



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

April 13, 2018

FL Department of Corrections
Attn: Gregory Hill, Office of General Counsel
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Tallahassee, FL 32399

Submitted via email: CO-GCAgencyClerk@fdc.myflorida.com

Re: Rule Change, 33-601.722, in-person visitation and video calls

The Human Rights Defense Center (HRDC) has become aware of the Florida Department of Corrections' (FDOC) proposed Rule Change, 33-601.722, which would significantly alter prisoner visitation schedules by cutting visitation days by half and limiting visits to as little as two hours a day.

HRDC submits this comment for the administrative record and states its opposition to the proposed visitation changes.

HRDC is opposed to this major reduction in visitation, which would result in the FDOC having one of the *least accessible state prison visitation schedules* in the country. Rather than a decrease in visitation, we suggest that an increase would be more consistent with the agency's state-mandated goals and would ensure that prisoners and their families are able to have meaningful in-person contact.

The reasons cited for proposing the Rule Change include safety and budget constraints. However, the primary cause of these issues is a prison system that is over capacity. This is compounded by the naked greed of administrators who prefer to accept kickbacks from hedge fund-owned companies like Securus that exist solely to monetize human contact between prisoners and their families.

Multiple studies show a direct correlation between access to visitation and safer facilities, as well as increased re-entry success and reduced recidivism, all of which lead to lower prison populations.

Family members, prison policy experts and criminal justice organizations almost universally agree that contact with family members and the community in general, and in-person contact specifically, helps to maintain security and good order within prisons.

Children in particular suffer negative impacts due to reduced visitation. Parent-child visits are consistent with one of the central tenets of the Children of Incarcerated Parents Bill of Rights, specifically that children have the right to speak with, see and touch their parents.

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According to a report by the Urban Institute released in April 2017, titled “Parent-Child Visiting Practices in Prisons and Jails,” experts believe that contact visits conducted in supportive, safe and child-friendly environments are likely the best option to help families mitigate the harmful effects of parental incarceration. Further, a growing body of research supports the use of contact visits, which allow children to see that their parents are safe and healthy while in prison or jail. Spending time together as a family through play, conversation or sharing a meal can also help mitigate children’s feelings of abandonment and anxiety.

The Urban Institute report found that parents and children can use these activities to work on existing relationships, establish new bonds or repair strained relationships. This type of relationship building can help children feel more attached to their parents and benefit their well-being, emotional adjustment, self-esteem and school behavior. In this way, increased visitation would have an impact far beyond the prison walls.

In 2014, a collaboration between law students and correctional administrators produced the first ever 50-state study of prison visitation policies. The study, conducted by the Arthur Liman Public Interest Program at Yale Law School in collaboration with the Association of State Correctional Administrators (ASCA), offered a window into the varied state and federal visitation policies, and provided a new opportunity to share best practices.

New York, for example, has visitation seven days a week. Ample visitation, along with other policies, has enabled the state to drastically reduce its prison population.

Yet in recent years, prison and jail officials nationwide have been shifting towards a greater reliance on video calls as a replacement for visitation (we feel *video calls* is a more accurate description than *video visitation*, since speaking over a video screen is in no way analogous to an in-person visit.)

Several news reports have identified the source of this shift to video calls as profit-driven contracts with private companies such as JPay and Securus, which merged into a single company in 2015 that currently operates in all FDOC facilities.

While JPay has stated it will not be charging the FDOC to install kiosks for video calls, it will be charging prisoners \$2.95 for 15-minute sessions. This cost is borne on the backs of prisoners’ families, who are among the poorest and most vulnerable in the state.

According to a 2017 review of these contracts by HRDC’s Campaign for Prison Phone Justice, *kickbacks from Securus to the FDOC already total over \$5 million annually* at a commission rate of 35 percent.

Gary York, a retired Florida prison inspector who writes about video calling in prisons and jails, says that over the past five years most jails in the state have stopped in-person visitation and turned to using only video calls – for which they receive hefty kickbacks in the form of “commissions.” To date, the greed and avarice of these hedge fund-owned companies and their government collaborators have known no bounds.

While the legal commission kickbacks are included in the contracts that are signed between the state and Securus, it is not known to what degree criminal corruption is at play in these efforts to monetize prison visitation by reducing or eliminating free, in-person visits and replacing them with expensive video calls. What we do know is that former FDOC Secretary James Crosby went to prison for corruption for accepting bribes from private prison vendors. We also know that former Mississippi DOC Director Charles Epps is currently in prison for accepting bribes from a multitude of prison vendors, including phone service provider Global Tel*Link, for – among other things – the prison phone services contract. The appearance of both legal and criminal corruption by the FDOC in entering into these monopoly kickback contracts would be somewhat mitigated if free video calling services such as Skype or Google Hangouts were employed. These free video calling services are already in use by prisoners and their families in countries as diverse as Ireland, the Netherlands, India and the Philippines.

According to the Prison Policy Initiative, *74 percent of U.S. correctional facilities that implement video calling end up either reducing in-person visits or eliminating them altogether.* This is not surprising since they have a financial incentive to do so by eliminating free in-person visitation and replacing it with monetized video calling. This is a clear case where technological innovation is merely a ruse for further price gouging and exploiting prisoners’ families.

Florida prisoners have already seen problems in the shift from MP3 players to JPay’s e-tablets, resulting in prisoners losing years of costly music libraries. JPay’s actions show it is concerned more about its bottom line and less about the well-being of its captive customers.

Contrary to the FDOC’s claims of security concerns, HRDC feels that reducing in-person visits serves the dual purpose of 1) increasing profits to, and kickbacks from, private contractors and 2) further isolating prisoners from their families and communities, at a significant cost and risk to public safety and contrary to the public interest. As government officials, FDOC employees should be seeking to enhance the safety of our communities and not putting their own greed and self-interest above that of the public they purport to serve.

If the FDOC is serious about saving money and increasing safety, it must start with a reduction in the state’s prison population rather than cutting back on basic human rights and public services.

In a report titled "Separation by Bars and Miles," the Prison Policy Initiative laid out recommendations for overcoming obstacles to adequate visitation access in county, state and federal detention facilities. HRDC has adapted these recommendations below, and suggests that the FDOC collaborate with other criminal justice-related agencies in the state to comprehensively address prison visitation in tandem with other policy efforts to improve prisoner rehabilitation and ensure public safety within purported budget constraints:

- 1) Use prison terms as a last resort when sentencing defendants;
- 2) Eliminate and refrain from adopting visitation policies that dehumanize families, such as humiliating and unnecessary strip searches, and instead actively encourage visitation;
- 3) Stop making other forms of communication and family support, such as phone calls and money transfers, exploitative due to high fees and costs;
- 4) Listen to the recommendations of incarcerated people and their families who can best identify the obstacles preventing them from staying in touch during incarceration;
- 5) Implement programs that assist families who want to visit;
- 6) When faced with prison overcrowding, explore sentencing options and parole re-introduction instead of prison expansion and out-of-state transfers;
- 7) House prisoners in facilities close to their families, not in remote rural areas; and
- 8) Stop building prisons in remote rural areas where most prisoners did not reside prior to their incarceration.

As of the date of this comment, we have heard reports from prisoners and family members who are still unaware of the proposed Rule Change, and it appears a reasonable attempt to reach them has not been made by the FDOC. The FDOC has a record of addresses for visitors it has approved, and we believe those parties should be informed by mail with a reasonable amount of time to provide input.

Additionally, the text of the Rule Change must be made available to prisoners with ample time provided to prepare comments; otherwise, public input on the rule would be insufficient.

Unfortunately, due to the FDOC's censorship of our monthly legal self-help magazine, *Prison Legal News* (pending an appeal before the Eleventh Circuit), Florida prisoners have not had access to get updates on the nationwide efforts to address "video visitation" as another prison profiteering scheme. Readers of *PLN* have become informed of the growing threat to in-person visitation posed by video calls.

In addition to the censorship of *PLN*, we have been notified by a Florida-based advocacy group, Prisoner Support Net, that over 400 postcards they sent to state prisoners informing them and their families of the proposed visitation changes were censored as a “threat” to prison facilities.

This censorship puts prisoners and their families at a disadvantage with respect to participating fully in the Rule Change process.

We also share concerns raised by businesses across the state that are patronized by prison visitors, which could experience a substantial negative financial impact due to the proposed Rule Change. Thus, the FDOC should be reviewing economic impacts in order to ensure it is within the law to implement this Rule Change.

In closing, HRDC maintains a firm stance that video calls should only be provided *in addition* to in-person visitation, affordable phone calls and reliable mail service. It is not, and should not, be a replacement for any of these means of communication between prisoners and their families.

Sincerely,



Paul Wright
Executive Director, HRDC