



INMATES AWAITING TRIAL IN KNOX COUNTY CAN'T BE IN THE SAME ROOM AS THEIR FAMILIES. IS THE NEW POLICY REALLY ABOUT SAFETY? OR IS IT ABOUT MONEY?

BY CARI WADE GERVIN

One thousand, three hundred, and forty-one.

That's the number of beds available, total, in the three different Knox County detention facilities as of May, according to the state Department of Corrections.

Most of those beds aren't filled every day, or even most days. In 2012, the average daily population of the jails was 1,156. Through the first five months of this year, the jails have averaged a daily population of 1,075. Knox County has just a fifth of the inmates of Shelby County, a third of those in Davidson County, and a few hundred less than Hamilton County.

Yet most of the time, most days, over 70 percent of the men and women behind bars in Knoxville are pre-trial detainees. That's more than Chattanooga (around 60 percent), more than Memphis (under 50 percent), and way more than Nashville (just 34 percent). Oh, and over 20 percent of those Knox County inmates are pre-trial for a misdemeanor.

Pre-trial. As in, awaiting a date in the courtroom. As in, not convicted of anything. As in, presumed innocent.

But here's the funny thing—only, it's not really all that funny—if those inmates are found guilty at trial, and they then enter a state prison as convicted felons, almost all of them will be allowed to visit with up to four members of their families in person, in the same room, with no glass between them, and brief hugs allowed upon arrival and exit. Some prisons even have picnic areas.

In Knox County, however, innocent or guilty, arrested for a felony or misdemeanor, those inmates only get a video screen. On April 14, the Knox County Sheriff's Office ended all face-to-face visitation in favor of a newly installed video visitation system, free on-site or at a cost of 40 cents per minute from your own computer.

The agency says the system is a boon for families and for inmates, and that it will improve safety and reduce contraband. A press release from Pay-Tel Communications announcing the installation states, "Inmate-facing kiosks were recently installed at the Knox

County Detention Center. These units (provided at no cost to the facility by Pay-Tel and Tech Friends, Inc.) will not only streamline the operations at the jail, but will also provide new opportunities for inmates to stay in touch with friends and family. ...

"With soaring gas prices, driving to visit a loved one in jail can be a financial burden. And even after showing up, visitors must be checked in, processed and wait in the queue. Not only is this process a hassle for the visitors, it also costs taxpayers as it is labor intensive. The new kiosks will go a long way to remedy this situation. ... The charge for a 15-minute remote visit is \$5.99—less than two gallons of gas!"

What the press release didn't say is that inmates can no longer be in the same room as their loved ones. What the press release didn't say is that for every 15-minute remote session, KCSO will be pocketing \$2.62 of that \$5.99. What the press release didn't say is that those fees could increase in September.

What the press release also didn't say is that many local attorneys are furious. Lawyers will still be allowed to visit inmates face-to-face, but those who regularly represent indigent clients say that's not good enough.

"If [families] are going to have to drive out to the detention center for a free visit, why can't they see [inmates] in person?" says Mark Stephens, the Knox County Public Defender. "I think it is a cruel thing to do. To be cut off from contact with your child when you're presumed innocent? That sounds like punishment to me."

Stephens is not alone in his outrage. Peter Wagner, the Executive Director of the Prison Policy Initiative, a national non-profit that researches criminal justice policy and advocates reforms, is even more blunt.

"This is such a uniformly bad idea, I'm kind of speechless," Wagner says.

There's sociological data that backs him up—quite a bit of it. But if limiting inmate visitation is so damaging, why are so many Tennessee jails moving in that direction? Are a few hundred thousand dollars added to the annual budget worth the psychological cost to human lives?



GETTING DEFENSIVE: Knox County Public Defender Mark Stephens calls the decision to end face-to-face visitation in jails "cruel." Photo courtesy Knox County

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The announcement of the video visitation system earlier this year came as a shock to most local criminal attorneys. But when Knox County Commission voted to approve the system back in September 2012, there wasn't any discussion—the item was on the consent agenda.

In Commission's work session the week before the meeting, only two commissioners even asked about it. Amy Broyles asked how the system would work, and KCSO's Allison Rogers said that it would improve efficiency at the jail, since inmates would no longer need correctional officers to escort them to visitation.

Then Dave Wright asked about the terms of the contract.

"This generates dollars, right?" Wright asked.

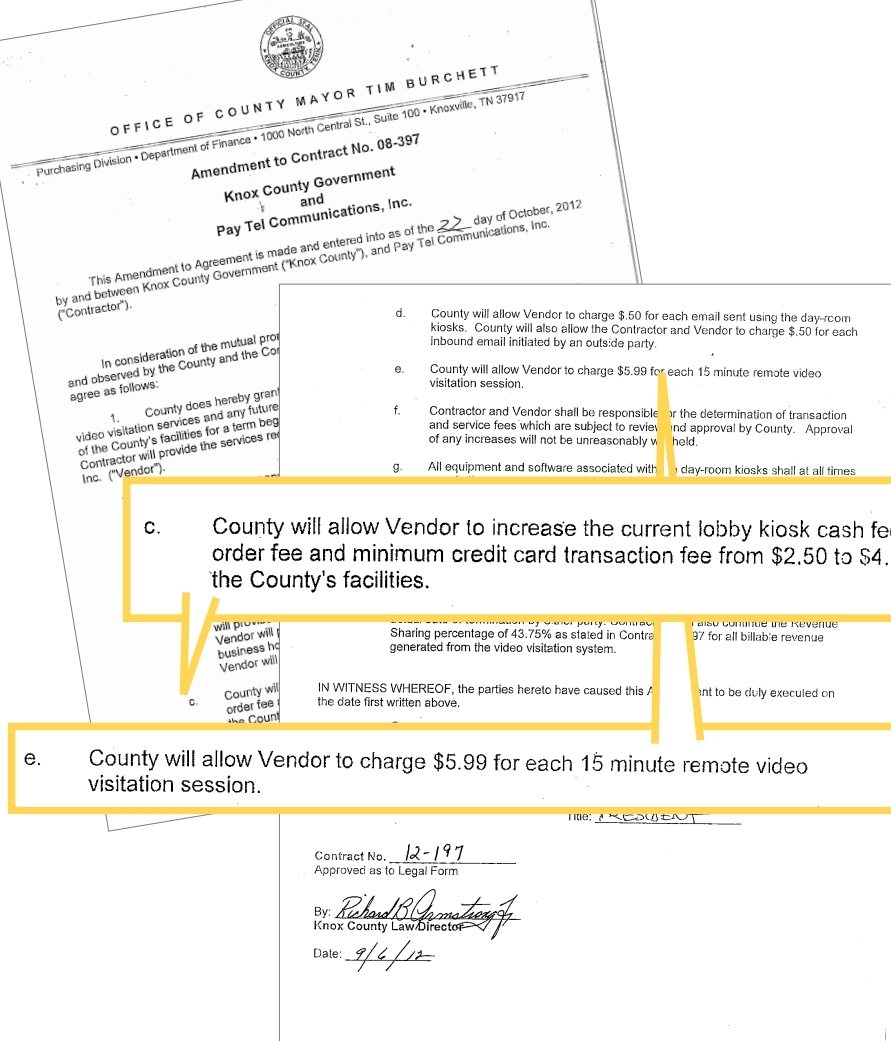
"It should," Rogers said.

The entire discussion lasted two minutes.

The contract was actually an amendment to KCSO's existing contract with Pay-Tel Communications, which provides phone services for the jails. (Current rates: \$2.84 for each local phone call; \$4.60 for each 10-minute phone call to elsewhere in Tennessee; \$7.10, plus unspecified "taxes and fees," for each 10-minute out-of-state phone call.) The document stated the company would dispense 45 computerized kiosks at no cost to the county, provided every 15-minute video session would cost \$5.99. The county would receive 43.75 percent of those fees.

That's potentially a lot of money for Knox County. Any revenues go straight to the county's general fund—they don't stay with KCSO. Hypothetically, if all three facilities were at full capacity for a year, and every inmate took advantage of the four 15-minute remote visitations allowed each week, that would be a whopping

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SAFETY CENTER: Knox County Sheriff J.J. Jones and his staff say the main reason for the switch to video visitation is safety. Photo courtesy Knox County

IT'S A CONTRACTUAL FACT: in 2012, Knox County Commission approved an addendum to Pay-Tel Communications' contract for phone systems in the jail to allow video visitation sessions and e-mails. No one noticed.

\$730,966 annually. Meanwhile, Pay-Tel would take home almost \$940,000. Of course, it's highly unlikely all the jails will be that full all the time. Using the 2014 average-to-date of 1,075 inmates, KCSO could still rake in \$585,972 over the course of a year—more than enough to cover the 20 percent staff salary hike Sheriff Jimmy “J.J.” Jones is floating. Realistically, video visitation probably won't make quite that much money for the county, even if the jail population rises. Many families will still choose the free visits on-site. Other families will only opt for one or two visits a week, or a month—\$5.99 per visit adds up. If inmates are in jail because they can't make bail in the first place, it's not a stretch to assume their families don't have an extra \$1,246 in the annual household budget—the cost of a full hour of visitation every week for a year. And that's if they have a credit

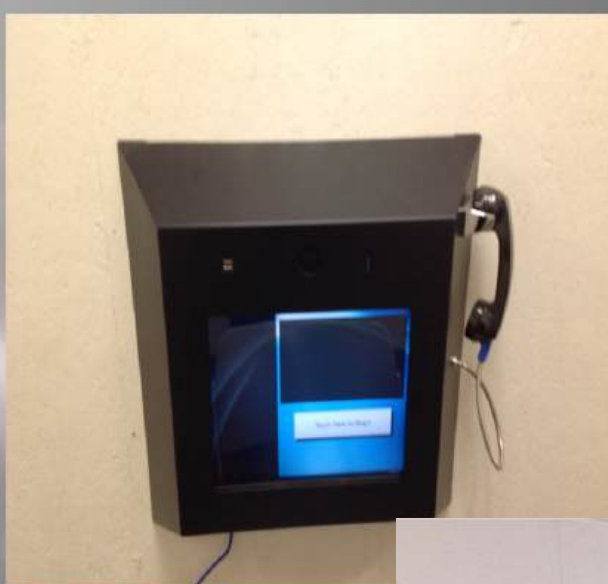
or debit card to begin with, which is required to use the remote system. Still, however much the county ends up averaging, it's pure profit. And that's pure profit on top of the money generated from each e-mail sent or received at 35 cents apiece (KCSO lowered the rates from the contract's 50 cents), on top of the \$4.95 fee each time family or friends deposit cash in an inmate's commissary account (10 percent of the amount deposited if they use a credit card instead), on top of revenues from phone calls. Knox County gets 43.75 percent of all of those charges and fees, every time. And Pay-Tel gets the rest. Pay-Tel paid for the \$225,000 of equipment and its installation. (That's KCSO's estimate; Pay-Tel wouldn't comment on the cost.) Pay-Tel will pay for any future repairs or upgrades. According to Wagner, Pay-Tel wouldn't

spend that money if the company wasn't going to make even more. “For a phone commission, 43.75 percent is high, although far from the highest,” Wagner writes in an e-mail. “But this commission sounds higher than most for the video visitation, and I note that the cost is lower than many I've seen. That, at least to me, confirms that the real cost of providing video is quite low.”

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Here's how the video visitation works: If you have a computer, and if that computer has a webcam and a microphone, and if you have Internet access or can take your computer somewhere that does, you can log in to JailATM.com and set up an account.

You have to have a credit card, and you have to provide your name and address and driver's license number (or officially issued state identification or passport number), and you're encouraged to provide your Social Security number, too. Once your account is approved—it isn't instantaneous—you can schedule visits with an inmate. When the set time rolls around, you log on. The inmate logs on. And then you can both see each other and talk, much like Skype—except remote video visits on Skype are free. But if you can't afford that 40 cents a minute, you can trek out to a newly renovated section of the Work Release Center on Maloneyville Road, next to the main detention facility in the northeast part of the county. (You have to have a car, or a friend to drive you—buses don't run that far out.)



Public Visitation at Work Release Center

SHATTERED GLASS: Gone are the glass booths used for visitation with inmates, replaced by touchscreen video kiosks for visitors (above left) and inmates (below). Would-be visitors who own computers can log in and visit remotely (below left), but it isn't cheap. Photo courtesy Knox County

*"Living without them is hard
Showing them you care isn't."*

Back Sign In

Commissary

Email Inmate

Video Call

Gift Packs

Photo courtesy JailATM.com



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At the end of March, two weeks before the kiosks went into use, KCSO's director of corrections, Chief Rodney Bivens, and the second-in-command at the detention center, Capt. Terry Wilshire, held a media event to explain how the video visitation system would work.

The inevitable PowerPoint presentation was followed by a demonstration, some questions and answers, and a lot of gushing praise.

"I think this is a true benefit to families," Bivens said. "With video visitation, [children] wouldn't even have to know [their fathers] are in jail."

"For families, this is priceless,"

Wilshire added a minute or two later. "This is a great thing! [Inmates] can actually see their pets."

In an interview afterward, Bivens and Wilshire expounded upon the advantages of video visitation. Bivens said visiting from home actually increases the likelihood of families getting to see inmates.

"Certain days of the week, if your visit comes up on that day of the week, like a weekend, where most people are off, the detention facility is packed," Bivens said. "And then we get to a maximum number, and we're like, 'If you're waiting to visit, you have to go home. We don't have no room. You're going to have to come back next visitation day.'"

Besides, Wilshire noted, visiting the jail isn't fun.

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TOUCH ME NOT: Knox County Sheriff's Office head of corrections, Chief Rodney Bivens, says the jail is meeting state standards. "[They] don't say you have to be able to touch me. ... It says, you have to have a visit." Photo by David Luttrell

"It's uncomfortable," Wilshire said. "It's a standing booth, it's cold, it's got that big glass there—there's no more contact with a child there [than with a video]."

Bivens recalled one instance where a younger woman beat an older woman over the head with the latter's cane when she refused to switch seats.

"We have heated arguments out there in the lobby," Wilshire added. "It's dangerous. It's dangerous for the public. It's a lot safer to sit at home and watch this than be out there."

Even critics of video visitation acknowledge some benefits that remote sessions can provide. Mothers don't have to travel with small children or pay for a baby-sitter. Visitors don't have to worry about their attire meeting a dress code or getting searched. Family members who live across the country can still "visit" without the expense of traveling to Knoxville.

"I can see it being a good thing if it's offered as a supplement to regular visitation," says Tom Castelli, the legal director for the Tennessee branch of the American Civil Liberties Union. "But why are we making money off that?"

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According to Bivens, KCSO has been considering video visitation "since the early '90s." That's a slight exaggeration, as the first inmate video visitation system in the country wasn't installed until 1995 in Brevard County, Fla. Still, the corrections industry has been promoting the technology from the get-go.

A 1997 article from *Corrections Today*, the professional publication of the American Correctional Association, touts the system's nascent success: "Video visitation cuts down on the time required to transport and screen inmates and visitors. ... Video visitation also cuts down on staff. Prior to the installation of video visitation, Brevard County Jail was using four staff members to conduct visitation. Today, only one staff member is assigned to that task."

In the ensuing years, saving money on salaries has been a big part of the switch to video visitation. Knox County is

actually behind most of its neighbors, like Scott, Sevier, Roane, Anderson, Hamblen, and Union Counties, all of which have replaced face-to-face interactions with video visitation in recent years.

"If you've got a jail that's been built in the last few years, it's got video visitation," said a deputy at Roane County's jail.

There's one difference, though—none of those counties are making money off their video visitation systems. They paid for the equipment themselves.

Of course, none of those jails are offering remote visitation either. But in either case, says University of Tennessee sociology professor Michelle Brown, restricting inmates to video contact only is a terrible idea.

"What criminologists have found is ... a consensus that [visitation restrictions] might make sense from a custody-management perspective, but not from a crime-control perspective," Brown says. "There's very little debate on this."

Brown explains that study after study has shown visitation restrictions actually

increase rates of recidivism.

"Moving to a non-contact environment has very clear-cut negative psychological effects," Brown says. "It increases the level of dehumanization in the environment. And the other thing is it becomes a human-rights issue."

Brown's words are echoed by a number of local criminal-defense attorneys.

"I don't think you can effectively rehabilitate someone if you warehouse someone with no contact outside," says Josh Hedrick, a Knoxville lawyer who regularly represents indigent clients. "You can be hard on crime and keep compassion for a person. It's even harder for inmates to reintegrate with the community when you limit their contact with the outside world."

David Skidmore, who's worked in the public defender's office for 20 years, is equally passionate.

"I can tell you it is a minimal problem to get people down there [to the visitation pods]. It's a minimal discomfort to [the officers], but it's everything on Earth to that guy locked up to see that bouncing baby in front of the glass."

Skidmore also raises concerns over the new recording policy; previously phone calls were recorded but visits were not. Now, both are—and anything said can be used as evidence at a trial.

"I've had clients convicted because of their phone calls. This is going to be the same thing," Skidmore says. "This is going to affect my [clients] very, very badly. Those visits are the only thing that keep them human."

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Last year, KCSO had \$872,766 in revenues from commissary fees. That includes revenue from Pay-Tel for phone calls and ATM fees, snacks, haircuts, toothbrushes, soap—everything that inmates purchased, over cost, for 12 months. The amount was an increase of \$33,333 over the previous

year. This year, that number should rise even higher.

Bivens says this revenue is a “benefit to taxpayers” and is “taking away the taxpayer’s burden” of paying to house and feed inmates. But some of those taxpayers are the families and friends of inmates, now tasked with shouldering the excess fees.

“Most of my clients have relatives who are literally worried about keeping the power on at their homes, or being kicked out if they live in subsidized housing,” says Julie Gautreau, a lawyer in the public defender’s office.

Hedrick echoes her fears. “It’s the cost that upsets me. Some of these people are on the razor’s edge,” Hedrick says. “The county shouldn’t be making money off the backs of our poorest members of society. Because that’s who it is—the wealthy ones make bond.”

Pay-Tel’s contract is up in September. Although the county has the option to extend it, Bivens says the entire communications contract—phone, e-mail, and video—will be rebid.

The resulting contract, whether with Pay-Tel or another company, could have lower fees for inmates. Or they could be higher. According to Wagner’s research, some companies charge as much as \$1 per minute for video visits.

Wagner is hoping the Federal Communications Commission will eventually issue regulations limiting the fees that can be charged for video visitation, but he’s not expecting it to happen anytime soon.

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It’s not news that the United States has an incarceration problem—according to the Prison Policy Initiative, “The U.S. incarcerates 716 people for every 100,000 residents ... more than five times higher than most of the countries in the world.” It’s also not news that the South’s incarceration rate is higher than the rest of the U.S. If Tennessee were a country, it’d be 19th in the world for its number of inmates—740 people for every 100,000 residents. That’s lower than the incarceration rates of neighboring states Mississippi,

Georgia, Kentucky, Arkansas, Alabama, and Virginia, but that’s still a huge portion of the population locked up.

The Tennessee Corrections Institute is the state agency responsible for ensuring local jails meet minimum standards and abide by state and federal laws. One of those state laws says, “The defendant’s spouse and counsel, whether the counsel is employed by the defendant or appointed by the court, shall be allowed access to the defendant at all reasonable hours.” And one of TCI’s policies states, “Children shall be allowed to visit their parents.”

Bivens says video visitation meets these qualifications.

“The Tennessee standards don’t say you have to be able to touch me, or anything like that,” Bivens says. “It says, you have to have a visit, and they’re getting a visit.”

We asked TCI if eliminating all in-person visitation could be a violation of these policies. Spokesperson Katelyn Abernathy responded in an e-mail, “Visitation policies are determined by individual facilities. TCI reviews these policies to determine compliance. Questions related to Knox County policies should be directed to their administration.”

Abernathy also confirmed, “TCI does not track the type of visitation utilized by each facility.”

That’s right—the state agency in charge of overseeing local jails has no idea what the visitation policies are at any of those facilities. This doesn’t sit well with Alex Friedman, the managing editor of the monthly magazine *Prison Legal News*.

“From the responses, it sounds like TCI doesn’t know much or provide much oversight over the policies and practices in effect at local jails. That isn’t surprising, though; there has never been

effective oversight or monitoring of jails in Tennessee. The TCI standards are very broad and, as illustrated by video visitation, for example, do not address specific policies or practices,” Friedman writes in an e-mail.

Although *PLN* is a national publication reporting on criminal justice, Friedman actually lives in Tennessee, near Nashville. He’s also spent time in a Tennessee jail himself—10 years, back in the 1990s. Since getting out, he’s become an activist and expert on prisoners’ rights, and he’s

not afraid to file a lawsuit.

Friedman currently has a lawsuit pending in Sullivan County over its postcard-only mail policy—a policy Knox County adopted in January, two months after Sullivan jails rescinded its restrictions. In March, *PLN* won a lawsuit in Oregon over a similar policy and was awarded over \$800,000 in fees and costs.

So far, Friedman says, there hasn’t been a lawsuit that he knows about over video visitation policies. Wagner says he hasn’t heard of one either. The ACLU has noted concerns over video visitation since at least 1998, and Castelli says policies like Knox County’s

raise “serious constitutional issues.” But until someone sues, until a court decides that restricting a pre-trial detainee’s right to see his or her family in-person is illegal, video kiosks are here to stay. And for some families of inmates in Knox County, it’s a hard pill to swallow.

“I have not committed a crime, but I have to pay to communicate with my son!” says Dwight Hardin, whose son is in jail. “I can pay the cost, but when you total it up, Pay-Tel is getting rich. ... And you know, I like to sit and talk to my son. I don’t want to talk to a computer.”

“This is going to affect my [clients] very, very badly. Those visits are the only thing that keep them human.”

— DAVID SKIDMORE,
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