

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

TAUREAN PROCH, individually and
on behalf of a class of similarly
situated persons,

Plaintiff,

v.

SHERIFF MAT KING,
LIEUTENANT RICHARD
OLEJNIK,
LIEUTENANT KYLE ADAMS,
ST. CLAIR COUNTY, MICHIGAN,
SECURUS TECHNOLOGIES, LLC,

Defendants.

Case No. 2:22-cv-12141

Judge: Laurie J. Michelson
Mag. Judge Patricia T. Morris

First Amended Class Action Complaint and Demand for Jury Trial

I. INTRODUCTION

1. Defendant Securus Technologies, LLC, is a for-profit company that contracts with jails to charge incarcerated people and their families exorbitant rates for “services” like low-quality phone and video calls and messages.

2. Securus has a simple business model: In exchange for access to a captive market of incarcerated people and their families, it promises jails six-figure kickbacks. To maximize profits, it also incentivizes jails to incarcerate more people and reduce competition from free services, either through explicit contractual provisions or by paying the jail a percentage of revenues from each service. As a

result, Securus expands its monopoly at the jail to cover everything from mail to the commissary to educational opportunities, while incarcerated people and their families pay more and more.

3. In St. Clair County, Securus's model worked as intended. In 2017, the St. Clair County Jail contracted with Securus to provide phone and video calls. Under the contract, Securus pays the Jail 50 percent of the \$12.99 fee it charges for each 20-minute video call and 78 percent of the \$0.21 per minute fee for each phone call. Almost immediately after the contract was signed, the Jail decided to end free in-person visitation, forcing incarcerated people and their families to use more phone and video calls, and increasing profits for both Securus and the Jail.

4. In 2020, that pattern repeated itself. Securus and the Jail amended their contract to make Securus the provider of digital tablets to people incarcerated at the Jail. Using the tablets—which usually had to be rented for a fee—people at the jail could make calls and send messages to their loved ones, and they could access entertainment like movies and music through a subscription service. The tablet also became the exclusive way to order items from the commissary, file grievances, request medical care, or access legal research materials. As with the phone and video calls, the Jail received a percentage of the price paid for the services offered on the tablet, including 20 percent of each 50-cent message or photo that people at the Jail sent to and received from their loved ones using the tablet.

5. In August 2022, the Jail enacted a policy limiting the use of the less expensive U.S. Postal Service to only plain postcards, forcing people at the Jail to choose between only limited contact with their family or friends or paying the exorbitant fees to use the Securus tablet to send and receive longer messages or photos, thus increasing profits for Securus and the Jail.

6. The purpose of the change to the mail policy was to make money for Securus and the Jail, not to serve any legitimate penological purpose. By all measures, increasing contact between incarcerated people and their families makes the Jail safer and results in better outcomes for families and the community, while isolation makes the Jail and the community less safe. But because isolation drives families to spend more money on Securus's services, the Jail enacts policies that make it harder for people at the Jail to communicate with their families, even though that undermines the goal of making the Jail safer.

7. Because the "alternative" provided instead of the mail—Securus's messaging software—is much more costly and not a substitute for receiving physical documents and letters, the mail policy violates the First Amendment rights of Plaintiff and everyone at the jail subject to the mail policy.

8. In addition to significantly limiting the ability of people at the Jail to communicate with their loved ones without paying exorbitant fees, the Jail also destroyed or returned to sender any mail that it determined not to be in compliance

with the postcard-only policy without providing notice or an opportunity to contest the determination that mail did not comply. That violated the Due Process rights of Plaintiff and everyone else at the Jail who were subject to the mail policy.

9. In short, Securus conspired with St. Clair County to violate the First Amendment and Due Process rights of Plaintiff and the other people at the Jail by enacting the mail policy to extract as much profit as possible out of incarcerated people and their families.

II. PARTIES

10. Plaintiff Taurean Proch is a resident of Fair Haven, Michigan. He was incarcerated at the St. Clair County Jail (“the Jail”) from May 31, 2022, to January 15, 2023. He brings this case individually and on behalf of a class of similarly situated people injured by the Jail’s Mail Policy.

11. Defendant St. Clair County, Michigan (“the County”), is a municipal corporation formed under the laws of Michigan. The County Board of Commissioners approved the County’s contract with Defendant Securus Technologies, LLC. The County is sued for declaratory, injunctive, and monetary relief.

12. Defendant Mat King is the Sheriff of St. Clair County. He is the chief law enforcement officer for Defendant St. Clair County and is legally responsible for the operation of the Jail, located at 1170 Michigan Rd., Port Huron, MI 48060.

He is the final policymaker for the conduct challenged in this complaint. Defendant King is responsible under state law for the Jail, the health and welfare of all people confined at the Jail, and the Jail's policies, rules, and regulations.¹ The Sheriff negotiated and signed the County's contract with Defendant Securus Technologies, LLC, and enforces the Jail's limitations on mail.

13. Defendant King is sued in his official capacity for declaratory, injunctive, and monetary relief, and in his individual capacity for monetary relief. At all times mentioned in this complaint, Defendant King acted under color of state law.

14. Defendant Richard Olejnik is an employee of the St. Clair County Sheriff's Department who has held the rank of Lieutenant since 2018. At all times relevant to the complaint, he was responsible for the day-to-day operations of the Jail and the drafting of jail policies and procedures, including the mail policies at issue in this case. At all times relevant to the complaint, Defendant Olejnik acted under color of state law. He is sued in his official capacity for declaratory and injunctive relief, and in his individual capacity for monetary relief.

15. Defendant Kyle Adams is an employee of the St. Clair County Sheriff's Department who, at all times relevant to this complaint, held the rank of Lieutenant. Adams was responsible for the day-to-day operations of the Jail and the drafting of

¹ MCL 51.75, MCL 51.281.

jail policies and procedures, including the mail policies at issue in this case. At all times relevant to the complaint, Defendant Adams acted under color of state law. He is sued in his official capacity for declaratory and injunctive relief, and in his individual capacity for monetary relief.

16. Defendants King, Olejnik, Adams, and St. Clair County are referred to collectively as the “County Defendants.”

17. Defendant Securus Technologies, LLC (“Securus”), is a private corporation whose headquarters are located at 4000 International Parkway, Carrollton, Texas 75007. Securus is one of the largest providers of prison and jail communications in the United States, contracting with 3,400 facilities in all 50 states, including at least 67 of Michigan’s 83 counties. At all times relevant to this complaint, Securus had a contract with the St. Clair County Sheriff’s office to provide communications and other services, including electronic mail services, at the Jail.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. Pursuant to the Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a), Plaintiff has exhausted any and all available administrative remedies concerning the conduct complained of herein. Furthermore, the County Defendants have denied all administrative remedy requests and available agency decision

appeals, making the instant complaint and allegations therein ripe for judicial review.

19. In particular, on August 11, 2022, Plaintiff filed a grievance alleging that the mail policy violated his rights under the First and Fourteenth Amendments. He also specifically challenged the high prices Securix charged him to receive photos of his children.

20. The County Defendants denied the grievance and stated that Plaintiff's rights were not being violated. Plaintiff exhausted the available appeals process by filing two appeals, which were also denied.

21. On August 26, 2022, Plaintiff filed a grievance alleging retaliation by the County Defendants for exercising his First Amendment rights. His grievance and both appeals were denied.

IV. JURISDICTION AND VENUE

22. Plaintiff brings claims under 42 U.S.C. § 1983 for the deprivation, under color of state law, of rights secured by the Constitution of the United States. As such, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3). In addition, Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, as well as injunctive relief as provided for within 28 U.S.C. §§ 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.

23. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's claims under Michigan law.

24. The Eastern District of Michigan is the appropriate venue under 28 U.S.C. § 1391(b)(2) because all defendants reside or conduct business in the district, and it is where a substantial part of the events or omissions giving rise to this claim occurred.

V. FACTUAL ALLEGATIONS

25. All following claims and facts are made upon either reliable information and belief or personal knowledge of Plaintiff.

a. Each year, thousands of people spend months in the St. Clair County Jail, many of whom have not been convicted of any offense

26. The Jail detains hundreds of people for weeks, months, and years, many of whom are presumed innocent and awaiting trial.

27. In 2023, the Jail booked 3,714 people, and the average daily jail population was 358 people. On a typical day, many—if not most—of the people in the jail are awaiting trial or other legal proceedings, often solely because they cannot afford a financial condition of pretrial release.

28. Additionally, the Jail houses people in civil detention under a contract with U.S. Immigration and Customs Enforcement.

29. Lengths of stay for people in the jail vary widely. Over 82 percent of people detained in Michigan jails have been—or will be—detained for longer than

one month.² For example, the 362 people in the jail on January 10, 2024, had been detained for an average of 81 days. Forty people had been in the jail for over six months.

30. Each of the individuals confined in the jail is connected to people on the outside, who are deprived of physical contact with the people they love and depend on most in the world. Defendants' mail policy further exacerbates that separation by also depriving them of contact through letters or photographs.

b. Defendants enacted a postcard-only policy that severely limited the mail that could be received by people at the Jail

31. On August 1, 2022, the County Defendants implemented a new mail policy titled SCC Corrections Policy & Procedure 10.4 (the "Mail Policy"), which significantly limited the type of mail that could be received by people at the Jail.

32. The Mail Policy provided that "[a]ny general mail incoming to the facility must be in the form of postcards only." Prior to the change in policy, the Jail did not impose length or form restrictions on incoming mail.

33. This postcard-only policy severely limited the ability of Plaintiff and other people incarcerated at the jail to communicate with the outside world.

34. For example, under the Mail Policy, Plaintiff could no longer receive letters from his partner with photos of his children or artwork by his children; he was

² Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations (Jan. 10, 2020), <https://tinyurl.com/mctbm6rj>.

prevented from participating in an educational correspondence course that required him to be able to receive letter-size documents; he was prevented from obtaining legal research materials and religious materials from sources outside the jail; he was prevented from receiving responses to his correspondence from anyone unaware of the jail's new policy, including information about community outreach programs; and he was prevented from receiving and signing important documents that had been delivered to his home address and forwarded by his partner.

35. The Mail Policy requires that any mail that does not comply with the postcard-only requirement be refused, returned, or destroyed.

36. And although the recipient of the mail is supposed to be notified when that happens with a "mail violation" form, in practice, the Jail did not notify people when their mail was returned or destroyed.

37. Although several people attempted to send Plaintiff non-postcard mail while he was incarcerated, he never received a "mail violation" notice.

38. For example, his aunt mailed him a letter on August 12, 2022, which was stamped refused and returned to her, but Plaintiff never received a mail violation notice or any other notice that mail intended for him had been rejected.

39. Other people at the Jail likewise did not receive "mail violation" notices when their mail was rejected.

40. Moreover, even if the recipient of the mail were notified of a “mail violation,” the Mail Policy provides no procedure to contest that determination before the mail is returned to sender or destroyed.

41. The Mail Policy also specifically requires that even postcards that do meet the requirements of the policy be “disposed of” after being copied and before being provided to the recipient. Thus, people at the Jail never receive the original postcard, and the original postcard is always destroyed. Instead, they receive only a photocopy of the postcard.

c. The Mail Policy was part of a conspiracy by Defendants to increase the use of revenue-generating tablets and messaging software

42. The Mail Policy was not motivated by any legitimate penological purpose but was instead motivated by a shared goal of the County Defendants and Securus: making money.

i. Defendants entered into a lucrative contract for Securus to provide digital tablets and software at the Jail

43. In 2020, Defendants amended the existing phone and video call contract between the County and Securus to add a new service: digital tablets.

44. From the beginning, the County Defendants were concerned only with extracting more revenue from the Jail population, not achieving any penological goals. Before the contract was amended, Jail Administrator Tracy DeCausin emailed County officials seeking permission to make Securus the provider of tablets

at the Jail. The County's accounting manager responded to ask, "Will Securus be giving us a commission as well?"

45. The answer was yes, and a lucrative one. Under the 2020 contract, Securus provides digital tablets to people in the Jail, which they can rent for \$5.00/month. In addition to that fee, they must pay a \$7.50 fee to access the tablet's applications; they must buy headphones from Securus to use many of the applications, including phone or video calls; and they must pay additional fees for digital "stamps" that can be redeemed to send a message or photo to family members and friends, as well as fees to read articles, listen to songs, rent movies, or play games. The tablet technology was provided at "no cost" to the Jail, and Securus agreed to pay 10 percent of all tablet subscription purchases and 20 percent of all "stamp" purchases to the Jail.

46. If people in the Jail are moved to another facility or released, they can no longer see correspondence or photos sent to them by loved ones, and they must repurchase all their previously purchased digital media.

47. Securus was willing to pay the Jail for the opportunity to provide the tablets because it knew that requiring people to pay high rates for messages, calls, and subscriptions when their other means of contacting their families or the outside world were severely limited would allow them to recoup any upfront costs of

providing the tablet, pay the County a commission on each purchase, and still earn a profit.

48. The County Defendants saw quick financial returns from the new tablet contract. In April 2022, the County’s accounting manager told DeCausin, “Auditors are questioning why the [tablet] revenues went u[p] so much.” DeCausin credited the new contract with Securus for the increase in revenue: “As the revenues show, [switching to Securus] was a good move for us.”

ii. Defendants’ contract intentionally incentivizes the County to coerce people at the Jail and their loved ones to use Securus’s messaging software rather than U.S. Mail

49. Pursuant to Defendants’ contract, Securus charges people at the jail or their loved ones for 50-cent “stamps” for each electronic message, photograph, or video sent.

50. In addition, there is a \$3.75 “transaction fee” when purchasing stamps. So, for example, if a family member buys a “book” of five stamps, they actually pay \$6.25 total, or \$1.25 per stamp:

PAYMENT SUMMARY	
(5) Stamps - ST CLAIR COUNTY JAIL, MI:	\$2.50
Taxes & Regulatory Charges :	\$0.00
Transaction Fees:	\$3.75
<hr/>	
Total Charges:	\$6.25

51. That is significantly more expensive than sending messages or photos through the U.S. mail. For example, a person could send *six* 4x6 photos with one 68-cent USPS stamp, but it would cost them nearly \$7.00 (\$3.00, plus the \$3.75 transaction fee) to send the same six photos using Securus's messaging software. Likewise, someone could send a multi-page letter or document with one 68-cent USPS stamp but, using Securus's messaging software, could send only 2,000 characters (less than one type-written page) per each 50-cent "stamp."

52. Securus pays a kickback to the Jail of 20 percent of the stamps that are redeemed, resulting in tens of thousands of dollars in revenue to the Jail each year.

53. Additionally, sending and receiving messages requires the use of a tablet, which, as described in ¶ 45 above, imposes additional costs on people at the Jail and their loved ones.

54. Although there are usually a few free "community" tablets at the Jail, they are eligible to be rented, so, at times, no free tablets are available because they have all been rented. It is not unusual for the wait time for a free tablet to be a day or more, and their use is limited, making them not a viable option for regular communication with friends and family.

55. When Plaintiff arrived at the Jail, he was encouraged by guards and others to rent a tablet as soon as possible because it was the only way to do many necessary things like ordering basic hygiene items and food from the commissary,

communicating with his family, to whom he had not been able to speak since he was arrested, requesting medical care, and filing grievances.

56. Although he briefly did find a free tablet to use, he could not use it to call his family because he had not yet purchased the required Securus headphones (which he had to do using the tablet), and he was forced to give it up after about 15 minutes so another person could use it. As a result, the next time he was able to find a tablet a day or two later, he created an account and paid the monthly rental fee so he could have enough time to purchase necessary items and contact his family.

57. The only competition Securus has for mail at the Jail is the USPS. If people use the USPS to send mail, neither Securus nor the Jail receives any revenue.

58. Thus, the more the County Defendants restrict people at the Jail from receiving mail through USPS, the more people will be forced to use Securus's messaging or calling services instead, and the more Securus and the Jail stand to profit.

59. That was by design: Not only did Securus intentionally structure its contract so the Jail would receive more money in kickbacks if it enacted policies that functionally coerce more people to use Securus's products, but the contract also included provisions that would punish the Jail if revenue went down.

60. For example, the contract provided that if the County was “not on plan to allow [Securus] to recover [its] upfront funding,” Securus “may recover such unrealized revenue” by billing the County directly.

61. Securus also reserved the right “to renegotiate or terminate” the entire contract in the event of a “material reduction in inmate population or capacity,” and to reduce the County’s telephone commission percentage and up-front payment if the jail’s average daily population “decline[s] by more than 5%.”

iii. The County Defendants enacted the Mail Policy to extract more revenue from incarcerated people and their families

62. The County Defendants did exactly what Securus’s contract strongly incentivized them to do: They enacted the Mail Policy to restrict the use of the USPS and drive more people to use Securus’s services instead.

63. By prohibiting the sending of photos by mail, for example, the County Defendants forced people to choose between going without photos of their children or paying to send and receive photos using Securus’s messaging service, thus driving up Securus’s profits and the amount of its kickbacks to the Jail.

64. Likewise, by limiting communications to a small postcard, the Mail Policy forced people to either pay to send longer communications or larger documents via Securus’s messaging software, or not send them at all.

65. It was well-known throughout the Jail that the Mail Policy was motivated by profit. For example, Plaintiff was advised by several guards at the Jail that the Mail Policy was a “money thing.”

d. The Mail Policy does not serve the government interests articulated by the Jail and actually undermines jail and community safety

66. The stated goals of the postcard-only policy are to reduce the risk of contraband, particularly drugs, entering the Jail and to reduce the amount of time necessary for jail staff to process incoming mail.

67. There is little evidence that contraband was entering the Jail via mail at a rate that would justify a severe curtailment of mail allowed into the jail.

68. In fact, court records, federal investigations, and public statements show that the primary channel through which drugs are introduced into jails and prisons nationwide is via staff, not mail.

69. For example, in 2022, a New York City Department of Corrections investigator testified in federal court that drugs and other contraband can “usually” be traced to jail staff and officers.³

70. In a 2019 report on conditions in the Alabama prison system, the U.S. Department of Justice described interviews with multiple officials who confirmed

³ John Annase, *Rikers Island Guards and Staff Are ‘Usually’ Source of Drugs at the Jail, Investigator Testifies*, N.Y. Daily News (Nov. 29, 2022), <https://tinyurl.com/2yunz428>.

that staff smuggling was the primary source of drugs, and it recommended screening all staff for drugs in the future.⁴

71. In contrast, mail-related drug trafficking appears rare. In Florida state prisons, for example, less than 2 percent of the contraband items confiscated over a two-year period were traced back to mail, and only 0.35 percent of mail contained contraband.⁵

72. In Texas, the rate of mail with suspicious or “uninspectable” substances—which would include drugs as well as stickers or fragrances—was only 0.5 percent in 2019.⁶

73. There is also little evidence that postcard-only or mail digitizing policies reduce the prevalence of drug use or drug overdoses in jails or prisons.⁷ For example, following statewide adoption of a mail digitizing system in Pennsylvania, the drug test positivity rate actually increased.

⁴ U.S. Dep’t of Just., Notice Regarding Investigation of Alabama’s State Prisons for Men (Apr. 2, 2019), <https://tinyurl.com/b7b9fdze>.

⁵ Shirsho Dasgupta, *How a Ban on Visitors Impacted the Smuggling of Drugs into Florida Prisons*, Miami Herald (Feb. 1, 2023), <https://tinyurl.com/4f58wxzb>.

⁶ Jolie McCullough and Keri Blankinger, *Texas Prisons Stopped In-Person Visits and Limited Mail. Drugs Got in Anyway.*, Tex. Tribune & Marshall Proj. (Mar. 29, 2021), <https://tinyurl.com/45rfjsn3>.

⁷ See Emily Widra, *Addicted to Punishment: Jails and Prisons Punish Drug Use Far More Than They Treat It*, Prison Policy Initiative (Jan. 30, 2024), <https://tinyurl.com/4x8cfxm6>.

74. Similarly, after Missouri contracted with a company to digitize and destroy incoming mail, the number of average overdoses in the state's jails and prisons increased from 31 to 37 per month. And in New Mexico, after prisons banned physical mail, the drug test positivity rate nearly doubled.

75. There are more effective and less speech-restrictive tools that could limit contraband at the Jail. For example, some correctional facilities use drug-sniffing dogs and Raman spectroscopy devices to scan mail for the presence of drugs. There are also means of limiting drug use that extend beyond restricting mail: Examples from other correctional facilities indicate the adoption of better drug treatment programs and staff security measures can reduce drug overdoses and drug test positivity rates far more than a mail policy could.

76. While the stated goal of the Mail Policy is to make the jail safer by reducing contraband, the Mail Policy actually makes both the jail and the community less safe.

77. People at the Jail are already isolated from their loved ones due to the Jail's ban on in-person visitation. The Mail Policy exacerbates that isolation, making it so that family members cannot have any contact other than a postcard in the mail unless they pay exorbitant fees and submit to extensive surveillance. That leaves incarcerated people more disconnected from their families and communities.

78. Numerous academic and public health studies have confirmed that greater community and familial connection throughout incarceration, including through letter-writing, is associated with better post-incarceration adjustment.⁸

79. Correspondence is particularly valuable because both the incarcerated person and non-incarcerated person can read and respond at times that are more conducive to their daily schedule, allowing for meaningful communication where it might otherwise be difficult to schedule a call.

80. Social connectedness is the most influential factor in preventing recidivism. Having an avenue through which one can communicate more frequently than with calls or visitation is as important way to maintain more continuous connectedness. Because mail is often the cheapest form of communication—particularly when in-person visitation is banned—written correspondence is the most common form of contact in jail. Thus, restrictions on mail can significantly decrease the overall frequency with which contact can be maintained, hindering an incarcerated person’s ability to successfully reintegrate into society upon their release.

81. Sending and receiving mail also serves a therapeutic purpose. Currently and formerly incarcerated people routinely report that mail positively affects their

⁸ See Leah Wang, *Research Roundup: The Positive Impacts of Family Contact for Incarcerated People and Their Families*, Prison Policy Initiative (Dec. 21, 2021), <https://tinyurl.com/bdc6r56y>.

mental wellbeing by reducing isolation and providing an opportunity to reflect on and process trauma. People who are emotionally well have fewer negative emotions and a better ability to respond to stress in a healthy fashion. The ability to regulate and cope are particularly valuable in institutional environments that are inherently stressful and demand orderly compliance with strict rules.

82. The Mail Policy is ultimately counterproductive. To the extent that it prevents the presence of one type of harm (contraband) it inflicts separate, more severe ones. If the Jail prioritized its mandate to rehabilitate people in jail over profits, the Jail would not limit already limited contact with the outside world.

e. The Mail Policy left Plaintiff and other incarcerated people without a reasonable alternative means of exercising their constitutional rights

83. Defendants' postcard-only policy prevented people at the Jail from fully communicating with their loved ones, including preventing them from receiving photos, letters, or important documents through the mail.

84. Receiving a postcard is certainly no substitute for receiving a long, handwritten letter, a photo from a loved one with an inscription on the back, or art or a story from a child.

85. That is particularly so because the Jail discards the original postcard, leaving the recipient with only a grainy photocopy. A photocopy of a postcard lacks the kind of intimacy and emotional connection that receiving an original letter provides by allowing a recipient to hold onto the object of the sender's expression,

the very object that the sender recently held. It limits the colorful communication of a child to their parent to a small, greyscale rectangle.

86. And a postcard is not an option at all when the documents or information the incarcerated person wants to receive are available only in non-postcard physical form. For example, Plaintiff could not participate in a correspondence course that mailed letter-sized documents, nor could he receive pamphlets about community outreach programs, religious resources, or legal research documents that he requested from sources outside the Jail.

87. And other alternatives to communicating through the mail are cut off as well. Most importantly, to further force people to use Securus's expensive services, the Jail bans in-person visitation altogether.

88. As a result, to even see their loved ones' faces during their incarceration, the only options people at the Jail have are buying expensive "stamps" to receive a photo or using even more expensive and glitchy Securus video calls.

89. Those are impossible options for low-income families, who are forced to spend hundreds of dollars each month on communication, often forgoing basic necessities like food, rent, or gas, so they can maintain some form of contact with a person they love.

90. In fact, more than one in three families goes into debt to cover the costs of keeping in touch with their incarcerated loved one. Families are often forced to

choose between communicating with their incarcerated loved ones and meeting the basic needs of family members both inside and outside of the jail.

91. Low-income women in particular bear the brunt of the financial burden. In one comprehensive survey, 82 percent of participants reported that family members were primarily responsible for the costs of maintaining contact during incarceration. Of the family members responsible, 87 percent were women.⁹ One study found that low-income women spend 26 percent of their income on visits, calls, and packages.¹⁰

92. The financial cost of connection to incarcerated loved ones also reinforces the racial wealth gap. Nearly one in every four women is related to someone who is incarcerated, but Black women are more substantially affected than their white peers: 44 percent of Black women have a family member who is imprisoned, compared to 12 percent of white women.¹¹

93. Plaintiff was the sole income earner in his family, so when he was incarcerated, his partner had to dig into their savings just to take care of their family.

⁹ Saneta deVuono-powell et al., *Who Pays? The True Cost of Incarceration on Families* 30, Ella Baker Center (Sept. 2015), <https://tinyurl.com/42mhr7wf>.

¹⁰ Olga Grinstead et al., *The Financial Cost of Maintaining Relationships with Incarcerated African American Men: A Survey of Women Prison Visitors*, 6 J. Afr. Am. Men 59 (2001).

¹¹ Hedwig Lee et al., *Racial Inequalities in Connectedness to Imprisoned Individuals in the United States*, 12 Du Bois Rev. 2 (2015), <https://tinyurl.com/muuwnuv5>.

Paying for expensive messages and video calls was a financial burden that required them to take on more credit card debt.

94. In St. Clair County, the cost of connection mounts atop a staggering heap of fines and fees. The County charges the individuals it detains up to \$60 for each day of incarceration. Not only do families pay the psychological and emotional costs of separation, they must also foot the bill for the loss of their loved one's freedom. Plaintiff's family was billed over \$13,000 for the time he spent inside the jail, not including the thousands of dollars they spent so that he could stay in touch with his children and family.

95. Using Securus's messaging or video call software is not an option at all for people who do not have access to the internet and a computer or smartphone, as well as the technological know-how to create a Securus account and use it to send messages or make video calls.

96. For example, Plaintiff has several family members (including his 90-year-old grandmother) who have neither access to a computer with internet access nor a smartphone. Due to the Mail Policy and the ban on in-person visitation, while incarcerated, he could receive only short postcards from those relatives, and he could not receive photos, visit with them, or see their faces on a video call.

97. Moreover, when combined with the in-person visitation ban, the Mail Policy leaves no way for certain types of important communications to take place at

all. For example, an important document that required Plaintiff's signature was delivered to his house while he was incarcerated, but his partner could neither mail it to him to sign nor bring it to him in person to sign.

98. Communicating through Securus's messaging system comes with another cost, too: invasive surveillance. Securus's communications systems capture children and other non-incarcerated family members in an expanding web of surveillance, depriving them of the intimacy of private moments and intruding on their digital privacy.

99. With physical mail limited to a postcard and no in-person visitation, people incarcerated at the Jail and their families and friends are left with a choice between submitting to extensive surveillance of their communications or being limited to contacting their loved ones by postcard only.

100. As a condition of messaging their loved one using the Securus system, both incarcerated people and people on the outside are required to agree to broad language allowing Securus to use their messages, calls, and other data for essentially any purpose.

101. For incarcerated people, the terms of use that they must agree to in order to use Securus's messaging or calling services state that "Securus and your Facility may, as applicable, review, access, read, monitor, record, intercept, preserve and

disclose any information as it reasonably believes is necessary . . . [f]or any law enforcement, Facility management, investigatory, or other purpose.”

102. And for their friends and family, the terms of use for Securus’s messaging software require them to “agree that designated persons who work for us and people that work for the correctional facility may access, read, preserve (save), and disclose your Messaging Solutions messages and any information in those messages that our correctional facility customer believes is necessary . . . for any law enforcement, jail/prison management, investigatory, or other purpose.”

103. Additionally, the messaging terms of use state, “You understand and agree that each message and, if applicable, attached media you send will be reviewed, monitored, and preserved by us and the applicable correctional facility, and that you waive any privacy or other confidentiality rights you may have in the contents of your messages and, if applicable, attached media.”

104. The terms of use also state that messages will be “retained by us,” including “after your account has been terminated.”

105. Not only does Securus require incarcerated people and their family members to agree to these terms and submit to having their messages surveilled and kept by the Jail and Securus, it also requires them to grant their intellectual property rights in their messages and photos to Securus. As Securus explains, “[t]his means, for example, that if you send a photo, you give [Securus] permission to store, copy

and share it with others . . . such as correctional facility personnel and law enforcement agencies.”

106. Of course, when someone sends a photo through the U.S. Mail, they retain all their privacy rights and their intellectual property rights in that photo and are not forced to give their permission to a private company like Securus to use their photo for whatever purpose it likes, including sharing with law enforcement agencies around the country.

107. By working with St. Clair County Jail and other prisons and jails to coerce incarcerated people and their family members to submit to these provisions, Securus has built sprawling databases of every message or photo sent and every call made by people in the jails and prisons where it operates, and it markets that personal information to government and corporate entities willing to pay for it.

108. The database extends beyond the content of the calls and messages to personal information about the callers and senders, including their IP addresses, email addresses, phone numbers, who else they have called or messaged, and even their “voiceprints.”

109. In an egregious example, in 2018, Securus was found to be providing hundreds of correctional facilities and county sheriffs’ departments—including the St. Clair County Jail—with a tool to identify the GPS coordinates of any cell phone

an incarcerated person called—resulting in the warrantless tracking of thousands of people whose only “crime” was knowing someone who was incarcerated.

110. Although Securus purportedly ended this program, its 2020 contract with the Jail still states that it will provide “Location Based Services” at “no cost to you.” It describes Location Based Services as providing the Jail with “a mobile device user’s approximate geographical location . . . by way of (i) information derived from calls placed on a Securus device by an inmate confined at a Customer Facility and received by such mobile device user; or (ii) mobile device user information (such as mobile device number) provided to Securus by Customer.”

111. Location Based Services captures the “approximate latitude and longitude coordinates of a mobile device users at the times at which the called party accepts the call, and when the call ends.” In other words, it tracks the callers’ movement while they are on the call.

112. The contract provides that Location Based Services will operate “on demand in (near) real time,” allowing law enforcement to see a caller’s *current* location on a map, as well as provide “covert alert functionality.”

113. St. Clair County Jail also contracted with Securus to provide an application called THREADS, which “allows authorized law enforcement users to analyze corrections and communications data from multiple sources to generate targeted investigative leads.” THREADS includes a sprawling database of recorded

calls, messages, phone records, billing names and addresses, data pulled from cell phones confiscated from people in the jail, and even scanned U.S. mail.

114. St. Clair County Jail has opted into the THREADS “community feature,” which allows the Jail to “analyze communications data generated from other corrections facilities within the community,” and requires the Jail to make its data “available to the community for analysis and review.”

115. In other words, data collected by Securus’s surveillance at the St. Clair County Jail is used not only by the Jail but is also added to Securus’s massive database to be used by outside law enforcement and other correctional facilities.

116. THREADS tracks the calls and messages of people in the Jail—most of whom have not been convicted of any crime—and the friends and family who contact them.

117. For example, its website explains how it provides the Jail with real-time tracking of the “top contacts” of people in the Jail, which it asserts “may indicate that there is someone on the outside that [is] assisting inmates in conducting illicit activities” or that “they are aiding an individual or individuals in continuing organized criminal activity.”¹² Thus, family and friends—even children—can end up as targets of law enforcement even though there is no evidence that they have

¹² *Securus THREADS*, Securus Techs., <https://tinyurl.com/y6nhhe27> (last visited Apr. 12, 2024).

committed a crime other than trying to stay in consistent contact with an incarcerated person they love.

Top Contact

Scenario 1 – High contact call volume may be related to outside or inside organized criminal directives where regular communication is required to pass along information pertinent to illegal activities.

Scenario 2 – Top Contacts listing may indicate that there is someone on the outside that assisting inmates in conducting illicit activities.

Scenario 3 – Contacts may end up on the Top Contacts list because they are aiding an individual or individuals in continuing organized criminal activity.

TOP CONTACTS

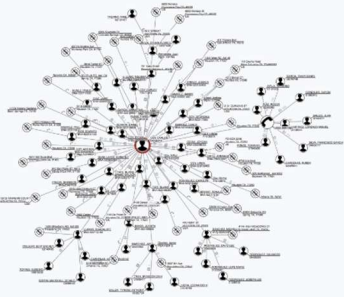
-	👤 Matias, Maria	378
▲ 2	👤 Sausedo, Jacqueline	276
▼ 1	👤 Hayden, Amada	270
▲ 5	👤 Young, Kimillya	268
▼ 2	👤 Saenz, Yajaira	264

Data still updating 📶 📄

118. THREADS also has an “inner circle” reporting option for use by law enforcement that diagrams the contacts an incarcerated person has on the outside and their relationship to each other, which it terms a “working group.”

Linking Patterns

Using THREADS inner circle reporting option, investigators can see a web of individuals that inmates are contacting in a pattern, and display the targets 'working group.' For example, an inmate may call his brother every Tuesday, and then right after that phone conversation he calls his cousin. THREADS will highlight this call pattern implying to the investigators that whatever was discussed with the brother, most likely was discussed with his cousin.



119. In addition to tracking and compiling data about anyone who contacts someone at the Jail, Securus also keeps the content of those communications—whether messages, phone, video calls, or scanned physical mail—in a searchable database. For example, in bidding on the contract with the Jail in 2017, Securus boasted that its software recorded video visitation calls and could store them in a

searchable system with a “powerful call player” that Jail officials and law enforcement could use to watch them.

120. Securus has also expanded into voice-recognition surveillance, which relies on machine learning to associate unique biometric identifiers with each voice that is recorded during a Securus call.

121. Securus’s contract with St. Clair County Jail includes a product called “Investigator PRO” which “uses continuous voice identification technology to determine what [incarcerated people] are speaking on the call, detect certain three-way call violations, and help investigators find correlations between calls that might otherwise go undetected.”

122. Securus touts “state-of-the-art voice analysis technology,” boasting to prison and jail officials “You’ve Never Seen Voice Biometrics Like This.”¹³ Securus claims to provide St. Clair and other county officials with tools to identify incarcerated individuals by name, to isolate a voice and search all calls for other appearances of that voice, and to provide “Fast Facts” about voices and called numbers. A Securus patent for “Multi-party conversation analyzer and logger” contemplates using voiceprints to facilitate “the investigation of networks of criminals, by gathering associations between phone numbers, the names of persons

¹³ *Investigator Pro*, Securus Techs., <https://tinyurl.com/4etu62kv> (last visited Mar. 14, 2024).

reached at those phone numbers, and voice print data.”¹⁴ Jail officials have confirmed that voiceprints are captured for non-incarcerated people calling into the Securus system.¹⁵

123. All Securus recordings and other data, such as the content of messages and calls, the voiceprint data, and the names, phone numbers, addresses, and credit card information of people who make calls or send messages, are stored offsite at Securus’s data centers in Dallas, Texas and Atlanta, Georgia.

124. This offsite storage puts the security of this sensitive data at risk. For example, in 2015, Securus was the target of a hacker that resulted in 70 million phone calls of incarcerated people being released on the internet. And in 2018, Securus suffered a major data breach that exposed the phone numbers, email addresses, usernames, and passwords of law enforcement officials who use Securus’s systems, potentially providing the hackers (or anyone who purchases the information) with access to all the data and recordings stored on Securus’s systems, including location data and credit card information.

¹⁴ U.S. Patent No. 10,069,966, <https://tinyurl.com/4r3k9a76> (last visited Mar. 14, 2024).

¹⁵ George Joseph & Debbie Nathan, *Prisons Across the U.S. Are Quietly Building Databases of Incarcerated People’s Voice Prints*, Intercept (Jan. 30, 2019), <https://tinyurl.com/y7umfjxc>; George Joseph & Debbie Nathan, *Why is a Prison Company Storing the Voice Prints of Even Innocent People?*, FastCompany.com (Feb. 14, 2019), <https://tinyurl.com/mbwnc6jp>.

125. There is no means of communicating with people at the Jail other than sending a postcard that does not require people to submit to wide-ranging and invasive surveillance practices and give up important privacy and intellectual property rights.

f. The County Defendants retaliated against Plaintiff for exercising his First Amendment rights

126. Plaintiff was discouraged from filing a grievance about the Mail Policy and, once he did file grievances about the Mail Policy and other health and safety and civil rights concerns at the Jail, the County Defendants retaliated against him.

127. During a discussion with Officer Branch, Plaintiff mentioned the grievance he intended to file regarding the unconstitutional Mail Policy. Branch stated something along the lines that filing grievances usually will get you the opposite of what you want. Plaintiff interpreted that statement to be an effort to discourage him from filing a grievance and as a warning that retaliation could be in store for him if he exercised his First Amendment right to file a grievance about the Mail Policy.

128. That is exactly what happened. When Plaintiff did exercise his rights to file grievances, the County Defendants retaliated against him.

129. Throughout his time at the Jail, Plaintiff exercised his constitutional right to raise important constitutional and safety issues by filing grievances. The subjects of his grievances included:

- a. The Mail Policy and Defendants' conspiracy to coerce people into using Securus's software as the only available alternative;
- b. The Jail's failure to reinstate the statutory work pass program even though allowing such a program was consistent with current CDC guidance regarding COVID-19;
- c. The Jail's failure to provide documents and information requested by Plaintiff regarding the CDC guidance that the Jail was purportedly following;
- d. Missing mail involving a request for a civil complaint form to initiate this lawsuit;
- e. Retaliation and false statements by Jail officials;
- f. The Jail's refusal to provide Plaintiff and this Court with the full names of Defendants Olejnik and Adams;
- g. Photos sent by Plaintiff's partner not being available to view on his rental tablet;
- h. The unavailability in the commissary for more than a month of envelopes for sending legal mail;
- i. Inequitable treatment of people who receive kosher meals; and
- j. Exposure of Plaintiff and other people at the Jail to hazardous chemicals.

130. In addition to filing grievances, Plaintiff also engaged in protected activity under the First Amendment by filing this action in federal court.

131. From the beginning, the County Defendants interfered with Plaintiff's rights. For example, when Plaintiff sent a letter to the Court requesting a civil complaint form to file this action, the form was significantly delayed until he filed a grievance saying he had not received it.

132. Then, the County Defendants refused to respond to Plaintiff's inquiry about their full names so they could be properly served in this action. And the County Defendants, including Defendant Adams, refused to let Plaintiff print copies of his grievances so he could provide them to the Court to show his exhaustion of administrative remedies.

133. When Plaintiff continued to pursue this action and challenge unlawful actions by the County, the County Defendants took further adverse actions against him.

134. In March 2023, he received a bill from the Jail requiring him to pay more than \$13,700 as "reimbursement" for his incarceration, at a cost of \$60/day, plus a separate fee for medical care he received while in Jail.

135. This substantial debt was imposed on Plaintiff even though the Jail had conducted no investigation of Plaintiff's financial status as required by MCL § 801.83, and no court reviewed and/or ordered the debt the Jail sought to impose.

136. In April 2023, Plaintiff once again exercised his First Amendment right to petition the government by sending a letter to Defendant King disputing the debt.

137. On May 25, 2023, the Jail Reimbursement Clerk, Karen Roy, responded on behalf of Defendant King, stating, “The County will continue to pursue collection of the outstanding balance and your failure to pay your statutory obligation.” She cited the state statute allowing the County to file a civil action to collect the debt and concluded with a threat: “Please advise whether such a suit will be necessary.”

138. Documents provided by the County suggest that, from at least the end of 2021 until Ms. Roy threatened Plaintiff with suit, the Jail had not sued anyone to collect a debt. And even after Ms. Roy’s threat to Plaintiff, the documents suggest that only three such suits were filed.

139. According to documents provided by the County, from the end of 2021 to the end of 2023, the Jail had more than \$18.7 million in outstanding “debt” owed by people who had been incarcerated there. But it had collected just \$29,560.77 (or 0.16 percent) of that debt.

140. After Ms. Roy’s letter threatening to sue him, Plaintiff continued to pursue this lawsuit and to contest the debt.

141. In or around October 2023, the Jail sent Plaintiff’s debt to a collection agency. He began receiving letters and calls from the collection agency, and the debt

was reported to credit agencies, which negatively affected his credit report and credit score and caused him significant distress and worry about his family's financial situation.

142. Given the County Defendants' reaction to Plaintiff's grievances and the filing of this suit, it is reasonable to infer that Plaintiff was singled out for aggressive debt collection because of his protected First Amendment activity.

VI. CLASS ACTION ALLEGATIONS

143. Plaintiff brings this action as a class action, pursuant to Fed. R. Civ. P. 23, on behalf of himself and all others similarly situated.

144. Plaintiff seeks to certify a class of similarly situated people defined as follows: All individuals detained at St. Clair County Jail from August 1, 2022, to the present who were subject to or affected by the Mail Policy.

145. **Numerosity.** Upon information and belief, the Class has hundreds or even thousands of class members. In 2023, 3,714 people were booked into the St. Clair County Jail. The members of the proposed Class are so numerous that joinder of all members is impracticable. A class action is the only practicable means by which Plaintiff and class members can challenge Defendants' unconstitutional policies and practices.

146. **Commonality and Predominance.** There are multiple questions of law and fact common to all members of the Class, and those questions predominate

over any questions that may affect individual Class members. Because this case is a quintessential class action challenging the application of a blanket government policy to a group of people harmed by it, the entire set of dispositive factual and legal questions, as well as the subsidiary ones on which they rely, are shared. These include questions about what the policies are, how the scheme works, and whether the policies are lawful.

147. Plaintiff's claims are based on the factual allegation that Defendants conspired to ban all non-postcard mail and instead force people at the Jail and their loved ones to use Securus's expensive services. Every form of evidence and proof concerning how, why, and when those policies were and are enforced, who developed them (including how Defendants acted in concert), and what effective alternative policies exist that would not restrictions on mail are common questions of fact. There are also ample and dispositive questions of law that must be resolved to address all claims, including the scope of class members' First Amendment and Due Process rights under the U.S. Constitution and rights under Article 1, §§ 5 and 17 of the Michigan Constitution, and whether the actions taken by Defendants are properly considered an infringement of those fundamental protections. Second, the Court will be called upon to apply the common facts to the common questions of law to determine whether Defendants' violation of Plaintiff's and class members' rights is necessary to further a compelling government interest. Third, as Plaintiff

alleges a conspiracy between County Defendants and Securus to enforce and profit from the Mail Policy, the Court must apply the common evidence of such a conspiracy to liability for the entire Class. Thus, common questions include, but are not limited to:

- a. The scope and nature of the Mail Policy;
 - b. Whether the Mail Policy provides the intended recipient of mail notice of or an opportunity to challenge the decision to censor mail;
 - c. How the Mail Policy was implemented in practice, including whether the notices described in the Policy were in fact provided and how decisions about whether mail fell within an exception to the Policy were made;
 - d. The scope and nature of Defendants' interests and/or justifications for instituting and maintaining the Mail Policy;
 - e. The extent to which Defendants provided an alternative means for Plaintiff and class members to exercise their rights;
 - f. Whether the application of the Mail Policy violates the rights of class members under the First and Fourteenth Amendments to the U.S. Constitution and/or Article 1, §§ 5 and 17 of the Michigan Constitution;
- and

g. Whether Defendants entered into a conspiracy to deprive class members of their rights under the First and Fourteenth Amendments to the U.S. Constitution.

148. **Superiority.** A class action is the superior method to adjudicate the claims as questions of law and fact predominate over questions affecting only individual class members. Defendants have acted and failed to act in a manner that applies generally to the Class as a whole, rendering class-wide relief appropriate.

149. **Typicality.** Plaintiff's claims are typical of the claims of the Class. That typicality stems from the fact that Defendants have denied each class member the right to receive mail in violation of the same constitutional and legal rights. Additionally, Plaintiff, like every other Class member, was injured by the same unconstitutional policies and practices maintained by Defendants.

150. **Adequacy.** Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff does not have any conflicts with the unnamed members of the proposed Class. Plaintiff is represented by attorneys from Public Justice and Outside Legal Counsel PLC, each of whom has experience litigating complex civil rights class action matters and extensive knowledge of both the details of Defendants' practices and the relevant law. Plaintiff's counsel have the resources, expertise, and experience to prosecute this action.

VII. LEGAL CLAIMS

Count I

42 U.S.C. § 1983: Violation of First Amendment Rights

Plaintiff, individually and on behalf of the class, against all Defendants

151. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

152. The First Amendment of the U.S. Constitution, as secured through the Fourteenth Amendment, gives Plaintiff a right to freedom of expression and association, including sending and receiving mail.

153. Defendants conspired to violate that right when they enacted the Mail Policy, which is not connected to any legitimate penological interest, to intentionally drive business to Securus's services and increase revenue for Securus and the Jail.

154. Because the Jail has also banned in-person visits, there are no adequate alternatives to communication by physical mail, and thus the Mail Policy violates Plaintiff's First Amendment rights.

155. Defendants acted under color of state law when they violated Plaintiff's First Amendment rights, in violation of 42 U.S.C. § 1983.

Count II

42 U.S.C. § 1983: Violation of Fourteenth Amendment Due Process Rights

Plaintiff, individually and on behalf of the class, against all Defendants

156. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

157. Plaintiff and the putative class have a constitutional right under the Fourteenth Amendment to not be deprived of their liberty or property without due process of law.

158. Pursuant to the Mail Policy, the County Defendants refuse, return, and/or destroy mail intended for Plaintiff and members of the putative class that does not comply with the Policy.

159. The County Defendants had a policy or practice of not providing notice to recipients when mail intended for them was returned or destroyed due to non-compliance with the Mail Policy.

160. The County Defendants further had a policy or practice of destroying original postcards and providing the recipient with only a photocopy.

161. The County Defendants had a policy or practice of not providing an opportunity for intended recipients of any rejected, refused, or destroyed mail to appeal and/or challenge the decision.

162. The County Defendants' failure and refusal to provide Plaintiff with constitutionally required notice and an opportunity to be heard and/or contest the rejection of protected communications violates Plaintiff's rights, and the rights of all

others similarly situated, to due process of law protected by the Fourteenth Amendment of the U.S. Constitution.

163. Defendants acted under color of state law when they violated Plaintiff's Fourteenth Amendment rights, in violation of 42 U.S.C. § 1983.

Count III: Conspiracy

Plaintiff, individually and on behalf of the class, against all Defendants

164. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

165. Defendants conspired to violate Plaintiff's constitutional rights by unnecessarily and indiscriminately prohibiting non-postcard mail, preventing Plaintiff from communicating with his family and children.

166. Securus and the County Defendants, in concert with one another, have, through their acts and omissions, ratified, adopted, and approved the policies that have resulted in Plaintiff's injuries. Specifically, they have prohibited non-postcard mail at the St. Clair County Jail and authorized the return or destruction of non-postcard mail without due process, violating Plaintiff's constitutional rights under the First and Fourteenth Amendments of the U.S. Constitution and Article 1, §§ 5 and 17 of the Michigan Constitution.

167. Securus and the County Defendants each intended that their actions would limit the ability of Plaintiff and other incarcerated people to communicate

with their families and friends, particularly when combined with their ban on in-person visitation, leading to increased cash payments to themselves. And the combined actions of the Securus Defendants and the County Defendants did and do in fact substantially limit Plaintiff's ability to communicate, violating Plaintiff's constitutional rights.

168. Throughout the conspiracy, the County Defendants have directly violated Plaintiff's constitutional rights by enforcing a ban on non-postcard mail and allowing the destruction or return of mail without due process. Throughout the conspiracy, Securus has encouraged, lent aid to, and financially incentivized the County Defendants to prohibit non-postcard mail, and continue to pay, assist, and encourage the County Defendants to maintain their ban.

169. Securus and County Defendants have known of each other's tortious conduct and have intended to aid in its commission. Securus and County Defendants' tortious conduct has caused grievous and lasting harm to Plaintiff.

Count IV
42 U.S.C. § 1983: First Amendment Retaliation

Plaintiff against the County Defendants

170. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

171. Plaintiff engaged in petitioning activity protected by the First Amendment when he filed grievances, filed this action, and sent a letter to Defendant

King disputing the determination that he must reimburse the County for the cost of his incarceration.

172. The County Defendants took adverse actions against Plaintiff when, among other things, they interfered with his efforts to file this lawsuit, they sent him a bill for reimbursement without the statutorily required fair investigation of his financial status, and they singled him out for debt collection efforts that they did not pursue against other similarly situated formerly incarcerated people in the County.

173. The County Defendants' adverse actions were motivated by Plaintiff's protected activity, in violation of Plaintiff's First Amendment rights.

174. In depriving Plaintiff of his First Amendment rights, the County Defendants acted under color of state law, in violation of 42 U.S.C. § 1983.

Count V
Violation of Rights Under Article 1, § 5 of the Michigan Constitution

Plaintiff, individually and on behalf of the class, against all Defendants

175. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

176. Article 1, § 5 of the Michigan Constitution gives Plaintiff and the putative class the right to freely speak, write, express, and publish their views on all subjects, including sending and receiving mail.

177. Defendants conspired to violate that right when they enacted the Mail Policy, which is not connected to any legitimate penological interest, to intentionally drive business to Securus's services and increase revenue for Securus and the Jail.

178. Because the Jail has also banned in-person visits, there are no adequate alternatives to communication by physical mail, and thus the Mail Policy violates Plaintiff's and putative class members' rights under Article 1, § 5 of the Michigan Constitution.

Count VI
Violation of Rights Under Article 1, § 17 of the Michigan Constitution

Plaintiff, individually and on behalf of the class, against all Defendants

179. Plaintiff re-alleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

180. Plaintiff and the putative class have a right under Article 1, § 17 of the Michigan Constitution to not be deprived of their liberty or property without due process of law.

181. Pursuant to the Mail Policy, the County Defendants refuse, return, and/or destroy mail intended for Plaintiff and members of the putative class that does not comply with the Policy.

182. The County Defendants had a policy or practice of not providing notice to recipients when mail intended for them was returned or destroyed due to non-compliance with the Mail Policy.

183. The County Defendants further had a policy or practice of destroying original postcards and providing the recipient with only a photocopy.

184. The County Defendants had a policy or practice of not providing an opportunity for intended recipients of any rejected, refused, or destroyed mail to appeal and/or challenge the decision.

185. The County Defendants' failure and refusal to provide Plaintiff with constitutionally required notice and an opportunity to be heard and/or contest the rejection of protected communications violates Plaintiff's rights, and the rights of all others similarly situated, to due process of law protected by Article 1, § 17 of the Michigan Constitution.

VIII. PRAYER FOR RELIEF

186. WHEREFORE, on the basis of the foregoing, Plaintiff requests that this Court enter judgment in his favor and issue the following relief:

- An order certifying a class action under Fed. R. Civ. P. 23;
- An order declaring that the Mail Policy violates the First and Fourteenth Amendments to the U.S. Constitution and/or Article 1, §§ 5 and 17 of the Michigan Constitution;
- Compensatory and exemplary damages to be determined at a jury trial;
- Punitive damages to be determined at a jury trial;
- Nominal damages to be determined at a jury trial;

- An order permanently enjoining the County Defendants from continuing the Mail Policy or enacting any other policy that limits mail to postcards only;
- An order permanently enjoining the County Defendants and their officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concert or privity or participation with them, from taking retaliatory action against Plaintiff for engaging in First Amendment protected activity;
- Equitable monetary relief in the form of disgorged profits made from the Mail Policy;
- Reasonable expenses and costs of litigation;
- Reasonable attorney's fees; and
- Such other relief as the Court deems just and proper.

Date: April 12, 2024,

Respectfully submitted,

/s/ Shelby Leighton

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