



September 27, 2018

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528

BY REGULAR AND ELECTRONIC
MAIL

Calhoun County Sherriff's Office
Attn: Matthew M. Saxton
161 East Michigan Avenue
Battle Creek, Michigan 49014

Re: Complaint Regarding Termination of In-Person Visitation at Calhoun County Correctional Institute

Dear Office for Civil Rights and Civil Liberties and Sheriff Matthew M. Saxton:

The Michigan Immigrant Rights Center (MIRC) and the American Civil Liberties Union of Michigan (ACLU of Michigan) are deeply troubled about the implementation of Calhoun County Correctional Institute's (Calhoun County Jail) new visitation policy that does not allow for in-person contact between detainees and loved ones. According to Calhoun County Jail's website it provides off-site and on-site video calls as the only option for loved ones to "visit" a detainee. However, it does not provide an option for an in-person visit.¹ Although video calls are an important option to "maintain detainee morale and family relationships," they are merely enhanced telephone calls and not an acceptable substitute for actual visitation.²

We understand that new technologies present opportunities for Calhoun County Jail to maintain pre-existing relationships detainees have with their family and friends. The benefits to video calls for detainees include: 1) individuals are able to see detainees from a geographical distance; 2) multiple people can be on the call at the same time; 3) detainees have greater flexibility to speak with loved ones who are noncitizens and may be intimidated by in-person visits to ICE detention; and 4) decreased financial costs for loved ones to communicate with detainees. We do

¹ The factual basis for this letter is largely set forth in the facility's website regarding visitation as well information obtained through telephone calls to the facility to inquire about its visitation policy. We acknowledge that in the following interview, it appears that the Calhoun County Sheriff stated that: "[the] sheriff's office would likely make accommodations for in-person visits in some cases."

https://www.mlive.com/news/kalamazoo/index.ssf/2018/05/jail_that_holds_ice_detainees.html (visited July 31, 2018). This is insufficient as a communication of a visitation policy to the public.

² See Section 1 of the NDS, 2000 Immigration and Customs Enforcement, last updated July 12, 2017, <https://www.ice.gov/doclib/dro/detention-standards/pdf/visit.pdf>.

not seek a resolution that would end access to video calls for immigration detainees and would not anticipate it given our understanding that the facilities receive a portion of video call proceeds. However, a policy that establishes video calls as the only option and eliminates traditional contact visitation (including the prior in-person visitation program at Calhoun) does not comport with the National Detention Standards.

Concerns

MIRC and the ACLU of Michigan are extremely concerned that Calhoun County Jail's restrictions on traditional contact visits will deprive detainees of the benefits associated with in-person contact visits. A Department of Justice report³ stated that the positive outcomes of contact visits include: (1) "improving institutional adjustment and psychological well-being;" (2) "reducing behavioral infractions and violent behavior;" and (3) "increasing motivation to participate in programming." (4) "providing incentives to maintain visiting privileges;" (5) "facilitating planning and support for community reentry;" (6) "increasing the chance of obtaining gainful employment post-release;" (7) "reducing the likelihood of using illegal substances post-release;" (8) "maintaining and strengthening the parent-child relationship;" and (9) "reducing the trauma that children experience when they are separated from a parent."⁴

The National Detention Standards (NDS) set forth guidelines to maintain detainee morale and family relationships while providing staff with the flexibility to "limit physical contact to minimize opportunities for contraband introduction and otherwise maintain the orderly operation of the visiting area."⁵ For example, the NDS allows loved ones to bring a detainee approved items such as "small religious items," "pictures," "religious and secular reading material," and a "wedding ring."⁶ Without contact visits, loved ones will be disincentivized from bringing items with important intrinsic value or, at least, experience administrative hurdles during the process.⁷

1. Calhoun County Jail crafted a policy that conflicts with the National Detention Standards by eliminating physical contact without a persuasive justification.

Calhoun County Jail's video-only policy conflicts with the National Detention Standards. Although the NDS allows the officer in charge "to temporarily restrict visitations when necessary to ensure the security and good order of the facility," Calhoun County Jail's permanent change provides limited safety benefits to the facility and, to our knowledge, was not implemented in response to any extraordinary or temporary circumstance.⁸ Rather than eliminating traditional contact visits, Calhoun County Jail could place more cameras in the visitation room or search detainees following an in-person contact visit. In the event that contraband is found or a threat to orderly conduct is constructed, the Calhoun County Jail can

³ Video Visiting in Corrections, U.S. Department of Justice, National Institute of Corrections, published December 2014, <https://dept.camden.rutgers.edu/nrccfi/files/NIC-Video-Visiting-Guide.pdf>.

⁴ Id.

⁵ NDS Visitation III.H.4.

⁶ NDS Visitation III.D.

⁷ Again, we note that it's not clear that the Calhoun County facility's prior in-person visitation policy ever complied with the NDS with regard to actual contact or the sharing of personal items. We seek full compliance with the NDS in this complaint.

⁸ NDS Visitation III.A.

penalize a detainee with limited contact visits for a short time. These policy changes ensure that not all detainees are categorically prevented from receiving the well-documented benefits of contact visits.

DHS has encouraged visitation to maintain detainee morale and family relationships.⁹ For example, NDS allows “handshaking, embracing, and kissing,”¹⁰ but provides staff with the flexibility to “limit physical contact to minimize opportunities for contraband introduction and otherwise maintain the orderly operation of the visiting area.”¹¹ Without an in-person contact visit, Calhoun County Jail’s new policy prevents the same actions that the NDS permits (e.g., handshaking and kissing). In addition, loved ones unable to make off-site video calls would be forced to, potentially, drive miles away to sit in a lobby in front of a tiny screen to see their detained loved one through a screen. After expending time and money to come to the Calhoun County Jail, loved ones prefer an in-person contact visit, but the current stated policy does not allow this option.

Although not binding with respect to Calhoun County Jail, the Performance Based National Detention Standards (PBNDS) provides useful guidance on the value of in-person contact visits and show that there is no trend in detention standards away from in-person contact visits. These standards, echoing language from the NDS, allows “handshaking, embracing, and kissing only at the beginning and end of the visit.”¹² Similar to the NDS, the PBNDS authorizes “a facility administrator to temporarily restrict visiting when necessary to ensure the security and good order of the facility.”¹³ Eliminating in-person contact is an unjust penance to detainees and their loved ones.

2. The adverse effects of a video-only policy will lead to decreased security and good order of the Calhoun County Jail.

The benefits associated with in-person contact visits—as described in the Department of Justice report—suggests that eliminating in-person contact visits will do more harm than good. Although Calhoun County Jail may have envisioned a video-only policy as an opportunity to increase the security and good order of the jail, the opposite is likely to occur. Detainees often have strong relationships with loved ones and weakening these relationships is likely to lead to greater danger within the jail for its employees and inmates. Consider, for example, that the Department of Justice report¹⁴ found that providing in-person contact visits will lead to reduced behavioral infractions and violent behavior, in part, because the detainee is able to maintain pre-existing relationships with loved ones; acting as an incentive for good behavior. Without the option of an in-person contact visit, detainees may not be able to sustain their relationships thereby leading to harmful actions within the prison and increased recidivism.

⁹ NDS Visitation I.

¹⁰ NDS Visitation III.H.4.

¹¹ Id.

¹² Id.

¹³ PBNDS Visitation V.B.

¹⁴ Video Visiting in Corrections, U.S. Department of Justice, National Institute of Corrections, published December 2014, <https://dept.camden.rutgers.edu/nrccfi/files/NIC-Video-Visiting-Guide.pdf>.

Conclusion

Video calls are not visits. A video-only policy is overly restrictive and is in clear conflict with the NDS. We believe that continuing this policy will have adverse effects on detainees, their loved ones, and the jail. We ask that Calhoun County Jail's use of off-site and on-site video calls remain as a complementary role to the traditional in-person contact visits. Such a policy would provide valuable flexibility to detainees and their loved ones as they try to maintain pre-existing relationships. Specifically, we ask that Calhoun County Jail:

1. Allow loved ones that travel to the Calhoun County Jail to have in-person contact visits with detainees;
2. Include clear information on the facility website about a regular schedule and procedure for in-person contact visits;
3. Train facility staff to answer inquiries about the availability of in-person contact visits; and
4. Maintain a video-call option for off-site and on-site video chats for immigration detainees on the same basis that it is offered to other jail inmates.

Thank you for your attention to this matter.

Sincerely,



Susan E. Reed
Managing Attorney
Michigan Immigrant Rights Center



Abril Valdes
Immigrant Rights Attorney
American Civil Liberties Union of Michigan