



The
PRISONS AND CORRECTIONS SECTION
respectfully submits the following position on:

Prisoner Telephone Calls Policy Position

The Prisons and Corrections Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Prisons and Corrections Section only and is not the position of the State Bar of Michigan. To date, the State Bar does not have a position on this matter.

The total membership of the Prisons and Corrections Section is 145.

The position was adopted at a meeting of the Section's Council. The number of members in the decision-making body is 14. The number who voted in favor to this position was 9. The number who voted opposed to this position was 0. The number who abstained from this position was one.



Report on Public Policy Position

Name of Section:

Prisons and Corrections Section

Contact Person:

Daniel E. Manville

Email or Phone:

dmanville@wayne.edu

248-890-4720

Regarding:

Prisoner Telephone Calls

Date position was adopted:

March 4, 2006

Process used to take the ideological position:

The Policy Statement was presented to the members of the Council and a discussion was held. It was moved that the Policy Statement be adopted and it was.

Number of members in the decision-making body:

10 voting members

Number who voted in favor and opposed to the position:

9 voted yes; zero voted no; one abstention

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

Arguments for the position:

As the MDOC moves deeper into a well-planned re-entry initiative, it is critical that prisoners are given the opportunity to establish strong ties with their support networks in the free-community. Using the telephone as a form of communication and relationship building is vital to thousands of prisoner who are separated from their loved ones by hundreds and hundreds of miles.

Many people who are incarcerated come from families who have lower to middle incomes. The extra burden placed upon families of paying exorbitant amounts of money for a fifteen-minute telephone call is excessive and unjust.

There is a trend nationally for reduction in telephone rates that are charges to prisoners. This trend is reflected by the actions taken by the introduction of a bill in the United States Congress to ensure more reasonable rates.¹ The American Bar Association has also passed a resolution in support of the creation of fair and reasonable telephone rates for prisoners and their families. The Bar is in favor of creating the lowest rates possible for prisoners and their families.²

The Michigan Department of Correction's phone service for prisoners is provided by Sprint. The \$67,500,000.00 contract with Sprint runs from July 7, 2001 through July 6, 2006.³ The Prisons and Corrections Section has been invited to give input on the criteria for the new contract. This policy position presents six major recommendations that the Section believes should be made a part of the new contract.

¹ ***Federal Legislation: H.R. 4466: Family Telephone Connection Protection Act of 2005; Sponsor: Rep Rush, Bobby L. [IL-1] (introduced 12/7/2005) Cosponsors (None)***

Family Telephone Connection Protection Act of 2005 - Amends the Communications Act of 1934 to direct the Federal Communications Commission (FCC) to consider the following types of regulation of inmate telephone service: (1) prescribing a maximum uniform per-minute rate (paid to telephone service providers); (2) prescribing a maximum uniform service connection or other per-call rate; (3) prescribing variable maximum rates depending on factors such as carrier costs or the size of the correctional facility; (4) requiring providers of inmate telephone service to offer both collect calling and debit account services; (5) prohibiting the payment of commissions by such providers to administrators of correctional facilities; and (6) requiring such administrators to allow more than one service provider at a facility so that prisoners have a choice. See Library of Congress <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR04466:@@D&summ2=m&>

² Language of the ABA's Recommendation, "Resolved, that the American Bar Association encourages federal, state, territorial and local governments to afford incarcerated people every reasonable opportunity to maintain telephonic communication with the free community consistent with the constraints of sound correctional management principles, and to offer the broadest possible range of telephonic services and pricing options in the correctional setting at the lowest possible rates."

³ An extension was recently granted to take the contract through July 6, 2006.

Problem 1—Commission Rates

Currently, prisoners' families, friends, and attorneys are charged the following rates every time a prisoner makes a collect telephone call for fifteen-minutes:⁴

Local Collect: \$2.00
IntraLATA Collect: \$4.10
InterLATA Collect: \$7.83
InterState Collect: \$17.34

The DOC incurs a commission from the gross revenue that is collected by Sprint. This commission rate is 50.99% and results in a revenue stream of \$13.5 M in commission dollars.

Recommendation 1— Reduction and Elimination of Commission Rates

The commission rate should be set so that no one makes money off of prisoners' calls. Ideally, a commission would not exist at all; however, if it is necessary the commission rate could be adjusted to cover MDOC operating costs. The commission rate could be phased out over a period of five years.

Problem 2—Debit Call Rates

In 2005 the MDOC amended the current Sprint contract so that prisoners would be able to make debit calls from prison. Prisoners now have the choice to put money into a pre-paid account. The burden of payment then falls on the prisoner rather than on his/her family, friends, or attorney. However, the rates of a debit call are exactly the same rates as a collect call. "Michigan is the only state that provides debit calling at the same rate as collect calling."⁵

This is not the case in other States that use both collect calling and debit calling. At least 12 states and the federal system offer debit calling at reduced rates (CO, KS, MD, MN, NE, ND, NM, OR, PA, SD, TN, VT).

Out of 45 states that the Campaign to Promote Equitable Telephone Charges was able to maintain rate data from, MI has the 12th highest rates for both debit and collect calls in the Nation.⁶

⁴ LATA definitions: Local Access and Transport Area (LATA)--A geographic area established for the provision and administration of communications service. It encompasses one or more designated exchanges, which are grouped to serve common social, economic and other purposes.

IntraLATA—Communication within a LATA

InterLATA—Communication between two different LATAs

Intrastate—Communication to and from locations within a state

Interstate—Calls from one state to another.

⁵ From The Campaign to Promote Equitable Telephone Charges, <http://www.etccampaign.com/etc/national.php>

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A Sampling of Collect Call Rates Versus Debit Call Rates in 7 States:

	MI	CO	NM	MD	MN	IA	NE
Local Collect	\$2.00	\$2.46	\$2.15	\$0.85	\$1.75	na	\$1.00
IntraLAT A Collect	\$4.10	\$5.11	\$4.38	\$7.05	\$4.95	na	\$1.80
InterLAT A Collect	\$7.83	\$6.60	\$4.38	\$7.05	\$6.45	na	\$2.25
InterState Collect	\$17.34	\$17.30	\$10.50	\$7.20	\$11.75	na	\$3.75
Local Debit	\$2.00	\$1.25	\$1.80	\$0.50	\$0.35	\$2.00	\$0.80
IntraLAT A Debit	\$4.10	\$4.00	\$3.60	\$4.50	\$5.10	\$4.85	\$1.50
InterLAT A Debit	\$7.83	\$4.10	\$3.60	\$4.50	\$5.10	\$5.68	\$1.80
InterState Debit	\$17.34	\$4.10	\$7.50	\$4.50	\$5.10	\$7.50	\$3.00

Rates in Chart from The Campaign to Promote Equitable Telephone Charges

In the MDOC/ Sprint contract, Sprint asserts that the debit management system, “Eliminate[s] the need for an inmate to use administrative phones to place collect calls to attorneys and others who do not accept collect calls, and afford a lower calling rate to the inmate and the called party. Sprint will offer the same premise fee to the State for debit-based calls as for collect calls, but will also be open to offering further reduced rates for the calls in lieu of a portion of the premise fee to the State (Contract 54).”

The State has chosen to not reduce the rates for debit calls.

Recommendation 2—Reduction of Debit Call Rates

The MDOC should reduce the rates of Debit Calls so that the rates are fair and reasonable and comparable to Debit Call rates in the free-community. There should be no mark up on Debit Calls.

Problem 3—Phone Blocking caused by Discrepancies with Billing

Currently, if a family member, friend, or attorney does not use a telephone provider that is compatible with Sprint via Evercom, he or she must provide pre-payment into an account. The minimum amount that must be in the account is \$50.00.⁷ The loved one or attorney is given telephone announcements that provide the amount of

⁷ According to the *Sprint Telephone Service Guide: General Instructions and Debit* (in this case debit refers to the pre-payment account for non-Sprint compliant phone company users) *Management System*, “The account is established with a minimum payment of \$50.00 required in a guaranteed form such as Western Union, Cashier’s Check, or Money Order. Sorry, no personal checks accepted.”

money left in the account, but he or she is never provided with an actual written statement regarding the status of the account.

If there is not money left in the account the person's phone is blocked. There are times when prisoners' loved ones' phones are blocked for no apparent reason.

Recommendation 3—Removal of Phone Blocks caused by Discrepancies with Billing

Phones should only be blocked for security reasons or if a person receiving phone calls has failed to pay for prior phone calls from a prisoner. People should not be penalized for failure to pre-pay on an account that they do not receive billing statements. Furthermore, the RFP for the new contract should clearly state that the company who is chosen must have a consistent billing service that recognizes all major phone service providers in the nation. People should not be forced to use Sprint as their phone provider, so that the billing process runs more smoothly.

Problem 4—No Calls Allowed to Cell Phones

Currently, prisoners are not allowed to make calls to cell phones. Many people have chosen to use cell phones as their primary phones, because cell phone rates are often lower than landline rates. The current contract does not mention problems with technology; it simply states that prisoners cannot complete calls to cell phones.

Recommendation 4—Allow Prisoners to Make Calls to Cell Phones

Absent a showing of legitimate security issues, prisoners should be able to make telephone calls to cell phones. If there are technical alterations that must be made in order to implement a Department wide policy for calls to cell phones, this should be negotiated in the contract.

Problem 5—Excessive Branding for Attorneys

While talking to a prisoner on a collect call or a debit call, a brand (a electronic statement issuing a warning about where the calls is originating from) comes through the telephone at least 3 times. These brands cut seconds off of an already expensive fifteen-minute call. An attorney who accepts a call from a client is well aware that he or she is speaking to a prisoner (as are most people who accept calls from prisoners).

Recommendation 5-----Remove Brands for Attorneys

The branding on attorney calls has now been eliminated. It is recommended that the practice of not branding on attorney calls be continued.

Problems 6-----20 Minute Time Limit on Calls to Attorneys

Calls to attorneys are limited to 20 minutes. This time is too short for legal calls. Generally, this short period will result in one or two more calls back to that attorney.

Recommendation 6-----Calls to Attorneys

The time limit for each call to an attorney should be increased to thirty minutes. If more phones are needed on the premises as a result of the increased length of attorney calls, more phones should be added.

Summary

In Summary, the Prisons and Corrections Section recommends that the State of Michigan and the Department of Corrections make every attempt to negotiate a telephone provider contract that provides fair and reasonable rates for prisoners and their families, friends, and attorneys. Furthermore, the contract should consider the needs of this specific population. The telephone is a major tool for prisoners to stay connected to their support networks and prepare for eventual reintegration back into the community. Therefore, efforts should be made to make the process of calling loved ones smooth and affordable. The six recommendations listed above will help facilitate a more equitable telephone system for prisoners, and the recommendations help to support the important work of the MDOC's re-entry initiative.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

N/A

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments against the position (if any):

None reported

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

To date, the State Bar of Michigan does not have a position on this matter.

Fiscal implications of the recommended policy to the State Bar of Michigan:

None to the State Bar of Michigan.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

The regulation and discipline of attorneys

The improvement of the functioning of the courts

The availability of legal services to society

The regulation of attorney trust accounts

The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller- permissible explanation:

This does not impact on any of those listed above.