

**“When is a Collect Call Cruel and  
Unusual Punishment”**

**Panel Discussion: Prison Inmate  
Telephone Systems**

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### Prison Inmate Telephones

The Institutional Telecommunications Service (ITS) industry evolved in the late 1980's, as state prison populations began to increase significantly with inmates convicted under new crack cocaine sentencing laws. Crack cocaine is the only drug for which the first offense of *simple possession* can trigger a mandatory minimum sentence. The industry has steadily flourished. A study conducted at the end of 1998 for the Florida Legislature, found "11 of 12 states with the largest prison populations collected money that way." <sup>1</sup>

Historically, (despite Sprint's assertion before the Georgia Public Service Commission that it, "attempts to interpret RFPs in a manner that offers the lowest cost services to customers, as opposed to proposing high commissions to state and local government agencies.")<sup>2</sup> states pick the phone company that gives them the largest commission, not the lowest rates for prisoners. Families of inmates are required to pay rates twenty-four hours-a-day, seven-days-a-week that are comparable to rates charged for operator-assisted calls from airports and hotel rooms during peak hours. "The competition is not to provide the most reasonably priced telephone service; it's a competition to see who can pay the state the most money, and that itself drives the collect-call prices higher."<sup>3</sup> In 1997, New York collected a 40 percent commission from MCI worth a staggering \$20 million. In December 1999, New York negotiated a whopping 60 percent commission with the company. "California gets the same commission percentage from all phones on state property. But the per minute rates and surcharges are much higher in prison. California gets about 75 percent of its pay phone revenues from prisons even though they represent only 25 percent of the total phones on state property."<sup>4</sup>

Maintaining contact with family members is essential to inmate rehabilitation. "Families are the most effective rehabilitative tool we know of," says Alice Green of the Center for Law and Justice.<sup>5</sup> The Florida House of Representative issued a report that found "the 70 percent of prisoners who maintained contact with a family member were less likely to get rearrested during

their first year out of prison. Those who had no contact were six times more likely to return to prison in their first year."<sup>6</sup>

In addition to collecting commissions, prison administrators hold the sentiment that the high telephone costs are additional punishment for inmates and "a means to offset their cost of incarceration."<sup>7</sup> (New York State Department of Corrections spokesman) "We give (inmates) a warm, dry safe place to sleep, safer than some of the places they come from, and that costs money. And we're going to find ways, like this, to get money."<sup>8</sup> (Michigan Department of Corrections spokesman)

However, it's not the inmates who pay for the calls, it's the people they call who pay, since only collect calls, replete with surcharges and per minute costs are allowed. "It's the inmates' relatives that are being gouged."<sup>9</sup> Typically, inmates do not hail from affluent families. "For the state to make money off the people who can least afford to pay these rates is reprehensible."<sup>10</sup> The high commissions are particularly egregious when taking into consideration the fact that the states do not pay to install, maintain or operate the phone systems. Services provided under ITS contracts are provided at no cost to the state or local government agency.

AT&T and other providers cite the added costs of anti-fraud equipment needed at correctional facilities as justification for the fees. The service providers cite costs in providing secure inmate telephone systems to protect citizens from harassing and fraudulent phone calls from inmates. These systems call for "expensive" on-site inmate telephone equipment, computer and recording equipment that uses "privately developed" software, hardware specifically designed and built for inmate phones to withstand "frequent" physical abuse and the cost of additional personnel required to service and repair the phones and computers in the institution. They also cite the "additional correction costs" commonly referred to as "bad debt or uncollectibles." In most markets, the bad debt is less than 10%, for the ITS market it's 20-25%. A growing concern of

these companies is their inability to collect on inmate calls placed by other competitive local exchange providers (CLECs). Some CLECs will not accept collect call records from other companies. This prevents the ITS provider from collecting revenue for a call placed to a called party served by a CLEC. AT&T estimates about 10 percent of calls placed from institutions are to customers served by CLECs. They cite the cost of blocking these collect calls as an additional expense. A September 15, 2001, article on [www.xchangemag.com](http://www.xchangemag.com) quantified the total industry losses annually to Code 50 Rejects to be in excess of \$1 Billion. Nevertheless, the companies cite the commissions paid to the institution for the right to provide ITS is the largest expense for an ITS provider.

Vendors who sell anti-fraud equipment to AT&T dispute AT&T's claims that the cost of providing secure inmate telephone systems to protect citizens from harassing and fraudulent phone calls from inmates drives the expense. "In recent years the price of equipment has dropped significantly, and you haven't seen the surcharge go down." (James Burton, president of Telequip Labs)<sup>11</sup>

Although monikered "honest mistakes," the industry admits to deceptive or misleading practices that include: charging intraLATA rates for a local call or interLATA rates for an intraLATA call, adding untariffed charges to the call, requiring person-to-person for all calls by default without offering the inmate an option on how to place the call, billing for calls the called party refused to accept, carriers unduly limiting the time of the call so the inmate has to place another call in order to keep talking and the called party incurs additional call set-up charges, charging customers higher rates than those quoted, adding additional surcharges that were not included in price quotes, charging rates that exceed the company's tariff rates and charging for calls that last longer than the time limit imposed by the institution.

The families of inmates are viewed as criminal when they attempt to circumvent the high fees. The industry's "honest mistakes" are viewed as "opportunities for fraud" when attempted by the

inmate's families and friends. "The situation has created a new fraud opportunity wherein inmates encourage their families and friends to obtain local telephone service with a CLEC to avoid paying for the collect calls."<sup>12</sup> Or, "Today customers have discovered they can deny all knowledge to LEC customer service representatives and have all inmate calls taken off their bills."<sup>13</sup>

Pay Tel Communications (1700 coin phones in Georgia, South Carolina, North Carolina and Virginia, "serving" 20,000 inmates throughout the Southeast) actually monitors calling patterns over a 24-48 hour period and contacts frequently called numbers to make sure the party accepting the calls knows the cost of the calls and the number of calls accepted. The company establishes credit limits for customers accepting a high volume of calls. Customers are also contacted about applying for credit or Pay Tel's Frequent Calling Debit Program with call discounts.

Another issued to be considered is where the commission money is spent. Some states use their profits to benefit the institution or prisoners by funding inmate welfare funds, paying for books, prison education programs, inmate-related expenses or AIDS/HIV treatment, education or programs. Others put the money in the state's general operating fund, providing no benefit to the people from whom it was collected.

#### Endnotes

1. *When Johnny Calls Home, From Prison*, New York Times; New York; December 1999.
2. Paul J. Eide, Senior Program Manager for Sprint's Government Systems Division, Testimony before Georgia Public Service Commission, December 20, 2001.
3. *Families Pay; the State Benefits. Collect Calls cost Pennsylvania Inmates More*, KaTen E. Quiones, Inquirer Staff Writer.
4. *Heavy Toll on Calls From Prison/Inmates' Families Accuse State, Phone Companies of Price Gouging*, San Francisco Chronicle, San Francisco, California, June 14, 1999.
5. *When Johnny Calls Home, From Prison*, New York Times; New York; December 1999.
6. *Heavy Toll on Calls From Prison/Inmates' Families Accuse State, Phone Companies of Price Gouging*, San Francisco Chronicle, San Francisco, California, June 14, 1999.
7. *When Johnny Calls Home, From Prison*, New York Times; New York; December 1999.
8. *Prisoners' Calls Can Be Costly for Families*, Detroit News, Detroit, Michigan, October 15, 1998.
9. *Families Pay; the State Benefits. Collect Calls Cost Pennsylvania Inmates More*, KaTen E.

Quiones, Inquirer Staff Writer.

10. *Senators Urge End to Fees on Prison Calls/Critics say Phone Policy Gouges Inmate Families*, San Francisco Chronicle, San Francisco, California, August 17, 1999.

11. *Families Pay; the State Benefits. Collect Calls Cost Pennsylvania Inmates More*, KaTen E. Quiones, Inquirer Staff Writer.

12. John Vincent Townsend, President of Pay Tel Communications, testimony before Georgia Public Service Commission, December 20, 2001.

13. Townsend.

States with Pending Legislation per responses of NASUCA Consumer Protection  
Committee Members

Pennsylvania      Senate Bill 879, Session of 2001  
An Act amending Title 66 of Pennsylvania Consolidated statutes further providing for telecommunications services provided for state correctional institutions. Referred to Judiciary May 7, 2001  
House Bill 1402, Session 2001  
An Act amending Title 66 of Pennsylvania Consolidated statutes further providing for telecommunications services provided for state correctional institutions. Referred to Judiciary April 24, 2001

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Georgia              Georgia Public Service Commission held hearings January 16, 2002, re: high rates prisoners and their families pay for telecommunications services. Current rate of commission 65%. Final report pending. To access material from the case go to [www.psc.state.ga.us](http://www.psc.state.ga.us) and search for docket number 14530.

Per Kealin M. Culbreath, 404.656.4474, [Kealin.culbreath@cuc.oca.state.ga.us](mailto:Kealin.culbreath@cuc.oca.state.ga.us)

Indiana              Senate Bill 136. Would require state-run prison facilities to accept lowest rate for telephone calling system. Revenues from system would be applied toward capital improvement of correctional facilities. Would create The Correctional Facilities System Fund  
N.B. Includes use of collect calling services as SOLE means of confined offender communications with general population.  
House Bill 1225. Would cap revenues telecom providers earn from county jails to 33% of provider's net revenues.

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Iowa                  No legislation pending. Many complaints received. Consumer Affairs staff conducting research re: what remedies, if any available are available.

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South Carolina      Senate Bill 405. To provide that the state forgo any commission or other source of revenue derived from the placement of pay telephones in institutions of the Department of Corrections and Department of Juvenile Justice and to provide that the state Budget & Control Board shall ensure that the

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telephone rates charged for the use of these pay phones reasonably reflect this foregone state revenue. Polled out of committee without report.

House Bill 3877. To provide that the state forgo any commission or other source of revenue derived from the placement of pay telephones in institutions of the Department of Corrections and Department of Juvenile Justice and to provide that the state Budget & Control Board shall ensure that the telephone rates charged for the use of these pay phones reasonably reflect this foregone state revenue. Referred to Ways and Means Committee April 5, 2001.

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