guide will benefit correctional leadership in enhancing current visiting practices.

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PREFACE

The purpose of this guide is to inform the development of video visiting programs within a correctional setting. “Video visiting” is real-time interactive video communication which uses video conferencing technology or virtual software programs, such as Skype. It is an increasingly popular form of communication between separated family members in settings outside of corrections. The rapid expansion of video visiting in jails and prisons over the past few years suggests that video visiting may become very common in corrections in the near future.

This guide will help inform administrators about the benefits and challenges of using some common video visiting models across a variety of settings. Video visiting can be a positive enhancement to in-person visiting, and has the potential to promote positive outcomes for incarcerated individuals and their families and communities. In certain circumstances, video visiting may benefit corrections by reducing costs, improving safety and security, and allowing for more flexibility in designating visiting hours. The value of video visiting can be maximized when the goals of the facility are balanced with the needs of incarcerated individuals and their families.

The development of this guide was informed by current practice across the United States. Interviews were conducted with prison and jail administrators, IT personnel, technology companies, family members of incarcerated individuals, incarcerated individuals; community-based organizations that provide supportive video visiting programs, and advocates for the incarcerated and their families. A survey was administered to correctional administrators nationwide to learn about existing program models and implementation challenges and successes. A literature review was conducted to learn about the various uses of video conferencing in a correctional setting. Research on the use of video visiting in settings outside of corrections was also reviewed. And finally, articles published in the media about video visiting in corrections were reviewed from August 2012 through January 2014.

This guide is meant to assist correctional administrators, commissioners, sheriffs, and other key decision makers in the following activities:

- Determining whether video visiting is appropriate for a particular setting or jurisdiction;
- Preparing for and implementing video visiting; and
- Conducting a process evaluation and preparing for an outcome evaluation.

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ACKNOWLEDGEMENTS

We are grateful to our group of advisors who provided valuable insight and suggestions to inform the development of this guide. The advisors represent diverse perspectives including those of prison and jail administrators; information technology; community-based organizations offering programs for families involved with or affected by the criminal justice system; clinicians serving children and families affected by incarceration; parole and probation agencies; legal advocates and public defenders; and family-focused reentry services providers.

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- Kristina Toth, New Hampshire Department of Corrections; and
- Carl Wicklund, American Probation and Parole Association.

In addition to our Advisory Board, we sought and received invaluable information from a wide range of individuals who shared their experience and insight: Louis Cei and the Virginia Department of Corrections; Shari Davis and the Idaho Department of Correction; Sylvia Lane, Lt. John Armstrong and the District of Columbia Department of Corrections; Charles Lockwood and the Florida Department of Corrections; Kelley Morton, Brianna Elisara, and the Oregon Department of Corrections; Mike Thompson and the Butte County Sheriff's Office; A.T. Wall and the Rhode Island Department of Corrections; Bernard Warner and the Washington State Department of Corrections; Margaret diZerega; Tim Eickhoff; Anne Holt; Kerry Kazura; Ann Loper; Aramis Reynoso; and Dan Stewart. We appreciate the assistance of the Association of State Correctional Administrators and the American Correctional Association. We thank the District of Columbia Department of Corrections, New Hampshire Department of Corrections, and The Osborne Association, and Renovo for providing photographs. We also extend thanks to Virginia Lowery for her editing and Samuel Lucien (Luky) Guigui for assisting with research. This work would not have been possible without the active interest and support from the National Institute of Corrections, especially Maureen Buell, Correctional Program Specialist, and Acting Director Robert Brown.

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INTRODUCTION

Research confirms that incarcerated individuals, corrections, families, and communities all benefit when incarcerated individuals can communicate with and receive visits from family and supportive community members. Video visiting is an additional form of communication that can build and strengthen social support systems of the incarcerated. This relatively new form of communication builds upon the success of video conferencing used for court appearances, and attorney-client communication. It's also being used to bring professionals together with those incarcerated to address pressing legal and medical issues. Video visiting and conferencing may also offer added benefits in planning for reentry, supplementing healthcare delivery, and facilitating cross-systems collaborations.

Video visiting is rapidly expanding in correctional facilities across the nation. However, there is a scarcity of research about how effectively video visiting achieves, or builds upon, the benefits known to be associated with in-person visiting. Video visiting approaches are varied, using different technologies, partnerships, and models. Generally speaking, visitors usually video visit from a community-based visiting center, their home, or at the correctional facility itself.

In determining whether to use video visiting, and what model to select for a particular setting, it is best to be informed about the benefits and challenges, and to balance the needs of corrections, incarcerated individuals, families, and communities. The technology industry highlights the benefits, but video visiting has its limitations and it may be inaccessible for some families. Video visiting is in its infancy, and there is limited research about how effectively video visiting alone or in combination with in-person visiting leads to the positive outcomes known to be associated with in-person visiting. A hybrid visiting approach that offers both video and in-person visiting offers the most flexibility and ensures that the benefits of in-person visiting are preserved and possibly enhanced.

Chapter One provides a brief overview of the benefits known to be associated with in-person visiting and discusses the benefits and limitations of video visiting. Chapter Two focuses on how to assess whether video visiting is an appropriate fit for a particular setting and discusses issues that should be considered upon implementation. Chapter Three provides tools for conducting a process evaluation and preparing for an outcome evaluation. An implementation toolkit and sample evaluation tools are included in the appendices. The appendices also include information about other uses for video conferencing in a correctional setting, video visiting with children, and a listing of relevant resources.

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CHAPTER 1: WHY CONSIDER VIDEO VISITING

Traditional In-Person Visiting Benefits Corrections, Families, and Communities

It is helpful to consider what we know about traditional visiting to assess the value of video visiting. Studies confirm that incarcerated individuals have better outcomes when they receive in-person visits from family members and supportive community members. Specifically, traditional in-person visiting has been found to benefit both corrections and incarcerated individuals by:

- Improving institutional adjustment and psychological well-being among the incarcerated
- Reducing behavioral infractions and violent behavior among the incarcerated
- Increasing incarcerated individuals' motivation to participate in programming
- Increasing motivation to gain release from the facility
- Lowering recidivism and increasing public safety

Traditional visiting has been found to benefit incarcerated individuals, their families and communities by:

- Providing incentive to maintain visiting privileges
- Increasing the probability of discretionary parole
- Facilitating planning and support for community reentry
- Increasing the chance of obtaining gainful employment post-release
- Reducing the likelihood of using illegal substances post-release
- Maintaining and strengthening the parent-child relationship
- Reducing the trauma that children experience when they are separated from a parent

Traditional visiting is linked to lower behavior incidents in Ohio Prisons

A recent study on traditional visiting's effect on incarcerated individuals' behavior in two Ohio prisons (male and female facilities) found that those receiving traditional visits, especially from a parental figure, had fewer behavior infractions compared to those who did not receive visits. This study found that even one visit reduced infractions.¹

Video Visiting in Corrections

Video visiting was first used in a correctional setting in the 1990's. And with technological advances resulting in more user-friendly and affordable equipment, it is expanding at a rapid pace. A review of video visiting practices in prisons and jails across the country revealed tremendous variation in the purpose, model, funding, prerequisites to participation, and technology.²

In August 2012, *The New York Times* estimated that correctional facilities in at least 20 states had video visiting capability or were planning to implement some form of video visiting.³ Research conducted for this publication one year later reveals that jails in at least 28 states and Washington, D.C., offer video visiting and no fewer than 15 state corrections departments are considering or offering video visiting in select prisons.⁴ Jails are rapidly adopting video visiting, whereas prison systems are slower to do so, partly because of the challenges of implementing video visiting in statewide systems. The rapid digitization of society and the proliferation of video visiting over the past few years suggest that video visiting will likely be the norm in the near future.

Video visiting is in its infancy, and there is still little empirical evidence about how effectively video visiting alone or in combination with in-person visiting leads to or builds on the positive outcomes linked to in-person visiting. Video visiting has benefits and limitations. Video visiting provides another way for families to communicate when distance, cost and other factors limit or prevent in-person visiting. Where it increases the frequency and consistency of communication, it has the potential to build on the benefits of traditional in-person visiting. To the degree that it reduces in-person visiting, it also has the potential to reduce staffing costs and increase safety and security at facilities. On the other hand, some find that video visiting cannot replicate seeing someone in person or is difficult to use.

Traditional, in-person visiting is a best practice that should continue in all correctional settings when possible.⁵ Until more is known, implementing a hybrid model of in-person and video visiting is encouraged. In doing so, the benefits of traditional visiting are preserved and potentially strengthened with video visiting.

Benefit: Connecting Families and Building Social Support Systems

Connecting family members and supportive friends

Video visiting has the potential to bridge the gap for families with loved ones incarcerated out of state or in remote facilities and to foster an incarcerated individual's social connectedness. The Michigan Department of Corrections temporarily offered one of the earliest video visiting programs to incarcerated individuals housed outside of Michigan. Since then, other states such as Wisconsin and Alaska offer video visits to individuals incarcerated out of state, and at least 13 states use video visiting to connect families with individuals incarcerated in prisons within the state. Video visiting in jails may also bridge the gap for families residing in large counties or in counties that lack public transportation.

**THE EFFECTS OF PRISON VISITATION ON OFFENDER
RECIDIVISM**

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November 2011

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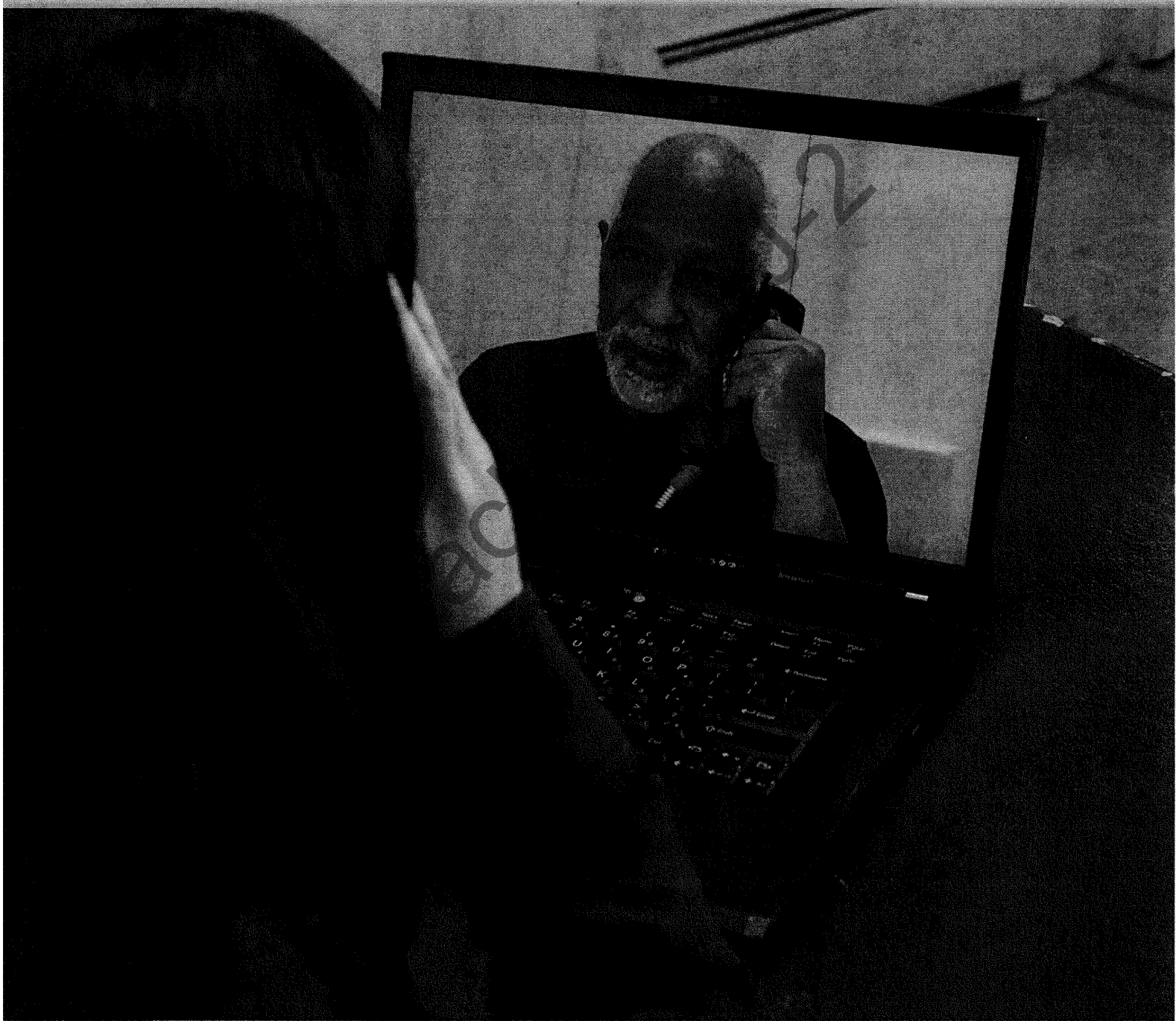
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Research Summary

Following recent studies in Florida (Bales and Mears, 2008) and Canada (Derkzen, Gobeil, and Gileno, 2009), this study examines the effects of prison visitation on recidivism among 16,420 offenders released from Minnesota prisons between 2003 and 2007. Using multiple measures of visitation (any visit, total number of visits, visits per month, timing of visits, and number of individual visitors) and recidivism (new offense conviction and technical violation revocation), the study found that visitation significantly decreased the risk of recidivism, a result that was robust across all of the Cox regression models that were estimated. The results also showed that visits from siblings, in-laws, fathers, and clergy were the most beneficial in reducing the risk of recidivism, whereas visits from ex-spouses significantly increased the risk. The findings suggest that revising prison visitation policies to make them more “visitor friendly” could yield public safety benefits by helping offenders establish a continuum of social support from prison to the community. It is anticipated, however, that revising existing policies would not likely increase visitation to a significant extent among unvisited inmates, who comprised nearly 40 percent of the sample. Accordingly, it is suggested that correctional systems consider allocating greater resources to increase visitation among inmates with little or no social support.

SCREENING OUT FAMILY TIME

THE FOR-PROFIT VIDEO VISITATION INDUSTRY IN PRISONS AND JAILS



by Bernadette Rabuy and Peter Wagner
January 2015

PRISON
POLICY INITIATIVE

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We dedicate this report to the people of Dallas County, Texas, who showed that it is possible to stand up to a video visitation giant and reject a contract that would have banned in-person visitation.

ABOUT THE AUTHORS

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ABOUT THE PRISON POLICY INITIATIVE

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to challenge over-criminalization and mass incarceration through research, advocacy, and organizing. We show how the United States' excessive and unequal use of punishment and institutional control harms individuals and undermines our communities and national well-being. The Easthampton, Massachusetts-based organization is most famous for its work documenting how mass incarceration skews our democracy and how the prison and jail telephone industry punishes the families of incarcerated people. The organization's groundbreaking reports and its work with SumOfUs to collect 60,000 petitions for the Federal Communications Commission have been repeatedly cited in the FCC's orders.

FOR MORE INFORMATION

For more information, including additional copies of this report and up-to-date information about fair telephone rates and fair visitation policies for families of the incarcerated, see <http://www.prisonpolicy.org/visitation/>

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SCREENING OUT FAMILY TIME:

The for-profit video visitation industry in prisons and jails

A Prison Policy Initiative report

Executive Summary

Video technology like Skype or FaceTime can be a great way to stay together for people who are far apart. It is not the same as being there in person, but it is better than a phone call or sending a letter.

Given that there are 2.2 million people who are incarcerated, often many hundreds of miles from their homes, it should be no surprise that prison and jail video visitation is quietly sweeping the nation.

But video visitation is not like Skype or FaceTime. For one, these well-known technologies are a high-quality, free supplement to time spent together, in-person. The video visitation that is sweeping through U.S. jails is almost the exact opposite.

In order to stimulate demand for their low-quality product, jails and video visitation companies work together to shut down the traditional in-person visitation rooms and instead require families to pay up to \$1.50 per minute for visits via computer screen.

In this report, we collect the contracts and the experiences of the facilities, the families, and the companies. We:

- Determine how this industry works, and explain the key differences between video visitation in jails (where it is most common and most commonly implemented in explicitly exploitative ways) and video visitation in prisons (where there is a proven need for the service and where prices are more reasonable yet the service is actually pretty rare).
- Hold the industry's fantastic promises up against the hard evidence of experience, including the industry's own commission reports.
- Give hard data showing just how unpopular this service is. We analyze the usage data, and then walk through exactly why families consider this unreliable and poorly designed technology a serious step backwards.
- Identify the patterns behind the worst practices in this industry, finding that the most harmful practices are concentrated in facilities that contract with particular companies.
- Analyze why the authors of correctional best practices have already condemned the industry's preferred approach to video visitation.
- Review the unanimous opposition of major editorial boards to business models that try to profit off the backs of poor families, when we should be rewarding families for trying to stay together.
- Identify how video visitation could be implemented in a more family-friendly way and highlight two small companies who have taken some of these steps.

Finally, we make 23 recommendations for federal and state regulators, legislators, correctional facilities, and the video visitation companies on how they could ensure that video visitation brings families together and makes our communities stronger instead of weaker.

" We hold the industry's fantastic promises up against the hard evidence of experience.

SCREENING OUT FAMILY TIME:

The for-profit video visitation industry in prisons and jails

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SCREENING OUT FAMILY TIME:

The for-profit video visitation industry in prisons and jails

A Prison Policy Initiative report

Bernadette Rabuy and Peter Wagner

January 2015

Introduction

Every Thursday, Lisa* logs on to her computer and spends \$10 to chat for half an hour via video with her sister who is incarcerated in another state. Before the Federal Communications Commission capped the cost of interstate calls from prisons, these video chats were even cheaper than the telephone. Lisa's experience is representative of the *promise* of video visitation.

Meanwhile, Mary* flies across the country to visit her brother who is being held in a Texas jail. She drives her rental car to the jail but rather than visit her brother in-person or through-the-glass, she is only allowed to speak with him for 20 minutes through a computer screen.

Elsewhere, Bernadette spends hours trying to schedule an offsite video visit with a person incarcerated in a Washington state prison. After four calls to JPay and one call to her credit card company, she is finally able to schedule a visit. Yet, when it is time for the visit, she waits for 30 minutes to no avail. The incarcerated person did not find out about the visit until the scheduled time had passed. The visit never happens.

How do video visitations work? While video visitation systems vary, the process typically works like this:

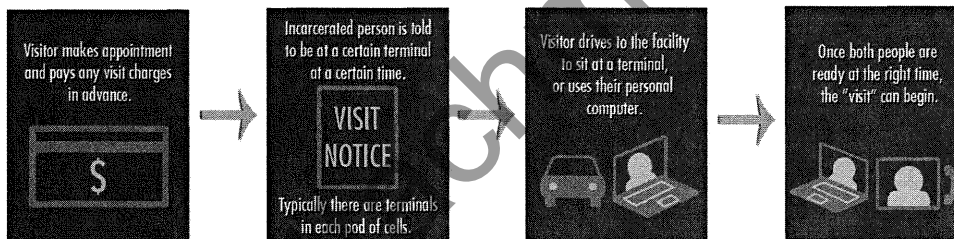


Figure 1. Most companies, including Securus, Telmate, and Renovo/Global Tel*Link, charge for a set amount of time and require pre-scheduled appointments.

Reviewing the promises and drawbacks of video visitation

Increasing the options that incarcerated people and their families have to stay in touch benefits incarcerated individuals, their families, and society at large. Family contact is one of the surest ways to reduce the likelihood that an individual will re-offend after release, the technical term

*Family members' names have been changed throughout the report.

visitation “is best practices going across the nation right now”⁵⁷ and implied that Travis County would be terribly behind if it did not adopt video visitation. In reality, only 12% of the nation’s 3,283 local jails have adopted video visitation.⁵⁸ Administrator Long showed a slide with a list of 19 states that use video visitation, but, as discussed earlier, most state prison systems are using video conferencing and video visitation⁵⁹ on a very small scale as a supplement to existing visitation and certainly never as the dominant form of visitation.⁶⁰

- **Video visitation will reduce long lines?** Unlike traditional visitation, many video systems require families to schedule both onsite and offsite video visits at least 24 hours in advance. Many families find coordinating issues like transportation to the jail, childcare, and employment difficult, so requiring visits to be scheduled discourages people from attempting drop-in visits. To their credit, many facilities with policies requiring visits to be scheduled in advance appear to allow drop-in visits when possible, but this leads to confusion when there are even longer waits for a video visit than under the traditional system.⁶¹

⁵⁷ See: Travis County, 2014 for the video of the Commissioners Court meeting. A deputy at the Roane County, Tennessee jail also seems to believe that video visitation is a best practice. The deputy said, “If you’ve got a jail that’s been built in the last few years, it’s got video visitation.” See: Gervin, 2014.

⁵⁸ According to Wagner and Sakala, 2014, there are 3,283 local jails. From video visitation companies’ websites, news stories, and interviews of criminal justice colleagues, we have identified 388 local jails with video visitation.

⁵⁹ Video conferencing includes telemedicine programs in which doctors meet with incarcerated patients through a video system and programs in which parole hearings are done via video. Video visitation allows family members to visit incarcerated loved ones via video.

⁶⁰ The 24 states that use video visitation are: Alabama, Alaska, Colorado, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Virginia, Washington, and Wisconsin. Administrator Long misleadingly cites the number 19 from the Boudin, Stutz, and Littman, 2014 study, even though the study explains that some states use video on a temporary or limited basis. Out of the 19 mentioned in this study, we omitted Idaho, which we do not believe has video visitation and added Alabama, Michigan, New Hampshire, North Dakota, South Carolina, and South Dakota. Rivers Correctional Institution in North Carolina — which houses sentenced individuals from D.C. — has a supportive video visitation program provided through a partnership with Hope House in D.C. One state prison, Milwaukee Secure Detention Facility, did replace in-person visits with video visits, but it compares itself to a county jail.

⁶¹ When Mary* showed up for an unscheduled video visit, jail staff told her she would get the next available visitor-side video terminal, but she ended up waiting over an hour despite the availability of 30 visitor-side terminals. The delay might have been because the video terminal that her incarcerated brother has access to could have been in use by another incarcerated person. Laina* said that when family members drop in for unscheduled video visits in Travis County, Texas, the wait can be anywhere from one to three hours.

JPAY VIDEO VISITATION: A REVIEW

We decided to try JPay, the leading provider of video visitation in state prisons.

We use Skype and FaceTime regularly and are familiar with the prison and jail telephone industry leaders, so we expected hiccups. However, our JPay experience left us more disappointed and frustrated than we expected.

- To schedule a remote video visit, we had to call JPay customer service four separate times. During our first call, the JPay employee had trouble locating our account saying she is only able to view accounts that are opened over the phone, not accounts created online. We even had to call our credit card company when JPay let us know that some credit card companies reject the way that JPay processes transactions. Later, we learned that JPay had actually been the one rejecting the transactions.
- Visit #1: When we finally had a scheduled video visit, we waited for 30 minutes to no avail. The incarcerated person we were attempting to visit did not see the email from JPay notifying him of the visit until he was off of work and able to check a video terminal. Unfortunately, this was after the scheduled time had already passed. Perhaps we should have scheduled the visit more than 24 hours in advance, but we figured JPay would have set that requirement — as other companies like Securus do — if this were a frequent problem.

Continued on next page.

- **Remote video visitation is convenient?** The promise of video visitation is that it will be easier for families, but these systems are very hard to use. In our experience doing remote video visits and in our interviews with family members, the most common complaint — even from people who claim to be comfortable with computers — is that these systems are inconvenient.⁶² We heard of and experienced repeated problems getting pictures of photo IDs to companies,⁶³ scheduling visits, processing payments, and with some companies not supporting Apple computers.⁶⁴ Today in 2015, virtually every other internet-based company has made it easy for consumers to purchase and pay for their products, but the video visitation industry — perhaps because of its exclusive contracts — apparently has little desire to win customer loyalty through making its service easy to use.

The financial incentives in the video visitation market put the priorities of the companies before the facilities or the families, so it should come as no surprise the industry is not able to meet all of its attractive promises. Because video visitation is often framed as an “additional incentive” in phone or commissary contracts rather than a stand-alone product, it is unclear how much thought and planning the companies and facilities put into the actual performance of these systems.⁶⁵ The true end-users of this service — the families — are the ones who are served last. Worse still, these “add-ons” create spill-over effects, pushing their bloated costs onto other parts of the contract.

How are Securus video contracts different from other companies?

While most jails choose to ban in-person visitation after installing a video visitation system, only Securus contracts explicitly require this outcome. The Securus contracts also tend to go further with detailed micromanagement of policy issues that would normally be decided upon by elected and appointed correctional officials.

It is common to find the following elements in Securus contracts:

- Visit #2: The quality was a disappointment. The person we were visiting was extremely pixelated. The audio delays made it difficult to even have a conversation. We could hear our voices getting to the incarcerated person with delays of 10 seconds. Additionally, six separate times, we were warned of insufficient bandwidth on both our side and on the incarcerated person’s side. Poor quality must be the standard if JPay is not utilizing the adequate bandwidth on the state prison side.
- Visit #3: We scheduled a visit with another person in a different facility but that too failed. While both parties sat at their designated posts at the agreed upon time, the visit never happened. The incarcerated person asked bystanders and learned that the video terminals in that facility had not been working for months.
On the positive side, JPay customer service is pretty helpful by telephone, although not by email.¹⁰⁰ While we ended up spending three hours on the phone trying to set up video visits, receiving a refund for the initial, failed visit was fairly easy. We have not been as lucky with other companies in this industry.

¹⁰⁰ A request for credit sent via JPay’s website for the failed visit was immediately acknowledged by an automatic email, with a human reply promised “soon.” But after a week, there was still no follow-up. However, a phone call to customer service resulted in an immediate credit.

⁶² For example, to visit at Wisconsin’s Milwaukee County Jail, families must register on one company’s website (HomeWAV) then schedule the video visit using another company’s website (Renovo). Milwaukee County Sheriff, “Visiting,” Milwaukee County Sheriff Website. Accessed on January 6, 2015 from: <http://county.milwaukee.gov/Visiting15657.htm>.

⁶³ In addition to Laina’s story mentioned in footnote 45, Bernadette had trouble taking a photo of her ID. When Bernadette tried to submit a photo of her ID to Securus, she tried taking the photo five times before she finally submitted it, but the photo was still rejected by the Texas jail. Bernadette was fortunate enough to have access to another, newer laptop. When she tried the laptop, which had a better webcam, the photo of her ID was accepted.

⁶⁴ See Exhibit 19 for the companies that only support Windows computers.

⁶⁵ For Securus’s financial proposal to Shawnee County, Kansas that frames video visitation as an additional incentive, see Exhibit 20.

The End of Prison Visitation

By Jack Smith IV

A new system called "video visitation" is replacing in-person jail visits with glitchy, expensive Skype-like video calls. It's inhumane, dystopian and actually increases in-prison violence — but god, it makes money.

Losing connection

The only way Lauren Johnson could see Ashika Renae Coleman at the Travis County Correctional Complex in Del Valle, Texas, was via video conference from seven miles away in Austin.

Coleman and Johnson had met in 2012 in a rehabilitation program that tries to build trust and community among incarcerated women through theater. Both had been to prison for drug-related offenses.

Johnson got out in 2011. She became an activist helping former inmates like herself re-enter society. Coleman had similarly altruistic ambitions when she was released, and planned to create a sober house for the formerly incarcerated. But after returning to a husband still suffering from addiction, she relapsed and ended up back in Travis County.

Johnson logged into the Securus Technologies website — a Skype-like communication system used by the Travis County jail — on her PC laptop. But the video player didn't have the latest version of Java. When Johnson installed it, the system insisted she had not. So Johnson tried another laptop — a MacBook this time. Java was working this time, Flash was not.

Thinking the browser might be the problem, Johnson tried launching the video player in Chrome, then switched to Safari before giving up and using the Securus Android app on her phone.

Finally, Coleman's face appeared on screen — barely. For the entire call, a glitch in the system caused Coleman's image to look like a tangle of window blinds. Johnson wanted to talk to Coleman about her case, but through most of the call, she simply repeated, "Hello — can you hear me now?" Johnson was charged \$10 for the video visit, even after cutting it a few minutes short of the 20-minute maximum.

All the while, Coleman waited alone in jail at a computer terminal. She had no other option. To see anyone but a prison guard, the only way was through a video feed.

Travis County ended all in-person visitations in May 2013, leaving video visitation as the exclusive method for people on the outside to communicate with the incarcerated. But Travis County is only on the leading edge of a new technological trend that threatens to abolish in-

person visitation across the country. Over 600 prisons in 46 states have some sort of video visitation system, and every year, more of those facilities do away with in-person visitation.

Anticipating the arrival of friends and family, making eye contact, holding a child's hand — these are the experiences and memories that give someone the resilience they need to make it in prison. A visit can alleviate the suffering that comes with cold confinement and the brutality of unpredictable violence that erupts between inmates.

Once people leave prison and return to society, their ability to thrive depends on the support network they left behind when they were incarcerated. In-person visits keep those relationships alive in a way that speaking through a flickering monitor does not.

"It's just too much frustration to come down here, wait for an hour and then only get 25 minutes for a not-so-good call," Coleman said when the connection improved for a moment. "I think the hassle is why people don't visit me as much anymore."

Extorting inmates' families is big business

You may have heard of the prison industrial complex, but the companies that provide corrections facilities with their communications technologies are an industrial complex all their own. Three companies dominate the prison comms business: Securus, Telmate and Global Tel Link, also called GTL — the Verizon, AT&T and Sprint of jails.

Long before video visitation existed, prison phone calls were the bread and butter of these companies. With exclusive contracts protecting them from competition, the trio of prison telecom giants ratcheted up the prices until a single phone call could cost upward of \$14 a minute.

For the families of the 2.3 million incarcerated Americans nationwide, crippling costs are part and parcel of supporting a loved one in jail. A sweeping survey of families by the Ella Baker Center showed that more than 1 in 3 families goes into debt just to cover the costs of keeping in touch with their loved one. Of everyone pouring money into those systems, 87% are women.

These fees are the linchpin in an elaborate racket between telecommunications providers, prisons and local governments. The business model for the three major prison telecoms is built around long-term contracts that establish them as the sole provider in a given county or state. In order to win these contracts, the major companies promise each county or state "site commissions" — a euphemism for kickbacks. These deals are lucrative: In Los Angeles County, for example, it brings in a baseline, contractual guarantee of \$15 million a year. In some counties, this money trickles back down to the prisons.

After decades of abuse, the Federal Communications Commission voted in October to cap phone rates at 11 cents per minute. GTL and Securus filed suit against the FCC. The telecoms argue the FCC has overstepped its legal authority in imposing the rate cap and that the lost revenue will leave the companies unable to fulfill their contractual obligation to pay the counties. The regulations are on hold while the FCC fights for the price caps to take hold.

If the FCC stops the telecoms from gouging families for phone fees, the next frontier is, well, any other service those companies provide. One of those lucrative new products is prison email, in which families are charged for digital "stamps." The other is video visitation.

The FCC is already looking to regulate other kinds of communication, but it could be months, even years, before it gets around to addressing digital communication. So while the FCC lumbers toward capping phone costs, the prison telecoms can get the same money from innocent families using systems the FCC hasn't gotten around to regulating yet.

"This is a fertile ground for abuse, since the FCC is taking modes of communications one by one, rather than [with] comprehensive, all-at-once policy," Aleks Kajstura, legal director of the Prison Policy Institute, told *Mic*.

Prisons have their own incentive. Officials across the country, including Brandon Wood of the Texas Commission on Jail Standards, argue that visitation is a privilege and not a right — and that visitations are a security risk.

But the true incentive is keeping costs low. Video visitation requires fewer full-time prison staff members, so if the private contractors are willing to run the visitation system themselves, it's a pretty sweet deal for counties. Especially when those contractors are paying their way in.

The case for visitation

Jorge Renaud is notorious to prison officials in Texas as a troublemaker — not for his three convictions for burglary and robbery, but as a writer and editor of the *Echo*, Texas' newspaper by and for the incarcerated. During his 27 years in prison, he wrote about everything from gang wars and AIDS to incarcerated mothers and neglectful guards — anti-establishment writing that embarrassed prison officials.

At the time, he took the prison administration to task for preventing some inmates from having physical contact with visitors, forcing them to see their loved ones through a glass panel instead. He studied philosophers like Immanuel Kant and Michel de Montaigne, reading "the Chicano poets" and writing a 2002 book on navigating prison, *Behind the Walls: A Guide for Families and Friends of Texas Prison Inmates*.

During Renaud's time behind bars, visits from his wife and daughter served as a lifeline while awaiting parole, which finally came in 2008.

"The incredible anticipation and fulfillment of knowing they care enough to come can be the difference between you comporting with the rules, and being more human and aware and knowing the consequences of your actions and being willing to moderate and understand them," he said.

In 2014, Renaud was arrested for drinking and driving, and because he had violated the conditions of his parole, he ended up in jail once more — perhaps briefly, perhaps for the rest of his life.

But this time, no one could visit him. During the time Renaud was free, Travis County had quietly stopped in-person visitation, replacing it with Securus Technologies' video visitation system. His then-girlfriend Jaynna Sims was managing his affairs on the outside, but he could never meet with her, never look her in the eye, never hold her hand.

There were two options for Renaud and Sims to see each other: Sims could come down to the jail twice a week for a 20-minute video session for free. Or she could stay at home, risk it on her own computer and pay \$10 for 20 minutes. Paid video visits were, of course, unlimited.

Sims said she racked up hundreds of dollars in fees a month, and when connection would cut out, she'd call up Securus' customer service to complain. It rarely helped; one time, customer service just hung up on her. (We reached out to both Securus and representatives of Securus-owned companies for comment on this story. Securus never responded.)

Anyone with a smartphone knows the road rage-like frustration of trying to speak through a bad connection. Imagine struggling through an expensive conversation in the midst of a crisis, like an accident or medical emergency; imagine being unable to reach the only people providing you a little bit of normalcy.

"There's an incredible despair and anger at this system, this fucking screen in front of you that wavers in and out," Renaud said.

Renaud spent three months in jail before he pled guilty to a diminished charge of reckless driving. Once he got out, Renaud got in touch with Bob Libal and Kymberlie Quong Charles at Austin's Grassroots Leadership, a leading network of advocates in the fight against prison profiteering. He recounted to them his outrage at the profiteering and exploitation — the hopelessness of fighting with faulty technology in order to reach the people he needed most.

So Libal and Quong Charles told Renaud, the notorious prison scribe, to put pen to paper again, and in a few short months, Renaud churned out the earliest damning report of the effects of video visitation systems on jail populations to marshal the local advocates and legislators to restore in-person visitation to Travis County.

County officials across the country claim video visitation is good for security. When Renaud got ahold of prison records, they showed that incidences of inmate-on-inmate violence, disciplinary infractions and possession of contraband all rose after Travis County did away with in-person visitation. Because visitation is so new, these statistics are the earliest indication that the pro-security pitch for video visitation is all snake oil.

But perhaps the strongest case for visitation is that it keeps people out of jail. Prison recidivism goes way down for those who keep up strong family and community ties throughout their incarcerations.

The past decade in research shows consistently that maintaining the relationships the incarcerated will inevitably return to for support once they're released is a powerful agent in

keeping them from repeat offenses. One study of over 16,000 incarcerated people found that any visitation at all, even just once, reduced the risk of recidivism by 13% for felony reconvictions.

After the report came out in October 2014, Renaud worked with Quong Charles and Johnson to push for legislation that would make sure every jail in Texas kept some sort of in-person visitation. Working with Dallas Rep. Eric Johnson, they drafted HB 549, a bill establishing an inmate's right to a bare minimum of two 20-minute visitations per week. Only two months later, the law was introduced in the Texas House of Representatives.

Texas justice

When Sarah Eckhardt walked out of a Travis County commissioners' hearing in October 2012, she was grateful that video visitation was on its way to Travis County. A vote was called to decide whether to introduce video visitation to the Travis County Correctional Complex. Eckhart, a county commissioner at the time, thought that if only she'd had video visitation when her nephew was incarcerated in California, she'd be able to visit him any time from Texas.

During the meeting, Travis County Judge Sam Biscoe asked Darren Long, the major of corrections who led the charge to bring video visitation to the jail, if video would serve as a supplement or a substitute to in-person visitation. Long assured there would be no change in policy. The commissioners court voted in favor of the proposal, at ease that in-person visitation was there to stay.

Two years later, in 2014, Eckhardt got a call from Grassroots Leadership's Libal, who told her Travis County had switched over to video visitation entirely. She told him he most certainly was mistaken.

"Go look at the website," Libal said.

She navigated to the prison's visitation policy, which said that the only way to visit someone in jail was through video conference. The prison had done away with in-person visitation a year prior, and had just finalized a new contract with Securus that wasn't up for negotiation until 2015.

She called Long, reminding him he had promised there'd be no change in policy. "Darren, you said nothing was going to change," Eckhardt recalled saying. "He said, 'Well that's true, nothing did change — we'd already made that policy determination.'" In other words, when commissioners had asked for assurance that in-person visitation would remain, Long omitted the key fact that prison officials had already settled on getting rid of in-person visitation.

A native Texan whose father served as a U.S. congressman for 14 years, Eckhardt had just won a landslide election to take on Biscoe's soon-to-be vacant seat, becoming the first woman to serve as Travis County judge.

"I put it on my agenda that if [in-person visitation] wasn't reinstated while it was off the dais, I would make sure it was reinstated once I was back on," she said in her Austin office.

Eckhardt found an ally in Sally Hernandez, a Travis County constable running for sheriff. At the forefront of Hernandez's political platform was progressive reform to the sheriff's office, with the restoration of in-person visitation as a key issue.

"Just doing only video visitations, to me, is inhumane," Hernandez said. "If you're talking about a plea bargain, or you haven't seen your child, it has an emotional impact. It doesn't help an inmate make wise decisions, or have contact and the support of their family."

Hernandez won the Democratic primary in March, pledging to work with Eckhardt to protect the right to in-person visitation. In Austin's electoral history, the Democratic nominee is the typical shoo-in, so it's likely that come next year, Hernandez will be sheriff of Travis County.

The power and politics to govern these contracts will be in the hands of a county judge and, soon, a sheriff who believe in-person visitation is vital.

The gathering storm

HB 549 passed in the Texas House and Senate in May 2015. When Gov. Greg Abbott failed to sign or veto the law within the 20-day window set forth in the Texas Constitution, it became law by default, ensuring that people in hundreds of county jails across the state would be entitled to two, live in-person visitations a week.

But Travis County wasn't going to get in-person visitation back.

At least 22 of Texas' 254 counties fought and won an exemption to the new rules, claiming that they'd already dedicated significant resources to going full-video. Under the exemption, any county that had "incurred significant design, engineering or construction costs" in switching to video-only visitation by Sept. 1 didn't have to keep in-person visitation. But one thing advocates for in-person visitation had failed to do was narrowly define what "significant cost" meant.

This gave counties months to incur costs that could help an exemption. In San Antonio, for example, the county committed \$6 million to a new video visitation center despite the protestations of families and activists, and won an exemption. Without a clear definition, any county that spent more than nothing was able to make a case for an exemption.

Travis County was headed for the same fate as San Antonio, until Judge Sarah Eckhardt was tipped off to a caveat. Travis County hadn't incurred any significant costs at all for setting up video visitation. All of the systems had been paid for by Securus Technologies.

On April 19, in-person visitation was restored to Travis County.

HB 549 established an incarcerated person's right to in-person visits in Texas' county jails — at least for now.

But Doug Smith, a policy analyst with the Texas Criminal Justice Coalition, is worried that upcoming hearings in the state senate could still jeopardize the bill in the future.

"They'll have a hearing, people will be called to the Capitol and given the opportunity to testify, and the committee would issue recommendations based on what they've heard," Smith said over the phone. "Right now, most counties are safe, but I take nothing for granted."

Other states have begun their battle. In California, where 11 counties have either exclusively switched over to video visitation or are well on the way, state senators have begun work on [SB 1157](#), a bill that would prevent county jails and private institutions from doing away with in-person visits.

But this is the beginning of a tech-driven shift in the way the prison telecoms do business, and none of the other 40 states that have introduced some kind of video visitation has anything as comprehensive as Texas' bill. Securus already has its hands in 3,400 corrections facilities in 48 states, and is constantly renegotiating its contracts.

But Jaynna Sims, who'd supported Jorge Renaud while he was hidden for three months behind video visitation, still knows the trauma inflicted by a system she says "never gives you a break," even with the battle behind her.

"People get out eventually, and they're coming back into the community," Sims said. "If we want to make life as miserable as possible and make sure they don't have growth or healing in jail, we can keep doing what we're doing. But if we don't want them to be worse off when they come back, we have to care about how we treat them in prisons and jails."

That trauma is felt anywhere families are trying to rehabilitate their loved ones — not reaching for hands through prison bars, but with faint voices through fading bars of failing reception, struggling to hold on to the connection.

"The opportunity to sit face to face and just have a personal connection is the one reprieve you get in all of this," Sims said. "But once you take away in-person visitation, you don't have that. It's like the system keeps finding ways to victimize people. And how can that, in any way, heal an individual, or a community?"

Coleman, who Johnson only saw through a glitchy screen, took a deal for two years in prison. She hasn't been assigned to a facility yet, but Johnson promised Coleman she'd drive to visit, either an hour and a half away at Linda Woodman State Jail, or three hours to Lucile Plane in Dayton, Texas. Both facilities, for now, still have in-person visitation.

The above video clips were taken with permission from the upcoming documentary (In)securus Technology: An Assault on Prisoner Rights, directed by Matthew Gossage for Grassroots Leadership.

Correction: May 6, 2016

A previous version of this story misstated the location of Lucile Plane State Jail. That facility is located in Dayton, Texas.

Correction: Sept. 6, 2016

A previous version of this article contained a graphic that incorrectly stated the number of inmates in the United States. The U.S. prison population numbers 2.3 million.

Attachment J-2

The New York Times | <https://nyti.ms/2dmulYq>

The Opinion Pages | OP-ED CONTRIBUTOR

A Virtual Visit to a Relative in Jail

By MAYA SCHENWAR SEPT. 29, 2016

Chicago — “Are you tired of taking the time to drive to the jail and wait in long lines for your visit?” asks the website of Securus, a private company that manages phones in jails and prisons throughout the United States. “Visit your loved one from the comfort of your home using a computer.”

Computer-based video visitation, a service that Securus provides for a fee, can indeed be a helpful option: It allows people in jail or prison to see loved ones who can’t visit in person for whatever reason — the long distance, disability, illness, a busy schedule or responsibilities at home. However, what Securus doesn’t advertise is that, in many cases, you’re not allowed to visit any other way.

In county jails, when video visitation is introduced, in-person visitation is typically banned. (Securus’s contracts with jails have sometimes mandated this ban, though recently the company announced that its contracts would no longer include the requirement.) Jails are embracing the practice, in part because video visitation is less time-consuming and requires fewer staff members than in-person visits. More than 13 percent of local jails in the United States now use video visitation, and at most of those jails, in-person visits have been abolished, according to research by the Prison Policy Initiative.

When my sister began serving a sentence at the Lake County jail outside Chicago in July, I experienced this practice firsthand. When she first called me from the jail, I planned to drive over immediately to see her. My sister had been incarcerated before, and I’d always relied on regular visits to help show my love and

support. But I discovered that in-person visits were not allowed. All “visits” were to be conducted via video, through Securus’s system.

My options were to schedule a video visit at the facility (sitting in a booth alone) or at home. I scheduled an at-home visit, paying \$5 for the privilege. Many jails charge more, but even \$5, at regular intervals, can be a burden to families of incarcerated people, who are often poor. A report from the Ella Baker Center for Human Rights found that one-third of families of incarcerated people went into debt to cover the cost of phone calls and visits, a burden that fell heaviest on women of color.

Moreover, at Lake County and a number of other jails that allow visits only by video, visits must be booked 24 hours ahead of time, which can be an impediment for families struggling to juggle busy schedules with the obligations that come with having an adult (often the primary wage earner) missing from a household.

In my attempt to visit with my sister by video, my visitation privileges were initially denied because of a blurry ID photo: Securus requires that you take a picture of your ID card with your webcam, an endeavor that’s harder than it sounds. This delayed me by a couple of days.

Eventually, I was able to schedule a visitation. The day before, I spent an hour researching and downloading the necessary system requirements for my computer. For people with an older or otherwise incompatible computer or less knowledge of technology — not an unlikely scenario, given the demographics of families of incarcerated people — those requirements could prevent a visit.

My preparation did me no good. I signed on at the required time ... and waited. The minutes ticked by as a box telling me my “inmate” hadn’t yet arrived hovered on my screen (although my sister later confirmed she’d been present). After 10 minutes, I called Securus’s tech support. There are no extensions with video visitation; after the half-hour slot you’ve paid for has passed, your connection is cut. I sat on the phone with a helpless tech person, crying. I knew my sister would be devastated. I was worried she’d think I hadn’t shown up.

After a half-hour, the box disappeared. My visit was over. Despite several follow-up calls to tech support and emails to Securus, I never found out why it hadn't worked.

The second time I tried a video visit, I succeeded in connecting. I was relieved when my sister's face popped up on my screen. But our video conversation was glitchy: Her face was dim and her words were delayed and didn't sync with the movements of her mouth. For much of the visit I saw only half her head, and neither of us could look each other in the eye, no matter how much I fiddled with my setup.

These problems weren't unique to my experience: Technological issues are a common complaint with such visits. When the camera flickered off at the half-hour mark, I felt our conversation had hardly begun.

The practical benefits of face-to-face visits for people in jail are well established: They help them maintain a connection to the outside world and prepare them for life after release, reducing recidivism. But more fundamentally, incarcerated people are human beings, and denying them personal contact with those they love is yet another indignity of the prison system.

Even the best visitation policies can't make up for the broken bonds and fragmented communities that incarceration produces. Even the longest, most well-accommodated in-person visit can't substitute for living in the world. But at least we can allow people in jail to see their loved ones face to face.

Maya Schenwar, the editor in chief of Truthout, is the author of "Locked Down, Locked Out: Why Prison Doesn't Work and How We Can Do Better."

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The Reporter (<http://www.thereporter.com>)

Stanton Correctional Facility in Fairfield touts new technology, more programs

By

By Jessica Rogness

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Thursday, October 9, 2014

Solano County's newest jail boasts new technology for inmates and staff and an opportunity to expand rehabilitative programs for inmates.

The new Stanton Correctional Facility is on track to be fully operational by the beginning of next year.

The main jail for Solano County will still be the Justice Center Detention Facility in downtown Fairfield. Stanton is right next door to the jail on Claybank Road in Fairfield.

Claybank Detention Facility is a medium to minimum security jail built in 1979 for low-level offenders. Solano County Sheriff Thomas Ferrara said 75 percent of Claybank's population are unsentenced felons.

"Obviously we needed more security," said Ferrara during a recent sneak peak tour of the facility.

Stanton was built as a maximum security facility. Solano County was selected out of 13 counties to receive funding through AB 900, which allotted funds for the construction of new jails, for the new facility. The facility adds 365 beds to the county and will free up space at Claybank.

Ferrara said they built it as a maximum security jail because the security level can always be lowered if necessary.

"If it's minimum security, you can't raise it," he explained.

The new jail brings the total number of Solano County jail beds up to 1,443 beds. Funding was provided through AB 900 with the state providing 75 percent of the funds to match the first 25 percent that the county provided.

The jail cost \$89 million to build, but Ferrara said it's on time, on track and on budget.

"The construction people are doing touch-up and we're ready to go," said Ferrara.

Opening the Stanton facility is not only about adding to the number of jail beds in the county, but also expanding the rehabilitation and training offered to lower security Claybank inmates through AB 109, which allows newly-convicted low-level offenders without prior serious or violent offenses to stay in county jails instead of state prisons.

The idea behind realignment is that if the county jails can do their job, fewer inmates will end up in state prisons. Ferrara aims to fund more drug and alcohol rehabilitation and vocational training programs at Claybank.

Ferrara wants to expand "wrap-around" services that can help inmates change their lives after being in jail, including the basics of helping them get a driver's license, a job and probation. He said he wants to train them in

skills where there are actually a need for people to fill jobs, such as diesel mechanics.

He said the types of programs offered will depend on what the jail's population looks like from year to year, but the objective overall is to prevent inmates from becoming repeat offenders.

"The goal is that we don't want them to come back to jail," said Ferrara.

The Stanton facility will house maximum security inmates and to do that, the sheriff's office has implemented methods of making the jail safer through technology that reduces the number of times an inmate has to be moved inside and outside the jail. Stanton will be one of the first jails with video visiting kiosks and a video courtroom, which Ferrara referred to as "video justice."

That does not mean regular visiting has been eliminated. There is a room in the jail for family and visitors with public art of Green Valley Falls by Susan Schneider and regular visiting booths are available.

But the use of video visiting means that correctional officers can move each inmate fewer times, which prevents problems with the inmate and the correctional officers.

The web-based video visiting program provides the family connection to go along with the rehabilitation and training programs, said Ferrara. There's no charge to use the video screens if visitors come to the jail, but inmates will also be allowed to visit with people out of state over the internet.

The video visiting program also means that visiting hours can be expanded. An inmate can have a video visit anywhere from 7 a.m. to 11 p.m. or 12 a.m. Inmates can have more visits and longer visits, according to Ferrara.

Video visiting is also safer for children visiting inmates, because they would not have to necessarily come to the jail to visit an inmate.

The video courtroom at the jail provides better security for moving an inmate for low-level court appearances, said Ferrara. The room contains one screen for the judge, another for the attorney and cameras in the room provide both judge and attorney with a view of the inmate. AB 27 expanded the ability to do what Ferrara refers to as "tele-justice."

New technology extends to the housing units in the jail as well. Ferrara said they have eliminated the need for tower officers, though the towers themselves are not gone.

"If we have to run it manually, we have to run it here or upstairs but we don't want to do that," said Ferrara.

Instead, correctional officers will use an electronic tablet to control the cell doors, water and lights over a wi-fi network and to communicate with other officers. A separate wi-fi network will be used for each unit so no one outside of the jail could control it to open doors or turn out of the lights.

"We're dialing it down," said Ferrara. "Everyone else wants it to go out," but the jail's goal is to keep the wi-fi strictly within the housing unit to the officers with tablets in hand.

"The folks who are tech-savvy will work here," said Ferrara.

The central control room, the "brain center" of the jail, can open all the doors in the jail except for the inside cell doors. Three stations with five computers each control over 200 cameras that monitor the perimeter and the inside of the jail.

The tablets and computers are not the only technological advances of the jail. The walls were built of steel instead of concrete to allow more cells to be built in less space: the steel takes up less space between walls than concrete blocks.

The jail has 12 housing units total, with single and double bunks, with double-bunk cells being more common. The jail also has two single shower rooms instead of larger open shower areas.

The medical area at Stanton will serve both Stanton and Claybank. Medical treatment, including dental visits, is provided on site. The jail also has negative pressure cells, isolation units for inmates who have tuberculosis or other contagious airborne diseases, that can help control the spread of disease among inmates and staff.

"This is something we did not have and we needed it badly," said Ferrara.

Connecting Stanton and Claybank is a breezeway that opens to the sally port. The sally port can fit two CDCR buses inside, making transportation of the inmates to the inside of the jail more secure, said Ferrara.

Stanton is not a booking facility, that will remain downtown because it needs to be available 24 hours a day seven days a week, but Stanton will serve as the intake facility for both its own inmates and those going to Claybank.

The intake area includes kiosks where inmates can access their personal information, make phone calls to let family members know what their bail amount is, and find out when their court date is.

Construction of the jail began in August 2012. The sheriff's office said they visited jails in Colorado, Texas and Arizona early on to see what those agencies had and what worked in their jails. Their goal was to find jails that used PDAs and video screens and they found pieces from each jail that could work in Solano County.

Now, Ferrara said other counties are coming to see the Stanton jail because they are coming up for AB 900 funding.

The next step to making the jail operational is to put staff and inmates in one of the housing units and test the new technology. The county has to move in inmates by February 2015.

As for staffing, so far the county has provided enough people to staff the first housing unit and Ferrara said that's enough to start.

URL: <http://www.thereporter.com/general-news/20141009/stanton-correctional-facility-in-fairfield-touts-new-technology-more-programs>

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