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Comments of

the Prison Policy Initiative

**OPPOSING CHANGES THAT WOULD REDUCE IN-PERSON
VISITATION**

May 30, 2018

The Prison Policy Initiative is a nationally-focused non-profit based in Easthampton, Massachusetts that is deeply concerned about the proposed revisions to Florida's DOC policies concerning visitation. We cannot overstate the deleterious effects of reducing already limited visitation opportunities for incarcerated people and their families. Rigorous research consistently shows that incarcerated people who receive in-person visits are less likely to recidivate after they are released¹ and less likely to have disciplinary issues while in a correctional facility².

Furthermore, the DOC's contention that reducing family visits would result in less contraband and increased safety is unfounded. A recent study on visitation policies shows that after the elimination of in-person visits (and the implementation of a video calling system), contraband levels remained unchanged while assaults increased substantially³.

The takeaway is clear: reducing in-person family visits is bad policy.

¹ Minnesota Department of Corrections. (2011). The Effects of Prison Visitation on Offender Recidivism. St. Paul, MN: Minnesota Department of Corrections. Retrieved from: https://mn.gov/doc/assets/11-11MNPPrisonVisitationStudy_tcm1089-272781.pdf

² Cochran, Joshua C. "The ties that bind or the ties that break: Examining the relationship between visitation and prisoner misconduct." *Journal of Criminal Justice* 40.5 (2012): 433-440. Retrieved from: https://www.researchgate.net/profile/Joshua_Cochran/publication/256919807_The_ties_that_bind_or_the_ties_that_break_Examining_the_relationship_between_visitation_and_prisoner_misconduct/links/0a85e53652b8c4cdda000000.pdf

³ https://www.prisonpolicy.org/blog/2018/01/30/knox_report/

In fact, to the best of our knowledge, no other state Department of Corrections has implemented visitation policies as restrictive as the proposed changes coming from Florida's DOC. Ensuring that incarcerated people maintain ample connection to the outside world is humane, cost effective, and would result in less dangerous correctional facilities - to the benefit of everyone.

Luckily, a national consensus has formed around the importance of in-person visitation⁴.

The plan to reduce these visits in favor of for-profit video chatting will undoubtedly force the families of incarcerated people to visit stale, flatscreen kiosks inside of correctional facilities, or to pay high fees when video chatting from home (assuming they have appropriately up-to-date home devices and enough money to pay for a service that is usually free). Both options trivialize the importance of family relationships during periods of incarceration.

Innocent children in particular will bear the brunt of this change. Roughly 312,000 children in Florida have, at some point during their childhood, had a parent experience incarceration⁵. Prohibiting children from seeing their parents in person can have a range of negative effects on educational outcomes, peer relationships, and increase the chances of criminal justice system involvement⁶. In other words, there are multiple long-term costs that would result from eliminating in-person visits. Video calls, whether on-site or remote, fail to provide the intimate time with parents that kids need.

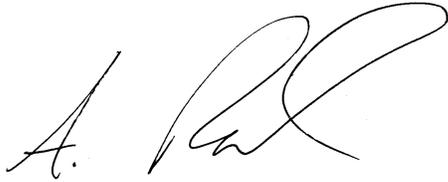
The DOC, on its own website, states that its mission is to “provide a continuum of services to meet the needs of those entrusted to our care, creating a safe and professional environment with the outcome of reduced victimization, safer communities and an emphasis on the premium of life.” Reducing in-person visits and largely replacing them with video calling flies in the face of safety-based goals, it differs from every other DOC across the country, and punishes the families of incarcerated people who only wish to support their incarcerated loved ones.

⁴ See exhibits.

⁵ <http://www.aecf.org/m/resourcedoc/aecf-asharedsentence-2016.pdf>

⁶ See: <https://www.prisonfellowship.org/resources/training-resources/family/ministry-basics/faqs-about-children-of-prisoners/#reunited> and also: <http://youth.gov/youth-topics/children-of-incarcerated-parents/federal-tools-resources/tip-sheet-prison-staff-volunteers>

On behalf of incarcerated people looking to maintain their support systems, and their families, we urge the DOC to increase - not decrease - in-person visits.



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The New York Times

EDITORIAL

A Bad Idea to Cut Prison Visitations

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.

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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ABA Treatment of Prisoners Standards
Standard 23-8.5 Visiting

provided by prisoners, except to the extent those restrictions relate to safety, security, or fair compensation.

Note that under Standard 23-8.8(a), prisoners earning minimum wage or higher may be assessed a reasonable portion of their wages in applicable fees.

Standard 23-8.5 Visiting

(a) To the extent practicable, a prisoner should be assigned to a facility located within a reasonable distance of the prisoner's family or usual residence in order to promote regular visitation by family members and to enhance the likelihood of successful reintegration.

(b) Correctional officials should implement visitation policies that assist prisoners in maintaining and developing healthy family relationships by:

- (i) providing sufficient and appropriate space and facilities for visiting;**
- (ii) establishing reasonable visiting hours that are convenient and suitable for visitors, including time on weekends, evenings, and holidays; and**
- (iii) implementing policies and programs that facilitate healthy interactions between prisoners and their families, including their minor children.**

(c) Correctional authorities should treat all visitors respectfully and should accommodate their visits to the extent practicable, especially when they have traveled a significant distance. Prisoners should be allowed to receive any visitor not excluded by correctional officials for good cause. Visitors should not be excluded solely because of a prior criminal conviction, although correctional authorities should be permitted to exclude a visitor if exclusion is reasonable in light of the conduct underlying the visitor's conviction. Correctional authorities should be permitted to subject all visitors to nonintrusive types of body searches such as pat-down and metal-detector-aided searches, and to search property visitors bring inside a correctional facility.

(d) Visiting periods should be of adequate length. Visits with counsel and clergy should not be counted as visiting time, and ordinarily should be unlimited in frequency. Pretrial detainees should be allowed visiting opportunities beyond those afforded convicted prisoners, subject only to reasonable institutional restrictions and physical plant constraints.

(e) For prisoners whose confinement extends more than [30 days], correctional authorities should allow contact visits between prisoners and their visitors, especially minor children, absent an individualized determination that a contact visit between a particular prisoner and a particular visitor poses a danger to a criminal investigation or trial, institutional security, or the safety of any person. If contact visits are precluded because of such an individualized determination, non-contact, in-person visiting opportunities should be allowed, absent an individualized determination that a non-contact visit between the prisoner and a particular visitor poses like dangers. Correctional officials should develop and promote other forms of communication between prisoners and their families, including

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video visitation, provided that such options are not a replacement for opportunities for in-person contact.

(f) Correctional officials should facilitate and promote visiting by providing visitors travel guidance, directions, and information about visiting hours, attire, and other rules. If public transportation to a correctional facility is not available, correctional officials should work with transportation authorities to facilitate the provision of such transportation.

(g) Governmental authorities should establish home furlough programs, giving due regard to institutional security and community safety, to enable prisoners to maintain and strengthen family and community ties. Correctional officials should allow a prisoner not receiving home furloughs to have extended visits with the prisoner's family in suitable settings, absent an individualized determination that such an extended visit would pose a threat to safety or security.

(h) When practicable, giving due regard to security, public safety, and budgetary constraints, correctional officials should authorize prisoners to leave a correctional facility for compelling humanitarian reasons such as a visit to a dying parent, spouse, or child, either under escort or alone.

Cross References

ABA, TREATMENT OF PRISONER STANDARDS, 23-3.1(a)(iii) (physical plant and environmental conditions), 23-3.7(c)(iii) (restrictions relating to programming and privileges, visitation), 23-4.3 (disciplinary sanctions), 23-6.9 (pregnant prisoners and new mothers), 23-7.9(d)(ii) (searches of prisoners' bodies, strip searches), 23-8.1 (location of facilities), 23-9.4 (access to legal and consular services), 23-11.2(e) (external regulation and investigation, community group visits), 23-11.5 (media access to correctional facilities and prisoners)

Related Standards and ABA Resolution

ABA, LEGAL STATUS OF PRISONERS STANDARDS (2d. ed. superseded), Standard 23-6.2 (visitation; general), 23-6.3 (visitation; prisoners undergoing discipline), 23-6.4 (group and media visits).

ABA, RESOLUTION, 102E (Feb. 2010) (impact of incarceration on mother/child relationship)

ACA, JAIL STANDARDS, 4-ALDF-5B-01, 5B-02, and 5B-04 (visiting)

ACA, PRISON STANDARDS, 4-4267 (visiting), 4-4445 (escorted leaves), 4-4498 regular visitation), 4-4499-1 (physical contact), 4-4500, 4-4501, and 4-4502 (extended and special visits), 4-4504 (visitor transportation)

AM. PUB. HEALTH ASS'N, CORRECTIONS STANDARDS, VI.D.1 (personal and overnight visits), X.B.B (facilities available to the public)

U.N. Standard Minimum Rules, arts. 37 (contact with the outside world), 92 (visiting and pretrial prisoners)

Commentary

Visiting (Standard 23-8.5), written communication (Standard 23-8.6), and phone contact (Standard 23-8.7), are the three ways in which prisoners can maintain ties with their families and communities. For all three, the Constitution protects the rights to some extent. The Standards exceed that constitutional floor, for two reasons. First is basic humaneness. Incarceration is punishment enough without severing the human and community ties that people depend on for their psychological well-being. This is the

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underlying reason for the substantial protection that visitation and other communication rights receive under international law.²⁹⁴

In addition, social supports for prisoners—which are maintained and strengthened by these three methods of contact—are helpful in minimizing misconduct during incarceration²⁹⁵ and promoting successful re-entry at its end.²⁹⁶ A recent scholarly investigation of the effect of visitation on recidivism identifies several different ways in which visits to prisoners can reduce reoffending. First, “strong bonds to family, friends, and community serves to constrain tendencies to commit crime.” Second (and similar), “social supports [function to] prevent or reduce strain or allow it to be addressed through noncriminal means,” because “individuals with support networks, including ties to family, friends, and community, may have more, and more prosocial, coping strategies for managing the many challenges associated with reentry into society.” Third, social ties “may serve to provide an important counter to” self-labeling that might otherwise occur, in which “inmates may come to believe that they are, at their core, deviants.” Visitation promotes “entry into support social networks . . . [that] help promote a more positive sense of personal identity.”²⁹⁷

On the particular topic of visitation, the subject of this Standard, this same study found that after controlling for all kinds of other differences among prisoners and the circumstances of their incarceration, the approximately 40% of prisoners released during the study period from the Florida state prison system who had received any visits at all the year before reoffended at much lower rates than those who received no visits—and the effect was observably strengthened with each additional visit.²⁹⁸ These findings were not unusual.

Visitation’s importance to an effective and humane correctional system is not matched by its constitutional protection. Two Supreme Court cases, *Block v. Rutherford*, 468 U.S. 576 (1984), and *Overton v. Bazzetta*, 539 U.S. 126 (2003), have held that prisoners’ constitutional visitation rights are very limited. There is no constitutional bar, for example, to a policy under which prisoners with substance abuse or disciplinary records are disallowed any visitors for two years or more, or one denying visits with minors who are not the children, grandchildren, or siblings of the visited prisoners, including nieces or nephews. *Id.*

The Standards nonetheless encourage generous visitation policies and facilities for the reasons just explained. Most of this encouragement is in the provisions of this Standard, but Standard 23-3.7(c)(iii) is

²⁹⁴ See Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 19 (“A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.”); U.N. Standard Minimum Rules for the Treatment of Prisoners, art. 37 (“Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits”).

²⁹⁵ Karen Casey-Acevedo & Tim Bakken, *The Effects of Visitation on Women in Prison*, 25 INT’L J. COMP. & APP. CRIM. JUST. 48 (2001); Nance E. Schafer, *Exploring the Link between Visits and Parole Success: A Survey of Prison Visitors*, 38 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 17 (1994); Richard Tewksbury & Matthew DeMichele, *Going to Prison: A Prison Visitation Program*, 85 PRISON J. 292 (2005); John D. Wooldredge, *Inmate Experiences and Psychological Well-Being*, 26 CRIM. J. & BEHAV. 235 (1999).

²⁹⁶ William D. Bales & Daniel P. Mears, *Inmate Social Ties and the Transition to Society: Does Visitation Reduce Recidivism?* 45 J. RES. CRIME & DELINQ. 287 (2008).

²⁹⁷ *Id.* at 291-93.

²⁹⁸ *Id.* at 304-06.

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also an important component of the entire approach. Under that subdivision, a prisoner's visitation rights can be curtailed for up to 30 days as a penalty for a disciplinary infraction or for another reason (e.g., classification), but not for longer. Compliance with this requirement and the items below would be a major shift in some prison systems, where both segregated and other prisoners are not allowed visitors for months and years at a time.

Subdivision (a): Standard 23-8.1 requires that facilities be located near to the population centers from which their prisoners come. This subdivision correspondingly requires that prisoners be housed close to home. Policies and practices on prisoner transfers (including transfers out of state or to private facilities) should take account of the benefits of proximity to family. See commentary following Standard 23-10.5 ("Privately operated correctional facilities").

Subdivision (b): Whether a visit is positive or negative for both the prisoner and the visitor can turn on the issues governed by this subdivision—the timing and amount of time, the space, and the rules governing the visit. There is abundant room for improvement in many, even most correctional facilities: observers agree that "prison visitation is not pleasant,"²⁹⁹ in large part because "most prison's visitation areas are makeshift areas . . . [that] are loud and crowded and the opportunity for meaningful conversations is virtually non-existent."³⁰⁰

This subdivision's call for policies and programs that facilitate healthy interaction between prisoners and their families means that officials should, for example, allow prisoners to play with their young children rather than just talk to them during visits. In combination with Standard 23-5.12, this subdivision protects the ability of a prisoner to breastfeed her visiting infant, in an appropriate location. *Berrios-Berrios v. Thornburgh*, 716 F. Supp. 987, 990-91 (E.D. Ky. 1989). Contact visitation more generally is covered by subdivision (e).

Subdivision (c): Prisoners' families and other visitors have not committed any offense and should be treated with consideration. Searching visitors is necessary for security, but searches should be done respectfully, and pat-down searches should (as with searches of prisoners, see Standard 23-7.9(b)) be performed by staff of the same gender as the visitor. If the mere fact of a criminal conviction is allowed to bar visits, there are many prisoners who would not be able to see their close family members. This subdivision therefore disallows such a blanket rule, insisting instead on a more tailored policy. It would, for example, be reasonable to disallow visits by someone previously convicted of an offense involving bringing contraband into a correctional facility. Correctional facilities should allow the appeal of a decision to exclude a visitor through the grievance procedure. See Standard 23-9.1.

Subdivision (d): Too short a time for a visit is enormously frustrating for both the prisoner and the visitor, who often has spent many hours getting to the correctional facility. Best practice calls for visits to last at least one hour, and for prisoners to be able to cumulate visitation periods into longer amounts of time. Visiting is particularly important for pretrial detainees, who are in jail because of arrests that they and their families generally did not plan for. (By contrast, people who are sentenced to prison generally have advance notice of what is coming and time to get ready for it.) Detainees have a greater need for all kinds of contact with families and friends, including visits, to deal with the results of incarceration—to get a lawyer, try to arrange bail, pay the rent, get children taken care of, communicate with employers, get the car keys into the family's possession, etc.

²⁹⁹ Schafer, *supra* note 295 at 19.

³⁰⁰ James Austin & Patricia L. Hardyman, *The Risks and Needs of the Returning Prisoner Population*, 21 REV. POL'Y RES. 13, 23-24 (2004).

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Standard 23-8.6 Written communications

For neither pretrial detainees nor convicted prisoners should counsel or clergy visits count against personal visitation. Visits with lawyers and consuls are governed by Standard 23-9.4; visits with clergy as well as counsel are also protected against most limitations by Standard 23-3.7(a)(ix). Media visits should be accommodated in accordance with Standard 23-11.5. Group visits, which are to be encouraged under Standard 23-11.2(e), are typically handled entirely separately from personal visits, and appropriately so.

Subdivision (e): A “contact visit” means a meeting that is face to face, without a barrier, but usually with opportunity for only limited physical contact such as a handshake or a hug. Denial of contact visits typically means that prisoners talk through a barrier to their visitors, usually using a phone-type handset. This is a very unsatisfactory kind of communication; it is often difficult to hear, and psychologically very distancing. Allowing face-to-face communication except when there is an individualized reason to avoid it is much more respectful of prisoners’ psychological needs and much more encouraging of visitation and the bonds it preserves. Because physical contact between parents and small children is so psychologically important, correctional officials should permit more extensive physical contact during such visits. For example, a child might be allowed to sit on her mother’s lap and read during a visit, or a prisoner might be allowed to play “pat-a-cake” with his toddler. Of course, if there is an individualized reason to disallow physical contact, correctional authorities can respond accordingly.

Subdivision (g): Home furlough programs, which allow prisoners to go home for a brief period, are particularly useful towards the end of a prisoner’s sentence. But if correctional officials decide against furloughs, long visitation periods with family are a partial substitute. This subdivision does not address the question whether authorities should make available suitably private accommodations to permit conjugal visits.

Standard 23-8.6 Written communications

(a) Correctional authorities should allow prisoners to communicate as frequently as practicable in writing with their families, friends, and representatives of outside organizations, including media organizations. Indigent prisoners should be provided a reasonable amount of stationery and free postage or some reasonable alternative that permits them to maintain contact with people and organizations in the community. Correctional policies regarding electronic communication by prisoners should consider public safety, institutional security, and prisoners’ interest in ready communication.

(b) Correctional authorities should allow prisoners to receive or access magazines, soft- or hard-cover books, newspapers, and other written materials, including documents printed from the Internet, subject to the restrictions in subdivisions (c) and (d) of this Standard.

(c) Correctional authorities should be permitted to monitor and restrict both outgoing and incoming written communications and materials to the extent necessary for maintenance of institutional order, safety, and security; prevention of criminal offenses; continuing criminal investigations; and protection of victims of crime. Correctional officials should be permitted to impose reasonable page limits and limitations on receipt of bound materials from sources other than their publisher, but should not require that items be mailed using particular rates or particular means of payment. Correctional officials should set forth any applicable restrictions in a written policy.

(d) Correctional authorities should be permitted to open and inspect an envelope, package, or container sent to or by a prisoner to determine if it contains