

STATE OF MICHIGAN
IN THE COURT OF APPEALS

S.L., *et al.*,

Plaintiffs-Appellants,

v.

SHERIFF CHRISTOPHER SWANSON, *et al.*,

Defendants-Appellees.

COA No. 374111

LC No. 24-120601-CZ
(Genesee County Circuit Court)

**MOTION OF FAIR AND JUST PROSECUTION FOR LEAVE TO FILE A BRIEF AS
AMICI CURIAE IN SUPPORT OF PLAINTIFFS**

Pursuant to MCR 7.312(H), Fair and Just Prosecution (“FJP”), a project of the Tides Center, and twenty-seven current and former law enforcement and justice-system professionals (“*amici*”) file this motion for leave to file a brief as *amicus curiae* in support of plaintiffs’ appeal. The brief is attached as Exhibit 1 to this motion.¹

“In cases involving questions of important public interest, leave is generally granted to file a brief as *amicus curiae*.” *Grand Rapids v. Consumers’ Power Co.*, 216 Mich. 409, 415 (1921). As the Michigan Supreme Court stated, “[t]his court is always desirous of having all the light it may have on questions before it.” *People v. Hermiz*, 462 Mich. 71, 75 n.10 (2000) (quoting *Grand Rapids*, 216 Mich. at 415).

Amici respectfully submit that its proposed *amicus* brief would assist this Court in evaluating the implications and broader context of the in-person visitation ban imposed by Genesee County. The twenty-seven law enforcement and legal professionals include those with experience in both police and sheriff departments, corrections, immigrations and customs enforcement, as well as working as prosecutors and judges. FJP is an organization with longstanding interest in the issues presented by this case. FJP brings together elected prosecutors and law enforcement

¹ No party, other than *amici* and its counsel, authored any part of this brief or contributed money intended to fund the brief’s preparation or submission.

officials from around the nation – hailing from over 60 jurisdictions, urban, suburban, and rural alike – as part of a network of leaders committed to a justice system grounded in fairness, equity, compassion, and fiscal responsibility. FJP is committed to ensuring the fairness and legitimacy of the criminal justice system and to promoting evidence-based sentencing policies that serve justice and public safety.

FJP has experience researching and advocating for sentencing reform, bail reform, and improved conditions of confinement. For example, FJP has filed amicus briefs concerning life-without-parole sentences for young people.² It has also organized amicus briefs advocating for improved conditions of confinement in jails,³ and joined amicus briefs challenging jail practices that undermine public safety.⁴ In addition to its amicus work, FJP has organized and issued joint statements from prosecutors about poor conditions of confinement during COVID-19;⁵ published a white paper about bail reform that emphasizes the importance of addressing the harms of pretrial

² See, e.g., Br. of Amicus Curiae FJP, *State v. Taylor* (Mi. Dec. 23, 2024), <https://fairandjustprosecution.org/wp-content/uploads/2024/12/12-23-24-People-v-Taylor-FJP-Mot-Brief-Amicus-Curiae.pdf>; Br. of Amicus Curiae FJP, *State v. Czarnecki* (Mi. Dec. 23, 2024), <https://fairandjustprosecution.org/wp-content/uploads/2024/12/12-23-24-People-v-Czarnecki-FJP-Mot-Brief-Amicus-Curiae.pdf>.

³ See, e.g., Br. of Amici Curiae Current and Former Elected Prosecutors and Former Attorneys General and United States Attorneys, *Barred Business v. Kemp* (11th Cir. Nov. 15, 2024), <https://fairandjustprosecution.org/wp-content/uploads/2024/11/Final-Brief-111524-Barred-Business-v-Kemp.pdf> (arguing against restrictions on charitable bail); Br. of Amici Curiae Current and Former State Attorneys General, Elected Prosecutors, Corrections Leaders, Criminal Justice Leaders, and Disability Rights Leaders, *John Doe 4 v. Shenandoah Valley Juvenile Center Commission* (4th Cir. Jan. 13, 2020), <https://fairandjustprosecution.org/wp-content/uploads/2020/01/SVJC-Fourth-Circuit-Amicus-Brief-1.13.20.pdf> (arguing for trauma-informed approaches to youth detention for migrant children).

⁴ See, e.g., Br. of Amici Curiae Juvenile Law Center *et al.*, *Smith v. Edwards* (5th Cir. Dec. 3, 2023), <https://jlc.org/sites/default/files/attachments/2023-12/2023.12.03%20D173%20JLC%20Amicus%20Brief%20-%20FILESTAMPED.pdf>; Br. of Amici Curiae Institute for Constitutional Advocacy and Protection *et al.*, *State v. Richey* (Mo. Jan. 18, 2019), <https://showmeinstitute.org/wp-content/uploads/2019/01/Richey%20Amicus%20Brief.pdf>.

⁵ *Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody*, FJP (Mar. 2020), <https://showmeinstitute.org/wp-content/uploads/2019/01/Richey%20Amicus%20Brief.pdf>.

incarceration;⁶ and has implemented an initiative encouraging elected prosecutors to pledge to visit local prisons, jails, and juvenile facilities.⁷

Amici believe that its proposed brief will provide a unique perspective that will assist the Court in evaluating the harms caused by the County's in-person visitation ban as well as the Defendants' purported justifications for the ban. Drawing upon professional experiences working on issues in the criminal justice system, *amici* seek to describe the ban's negative effects on those who are detained, their families, and the broader Michigan community. As *amici* explain, an in-person visitation ban contributes to increased pressures on those who are detained to plead guilty and can result in lengthier sentences. In addition, an in-person visitation ban also increases the trauma associated with incarceration, the dangers posed to those detained and correctional staff, and the risk of recidivism, and ultimately damages the health and well-being of those who are detained and their loved ones.

The proposed *amicus* brief would also assist the Court in assessing the Defendants' purported justifications for the in-person visitation ban. The ban does not advance the governmental interests that Defendants have identified—promoting public safety and restricting the flow of contraband in jails. Contrary to Defendants' assertions, *amici*'s professional experience and evidence shows that in-person visitation bans like the County's undermine public safety. Further, evidence reflects that visitors are not the primary source of contraband entering into jails. For these reasons, *amici* believe that its perspective and expertise will be of considerable assistance to this Court in this case.

⁶ *Bail Reform*, FJP, <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2017/09/FJPBrief.BailReform.9.25.pdf>.

⁷ *Elected Prosecutors' Pledge to Facilitate Officewide Prison, Jail, and Juvenile Facility Visits*, FJP (Jan. 2023), <https://fairandjustprosecution.org/wp-content/uploads/2023/01/FJP-Prison-Visit-Pledge-Jan.-2023.pdf>.

CONCLUSION

Amici respectfully request that the Court grant it leave to file an *amicus curiae* brief in support of Plaintiffs' appeal.

DATED: July 30, 2025

Respectfully submitted,
/s/Deborah LaBelle
Deborah LaBelle, P31595
Counsel of Record
LAW OFFICES OF DEBORAH LABELLE
221 N. Main Street., Ste 300
Ann Arbor, MI 48104
734-996-5620
dalabelle@aol.com

EXHIBIT 1

STATE OF MICHIGAN
IN THE COURT OF APPEALS

S.L., *et al.*,

Plaintiffs-Appellants,

v.

SHERIFF CHRISTOPHER SWANSON, *et al.*,

Defendants-Appellees.

Court of Appeals No. 374111

Circuit Court No. 24-120601-CZ
(Genesee County Circuit Court)

**BRIEF OF *AMICI CURIAE* FAIR AND JUST PROSECUTION AND LAW
ENFORCEMENT PROFESSIONALS IN SUPPORT OF PLAINTIFFS**

Dated: July 30, 2025

Deborah LaBelle, P31595
Counsel of Record
LAW OFFICES OF DEBORAH LABELLE
221 N. Main Street., Ste 300
Ann Arbor, MI 48104
734-996-5620
[*dalabelle@aol.com*](mailto:dalabelle@aol.com)

Counsel for amici curiae

RECEIVED by MCOA 7/30/2025 3:52:28 PM

TABLE OF CONTENTS

	<u>Page</u>
INTEREST OF AMICI CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT	4
ARGUMENT	5
I. Banning In-Person Visits Exacerbates Harms from Incarceration in County Jails.....	5
A. In-Person Visitation Bans Harm Detained Individuals Who Have Not Been Convicted.	6
B. In-Person Visitation Bans Harm Other Jail Populations, Including Those Serving Sentences or Sanctions and Those Being Held Awaiting Treatment.	9
II. There Is No Valid Public Safety Reason to Impose a Blanket Ban on In-Person Visitation.	10
A. In-Person Visitation Promotes Safety within Jails and the Broader Community.....	11
1. Jail Safety and Security Declines for Incarcerated Individuals and Jail Employees When Visitation is Restricted.	11
2. In-Person Visitation Mitigates the Traumatic Impact of Incarceration and Reduces Recidivism.	13
B. The Most Commonly Alleged Policy Rationale for Restricting In-Person Visitation—the Potential for an Increase in Contraband within the Jail—Is Unsupported.	14
C. Banning In-Person Visitation Based on Financial Motivations is Not a Reasonable Policy Decision.....	17
III. Banning In-Person Visitation Harms Public Safety by Eroding Public Trust.	18
CONCLUSION	21

TABLE OF AUTHORITIES

	Page(s)
 Cases	
<i>Doe v. Dep’t of Soc. Servs.</i> , 439 Mich 650 (1992)	10
<i>Offut v. United States</i> , 348 U.S. 11 (1954).....	20
<i>Turner v. Safley</i> , 482 U.S. 78 (1987).....	4, 10
<i>Williams-Yulee v. Fla. Bar</i> , 575 U.S. 433 (2015).....	20
 Statutes	
MCL 771.4(2)	9
MCL 771.4b.....	9
MCL 771.4b (1)	9
MCL 771.4b (2), (8).....	9
MCL 771.4b (3)	9
 Constitutional Provisions	
Mich. Const. art. I, § 15	6
 Other Authorities	
<i>About FJP, Our Work and Vision</i> , Fair and Just Prosecution,.....	4
Anna Emmerich, <i>Michigan Jails are Filled with People Suffering from Severe Mental Illness: A 25-Year-Old decision Backfires</i> , Wilx 10 (Aug. 20, 2024).....	10
Brittany Friedman, <i>Unveiling the Necrocapitalist Dimensions of the Shadow Carceral State: On Pay-to-Stay to Recoup the Cost of Incarceration</i> , NCBI (Apr. 20, 2021).....	8
CBS, <i>\$15M Drug Smuggling Crackdown in California Prisons Gets Mixed Results</i> , CBS S.F. (May 10, 2017).....	15

Christina Hall, <i>Genesee County Sheriff Says Jail to Begin In-Person Contact Visits Starting in July</i> , Detroit Free Press (June 22, 2024)	17
Christopher T. Lowenkamp et al., <i>The Hidden Costs of Pretrial Detention</i> , Laura & John Arnold Found. (Nov. 2013).....	7
Craig Haney, <i>Criminality in Context: The Psychological Foundations of Criminal Justice Reform</i> 380 (2020)	13
Dallas Morning News, <i>Editorial: By Lowering Inmate Calling Rates, Dallas County Put Principle Over Profit</i> (Feb. 20, 2020).....	18
Emily Keinath, <i>MDOC Officer Facing 13 Felony Charges After Drug Smuggling Investigation</i> , WNEM (Oct. 4, 2023)	16
Erie Cnty. Sheriff's Off., <i>Sheriff Announces Inmate Video Visits</i> (Aug. 8, 2017)	14
Erika Kates, <i>Moving Beyond Incarceration for Women in Massachusetts: The Necessity of Bail/Pretrial Reform</i> , Wellesley Ctrs. for Women (2015).....	7
Evelyn F. McCoy & Bree Boppre, <i>Making Jail and Prison Visits Easier Makes Communities Safer</i> , Urban Inst. (Mar. 13, 2024).....	7
Face to Face Knox, <i>Assessing the Impact of the Knox County Jail's Ban on In-Person Visits</i> , Face to Face Knox Rep. (Jan. 29, 2018).....	11
Federal Communications Commission, <i>Carr Acts to Address Unintended Consequences of 2024 IPCS Order</i> (June 30, 2025)	18
FTC, <i>Press Release: FTC Takes Action Against Global Tel*Link Corp. for Failing to Adequately Secure Data, Notify Consumers After Their Personal Data Was Breached</i> , FTC (Nov. 16, 2023)	17
George Joseph & Reuven Blau, <i>When Visitors Were Banned From Rikers Island, Even More Drugs Showed Up</i> , The City (Feb. 9, 2022).....	14, 15
Giffords Law Center, <i>In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence</i> , Giffords L. Ctr. to Prevent Gun Violence (Sept. 9, 2021)	20
Grant Duwe & Valerie A. Clark, <i>Nothing Will Work Unless You Did: The Predictors of Postprison Employment</i> , 44 Crim. Just. & Behav. 657 (2017).....	14
Jolie McCullough & Keri Blakinger, <i>Texas Prisons Stopped In-Person Visits and Limited Mail. Drugs Got in Anyway.</i> , The Tex. Trib. (Mar. 29, 2021)	15, 16

Jorge Renaud, <i>Who's Really Bringing Contraband into Jails? Our 2018 Survey Confirms it's Staff, Not Visitors</i> , Prison Pol'y Initiative (Dec. 6, 2018).....	16
Kate Brumback, <i>More than 40 Georgia Prison Guards, Officers Indicted on Drug Trafficking, Bribery Charges</i> , The Florida Times-Union (Feb. 11, 2016)	16
Katie Rose Quandt & Alexi Jones, <i>Research Roundup: Incarceration can Cause Lasting Damage to Mental Health</i> , Prison Pol'y Initiative (May 13, 2021)	5, 8
Keith J. Barnett & Carlin McCrory, <i>Global Tel Link Fined \$3 Million for Alleged Unfair Practices Related to Payment Accounts for Incarcerated Persons</i> , Troutman Pepper Locke (Nov. 18, 2024)	17
Lauren-Brooke Eisen, <i>America's Dystopian Incarceration System of Pay to Stay Behind Bars</i> , Brennan Ctr. for Just. (Apr. 19, 2023)	8
Leah Wang, <i>Both Sides of the Bars: How Mass Incarceration Punished Families</i> , Prison Pol'y Initiative (Aug. 11, 2022).....	8
Léon Digard & Elizabeth Swavola, <i>Justice Denied: The Harmful and Lasting Effects of Pretrial Detention</i> , Vera (Apr. 2019)	5
Matt Masterson, <i>Cook County Sheriff Resumes In-Person Visits for Jail Detainees</i> , WTTW (June 8, 2020)	13
Megan Stevenson, <i>Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes</i> , 34(4) J.L. Econ. & Org. 511 (July 17, 2018).....	19
Meghan M. Mitchell et al., <i>The Effect of Prison Visitation on Reentry Success: A Meta-Analysis</i> , Journal of Criminal Justice (Dec. 2016)	14
Mich. Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations (Jan. 10, 2020).....	6
Michelle William, <i>Massachusetts Jail Following Nationwide Trend, Ending In-Person Inmate Visits, in Move Critics Call Cruel</i> , Mass Live (July 21, 2021)	14
Mindy Fetterman, <i>Face-to-Face Family Visits Return to Some Jails</i> , Stateline (Feb. 15, 2017).....	12
Minnesota Department of Corrections, <i>The Effects of Prison Visitation on Offender Recidivism</i> (Nov. 2011)	13
Mo Barnes, <i>Louisiana Jail Replaces In-Person Visits with Video Calls</i> , Rolling Out (Oct. 6, 2017)	14

Natalia Ermasova et al., <i>Perceptions Toward Wrongful Convictions and Needed Reforms in the Criminal Justice System: Does Working Experience in Law Enforcement Matter?</i> Qualitative Criminology (Feb. 28, 2024)	19
NIH, <i>Substance Use and Co-Occurring Mental Disorders</i>	15
Prison Policy Initiative, <i>Pretrial Detention</i>	6
Prison Policy Initiative, <i>Victory for Phone Justice: Securus and ICSolutions Abandon Attempted Merger</i> (Apr. 2, 2019)	17
Rochisha Shukla et al., <i>Contraband and Interdiction Strategies in Correctional Facilities</i> , Urban Inst., 16 (Feb. 2021)	14, 15, 17
Sara Powers, <i>Macomb County Correctional Officer Arraigned After Bringing Contraband into Prison</i> , CBS News (Feb. 17, 2023)	16
Sarah Stillman, <i>Starved in Jail</i> , The New Yorker (Apr. 14, 2025)	8
Shannon Sims, <i>The End of American Prison Visits: Jails End Face-to-Face Contact – and Families Suffer</i> , The Guardian (Dec. 9, 2017)	18
Shanti Silver & Elizabeth Sinclair Hancq, <i>Prevention over Punishment: Finding the Right Balance of Civil and Forensic State Psychiatric Hospital Beds</i> , Treatment Advoc. Ctr. (Feb. 7, 2024)	10
Sydney Brownstone & David Gutman, <i>Amid Spike in Suicides, King County Jail to Restore Visits, Services</i> , Seattle Times (Sept. 19, 2022)	12
Tiffany Bergin et al., <i>The Initial Collateral Consequences of Pretrial Detention: Employment, Residential Stability, and Family Relationships</i> , Arnold Ventures & N.Y. Crim. Just. Agency (2022)	7
Tom R. Tyler & Jeffrey Fagan, <i>Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?</i> , 6 Ohio St. J. Crim. L. 231 (2008)	20
Tom R. Tyler & Jonathan Jackson, <i>Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation and Engagement</i> (Aug. 2013)	20
U.S. Attorney’s Off., D.C. <i>Press Release: Corrections Officer Charged Along with Inmates and Others in Conspiracy to Smuggle Contraband into the D.C. Jail</i> , (Nov. 19, 2024),	16
U.S. Attorney’s Off., S.D.N.Y. <i>Press Release: Former Corrections Officer Sentenced To Prison For Accepting Bribed In Exchange For Smuggling Narcotics Into Rikers Island</i> (Apr. 16, 2025)	16

<i>Video Visitation: How Private Companies Push for Visits by Video and Families Pay the Price, Grassroots Leadership & Texas Crim. Just. Coalition 4</i> (Oct. 2014)	11
WFAE 90.7, <i>In-Person Visitations Restored at Mecklenburg County Jails, Sheriff's Office Says</i> (Jan. 16, 2019).....	12
WRDW, <i>360 Ga. Prison Guards Arrested for Smuggling Since 2018</i> (Sept. 26, 2023)	16

INTEREST OF AMICI CURIAE

Amici curiae are current and former justice-system and law enforcement leaders, including prosecutorial leaders, chiefs of police and other officers, correctional professionals, and a former judge. *Amici* include:

Fair and Just Prosecution

A Project of the Tides Center

Lieutenant Diane Goldstein (Ret.)

Redondo Beach Police Department

Major Neill Franklin (Ret.)

Maryland State Police, Baltimore, MD

Former Executive Director, Law Enforcement Action Partnership (LEAP)

Deputy Chief Stephen Downing (Ret.)

Los Angeles Police Department

Chief of Staff Joseph Iniguez

Los Angeles County DA's Office

Chief Chris Burbank (Ret.)

Salt Lake City Police Department

Maj. Mike Hilliard (Ret.)

Baltimore Police Department

Judge Gordon McAllister (Ret.)

District Court of Tulsa, Oklahoma

Officer Jeff Kaufman (Fmr.)

New York Police Department

Detective Nick Morrow (Fmr.)

Los Angeles County Sheriff's Department, California

Captain Sonia Pruitt (Ret.)

Montgomery County Police Department, Maryland

Carol Ruth Silver

Former Director of Prisoner Legal Services

San Francisco, California

Commander Marc Buslik (Ret.)
Chicago Police Department, Illinois

Officer Shannon Wintruba (Ret.), Ph.D.
Whitaker Police Department, Pennsylvania

Officer David Franco (Ret.)
Chicago Police Department

Carrie Roberts
Former Officer and Sheriff's Deputy
Colorado Department of Corrections

Sgt. Carl Tennenbaum (Ret.)
San Francisco Police Department

Former Special Agent David Long
U.S. Department of Labor's Office of Inspector General
San Francisco, California

Thomas Schoolcraft
Minnesota Department of Corrections

Special Agent Ray Strack (Ret.)
Department of Homeland Security, Immigration and Customs Enforcement
Ft. Lauderdale, FL

Deputy Superintendent of Program Services Cheryl Morris (Ret.)
New York State Department of Corrections, Albany, New York

Deputy Sheriff Jay Fleming (Fmr.)
Park County, Montana

Officer Ronald E. Hampton (Ret.)
Metropolitan Police Department
Washington, District of Columbia

Former Officer James "Flaming Eagle" Mooney
Utah Department of Corrections

Former Sergeant and Terrorism Liaison Officer Terry Blevins
Gila County, Arizona Sheriff's Office

Acting Chief Brendan Cox
Albany Police Department, Albany, New York

Chief Rob Reyes (Fmr.)
US Department of Veterans' Affairs Police Department
Erie, Pennsylvania

Charmin Leon
Director, Law Enforcement Initiatives
Center for Policing Equity
Los Angeles, CA

Amici are committed to protecting the integrity of the justice system, advancing accountability and fairness, and ensuring the safety of everyone in our communities. *Amici* believe that prosecutorial and law enforcement power carries profound responsibility. The role of prosecutors and law enforcement is to protect all members of their community, including the families and loved ones of those accused of crimes.

Fair and Just Prosecution (FJP), a project of the Tides Center, is a non-profit organization that brings together current and former elected local prosecutors. FJP is committed to a justice system grounded in fairness, equity, compassion, and fiscal responsibility. The prosecutor's role is not merely to secure convictions, but to achieve justice and promote community safety. These obligations extend to every stage of the criminal process, including pre- and post-trial detention conditions.

Amici are deeply concerned about the total ban on in-person visitation challenged by Plaintiff-Appellants. Our experience, supported by independent research, has shown that these types of restrictions lead to more dangerous conditions in our jails and communities. *Amici* respectfully submit this brief to highlight the profound harms that flow from these types of bans and the detrimental effects on public safety.

INTRODUCTION AND SUMMARY OF ARGUMENT

On September 22, 2014, Genesee County officials enacted a Family Visitation Ban which prohibited in-person visits at Genesee County Jail.¹ During the same period, the County entered into a “kickback scheme” with Securus Technologies to provide electronic communications for visits, which are paid for by the incarcerated individual and/or their loved ones.² In 2018, the County switched providers to Global Tel*Link, and entered into a contract which entitles the County to a portion of the revenue generated by the calls.³ The contract with GTL extends through 2027.⁴ As a result of the Family Visitation Ban, detained individuals and their loved ones are forced to choose between paying for calls charged at exorbitant prices per minute, or paying for other necessities like food, rent, and gas.

On March 15, 2025, Plaintiffs challenged the County’s Family Visitation Ban before the Circuit Court for the County of Genesee, seeking a preliminary injunction to prohibit its enforcement. On December 30, 2024, Circuit Judge Celeste D. Bell granted the Defendants’ motion to dismiss. Judge Bell concluded that the Michigan constitution does not provide a right to in-person contact visits, and determined the policy was reasonably related to legitimate penological interests.⁵ Thereafter, Plaintiff-Appellants appealed to the Seventh Circuit Court.

Amici curiae, Fair and Just Prosecution (FJP), a project of the Tides Center, is a non-profit organization that brings together elected local prosecutors as part of a network of leaders “committed to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility.”⁶ Other *Amici* are law enforcement and justice-system leaders, including a former judge, an Special Agent with Immigrations and Customs Enforcement, and several experts with experience in both police and sheriffs’ departments. *Amici* respectfully advocate for the reversal of the Circuit Court’s decision to remedy the harm caused by the County’s unjust ban on in-person visitation.

¹ Pls.’ Compl. 1, available at https://static1.squarespace.com/static/65c3d5f6ce15413362d4f477/t/66329411c0d3fe65602c859c/1714590738863/S L+v+Swanson_GeneseeCounty_Complaint.pdf.

² *Id.* at 3.

³ *Id.* at 8.

⁴ *Id.*

⁵ *Turner v. Safley*, 482 U.S. 78, 89 (1987).

⁶ *About FJP, Our Work and Vision*, Fair and Just Prosecution, <https://fairandjustprosecution.org/about-fjp/our-work-and-vision/> (last visited June 12, 2025).

Bans on in-person visitations result in significant harm to detained individuals, their loved ones, jail employees, and the community at large. Those affected often include individuals who have not yet been convicted, as well as those being held for probationary or treatment purposes. The harmful effects of family separation and isolation while awaiting trial lead to increased pressures to plead guilty and excessive sentences. The net result is an erosion of public trust and confidence in the legal system. This erosion of trust in turn can lead to a public that is reticent to report crimes, participate in the legal process, or cooperate with law enforcement, undermining public safety in affected communities.

The in-person visitation ban does not advance any legitimate government interest. The purported justifications are either unsubstantiated or refuted by evidence. Public safety evidence demonstrates that in-person visitation reduces the risk of recidivism, alleviates the traumatic experiences associated with incarceration, minimizes violence in the jail environment, and promotes safety for both those detained and jail employees. Moreover, the commonly alleged risk of introduction of contraband through in-person visitation is unsupported by evidence. The only theoretical benefit of a total ban on in-person visitation is the increased revenue gained by forcing families to pay for video and phone visitation. This type of financial incentive should not be prioritized over the safety and wellness of detained individuals, jail employees, and community members.

ARGUMENT

I. Banning In-Person Visits Exacerbates Harms from Incarceration in County Jails.

It is well-established that incarceration imposes harmful effects on individuals who are held in jails, along with their families and communities. Detention in a correctional facility—even for a brief period—is linked to higher rates of mental and physical illness, homelessness, the commission of future crimes, and loss of child custody.⁷

Defendants' policies only exacerbate these harms. Research demonstrates that pretrial incarceration can lead to higher rates of wrongful convictions, as individuals face pressure to enter into plea agreements to avoid further incarceration.⁸ For those who are detained pre-trial and

⁷ Katie Rose Quandt & Alexi Jones, *Research Roundup: Incarceration can Cause Lasting Damage to Mental Health*, Prison Pol'y Initiative (May 13, 2021), <https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts>.

⁸ Léon Digard & Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention*, Vera (Apr. 2019), <https://www.vera.org/publications/for-the-record-justice-denied-pretrial-detention>.

cannot afford bail, banning in-person visitation increases the pressure on individuals to accept pleas or sentences they would not if they were able to see their loved ones and thus could better withstand the isolation of incarceration. For those who are serving sentences or awaiting treatment for competency or other mental or physical health issues, restricting family and friends from visitation increases the odds of other negative consequences, including the risk that individuals will not receive timely access to necessary care and treatment because courts and jail administrators may not detect changes in symptoms that visiting family members and loved ones would otherwise notice. For all those who are incarcerated, banning them from seeing their loved ones and requiring them to pay exorbitant prices to communicate via phone and video negatively affects their stability upon release. As a result, Michigan, including Genesee County, is made less safe.

A. In-Person Visitation Bans Harm Detained Individuals Who Have Not Been Convicted.

Many of those affected by the ban on in-person visitation are individuals who have not been convicted of any offense. Pretrial incarceration accounts for approximately 70% of all detained individuals in jails throughout the country.⁹ Since courts in Michigan can only completely deny bail under rare circumstances,¹⁰ the majority of Michiganders held pretrial are only incarcerated due to their poverty as they await their day in court, and a lengthy period of pretrial incarceration is not abnormal.

In 20 jails sampled by the Michigan Joint Task Force on Jail and Pretrial Incarceration, individuals who were in custody for more than a month accounted for 82% of the jail bed-days (days in which a bed was used).¹¹ Nearly 1 in 5 individuals held in custody are in jail longer than a week.¹² Importantly, for many of these individuals, their alleged offense is entirely administrative; in 2018, driving without a license was the third most common reason people went

⁹ *Pretrial Detention*, Prison Pol’y Initiative, https://www.prisonpolicy.org/research/pretrial_detention (last visited June 5, 2025).

¹⁰ These offenses are murder, treason, criminal sexual conduct in the first degree, kidnapping, robbery, a violent felony committed while on bail or probation for another violent felony, or someone with a history of 2 or more violent felonies in the proceeding 15 years. Additionally, the “presumption” must be “great” as to guilt by ample evidence against the accused. Mich. Const. art. I, § 15.

¹¹ Mich. Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations at 8, 11, (Jan. 10, 2020), <https://www.courts.michigan.gov/48e562/siteassets/committees,-boards-special-initiatives/jails/jails-task-force-final-report-and-recommendations.pdf>.

¹² *Id.*

to jail in Michigan.¹³ In this case, the Plaintiffs are the loved ones of individuals who were held simply because they could not afford bail,¹⁴ and most of the named Plaintiffs' parents and children experienced pretrial detention for over a year.¹⁵

Evidence suggests that bans on in-person visitation exacerbate the existing harms experienced by those who are detained pretrial. People held in custody pretrial are at higher risk of losing their jobs, homes, and parental rights.¹⁶ Such social instability not only negatively affects the incarcerated person; it also has a ripple effect on their families and communities, who might be reliant on their incomes or support. Research shows that detention even for just 24 or 48 hours increases the likelihood of recidivism and criminal behavior, particularly for individuals who are deemed to pose a lower risk.¹⁷ Most individuals, including the family members of the Plaintiffs in this case, are held for far longer than that. Research suggests that the criminogenic effect of incarceration decreases when individuals have access to in-person visitation, nearly a 25% drop in misconduct during incarceration and a 26% decrease in recidivism, as isolation from loved ones adversely affects mental wellness.¹⁸

Furthermore, research demonstrates that pretrial incarceration pressures individuals to enter into plea agreements to avoid further incarceration, which often contributes to lengthier, disproportionate sentences.¹⁹ Instead of focusing on defending against the accusations and charges pending against them, parents who are held pretrial suffer from anxiety about the safety and

¹³ *Id.*

¹⁴ Pls.' Compl. 21–33.

¹⁵ Pls.' Compl. 14.

¹⁶ See Erika Kates, *Moving Beyond Incarceration for Women in Massachusetts: The Necessity of Bail/Pretrial Reform*, Wellesley Ctrs. for Women (2015), https://www.wcwonline.org/images/PolicyBrief3.15.Bail.Pretrial_Reform.pdf (showing that in a study of women incarcerated pretrial in Massachusetts, although half owned or rented their own home prior to their incarceration, they were at risk of being evicted as a result of their incarceration); Tiffany Bergin *et al.*, *The Initial Collateral Consequences of Pretrial Detention: Employment, Residential Stability, and Family Relationships*, Arnold Ventures & N.Y. Crim. Just. Agency (2022), <https://www.nycja.org/assets/downloads/Collateral-Consequences-Results-Summary-Brief.pdf> (showing that participants who were detained pretrial were 74% more likely to become unemployed than counterparts who were not detained; that pretrial detention is associated with a 420% increased likelihood of becoming homeless; and that detained individuals had a 57% likelihood of being inhibited in their ability to provide for their children due to their justice involvement compared to a 41% likelihood for people who are not detained pretrial).

¹⁷ See Christopher T. Lowenkamp *et al.*, *The Hidden Costs of Pretrial Detention*, Laura & John Arnold Found. (Nov. 2013), https://static.prisonpolicy.org/scans/ljaf/LJAF_Report_hidden-costs_FNL.pdf; Digard & Swavola, *supra* note 8.

¹⁸ Evelyn F. McCoy & Bree Boppre, *Making Jail and Prison Visits Easier Makes Communities Safer*, Urban Inst. (Mar. 13, 2024), <https://www.urban.org/urban-wire/making-jail-and-prison-visits-easier-makes-communities-safer>.

¹⁹ *Id.*

security of their children. This is especially true for single parents, who comprise more than 39% of incarcerated mothers and 21% of incarcerated fathers.²⁰

When those jailed are deprived from seeing, holding, and hugging their children and loved ones, the pressure to be released increases. Detained parents are especially vulnerable to this pressure. One study found that the mental health toll on mothers of being separated from their family without contact visits was particularly severe. The study noted that 6% of the mothers interviewed described themselves as suicidal early in their incarceration; as their separation from their children continued, 22% “continued to focus intensely on their distress.”²¹ Further, a recent report found that individuals who died of dehydration or starvation in jail were overwhelmingly suffering from mental illness and had been restricted from seeing their loved ones.²² Thus, depriving parents of the opportunity to see their family and loved ones while incarcerated pretrial will only deepen the anxiety they already experience and increase the risk that people will plead guilty despite being innocent or agree to excessive sentences.

The harms inflicted by restricting in-person visits is compounded by the financial costs that families must bear. In many jails, those who are held are responsible for paying for their own toiletries, supplemental food, and additional clothing, even shoes.²³ Requiring families to pay \$10 for a 25 minute video call depletes resources that could be used to keep the incarcerated person physically and mentally healthy.²⁴ Without an opportunity to regularly speak to their children or other loved ones without paying hundreds of dollars in fees a month — money that is likely limited given their inability to pay bail — a ban on in-person visitation can cause permanent damage to the mental health of those incarcerated and their friends and families. The less stable an individual is upon release, the more likely they are to recidivate and end up reincarcerated, perpetuating a cycle of harm.

²⁰ Leah Wang, *Both Sides of the Bars: How Mass Incarceration Punished Families*, Prison Pol’y Initiative (Aug. 11, 2022), https://www.prisonpolicy.org/blog/2022/08/11/parental_incarceration/.

²¹ Quandt & Jones, *supra* note 7.

²² Sarah Stillman, *Starved in Jail*, The New Yorker (Apr. 14, 2025), <https://www.newyorker.com/magazine/2025/04/21/starved-in-jail>.

²³ Brittany Friedman, *Unveiling the Necrocapitalist Dimensions of the Shadow Carceral State: On Pay-to-Stay to Recoup the Cost of Incarceration*, NCBI (Apr. 20, 2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8055507/>; Lauren-Brooke Eisen, *America’s Dystopian Incarceration System of Pay to Stay Behind Bars*, Brennan Ctr. for Just. (Apr. 19, 2023), <https://www.brennancenter.org/our-work/analysis-opinion/americas-dystopian-incarceration-system-pay-stay-behind-bars>.

²⁴ Pls.’ Compl. 5.

B. In-Person Visitation Bans Harm Other Jail Populations, Including Those Serving Sentences or Sanctions and Those Being Held Awaiting Treatment.

The negative consequences of a ban on in-person visitation extend to those detained for a probation violation, those awaiting treatment for competency and mental health, and those serving a sentence in a county jail. Prohibiting in-person visitation exacerbates many of the same harms faced by people who are not detained pretrial but who are otherwise incarcerated in jail: the immense mental and emotional stress of the jail facility, the financial stress placed on the individual incarcerated and their families, the psychological divide between life on the inside and life on the outside; and the overall criminogenic effects of incarceration.

Many individuals who are held in custody in jails that are not awaiting trial or serving an underlying sentence are actually being held on administrative detainers for technical violations of probation.²⁵ Unlike those who are arrested on a new charge, probationers receive far less process²⁶ and thus are more likely to be incarcerated for technical violations that do not impact public safety.²⁷ In Michigan, a graduated sanction system is in place in which an individual can be held for the remainder of their underlying sentence for a fourth accusation of a technical violation, which could be days or even months, without ever seeing a judge.²⁸ Even a first-time technical violation carries a presumptive sentence of 5 days in jail if on probation for a misdemeanor, and 15 days if on probation for a felony.²⁹

Many incarcerated individuals, including probationers, are held awaiting treatment for substance use disorder or underlying mental health issues. For even a first-time technical violation, an individual on probation can be held for up to 45 days while awaiting placement in a treatment facility.³⁰ Others are charged with a crime but are being detained on a psychiatric hold until they

²⁵ Violations of probation/parole were the fifth largest driver of incarceration in Michigan between 2016 and 2018. Mich. Joint Task Force on Jail and Pretrial Incarceration, *supra* note 11, at 8.

²⁶ MCL 771.4(2) (“Hearings on the revocation must be summary and informal and not subject to the rules of evidence or of pleadings applicable in criminal trials.”).

²⁷ In Michigan, technical violations do not include 1) consuming alcohol while on probation for a felony and 2) having contact with an individual whom the probationer has been ordered not to. Both are considered “non-technical” violations and therefore are not restricted by the sanction timelines in 771.4b. MCL 771.4b.

²⁸ If the probationer acknowledges the violation, they can be held without a court hearing. If the probationer does not acknowledge the violation, a hearing must be held “as soon as is possible.” MCL 771.4b (2), (8).

²⁹ MCL 771.4b (1).

³⁰ MCL 771.4b (3).

can receive mental health care to improve their competency enough to be legally prosecuted.³¹ One recent study reports that “thousands of [people] with serious mental illness languish in jail for months, or even years, waiting for a state hospital bed to open.”³²

For these vulnerable individuals, the stabilizing effect of familial support cannot be overstated. Telephone or video calls are not an adequate substitute for in-person visits, in part because they do not allow family members the opportunity to detect signs of worsening mental health symptoms in their loved ones. Because restricting in-person visitation for those awaiting a place in a medical facility is likely to cause them to decompensate in the jail, medical facilities are forced to expend far more resources to stabilize the patient once they are admitted. These are resources that should be available to these deeply underfunded hospitals, and any jail conditions that further destabilize mentally ill individuals are contrary to public welfare and safety.

II. There Is No Valid Public Safety Reason to Impose a Blanket Ban on In-Person Visitation.

County jails serve an important public safety role in our justice system. But absent a public health emergency, such as the COVID-19 pandemic, or other exigent circumstances, banning all in-person visitation undermines the efficacy of jails as a public safety tool. Research and experience demonstrate that restrictions on in-person visitation negatively affects safety within the jails, while in-person visitation can have a positive public safety impact when individuals are released from custody. Jail policies should be guided by evidence-based practices that promote public safety.

Under any conceivable balancing test, including the *Turner* standard (which Plaintiffs-Appellants’ contest applies to this case),³³ a blanket ban on in-person visitation fails because there is no “compelling” or “legitimate” governmental interest at stake.³⁴ *First*, while public safety is of course a valid government interest, in-person visitation *promotes* safety both within the jails and the broader community, and there is ample evidence demonstrating the blanket ban does not threaten public safety. *Second*, the commonly asserted rationale for a visitation ban—restricting

³¹ Anna Emmerich, *Michigan Jails are Filled with People Suffering from Severe Mental Illness: A 25-Year-Old decision Backfires*, Wilx 10 (Aug. 20, 2024), <https://www.wilx.com/2024/08/20/michigan-jails-are-filled-with-people-suffering-severe-mental-illness-25-year-old-decision-backfires/>.

³² *Prevention over Punishment: Finding the Right Balance of Civil and Forensic State Psychiatric Hospital Beds*, Treatment Advoc. Ctr. (Feb. 7, 2024), https://www.tac.org/reports_publications/state-psychiatric-hospital-beds/.

³³ See Plaintiffs-Appellants’ Br. at 25–32.

³⁴ See *Doe v. Dep’t of Soc. Servs.*, 439 Mich 650, 662 (1992); *Safley*, 482 U.S. at 89.

contraband—is also unsupported by the evidence. *Third*, Defendants-Appellees’ financial motivations have no bearing on public safety.

A. In-Person Visitation Promotes Safety within Jails and the Broader Community.

The evidence shows that in-person visitation promotes public safety both within the jail walls and in the broader community. Past bans on in-person visitations have had such detrimental effects that in-person visitation was reinstated to avoid dangerous conditions and promote the safety of both incarcerated individuals and jail employees. In-person visitation also promotes safety in the community at large by reducing recidivism and the lingering traumatic effects of incarceration, which can otherwise make it difficult for formerly incarcerated people to adjust and reintegrate to life outside of jail.

1. Jail Safety and Security Declines for Incarcerated Individuals and Jail Employees When Visitation Is Restricted.

Studies have shown that restricting in-person visitation results in worse and less safe conditions for both individuals who are detained and jail employees, often leading to the reversal of such bans that have been instituted in other jurisdictions. For example, in the year following the elimination of in-person visitation and institution of video visitation in the Travis County, Texas jail, the number of inmate-on-staff assaults immediately doubled.³⁵ Violence between those held, contraband infractions, and other disciplinary infractions also significantly increased.³⁶ Similarly, in Knox County, Tennessee, the replacement of family visits with video calls coincided with more jail violence—including more assaults on staff—and higher numbers of disciplinary infractions.³⁷ In King County, Washington, all in-person visitation was eliminated during the COVID-19 pandemic, resulting in a sudden rise in the number of deaths by suicide in the jail.³⁸ As a result,

³⁵ See *Video Visitation: How Private Companies Push for Visits by Video and Families Pay the Price*, Grassroots Leadership & Texas Crim. Just. Coalition 4 (Oct. 2014), [https://web.archive.org/web/20170910184707/http://grassrootsleadership.org/sites/default/files/uploads/Video%20Visitation%20\(web\).pdf](https://web.archive.org/web/20170910184707/http://grassrootsleadership.org/sites/default/files/uploads/Video%20Visitation%20(web).pdf).

³⁶ *Id.*

³⁷ *To What End?: Assessing the Impact of the Knox County Jail’s Ban on In-Person Visits*, Face to Face Knox Rep. (Jan. 29, 2018), https://www.prisonlegalnews.org/media/publications/To_What_End_Assessing_the_Impact_of_the_Knox_County_Jails_Ban_on_In-Person_Visits.pdf.

³⁸ Sydney Brownstone & David Gutman, *Amid Spike in Suicides, King County Jail to Restore Visits, Services*, Seattle Times (Sept. 19, 2022), <https://www.seattletimes.com/seattle-news/times-watchdog/amid-spike-in-suicides-king-county-jail-to-restore-visits-services-within-two-years/>.

despite overcrowding problems that increased pressure on staff, the county decided to bring back in-person visitation as necessary to promote the safety of the institution.³⁹

Ample evidence and our professional experience demonstrates that regular in person visitation is good public safety policy. According to the Plaintiffs-Appellants' expert witness Dora Schriro, a corrections administrator with nearly 35 years of experience running jails and prisons, "more contact visits are correlated with a decrease in the severity and number of inmate-on-inmate, inmate-on-staff, and staff-on-inmate incidents of violence, as well as a decrease in acts of self-harm, uses of force, the trafficking of contraband, and revocations or recidivism after their release."⁴⁰

Several professionals working in jurisdictions that reinstated in-person visitation after previously replacing it with video visitation cited the positive impact in-person visits can have on incarcerated individuals and their families without undermining the safety and security of the facilities. For example, in Dallas County, Texas, the county government reversed its ban on jail in-person visitation.⁴¹ As Dallas County Judge Clay Jenkins explained, "[p]sychology and common sense tells you that it's better for the prisoners and families to sit across from each other and see each other, rather than talking through an iPad."⁴² In Mecklenburg County, North Carolina, Sheriff Garry McFadden proudly defended his jail's return to in-person visitation, noting that it improves public safety, reduces recidivism, and minimizes the likelihood that someone will commit an infraction inside the jail.⁴³ In Illinois, Sheriff Thomas J. Dart reinstated in-person visitation after the Cook County Department of Corrections eliminated such visits during the COVID-19 pandemic, explaining that "nothing can replace seeing loved ones face-to-face[.] . . . We believe this is not only beneficial for those in our custody, but also [for] our staff, since it reduces anxiety among individuals in custody."⁴⁴

³⁹ *Id.*

⁴⁰ Exp. Rep. & Aff. Dr. Dora Schriro ¶ 51, available at https://static1.squarespace.com/static/65c3d5f6ce15413362d4f477/t/663294ae96b0bf2140f7cb61/1714590894895/SL+v+Swanson_Geneseecounty_Schriro+Expert+Report.pdf.

⁴¹ In Texas, a county judge is the chief executive of the county and its top elected official. Mindy Fetterman, *Face-to-Face Family Visits Return to Some Jails*, Stateline (Feb. 15, 2017), <https://stateline.org/2017/02/15/face-to-face-family-visits-return-to-some-jails/>.

⁴² *Id.*

⁴³ *In-Person Visitations Restored at Mecklenburg County Jails, Sheriff's Office Says*, WFAE 90.7 (Jan. 16, 2019), <https://news.wttw.com/2020/06/08/cook-county-sheriff-resumes-person-visits-jail-detainees>.

⁴⁴ Matt Masterson, *Cook County Sheriff Resumes In-Person Visits for Jail Detainees*, WTTW (June 8, 2020), <https://news.wttw.com/2020/06/08/cook-county-sheriff-resumes-person-visits-jail-detainees>.

The experiences of these jurisdictions, alongside many others, demonstrate that in-person visitation bans are not necessary to run a safe and secure jail—indeed, ending in-person visitation undermines those very goals. It therefore is not reasonable policy to eliminate in-person visits; particularly when this is done in tandem with the creation of financial obstacles to video and phone visitation that disproportionately impact already vulnerable communities. Phone visitations can still profitably operate in facilities where in-person visitation is allowed. Indeed, the research results mentioned support the contention that phone, video, and in-person visitation all should be made available to ensure connection between incarcerated individuals and their loved ones.

2. In-Person Visitation Mitigates the Traumatic Impact of Incarceration and Reduces Recidivism.

Ample evidence demonstrates that regular, in-person visitation is good public safety policy. Harsh jail conditions—including solitary confinement, violence, and the stress of daily life—produce “a form of traumatic stress” that can be “severe enough to produce post-traumatic stress reactions once released.”⁴⁵ As explained below, these effects lead to increased recidivism rates and a further decline in jail conditions for the detained individuals and workers alike. The ability to connect face-to-face is a key intervention to alleviate the trauma of incarceration and can help maintain and heal the social bonds between individuals and their support network of family and friends during the disruption of incarceration. The moral support and continued human connections provided by families through visitation helps to lessen some of the psychological damage caused by incarceration, which allows individuals to have greater stability upon release.

The positive public safety effects of in-person visitation are clearly demonstrated by research. For example, a Minnesota study looked at over 16,000 incarcerated individuals between 2003 and 2007 and examined visitation over the period of their incarceration. The study found that even one in-person, face-to-face visit reduced recidivism by 13% for new crimes and by 25% for technical violations.⁴⁶ A 2016 study similarly concluded that experiencing visitation caused a 26% decrease in recidivism.⁴⁷ Visitation also increases the likelihood of post-release employment. A large-scale study of more than 15,000 individuals released from Minnesota state prisons found that

⁴⁵ Craig Haney, *Criminality in Context: The Psychological Foundations of Criminal Justice Reform* 380 (2020).

⁴⁶ *The Effects of Prison Visitation on Offender Recidivism*, Minnesota Department of Corrections (Nov. 2011), https://mn.gov/doc/assets/11-11MNPrisonVisitationStudy_tcm1089-272781.pdf.

⁴⁷ Meghan M. Mitchell et al., *The Effect of Prison Visitation on Reentry Success: A Meta-Analysis*, *Journal of Criminal Justice* (Dec. 2016), <https://www.sciencedirect.com/science/article/abs/pii/S0047235216300575>.

in-person visits significantly predicted employment in the short and long term. In fact, the beneficial impact of visitation was comparable to the more targeted interventions offered in state prisons, such as vocational rehabilitation or work release.⁴⁸

B. The Most Commonly Alleged Policy Rationale for Restricting In-Person Visitation—the Potential for an Increase in Contraband within the Jail—Is Unsupported.

Contraband interdiction is a core goal of any safe and secure detention center. Although some jail administrators and sheriff departments have often argued that restricting in-person visitation leads to a decline in contraband entering the jail,⁴⁹ this argument is not supported by evidence. Research and experience show that contraband seizures—especially those related to substance use—often *increase* or remain stable when in-person visitation is suspended or replaced.⁵⁰ This suggests that visitors are not a primary vehicle for contraband entering the jails, a blanket ban on in-person visitation will not address the underlying problem of contraband, and interdiction efforts are better directed elsewhere.

For example, Texas prisons stopped all in-person visitation and severely limited mail during the COVID-19 pandemic. Despite these restrictions, drugs entered the facilities anyway. An investigation by The Texas Tribune and The Marshall Project found that the problem actually worsened after in-person visitation was banned, and agency data showed guards were initiating disciplinary processes for contraband at an even higher rate.⁵¹ Similarly, at Rikers Island in New York, visits were terminated entirely during the COVID-19 pandemic, but internal jail data indicated that individuals held may have had more access to drugs when there were no in-person

⁴⁸ Grant Duwe & Valerie A. Clark, *Nothing Will Work Unless You Did: The Predictors of Postprison Employment*, 44 *Crim. Just. & Behav.* 657 (2017), <https://journals.sagepub.com/doi/abs/10.1177/0093854816689104>.

⁴⁹ *Sheriff Announces Inmate Video Visits*, Erie Cnty. Sheriff's Off. (Aug. 8, 2017), <https://www2.erie.gov/sheriff/index.php?q=press/sheriff-announces-inmate-video-visits>; Michelle William, *Massachusetts Jail Following Nationwide Trend, Ending In-Person Inmate Visits, in Move Critics Call Cruel*, Mass Live (July 21, 2017), https://www.masslive.com/news/2017/07/massachusetts_jail_following_n.html; Mo Barnes, *Louisiana Jail Replaces In-Person Visits with Video Calls*, Rolling Out (Oct. 6, 2017), <https://rollingout.com/2017/10/06/prisoners-lose-person-visits-louisiana-jail-moves-video/>.

⁵⁰ George Joseph & Reuven Blau, *When Visitors Were Banned From Rikers Island, Even More Drugs Showed Up*, The City (Feb. 9, 2022), <https://www.thecity.nyc/2022/02/09/when-visitors-were-banned-from-rikers-island-even-more-drugs-showed-up/>; see also Rochisha Shukla et al., *Contraband and Interdiction Strategies in Correctional Facilities*, Urban Inst., 16 (Feb. 2021), https://www.urban.org/sites/default/files/publication/103619/contraband-and-interdiction-strategies-in-correctional-facilities_0.pdf (noting that “research finds that visitation does not lead to a significant increase in a facility’s overall contraband levels” and citing studies).

⁵¹ Jolie McCullough & Keri Blakinger, *Texas Prisons Stopped In-Person Visits and Limited Mail. Drugs Got in Anyway.*, The Tex. Trib. (Mar. 29, 2021), <https://www.texastribune.org/2021/03/29/texas-prisons-drugs/>.

visits: “Between April of 2020 and May of 2021, correction department authorities seized banned drugs inside city jails more than 2,600 times . . . more than double the number of such seizures made during the same time period from 2018 to 2019.”⁵² The California Department of Corrections spent \$15.3 million on a three-year program to curtail prison contraband smuggling by subjecting visitors to additional high-tech security measures. Out of the 11 facilities that received the additional measures, only three facilities showed a reduction in positive drug tests within the prison.⁵³ If visitors were the main entry point for contraband into jails, it follows that there would have been a much greater reduction across all the prisons.

It is not difficult to imagine why the banning of in-person visitation might lead to higher rates of substance use within the jail and thus higher rates of confiscation and disciplinary action for possession of contraband. As discussed above, restricting the familial and social support provided by in-person visitation has detrimental effects on detained individuals’ mental well-being. The causal relationship between mental distress and substance use is well-established;⁵⁴ the more severe the conditions of a jail, the more demand there will be for the relief that some contraband can provide.

Data on arrests and convictions of those accused of smuggling substance-related contraband into jail similarly does not support the argument that visitors are the primary source of such contraband. Though jail administrators seldom keep records of how often their staff is accused of smuggling contraband, a review of news stories of arrests of individuals for bringing contraband into correctional facilities in 2018 found that almost all contraband was introduced by staff.⁵⁵ In that year alone, 20 jail staff members in 12 separate county jails were arrested, indicted, or convicted on charges related to the introduction of contraband.⁵⁶ In the Georgia prison system

⁵² Joseph & Blau, *supra* note 50.

⁵³ *\$15M Drug Smuggling Crackdown in California Prisons Gets Mixed Results*, CBS S.F. (May 10, 2017), <https://www.cbsnews.com/sanfrancisco/news/california-prisons-drug-smuggling-crackdown-mixed-results/>.

⁵⁴ *Substance Use and Co-Occurring Mental Disorders*, NIH <https://www.nimh.nih.gov/health/topics/substance-use-and-mental-health> (last updated March 2024).

⁵⁵ The motivation for staff to smuggle is largely financial; many correctional officers are severely underpaid, and contraband can carry a high price tag within jails and prisons that some of those detained are willing to pay. Shukla et al., *supra* note 50.

⁵⁶ Jorge Renaud, *Who’s Really Bringing Contraband into Jails? Our 2018 Survey Confirms it’s Staff, Not Visitors*, Prison Pol’y Initiative (Dec. 6, 2018), <https://www.prisonpolicy.org/blog/2018/12/06/jail-contraband/#:~:text=I%20reviewed%20news%20stories%20of%20arrests%20made%20in,introduced%20to%20any%20local%20jail%20comes%20through%20staff.>

alone at least 360 staff have been arrested on accusations of smuggling contraband into prisons since 2018.⁵⁷

More recent examples also show that it is often correctional staff, not visitors, who have been prosecuted for bringing contraband into jails. In 2023 in Michigan, officers in Macomb County⁵⁸ and Gratiot County⁵⁹ were arrested and accused of smuggling drugs into correctional facilities.⁶⁰ In April of 2025, a former correctional officer was sentenced for her participation in a scheme to accept bribes in exchange for smuggling narcotics and other contraband into Rikers Island.⁶¹ In 2024, an officer was indicted in a conspiracy to provide a knife, drugs, and cell phones to inmates in the D.C. jail as they awaited their trial for murder and assault with intent to kill while armed.⁶²

Interviews with correctional staff also confirm that staff can be a major contributor to substance-use-related contraband in jails. In the aforementioned Texas study that found contraband seizures increased when in-person visitation ended, the main source of the drugs were low-paid employees in understaffed facilities. “There’s more drugs than a year ago,” said one officer at a maximum-security unit in West Texas, “[t]hey’re finding meth daily — a year ago it was just here and there. . . . It’s so easy to get it in.”⁶³ Interviews with personnel with the Florida Department of Corrections (“FDOC”) also indicated that “a significant amount of contraband enters FDOC through staff.”⁶⁴

⁵⁷ 360 Ga. Prison Guards Arrested for Smuggling Since 2018, WRDW (Sept. 26, 2023), <https://www.wrdw.com/2023/09/26/360-ga-prison-guards-arrested-smuggling-since-2018/>; see also Kate Brumback, *More than 40 Georgia Prison Guards, Officers Indicted on Drug Trafficking, Bribery Charges*, The Florida Times-Union (Feb. 11, 2016), <https://www.jacksonville.com/story/news/crime/2016/02/11/more-40-georgia-prison-guards-officers-indicted-drug-trafficking-bribery/15699623007/>.

⁵⁸ Sara Powers, *Macomb County Correctional Officer Arraigned After Bringing Contraband into Prison*, CBS News (Feb. 17, 2023), <https://www.cbsnews.com/detroit/news/macomb-county-correctional-officer-arraigned-after-bringing-contraband-into-prison/>.

⁵⁹ Emily Keinath, *MDOC Officer Facing 13 Felony Charges After Drug Smuggling Investigation*, WNEM (Oct. 4, 2023), <https://www.wnem.com/2023/10/04/mdoc-officer-facing-13-felony-charges-after-drug-smuggling-investigation/>.

⁶⁰ Powers, *supra* note 58; *Id.*

⁶¹ Press Release: *Former Corrections Officer Sentenced To Prison For Accepting Bribes In Exchange For Smuggling Narcotics Into Rikers Island*, U.S. Attorney’s Off., S.D.N.Y. (Apr. 16, 2025), <https://www.justice.gov/usao-sdny/pr/former-corrections-officer-sentenced-prison-accepting-bribes-exchange-smuggling>.

⁶² Press Release: *Corrections Officer Charged Along with Inmates and Others in Conspiracy to Smuggle Contraband into the D.C. Jail*, U.S. Attorney’s Off., D.C. (Nov. 19, 2024), <https://www.justice.gov/usao-dc/pr/corrections-officer-charged-along-inmates-and-others-conspiracy-smuggle-contraband-dc>.

⁶³ McCullough & Blakinger, *supra* note 51.

⁶⁴ Shukla et. Al., *supra* note 50, at 16.

Jails must employ a wide variety of interdiction strategies to keep their facilities safe from contraband. But a blanket ban on in-person visitation is neither a necessary nor effective strategy to stem the flow of drugs and other contraband into jail facilities. There are significant public-safety costs that come with blanket bans on in-person visitation with little to no benefit to the jail, its staff, its population, or the community at large.

C. Banning In-Person Visitation Based on Financial Motivations is Not a Reasonable Policy Decision.

Although the defendants in this case claim that their motivation for the ban on in-person visitation is concern for safety, the evidence suggests otherwise. Genesee County Sheriff Swanson has already admitted that the impetus for the switch from in-person visitation to virtual/audio visitation was increased revenue: “at the time, it was a revenue opportunity to try to balance the profit loss and the state revenue sharing loss. And it was a business decision.”⁶⁵

The contractual obligations between for-profit companies and Genesee County jail, which prioritize revenue and have no apparent connection to safety concerns, bear this out. Genesee County contracted for video/phone visitation with for-profit companies that have been repeatedly accused of providing an ineffective and unsecure product in exchange for high prices.⁶⁶ The cost of the service for families in Genesee County pay \$0.21 per minute to speak to individuals who are held; by contrast, the same company charges only \$0.01 per minute in the Dallas, Texas county

⁶⁵ Though Sheriff Swanson promised to reinstate in-person visitation by July 2024, it was only permitted for children under 12 years of age, an arbitrary classification that does nothing to assist the parents of adult children who are incarcerated, or the parents of children who are still in middle and high school. Additionally, without a court’s finding, there is no guarantee that a new Sheriff will not reinstate a policy that eliminates all in-person visitation. Christina Hall, *Genesee County Sheriff Says Jail to Begin In-Person Contact Visits Starting in July*, Detroit Free Press (June 22, 2024), <https://www.freep.com/story/news/local/michigan/2024/06/22/genesee-county-sheriff-jail-to-begin-in-person-contact-visits-in-july/74163622007/>.

⁶⁶ Keith J. Barnett & Carlin McCrory, *Global Tel Link Fined \$3 Million for Alleged Unfair Practices Related to Payment Accounts for Incarcerated Persons*, Troutman Pepper Locke (Nov. 18, 2024), <https://www.consumerfinancialserviceslawmonitor.com/2024/11/global-tel-link-fined-3-million-for-alleged-unfair-practices-related-to-payment-accounts-for-incarcerated-persons/>; FTC, *Press Release: FTC Takes Action Against Global Tel*Link Corp. for Failing to Adequately Secure Data, Notify Consumers After Their Personal Data Was Breached*, FTC (Nov. 16, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/11/ftc-takes-action-against-global-tellink-corp-failing-adequately-secure-data-notify-consumers-after>. Together, the two companies - GTL and Securus - control 83% of the phone call market based on total revenue and 74% of the market based on incarcerated people under contract. In 2017, GTL and Securus revenues exceeded \$1.1 billion. *Victory for Phone Justice: Securus and ICSolutions Abandon Attempted Merger*, Prison Pol’y Initiative (Apr. 2, 2019), <https://www.prisonpolicy.org/blog/2019/04/02/securus-ics-merger/>.

jail.⁶⁷ The pay-sharing provisions in the contracts directly incentivize counties to restrict in-person visitation in order to drive up costly video/phone communication.⁶⁸ These provisions support the conclusion that the motivation for ending in-person visitation is not rooted in the safety of jail populations or staff, but in both parties increasing their revenue.⁶⁹

Ultimately, ending in-person visitation will likely cost communities more money, not less. Eliminating in-person visitation leads to a rise in recidivism, mental and physical illness, suicides, staff assaults, and contraband—all issues that require more resources to tackle within the communities that jails serve. Additionally, jails were designed for and built to accommodate in-person visitation and still must provide it for attorney and clergy visitation. Thus, the spaces necessary for in-person visitation already exist, and there is no valid argument that resuming in-person visitation would require any physical change in the jail infrastructure. Moreover, reinstating in-person visitation will lessen, but not eliminate, any financial benefit that the county receives from their contracts with for-profit communication companies. Incarcerated people and their families and friends will still use the video calls to communicate when physical visitation is not feasible, such as in circumstances of illness, disability, or physical distance from the facility.

III. Banning In-Person Visitation Harms Public Safety by Eroding Public Trust.

The harm that banning in-person visitation causes to incarcerated individuals and the security of the jail negatively affects public safety in yet another way: it erodes public trust in institutions that people assume exist to support public safety. When the public does not trust law enforcement, prosecutors, or the justice system, there are significant public safety consequences for the community.

⁶⁷ See Editorial: *By Lowering Inmate Calling Rates, Dallas County Put Principle Over Profit*, The Dallas Morning News (Feb. 20, 2020), <https://www.dallasnews.com/opinion/editorials/2020/02/20/by-lowering-inmate-calling-rates-dallas-county-put-principle-over-profit/>.

⁶⁸ See Pls.' Compl., 59 ¶ 213 (citing Shannon Sims, *The End of American Prison Visits: Jails End Face-to-Face Contact – and Families Suffer*, The Guardian (Dec. 9, 2017), <https://www.theguardian.com/us-news/2017/dec/09/skype-for-jailed-video-calls-prisons-replace-in-person-visits> (“[GTL] tries to incentivize local officials to eliminate in-person visits to increase the use of high-cost video calls and traditional phone calls, eliminate physical mail in favor of costly emails and electronic messages, permit junk fees to inflate the cost of money transfers, and increase commissary prices such that basic necessities like soap, more nutritious food, warmer clothing, and menstrual products are unaffordable to many.”)).

⁶⁹ While the FCC had passed rate caps that would apply to lower the cost of video calls, Chairman Carr recently announced those caps will be suspended at least until 2027. See Federal Communications Commission, *Carr Acts to Address Unintended Consequences of 2024 IPCS Order* (June 30, 2025), <https://docs.fcc.gov/public/attachments/DOC-412597A1.pdf>.

As discussed above, harsh jail conditions interpersonally and financially harm familial relationships, which in turn increases the likelihood that people will plead guilty to a crime they did not commit or accept a sentence they would be unlikely to receive had they litigated or negotiated their case without the pressure and isolation of incarceration. Thus, lengthier, more onerous pretrial detention leads to increased wrongful convictions and excessive sentences.⁷⁰ This is detrimental for public confidence in the fairness of the criminal justice system: when the community sees a clear link between unnecessarily restrictive and unfairly punitive jail conditions and worse case outcomes for defendants who simply cannot afford bail, faith in the criminal justice system suffers.⁷¹

Any policy that allows for better jail conditions and privileges for individuals based solely on their financial resources further destroys confidence in the fairness of the criminal justice system. Because of their financial status, the people most adversely affected by in-person visitation bans are often those from communities where poverty is more prevalent.⁷² This means that the system that already disproportionately impacts poor individuals—by requiring bail amounts that they are often unable to pay—further exacerbates that harm by forcing those same people to forgo expensive video and phone calls while incarcerated in order to save up funds to pay for their release. When people experience disconnection from their families and loved ones based solely on the inability to post bail or afford expensive video and phone calls, while similarly situated defendants are released or able to more easily access communications due to their financial resources, communities will question the fairness and legitimacy of the criminal justice system and its actors. This is especially true when it becomes clear that counties that are charged with protecting and serving communities are instead profiting from the incarceration of their citizens and the basic human need to communicate with loved ones. The undisputed profit motive of a policy eliminating in-person visitation and replacing it with extremely costly video calls would lead anyone to question the legitimacy of the systems built to protect them and their families.

⁷⁰ Digard & Swavola, *supra* note 8.

⁷¹ Natalia Ermasova et al., *Perceptions Toward Wrongful Convictions and Needed Reforms in the Criminal Justice System: Does Working Experience in Law Enforcement Matter?*, Qualitative Criminology (Feb. 28, 2024), <https://www.qualitativecriminology.com/pub/7tlj85ll/release/1> (“[W]rongful convictions have been recognized as a failure of the justice system that poses a significant challenge to the integrity and legitimacy of the criminal justice system.”).

⁷² Megan Stevenson, *Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes*, 34(4) J.L. Econ. & Org. 511, 542 (July 17, 2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2777615.

The destruction of confidence in the legal system significantly harms public safety. The United States Supreme Court recognized this reality, writing that “justice must satisfy the appearance of justice.” *Offut v. United States*, 348 U.S. 11, 14 (1954). Our legal system “depends in large measure on the public’s willingness to respect and follow its decisions.” *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 445–46 (2015). It is common for a family member or close friend of a victim or witness to have been charged with a crime or have had an incarcerated loved one. The willingness of these victims and witnesses to report crimes, cooperate with prosecutors, show up for court proceedings, and testify truthfully depends in part on their belief that the judicial system will treat them and their loved ones fairly. Indeed, research shows that when people have trust in legal authorities and view the police, the courts, and the law as legitimate, they are more likely to report crimes, cooperate as witnesses, and accept police and judicial system authority.⁷³ In contrast, when community members experience lack trust in the criminal justice system, they may be less willing to participate in it, which in turn constrains the ability of the courts, police, and prosecutors to fulfill their public safety obligations.⁷⁴ Without cooperating victims and witnesses, police are unable to investigate, prosecutors are unable to bring charges, and juries are unable to convict the guilty or free the innocent. Thus, unnecessary bans on in-person visitation during incarceration makes communities less safe by eroding trust in the criminal justice system.

A ban on in-person visitation serves no public interest. It only harms public safety by applying pressure on vulnerable populations, increasing the danger posed to those detained and correctional staff, and damaging the community’s faith in the fairness of the legal process.

⁷³ See Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?*, 6 Ohio St. J. Crim. L. 231, 263 (2008), <https://kb.osu.edu/server/api/core/bitstreams/9f207de7-8f1e-550b-bae1-be261bd741f7/content> (“[Findings] demonstrate that people are more willing to cooperate with the police when they view the police as legitimate social authorities. If people view the police as more legitimate, they are more likely to report crimes in their neighborhood. In addition, minority group members are more likely to work with neighborhood groups.”); Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation and Engagement*, 20 Psych., Pub. Pol’y & L. 78, 78-79 (Aug. 2013), <https://law.yale.edu/sites/default/files/area/center/justice/document/ssrnpopularlegitimacy.pdf> (“The most important finding of this study is that legitimacy plays a significant role in motivating law related behavior. The prior role of legitimacy in shaping compliance is replicated, as is the role of legitimacy in encouraging cooperation, including ceding power to the state and helping to address problems of crime and social order. In addition, legitimacy is shown to have a role in motivating empowerment, e.g. in building social capital and facilitating social, political and economic development.”).

⁷⁴ See *In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence*, Giffords L. Ctr. to Prevent Gun Violence, (Sept. 9, 2021), <https://giffords.org/report/in-pursuit-of-peace-building-police-community-trust-to-break-the-cycle-of-violence/> (demonstrating that violent crime rates increase in areas with a lack of public trust in law enforcement).

CONCLUSION

For the reasons set forth above, *amici* ask this Court to find that the elimination of in-person visitation violates the Michigan Constitution.

Respectfully submitted,

DATED: July 30, 2025

/s/Deborah LaBelle
Deborah LaBelle, P31595
Counsel of Record
LAW OFFICES OF DEBORAH LABELLE
221 N. Main Street., Ste 300
Ann Arbor, MI 48104
734-996-5620
dalabelle@aol.com