Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

www.humanrightsdefensecenter.org www.prisonlegalnews.org

September 19, 2019

Iowa Utilities Board
1375 E. Court Ave.
Des Moines, IA 50319

Re: Docket No. NOI-2019-0001

To the Iowa Utilities Board:

The Human Rights Defense Center (HRDC) is the co-founder of the national Campaign for Prison Phone Justice, which is committed to improving communication between prisoners and their support networks. HRDC submits this comment to urge the Board to improve the regulatory framework for alternative operator services (AOS) companies that operate in prisons and jails in order to eliminate financial burdens on prisoners and their loved ones. Our goal is to underscore the need to regulate consistent, low prices in every prison and jail facility in this state and to regulate for improved transparency in the records provided by AOS companies to the public.

Response to Question 1 from the Board (Should all AOS companies' tariffs have consistent definitions for the services provided, identify the types of facilities where the service is offered, offer the same types of service, offer the same calling options, and contain the same requirements for billing and cancellation of service?)

It is imperative for consumer protection to provide standardized services between all jail and prison facilities in Iowa. As HRDC demonstrated in 2018 in the state of Washington, depending on the county in which a person is incarcerated, a 15-minute phone call could cost anywhere between $2.25 and $14.25[i]. In 2019, similar disparities were demonstrated in Utah; a call from a county jail was revealed to cost up to ten times as much as a call from the state prison[ii]. In Iowa, the lowest rate for a 15-minute telephone call from a county jail is $2.25 while the highest rate is $14.10—a sixfold increase, simply for being located in a different county[iii].

The incarceration of a loved one is stressful. Families should not have to face the additional stress of paying hundreds of dollars more for telephone service simply because a loved one was moved to a facility in a different county. There is no reason to allow a telephone company to exert such radical price differentials or to maintain such inflated costs overall; it's simply bad regulatory practices.

Response to Question 2 from the Board (What criteria or considerations should the Board use to determine whether rates charged by an AOS company are just and reasonable? This includes the basic rates and any ancillary rates.)

P.O. Box 1151, Lake Worth, FL 33460
Phone: 561-360-2523
Email: pwright@prisonlegalnews.org

Prisoners and their families benefit from a unified, low rate for prison and jail telephone calls. To effect these low rates, the Board must consider regulations that prohibit kickbacks (often called commissions) and other hidden fees.

The existing prison telephone business model only allows for contract negotiations between an AOS company and the state or county correctional agency, and the goal for both entities is to make as much profit as possible. One way that such an arrangement is facilitated is through the use of kickbacks—an amount of money, written into a contract, paid by AOS companies back to the jail or prison system. In order for an AOS company to continue making an exorbitant profit after this kickback is paid, the company will artificially raise the rates that must be paid by consumers. Kickbacks are, essentially, regressive taxes levied against some of the state's poorest and most vulnerable citizens to subsidize prisons and jails.

Another way that AOS companies inflate consumer prices is through so-called service charges and maintenance fees which are tacked onto the posted rates for telephone calls. One such fee that is currently in effect in several facilities in Iowa is a first-minute connection fee, which can add several dollars onto the cost of every telephone call[iv]. Prisoners and their families are also charged to establish telephone accounts, to add funds to pre-paid prison telephone accounts and more.

It has been reported that 34% of families of prisoners go into debt because of the costs of telephone calls[v]. This must change. Some states have already taken steps to end the financial exploitation of prisoners and their families, and these steps provide potential sources of regulatory language for Iowa. Possible ways to regulate prison and jail telephone calls include: barring a jail or prison from accepting kickbacks; capping the cost of telephone calls, including the removal of all exploitative fees; and bidding future contracts on the basis of which contractor can provide the best service at the lowest cost to the consumers who actually pay the bills – i.e., primarily prisoners' families. Many of these abuses derive from the monopoly contracts awarded to AOS companies, and could be regulated by removing the monopoly nature of such contracts.

Examples of significant measures to reform AOS service in jails and prisons across the country:

- California SB 81 (2007) reduced kickbacks for telephone services to zero from 2010 and later.
- Illinois HB 6200 (2018) caps telephone calls from Illinois prisons at $.07 per minute and stipulates that the Department of Corrections must contract with the vendor offering the lowest price to consumers.
- Nebraska Correctional Services Admin Regulation 205.03 (2011) waives rights to receive kickbacks connected to prison telephone revenues.
- New Jersey Revised Statutes C.30:4-8.11-14 (2016) caps per-minute rates for domestic debit/prepaid/collect calls at $0.11 per minute and international calls are capped at $0.25 per minute. Extra fees like surcharges or account set-up fees can no longer exceed the capped per minute rate. No correctional facility, private or public, may accept kickbacks.
- New Mexico § 33.14-1 (2011) removes kickbacks from telecommunication services contracts from state and county facilities.
- New York § 623 (2008) requires contracts to be bid based on the lowest cost to users. No revenue is collected beyond what covers operating costs. Additionally, New York City 741-A (2018) has made domestic telephone calls from New York City jails completely free of charge.
- Rhode Island § 42-56-38.1 (2007) ensures call rates shall be comparable to non-prison rates. No contracts shall include kickbacks or surcharges for telephone usage by prisoners beyond those imposed by the telecommunications provider.
- South Carolina § 10-4-210 (2008) requires state agencies to not accept kickbacks for pay telephones in adult and juvenile correctional facilities. The state ensures calling rates will be reduced to reflect a lack of kickbacks.

Response to Question 6 from the Board (What information regarding AOS service should be considered confidential and not available for public inspection?)

A pervasive lack of transparency has been allowed to exist with respect to AOS companies that operate in jails and prisons for far too long. The public has a right to know the terms of the contracts entered into by government agencies, which are funded with taxpayer dollars. All financial information about contracts with AOS companies should be publicly posted by jails and prisons—telephone rates, the kickback rates (and total kickbacks received), campaign donations and in kind contributions to agencies and elected officials who award contracts, all requests for proposals (RFP) and submissions in response to RFPs.

During our work to uncover the costs of telephone calls in jails and prisons, HRDC has been met with extreme resistance from correctional agencies and their contracted AOS companies. We were required to file a lawsuit to obtain records after prison telecom Global Tel Link (GTL) and the Mississippi Department of Corrections refused to produce its contract and related records under the guise of a protective order. The case settled in May 2009 and the records were finally produced.

Public records requests to gather AOS information remain a significant drain on our limited resources; we have been forced to enter into repeated litigation as a result of these requests, belying the notion that this information is "public." HRDC has also faced difficulties obtaining unredacted public records from the Pennsylvania DOC (where AOS companies GTL and Securus both intervened in the process) and from the Ohio DOC, under claims of "proprietary information" and "copyright." In 2015, the Illinois DOC summarily rejected our request for public records, including telephone contracts and documents related to commission kickbacks, as being "unduly burdensome." HRDC has paid thousands of dollars in copying and other fees to obtain this same basic data, which also belies the notion that the information is "free."

Recently, Mississippi DOC commissioner Charles Epps pleaded guilty to federal corruption charges stemming from—among other things—taking criminal bribes in exchange for awarding the prison telephone contract for the Mississippi DOC. Despite Epps' criminal conviction for accepting the bribes, the AOS retained the state contract[vi]. A lack of transparency and accountability allows corruption of every sort to grow and thrive with little public oversight or understanding of how the contracts are awarded, the actual cost of the prison and jail telephone services, and the enormous profits of AOS companies.

Requiring that contract, rate, fee and kickback data be publicly posted on agency websites will ensure both transparency and the ability of the public—as well as courts and regulatory agencies—to determine the reality behind AOS contracts. At a minimum, this secrecy must not be allowed to persist under the guise of confidentiality.

Conclusion

In conclusion, we ask the Board to consider motions to standardize and reduce the costs of telephone service in jails and prisons in Iowa, as well as to ensure that information about these services is truly accessible to the public. The lack of transparency that permeates every aspect of AOS companies is a critical component that has allowed the current situation of consumer exploitation to both exist and persist for so long.

Sincerely,

Paul Wright
Executive Director, HRDC

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[i] https://www.prisonlegalnews.org/news/2018/oct/12/washington-state-jail-phone-rates-increase-video-replaces-person-visits/

[ii] https://www.sltrib.com/news/2019/04/28/with-captive-customers/

[iii] https://www.prisonpolicy.org/phones/appendix_table_2.html

[iv] https://www.desmoinesregister.com/story/news/2019/05/31/iowa-ia-investigates-phone-call-costs-charged-polk-county-jail-inmates-aclu-naacp/1290761001/
[v] https://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf
[vi] https://www.prisonlegalnews.org/news/2018/apr/2/global-tellink-settles-mississippi-prison-bribery-case-25-million/

Attachment:

Prison Legal News, October 2018 article ("Washington State: Jail Phone Rates Increase as Video Replaces In-Person Visits")

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Washington State: Jail Phone Rates Increase as Video Replaces In-Person Visits

by Steve Horn and Iris Wagner

A comprehensive set of public records obtained by *Prison Legal News* from the Washington Department of Corrections (DOC) and most of the state's county jails indicates that the average cost of local and in-state phone calls made by Washington prisoners has steadily increased in recent years.

The records also demonstrate an ongoing shift toward video-based calling in county jails, which in some cases has resulted in the elimination of in-person, face-to-face visits. *PLN* uses the term "video calling" because "video visits" implies people are actually visiting each other rather than seeing their images on a screen. The records procured by *PLN* further indicate that some of the money generated from phone and video calling revenue at county jails, which is placed in Inmate Welfare Funds, is used to pay the salaries and benefits of jail employees instead of benefiting prisoners.

These developments have occurred despite the state's proclaimed desire to lower phone rates for prisoners and, ironically, are partly due to a cap on interstate (long distance) prison and jail phone rates imposed by the Federal Communications Commission (FCC).

Using Washington's Public Records Act, *PLN* obtained and reviewed telecom contracts for the Washington Department of Corrections and local jails in most of the state's 39 counties. The documents detail the accounting behind how companies like Securus Technologies, Global Tel*Link (GTL), Consolidated Telecom, Legacy Inmate Communications and others secure monopoly contracts with state and county officials.

The FCC took action during the Obama administration to reduce interstate prison and jail phone rates, capping them at $0.21/minute for debit and prepaid calls and $0.25/minute for collect calls. However, the agency's rate caps on intrastate (in-state) calls were struck down by the D.C. Circuit Court of Appeals on June 13, 2017, after FCC Chairman Ajit Pai, appointed by President Trump, ordered the agency not to defend its rulemaking related to intrastate rates. [See: *PLN*, July 2017, p.52; Dec. 2013, p.1]. Consequently, local and in-state phone rates are completely unregulated on the federal level – meaning they often cost more than long distance calls.

While in theory the FCC still intends to examine whether it has jurisdiction to regulate video calling, the agency has taken no steps in that direction. The county jail contracts obtained by *PLN* indicate that video calling has become a mainstay, and in fact has completely replaced in-person visits in at least 13 Washington jails.

Then there are the fees that family members must pay to prison phone companies to use their services, distinct from the phone and video calling rates – including fees to place money on prisoners' accounts and billing statement fees. Sources who spoke to *PLN*, both prisoners and family members, bemoaned the financial burden imposed by the combination of high phone rates and account-related fees.

All of these dynamics foretell a profitable future for the firms involved in the for-profit prison and jail telecommunications market. Which, in turn, means prisoners and their families will be hit the hardest simply for wanting to stay in touch.

Presently, video calling appears to be the fastest-growing service provided by prison and jail telecom companies.

Trend Towards Video Calling

Advocates seeking to reduce the cost of prison phone calls – including the national Campaign for Prison Phone Justice, co-founded in 2011 by the Human Rights Defense Center, *PLN*'s parent organization – won hard-fought gains from the FCC from 2013 to 2016. But while the reforms

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Human Rights Defense Center
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EDITOR
Paul Wright

MANAGING EDITOR
Alex Friedmann

EDITORIAL ASSISTANT
Betty Nelander

COLUMNISTS
Michael Cohen, Mumia Abu-Jamal

INVESTIGATIVE REPORTER
Steve Horn

CONTRIBUTING WRITERS
Dale Chappell, Matthew Clarke, Derek Gilna, Gary Hunter, Ed Lyon, David Reutter, Joe Watson, Mark Wilson, Christopher Zoukis

ADVERTISING DIRECTOR
Susan Schwartzkopf

ADVERTISING COORDINATOR
Judith Cohen

LAYOUT
Lansing Scott

SOCIAL MEDIA DIRECTOR
Monte McCoin

HRDC LITIGATION PROJECT
Sabarish Neelakanta – *General Counsel*
Deborah Golden, Daniel Marshall, Masimba Mutamba – *Staff Attorneys*

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Prison Legal News
PO Box 1151
Lake Worth, FL 33460
561-360-2523
info@prisonlegalnews.org
www.prisonlegalnews.org

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Jail Phone Rates Increase (cont.)

that survived the D.C. Court of Appeals' 2017 ruling mainly related to interstate calls, most phone calls made by prisoners are local or in-state.

Additionally, those gains did not affect video calling – a service the business publication *Bloomberg News* described as "Prison Skype." While it is a bit like Skype, a free computer-based video and phone service, video calls are far more expensive in county jails and of inferior quality according to those who have used them. The Washington DOC provides video calling through JPay, and 19 Washington jails have onsite or remote video calling, or both, supplied by various companies.

While onsite video calls are usually free (at some jails just one to three free onsite video calls are allowed each week), remote video sessions, which can be conducted by family members off-site using computers or smart phones, incur fees – typically either flat fees for a certain amount of calling time or per-minute rates.

In at least 13 Washington jails – a third of the state's 39 counties – video calling has replaced all in-person visits. The counties with a video-only visitation policy include Benton, Cowlitz, Franklin, Grays Harbor, Kitsap, Kittitas, Lewis, Mason, Okanogan, Skagit, Snohomish, Thurston and Walla Walla.

Among the jails that use remote video calling services, Benton and Okanogan counties have the highest rates. Video calls at Benton County cost $12.50 for 25 minutes, or $0.50/minute. ICSolutions contracts with the county to provide both onsite and remote video services; onsite video calls also cost $0.50/minute, though the first two each week are free. Okanogan County also charges $0.50/minute for video calls through a service provided by Home Wav, and prisoners at the jail get two free 15-minute onsite video sessions each week.

Also on the more expensive end for video calling in Washington jails, Cowlitz County charges $8.99 for a 20-minute remote video call, or almost $0.45/minute. Prisoners receive two free 20-minute onsite video sessions each week; if they want more, they have to pay for them. The service is provided by Securus.

Although its video calls are managed by GTL, the policy at Whitman County's jail largely parallels that of Benton and Cowlitz. Whitman charges $0.39/minute for video calling, with free onsite visits; the service is provided by Turnkey Corrections.

The King County jail, located in the state's most populous county, has the lowest video calling rates. The county charges $5.00 for a 25-minute remote video call, or $0.20/minute. Video calling has been in place at the facility since 2014.

"Our video visitation system and phone calls are in addition to the option of in-person visits – not in lieu of in-person visits," Lisaye Manning, Captain of the Administrative Unit for the King County Department of Adult and Juvenile Detention, told *Prison Legal News*. "We offer all of these options with the goal of reducing the social and economic barriers that family members and loved ones may have that make it difficult to maintain those connections and social support systems with inmates." She added, "[W]e charge the lowest possible fee for video visitation so that issues like distance, or lack of transportation, or low income, or disabilities don't prevent someone from staying in contact with an inmate."

Other Washington county jails with relatively low remote video calling rates include Yakima, Skagit and Lewis, which charge $0.25/minute. Lewis and Skagit have no face-to-face visitation, while Yakima has both in-person visits and video calls.

Eighteen Washington jails do not have any form of video calling, only traditional in-person visitation. They include both small facilities, such as in Adams and Columbia counties, and larger ones in Pierce and Spokane counties.

Over a month's time, were a prisoner to use video calling for 50 minutes a week (two 25-minute sessions), it would cost approximately $43 at the King County jail. That's about the same amount non-prisoners pay for a month of unlimited talk, text and data cell phone service. Over the course of a year, 50 minutes of video calling a week would cost a prisoner at the King County jail a total of $520, excluding any other fees.

At the Washington jails with the most expensive video calls, using those same metrics, a year's worth of similar video sessions in Benton or Okanogan counties would cost $1,300 – a significant amount for prisoners and their families, who often have low incomes.

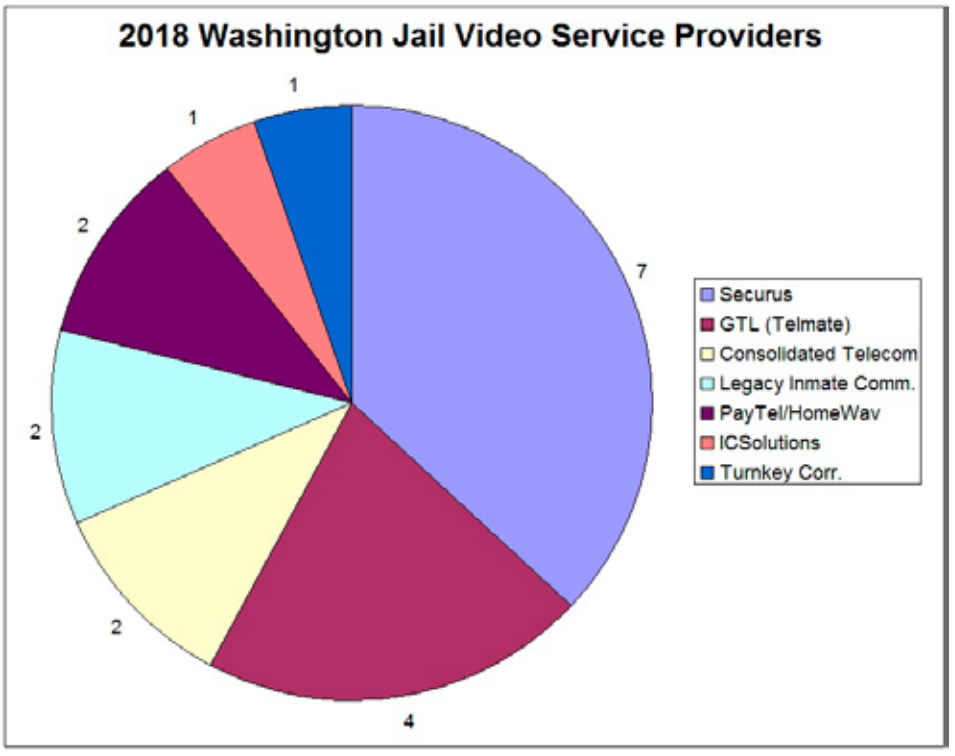
The demographics in Washington

reflect no clear pattern among county jails with respect to video calling. Around half the facilities use video calls and the rest don't. A third of the jails have discontinued in-person visitation. Both small and large counties use video calling, while some small and large ones don't. Seven companies provide video services at Washington jails, including telecom leaders GTL and Securus, both owned by private equity firms, as well as smaller companies such as Legacy Inmate Communications, Consolidated Telecom and Home Wav.

"Breaches in the Wall"

By June 2014, remote video calling had been implemented at all Washington state prisons. After JPay, a subsidiary of Securus, was awarded a monopoly contract with the Washington DOC, it launched a marketing campaign for video calls with an ad titled "Meet Brandon and Erin." At the time, Erin was incarcerated at the Mission Creek Corrections Center for Women.

Video calling services are not unique to Washington State, of course, but are part of a broader national trend in prison systems and jails across the country. [See: *PLN*, June 2018, p.20; April 2017, p.22; July 2016, p.38; Mar. 2015, p.1].



As one recent example, video calls were adopted at the jail in Benton County, Arkansas, a county most famous as the

VIDEO CALLING DATA
FOR COUNTY JAILS, DOC IN WASHINGTON STATE +

County Jail	Video Provider	Video only?	On-site video?	On-site charge/rates	Remote video?	Remote charge/rates	Kickback
Adams	N/A	No	N/A	N/A	N/A	N/A	N/A
Asotin	Consolidated Telecom	No	Yes	Free	No	N/A	N/A
Benton	ICSolutions	**Yes**	Yes	Two free video calls/week, then $12.50 each	Yes	$12.50 for 25 min.	50%
Chelan	N/A	No	N/A	N/A	N/A	N/A	N/A
Clallam	N/A	No	N/A	N/A	N/A	N/A	N/A
Clark **	Telmate (GTL)	No	Yes	One free video call/week, then $7.50 each	Yes	$7.50 for 30 min.	25% ($5,911.87 in 2016)
Columbia	N/A	No	N/A	N/A	N/A	N/A	N/A
Cowlitz	Securus	**Yes**	Yes	Two free 20-min. onsite video calls/week	Yes	$8.99 for 20 minutes ($8.99 for 20 min. or $25.98 for 40 min. for attorney video calls)	20% (Only if minimum use level is met)
Douglas	Does not have a jail	N/A	N/A	N/A	N/A	N/A	N/A
Ferry	N/A	No	N/A	N/A	N/A	N/A	N/A
Franklin	Consolidated Telecom	**Yes**	Yes	Free	No	N/A	20%
Garfield	N/A	No	N/A	N/A	N/A	N/A	N/A
Grant	N/A	No	N/A	N/A	N/A	N/A	N/A
Grays Harbor	Legacy Inmate Communications	**Yes**	Yes	Free	No	N/A	N/A
Island	N/A	No	N/A	N/A	N/A	N/A	N/A
Jefferson	N/A	No	N/A	N/A	N/A	N/A	N/A
King	Securus	No	Yes	Free on-site at Norm Maleng Reg. Justice Center only	Yes	$5 for 25 min.	20%
Kitsap	Telmate (GTL)	**Yes**	Yes	One free video call/week, then $7.50 each	Yes	$7.50 for 30 min.	25% ($6,463.11 in 2017)
Kittitas	Securus	**Yes**	Yes	Free	Yes	$8.95 for 30 min.	20-25%
Klickitat	N/A	No	N/A	N/A	N/A	N/A	N/A
Lewis	Home Wav	**Yes**	Yes	15 min./week, 1 hour/month free; $.25/min. after that	Yes	$0.25/min.	40% ($15,591.76 in 2017)
Lincoln	N/A	No	N/A	N/A	N/A	N/A	N/A
Mason	Securus	**Yes**	Yes	Free	Yes	$6.95 for 20 min. or $15.95 for 40 min.	10% (0% if minimum use level not met)
Okanogan	PayTel/Home Wav	**Yes**	Yes	Two free 15 min. video calls/week	Yes	$.50/min.	$.15/min. for cost recovery ($11,142 in 2017)
Pacific	N/A	No	N/A	N/A	N/A	N/A	N/A
Pend Oreille	N/A	No	N/A	N/A	N/A	N/A	N/A
Pierce	N/A	No	N/A	N/A	N/A	N/A	N/A
San Juan	Holding facility / no jail	N/A	N/A	N/A	N/A	N/A	N/A
Skagit	Securus	**Yes**	Yes	Free	Yes	$5 for 20 min. $10 for 40 min.	20% (0% for first 2 years if minimum use level not met)
Skamania	N/A	No	N/A	N/A	N/A	N/A	N/A
Snohomish	GTL	**Yes**	Yes	Three free 50 min. video calls/week	No	N/A	N/A
Spokane	N/A	No	N/A	N/A	N/A	N/A	N/A
Stevens	N/A	No	N/A	N/A	N/A	N/A	N/A
Thurston	Telmate (GTL)	**Yes**	Yes	Two free 30 min. video calls/week, then $7.50/visit	Yes	$7.50 for 30 min.	25% ($5,557.50 in 2017)
Wahkiakum	N/A	No	N/A	N/A	N/A	N/A	N/A
Walla Walla	Securus	**Yes**	Yes	Free	Yes	$6.95 for 20 min.	30%
Whatcom *	Legacy Inmate Communications	No	No	N/A	Yes	$0.35/min.	Unspecified
Whitman	Turnkey Corrections	No	Yes	Free	Yes	$0.39/min.	20%
Yakima	Securus	No	Yes	Free	Yes	$5 for 20 min. $10 for 40 min.	50%
WA DOC	Securus/JPay	No	N/A	N/A	Yes	$7.95 for 30 min.	$3.00 per video call (per 2015 contract)

+ Data collected by Prison Legal News from 2017 to Sept. 2018

***** Whatcom County has both a jail and interim work center; the work center has video calls only, on-site and remote. Chart data is for the jail

****** At the Clark County jail, in-person visits are only available on weekends; on-site video calls during weekdays

Jail Phone Rates Increase (cont.)

corporate headquarters for Walmart, in July 2018. Face-to-face visits at the jail were banned and replaced with video calls at a cost of $7.50 for 15 minutes.

"Video visitation will allow family and friends to visit with their loved ones from the comfort of their own homes," Benton County Sheriff's Department Sgt. Shannon Jenkins said in a statement provided to the *Northwest Arkansas Democrat-Gazette*, which broke the story about the new policy. "It will allow for those with health problems to not have to travel and those living out of state a much easier and less expensive way to visit."

However, Benton County's decision to end face-to-face visits came under fire from the American Bar Association (ABA). The ABA, the chief professional organization for attorneys, called for video calls to supplement rather than replace in-person visits at prisons and jails, in accordance with its Standards on the Treatment of Prisoners published in June 2011.

Similarly, the American Correctional Association (ACA) states in its 2017 policy guidelines that it only supports video calls as a supplemental form of contact between prisoners and those on the outside.

"Regular communication between offenders and their family and friends is proven to aid the reentry process and is consistent with sound correctional management," the ACA states in its policy guidelines. "Correctional agencies should promote communications between offenders and their family and friends and adopt family-friendly policies that.... [u]se emerging technologies as supplements to existing in-person visitation."

The ACA has also called for rates and fees for prison phone calls and other forms of communication that do not impose an undue financial burden on prisoners' families. Yet the ACA, which accredits detention facilities for a fee, will not deny accreditation just because a facility has discontinued in-person visits or charges high rates for phone or video calls.

The jail in Benton County, Arkansas is just one of the most recent that have adopted a video-only visitation policy.

For example, the Jefferson Parish Correctional Center in Louisiana has also implemented a video-only policy, as have South Carolina's Mecklenburg County jail and the Erie County Correctional Facility in Pennsylvania. The Berrien County jail in Michigan began offering remote video calling in September 2018. In Cass County, North Dakota, the jail has adopted what essentially amounts to a video-only policy, as face-to-face visitation is now only allowed on a "case-by-case basis."

Criminal justice scholars have cited in-person visits as a key way for prisoners to improve their behavior both while incarcerated and after release. This includes a 2017 academic study titled "The Effects of Prison Visits from Family Members on Prisoners' Well-Being, Prison Rule Breaking, and Recidivism," published by British psychologists Karen De Claire and Louise Dixon.

In their report, a meta-analysis of research on prison visitation conducted since 1991, they concluded that "studies consistently reported positive effects of prisoners receiving visits." [See, e.g., *PLN*, April 2014, p.24].

One of the reports included in the meta-analysis was "Breaches in the Wall: Imprisonment, Social Support and Recidivism" by Joshua Cochran, a criminal justice professor at the University of Cincinnati. Cochran, then employed at the University of South Florida, pulled data from the Florida Department of Corrections between the years 2000-2002 and found a strong correlation between lower recidivism rates and in-person family visitation that occurred early and often for Florida prisoners.

Cochran wrote that "visitation represents a rare nexus between prison life and the outside world, one that affords inmates some ability to preserve, develop, or sustain ties to social networks and to have sources of social capital on which to draw." He found that prisoners who were able to receive regular visits "were significantly less likely to recidivate than prisoners who were never visited."

Are Phone Companies Taking Money from You and Your Loved Ones?

HRDC and PLN are gathering information about the business practices of telephone companies that connect prisoners with their friends and family members on the outside.

Does the phone company at a jail or prison at which you have been incarcerated overcharge by disconnecting calls? Do they charge excessive fees to fund accounts? Do they take money left over in the account if it is not used within a certain period of time?

We want details on the ways in which prison and jail phone companies take money from customers. Please contact us, or have the person whose money was taken contact us, by email or postal mail:

KMOSES@HUMANRIGHTSDEFENSECENTER.ORG

Prison Legal News
Attn: Kathy Moses
PO Box 1151
Lake Worth, Florida 33460

Further, a 2011 study of Minnesota prisoners found that visitation "significantly decreased the risk of recidivism." According to a *Stateline* article that cited that research, "Of 16,420 inmates studied, recidivism rates for those who had visits of any kind from their families were 13 percent lower for subsequent felonies and 25 percent lower for technical violations, such as [violating] parole."

Michael Darrington, formerly incarcerated at the Snohomish County jail in Washington, explained to *PLN* what he believed to be the importance of face-to-face visitation. His views echoed those of Prof. Cochran.

"Babies die without physical touch. According to human biology, you need to be able to be in contact with souls that we love. Even just a handshake, hug, or being able to see a smile face to face. It goes a long way to keep a person sane," Darrington stated. "Seeing a mom's smile sitting across from you, or holding a little sister's hand. A lot of guys have children. If you only see your baby though a video visit, that doesn't have the same effect."

He added that during the nine years he spent behind bars, his stay at the Snohomish County jail was the only time he could not have in-person visitation. And, notably, it was the only time he was placed in solitary confinement.

When Darrington was able to again receive face-to-face visits with his family, he told *PLN* that his behavior improved dramatically, with the visits serving as an incentive and positive reinforcement.

"People look forward to staying out of trouble so they can get those in-person visits," he explained, citing the benefits of being able to communicate with family members and loved ones face-to-face. "A lot of guys would avoid doing things that would cause them to go to [solitary] because they want to get their in-person visits. People would stay out of trouble just so they could have those visits."

Suzanne Cook, whose husband is incarcerated at the Washington State Penitentiary in Walla Walla, said even though remote video calls are an option for her to "visit" with her husband, she had heard a slew of negative stories about the fallibility of video calling. That, combined with the fact she prefers face-to-face visits, convinced her to avoid video calls.

"The video visits are inconvenient, with the need to be scheduled, and unnecessary when we can visit in person and talk on the phone," Cook told *Prison Legal News*. "I heard nothing but bad things about the reception, dropping the [video] visit, and the hassle of trying to get refunds."

At the Snohomish County jail, Darrington frequently used video calls to talk with his wife, roughly three times a week. They had only 30 minutes available during each session, but often that time was spent dealing with technical glitches.

"One time the connection was out for 15 minutes," he informed *PLN*. "We wouldn't know what to do, [so] we'd have to turn the computer off and log back on, just using our time up."

Video Killed the In-Person Visit?

Previously, in its contracts with jails nationwide, Securus called for in-person visits to be eliminated when video calling was implemented. Following a public backlash against that practice, the company changed the language in its contracts in 2015 to defer to the judgment of jail officials

with respect to visitation policies.

"Securus examined our contract language for video visitation and found that in 'a handful' of cases we were writing in language that could be perceived as restricting onsite and/or person-to-person contact at the facilities that we serve," Richard Smith, CEO of Securus, said in a press release. "So we are eliminating that language and 100 percent deferring to the rules that each facility has for video use by inmates. We have always deferred to the rules in place at each facility for audio and video visitation – and we embrace the notion of having different rules by facility."

Despite the change in Securus' contract language and the deference given to jail officials, video-only visitation persists both in Washington State and many other jurisdictions. According to a 2015 report published by the Prison Policy Initiative, 74 percent of jails that implemented video calling ended up banning face-to-face visits – mostly due to staffing issues or purported security concerns, such as contraband smuggling or fights in visitation areas.

But recent studies have shown that, contrary to addressing security concerns like fighting and contraband, those problems have persisted in jails that have adopted video calling.

In an October 2014 research study, the Texas Criminal Justice Coalition and Grassroots Leadership filed a public records request for incident reports related to prisoner-on-prisoner and prisoner-on-staff violence both before and after the implementation of a video-only visitation policy at the jail in Travis County, Texas.

The findings were both unexpected and eye-opening.

"Total disciplinary infractions and incidents increased, as did assaults, within the year after the elimination of in-person visitation. Possession of contraband infractions also increased," the report concluded. "Disciplinary infractions in the Travis County Correctional Complex climbed from approximately 820 in May 2012 to 1,160 in April 2014. The facility averaged 940 disciplinary infractions per month during the prior year and it has averaged 1,087 disciplinary infractions per month since then." Contraband incidents, too, increased by 54 percent in the year after video-only visits went into effect at the jail. [See: *PLN*, March 2015, p.1].

Additionally, a January 2018 report issued by Face to Face Knox, regarding the adoption of a video-only visitation policy at the jail in Knoxville, Tennessee, had similar findings. Jail officials claimed video calling would reduce violence at the facility, yet the report found the "total rate of assaults increased by an average of one assault per 100 inmates" after in-person visits were banned, and there was "no drop in reported cases of contraband." [See related article on p.23 of this issue].

While these findings indicate a reality more complex than the one sold by telecom companies that peddle fee-based video calling services to prison and jail officials, Securus has persisted in billing its video calls as a panacea for addressing security concerns.

"Imagine no longer having to move inmates, service long lines of visitors, and manually manage visitation schedules. What types of efficiencies could be gained by eliminating these burdensome tasks?" the company asked rhetorically on its website, on a page that was recently removed but tracked down by *PLN* using the Internet Archive's Wayback Machine. "Could you increase focus on the safety and security of inmates, your officers, and the public that you serve? With Securus Video Visitation, all of these things are possible."

Another explanation for the proliferation of video calling at jails is a financial incentive provided by the companies that provide those services.

Video Calling Kickbacks

Most prison and jail phone contracts are based on "commission" kickbacks, where the telecom provider agrees to pay a percentage of its gross revenue to the detention facility or agency. Such revenue-generating contracts tend to be awarded not based on the lowest cost of the phone service, but on the highest kickback amount. [See: *PLN*, Dec. 2013, p.1; April 2011, p.1].

That model has extended to video calling, too – often in "bundled" contracts that include phone and video services provided by the same company. Of the 19 Washington county jails that have onsite and/or remote video calling, 17 contract with the same provider for both phone services and

video calls. This "bundling" gives telecom companies an advantage when offering to provide video calling in addition to phone services, making it harder for other firms to compete.

All jails in Washington State that use remote video calling receive kickback payments. Benton and Yakima counties both receive 50 percent of video revenue in kickbacks; Lewis County gets 40 percent, and Walla Walla County receives 30 percent. Clark, Kitsap and Thurston counties get 25 percent kickbacks, Kittitas County receives a 20-25 percent kickback depending on the number of video calls made, and Cowlitz, Franklin, King and Whitman counties receive 20 percent. Mason County gets a modest 10 percent kickback and Okanogan County receives $0.15/minute from video calls as "cost recovery" – equivalent to a 30 percent kickback.

Skagit County receives 20 percent of the revenue from video calls, though during the first two years of the contract no kickbacks are paid if a minimum level of video calling is not met. After two years, the county gets 20 percent of all video call revenue. Whatcom County receives kickbacks for video calls but the amount was not specified in a contract amendment that *PLN* obtained through a public records request.

The average kickback for video calling services at Washington county jails is 26.75 percent. According to a February 2016 report by the Vera Institute of Justice, the Washington DOC received $3.00 from Securus/JPay for every video call made from a state prison, which at the time was equivalent to a 23 percent kickback.

Since county jails receive financial benefits from remote video calling, they are incentivized to increase the number of video calls that prisoners make – and therefore have a motivation to eliminate in-person visits in order to maximize the use of the video calling system.

Most Washington counties that produced records for their telecom kickbacks did not provide a breakdown of payments related to video calling, but a few did. In 2017, Kitsap County received $6,463.11 in video call kickbacks and Okanogan County received over $11,000, while Lewis County received $15,591.76.

Kickback payments to corrections agencies are costs that are passed on to prisoners and their family members who pay for video calling services; absent the kickbacks, the rates could be lower and thus more affordable.

As the Vera Institute of Justice noted in its 2016 report, "States also cannot ignore the fact that some operational costs are passed on to video visitation's users. DOCs need to consider, for example, whether adding commissions onto the price of a video visit will reinforce or undermine their goal of keeping families in touch with incarcerated people."

In other countries such as Ireland, the Philippines and India, prisoners have access to free video calls, including the use of Skype at a prison in Northern Ireland.

The Human Rights Defense Center (HRDC) opposes video-only visitation policies, as well as charging for video calling services that allow prisoners to communicate with their families and loved ones.

"Video visitation should be provided at no cost with no ancillary fees, considering it is a service that is free to non-incarcerated persons (e.g., via Skype), and in-person visits at prisons and jails are free," Paul Wright,

Jail Phone Rates Increase (cont.)

HRDC's executive director and the editor of *Prison Legal News*, wrote in an April 2016 comment to the FCC. "Further, in-person visitation should not be eliminated to increase the volume of video visits; prisoners being allowed to have in-person visits to see their families during times of incarceration is just as important as being able to talk with them on the phone."

Wright noted that this is part of a larger trend of monetizing correctional services that were previously free, including prison and jail money transfers and release checks, which are now being provided by for-profit companies that charge fees to prisoners and their families for the same services.

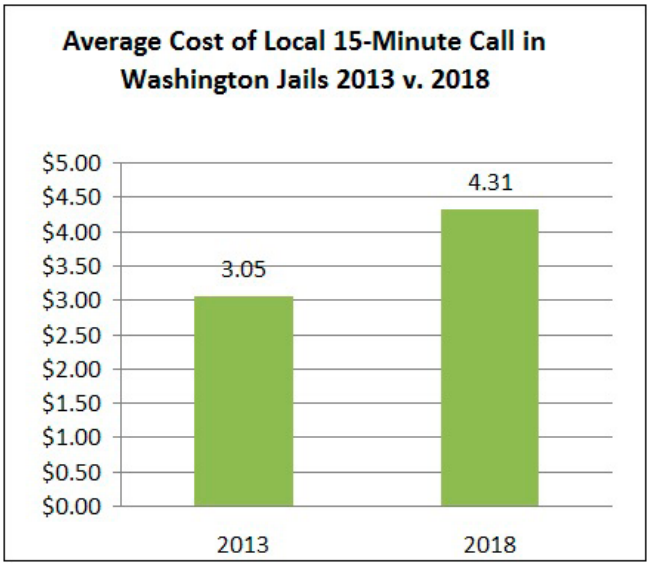
The academic community, too, has pointed to video-only visitation as a problematic policy in carceral facilities.

Then-John Marshall Law School Professor Patrice Fulcher, who wrote a 2013 paper titled "The Double-Edged Sword of Prison Video Visitation: Claiming to Keep Families Together While Furthering the Aims of the Prison Industrial Complex," noted "the exploitation of prisoners and their families through video visitation methods will lead to increased profits for prison video visitation service providers." She further posited that "prison video visitation companies, through contracts with U.S. correctional departments, will continue to collect fees in complete disregard for the humanity of the people involved."

Asked for her point of view as the wife of a prisoner held in a Washington state prison, Suzanne Cook shared her concerns about the trend toward video-only visitation.

"I find the move toward video visits, eliminating in-person visits, disturbing to say the least," she said. "It's something everyone needs to raise hell about."

While video calling is the new frontier for prison and jail telecommunications, it is dwarfed by the most popular and longstanding means of staying in touch with those on the outside: phone calls.



The Telephone Game

All detention facilities offer phone services for prisoners, often at obscenely inflated rates; prison and jail phone calls are among the most expensive in the nation. Most of those costs are imposed not on prisoners but on the call recipients – mainly their family members.

In Washington State, the FCC's order capping long distance rates at detention facilities resulted in much lower costs for those types of calls. The Washington DOC once had the highest interstate phone rate in the nation, at $18.30 for a 15-minute call. That dropped to $11.00 before the FCC cap went into effect, and a 15-minute call from a state prison now costs just $1.65.

In-state rates at DOC facilities have also decreased, but such has not been the case at Washington county jails. Because intrastate phone rates are not regulated by the FCC, nor by the Washington Utilities and Transportation Commission, county jails can charge whatever they want.

After the FCC rate caps on long distance prison and jail calls went into effect in 2014, there were concerns that telecom companies and the corrections agencies they contract with would try to offset the lost revenue from those calls by increasing unregulated in-state phone rates. That is, apparently, exactly what happened.

Prison Legal News compared phone rates in Washington county jails and found the average cost of in-state calls increased during the five years between 2013 and 2018.

During that period, using lower prepaid/debit calling rates where available, the average cost for local calls – made within the same city or county – increased from $3.05 to $4.31. In fact, a 15-minute local call at 28 Washington jails now costs the same as or more than a 15-minute long distance call made across the country, the latter being capped by the FCC at $3.15 for debit/prepaid calls and $3.75 for collect calls.

There was not enough data to compare in-state interlata rates – calls made outside

TELEPHONE DATA FOR COUNTY JAILS, DOC IN WASHINGTON STATE

County Jail +	Phone Provider	Local / Instate Phone Rates *	15-Min. Call Cost	Kickback?	Kickback details **	2017 Kickback Amounts
Adams	Legacy Inmate Communications	$.45/min. local, $.95/min. instate	$6.75 local, $14.25 instate	Yes	66% gross revenue	$10,148.25
Asotin	Consolidated Telecom	$.30/min.	$4.50	Yes	58% gross revenue	$7,911.24
Benton	ICSolutions	$.21/min. debit/prepaid $.25/min. collect	$3.15 prepaid/debit, $3.75 collect	Yes	63.5% gross revenue with $270k minimum annual kickback	$160,346.25
Chelan	Telmate (GTL)	$.25/min. prepaid, $.50/min. collect	$3.75 prepaid, $7.50 collect	Yes	59% gross revenue	$40,602.16
Clallam	Securus	$2.44 FM +$.55/min.	$10.14	Yes	42% gross revenue	$15,333.80
Clark	Telmate (GTL)	$.25/min. prepaid, $.50/min. collect	$3.75 prepaid, $7.50 collect	Yes	$.09/min. for local/intrastate calls	$174,638.14 for adult jail, JWC/WR and juvenile combined (before pre-paid deductions)
Columbia	Consolidated Telecom	$.30/min.	$4.50	Yes	50% gross revenue	$1,200 (kickbacks used to buy phone cards sold to prisoners)
Cowlitz	Securus	$2.44 FM+$.05/min. local $3.29 FM+$.15/min. instate intralata $4.73 FM+$.64/min. instate interlata	$3.14 local $5.39 instate intralata $13.69 instate interlata	Yes	60% gross revenue	$66,506.23
Ferry	Incartele, Inc.	$.22/min.	$3.30	Yes	55% gross revenue	$13,210.96 (before PIN debit offset)
Franklin	Consolidated Telecom	$.30/min.	$4.50	Yes	30% gross revenue	$43,792.62
Garfield	Consolidated Telecom	$.30/min.	$4.50	Yes	58% gross revenue	$4,640
Grant	VAC (GTL)	$.19/min.	$2.85	Yes	$.06/min. for intrastate calls	$31,260.54
Grays Harbor	Legacy Inmate Communications	$.21/min. prepaid, $.25/min. collect	$3.15 prepaid, $3.75 collect	Yes	45% gross revenue	$19,925.69 (10/2016-10/2017)
Island	Securus	$2.42 FM+$.17/min. local $3.47 FM+$.67/min. instate interlata	$4.80 local, $12.85 instate interlata	Yes	25% gross revenue	$9,634.25
Jefferson	Consolidated Telecom	$.30/min.	$4.50	Yes	67.5% gross revenue	$17,965.51
King	Securus	$.13/min. debit/prepaid $2.10 FM+$.10/min. collect	$1.95 debit/prepaid, $3.50 collect	Yes	58% gross revenue with minimum guarantee of $62,500/month	$563,444.08
Kitsap	Telmate (GTL)	$.25/min. prepaid, $.50/min. collect	$3.75 prepaid, $7.50 collect	Yes	$.05/min. for phone calls	$57,576.57
Kittitas	Securus	$2.50 FM+$.11/min. local $4.79 FM+ $.70/min. instate interlata	$4.04 local $14.59 instate interlata	Yes	45% gross revenue	Not available
Klickitat	Paycom/Custom Teleconnect	$.50/min. local, $.59/min. instate	$7.50 local, $8.85 instate	Yes	55% gross revenue	$9,025
Lewis	Telmate (GTL)	$.25/min. prepaid, $.50/min. collect	$3.75 prepaid, $7.50 collect	Yes	$.05/min. for intrastate calls	$25,046.41
Lincoln	Consolidated Telecom	$.30/min.	$4.50	Yes	38% gross revenue	$6,297.50
Mason	Securus	$.30/min.	$4.50	Yes	10% gross revenue	$16,290.02
Okanogan	PayTel Communications	$.25/min. local, $.45/min. instate	$3.75 local, $6.75 instate	Yes	65% gross revenue ($60k minimum annual)	$63,140.46
Pacific	Consolidated Telecom	$.30/min.	$4.50	Yes	63% gross revenue	Not available
Pend Orielle	Consolidated Telecom	$.30/min.	$4.50	Yes	50% in first year, 55% in remaining years	$4,659.50
Pierce	Securus	Local: $.15/min. debit/prepaid, $2.49 FM+$.02/min. collect; Instate: $.15/min. debit/prepaid, $2.84 FM+$.10/min. collect	Local: $2.25 debit/prepaid, $2.77 collect; Instate: $2.25 debit/prepaid, $4.24 collect	Yes	68% gross revenue	$576,004.34
Skagit	Securus	$.15/min.	$2.25	Yes	42% gross revenue	$24,993.11
Skamania	Consolidated Telecom	$.30/min.	$4.50	Yes	63% gross revenue	$7,425.91
Snohomish	GTL	$.20/min.	$3.00	Yes	$.09/min. for intrastate calls	Not available
Spokane	DSI (GTL)	$.26/min.	$3.90	Yes	45% gross revenue	$159,857.16
Stevens	GTL (with Qwest)	$.235/min.	$3.60	Yes	$.03/min. for intrastate calls	$2,346.75
Thurston	Telmate (GTL)	$.25/min. prepaid, $.50/min. collect	$3.75 prepaid, $7.50 collect	Yes	$.06/min. for intrastate calls, $.02/min. for interstate calls	$52,614.21 (before pre-paid deductions)
Wahkiakum	Crown Correctional Telephone	$.50/min.	$7.50	No	Does not receive kickbacks	None
Walla Walla	Securus	$2.91 FM+$.25/min.	$6.41	Yes	36% gross revenue	Insufficient data
Whatcom	Legacy Inmate Communications	$.30/min. local, $.42/min. instate	$4.50 local, $6.30 instate	Yes	70% gross revenue	$111,878.80
Whitman	Consolidated Telecom	$.30/min.	$4.50	Yes	46% gross revenue	$8,290.85
Yakima	Securus	$1.50 FM+$.12/min.	$3.18	Yes	66% gross revenue	$124,412.02
WA DOC	VAC (GTL)	$.11/min.	$1.65	Yes	56% gross revenue	$4.028,400 minimum (2014)

+ Douglas County does not have a jail and San Juan County has a temporary holding facility; phone rate and commission data collected by Prison Legal News from 2017 to Sept. 2018

* FM = first minute. Note that interstate (long distance) calls are capped by the FCC at $.21/min. for debit and prepaid calls and $.25/min. for collect calls

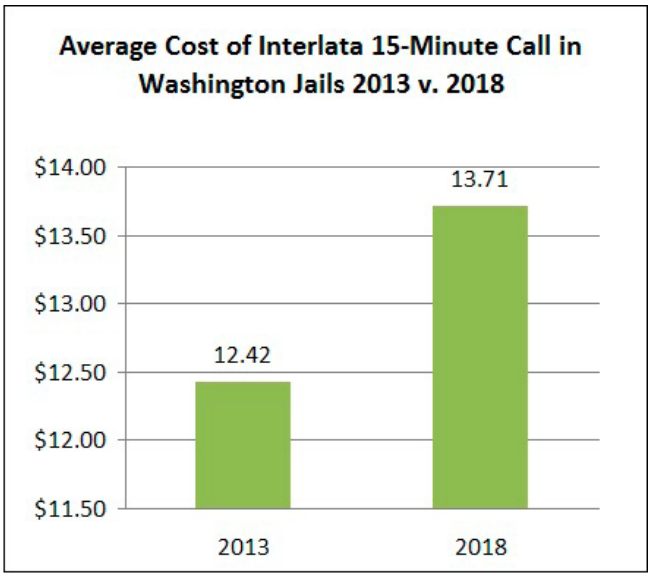
** Does not include signing bonuses or other benefits to the counties; kickback terms are based on last available contract or contract amendment

Jail Phone Rates Increase (cont.)

the local area but in the same "lata," or local access and transport area – because only one known county jail had separate intralata rates in 2018. The average cost of a 15-minute interlata call, made within Washington State but between latas, increased from $12.42 in 2013 to $13.71 at the three county jails with separate interlata rates in 2018. Long distance (interstate) phone rates were not analyzed because they were capped by the FCC as of early 2014.

Looking at rate hikes at specific facilities, the cost of a 15-minute in-state call at the Spokane County jail increased from $2.60 in 2013 to $3.90 in 2018, while in Clallam County, a 15-minute call that was $6.39 in 2013 costs $10.14 today. In 2013, the jails in Skamania, Jefferson and Garfield counties charged $2.00 for a local call; in 2018, all three of those facilities charge $4.50. A 15-minute local call at the Whatcom County jail that cost $3.24 in 2013 is now $4.50; a similar local call at the Adams County jail has increased from $3.55 in 2013 to $6.75 in 2018.

When the FCC capped interstate prison and jail phone rates it also eliminated connection charges – an initial amount charged for a call in addition to per-minute fees. In response, Securus changed its connection charges to first-minute fees, circumventing the ban. Most Washington counties that contract with Securus now have first-minute fees for in-state calls – which are higher than the prior connection charges. The Clallam County jail charged a connection fee of $1.89 in 2013; it now charges a $2.44 first-minute fee. And at the Cowlitz County jail, the $3.56 connection charge for interlata calls in 2013 has increased to a first-minute fee of $4.73 today.



Of all the telecom providers that contract with Washington county jails, only Securus imposes first-minute fees as part of its phone rates. Other companies use straight per-minute rates (as does Securus in Mason and Skagit counties).

Not all county jails have seen increases in their intrastate phone rates over the past five years. In Benton County, the cost of a 15-minute debit/prepaid call fell from $4.75 in 2013 to $3.15 in 2018, while a similar call from Chelan County decreased from $4.75 to $3.75. The cost of a 15-minute call at the Asotin County jail dropped from $6.89 to $4.50, and a call from Mason County fell from $6.39 to $4.50. A collect 15-minute intrastate call from the Okanogan County jail that was $9.00 in 2013 is now $6.75.

As detailed above, though, average local and interlata calling costs have increased.

Another change in the phone rates at Washington jails between 2013 and 2018 was the elimination of different rates for local, intralata and interlata calls in most cases. In 2013, a majority of counties had different rates for each type of call, which varied greatly. Grant County, for example, charged $17.30 for a 15-minute interlata call, while an intralata call was $4.30 and a local call was $2.29. Today, all three types of calls at the Grant County jail cost $2.85.

As another example, the 2013 cost of a 15-minute interlata call at the Snohomish County jail was $13.39; an intralata call was $4.21 and a local call was $1.89. Today, 15-minute calls of all types from the facility cost $3.00.

Currently, only eight Washington county jails have different rates for local,

intralata or interlata calls – with the latter being the most expensive. Interlata calls from Kittitas County cost $14.59 for 15 minutes, while a similar call is $13.69 in Cowlitz County and $12.85 in Island County. Securus is the telecom provider for all three jails.

Also, while most Washington county jails charge the same rates whether phone calls are prepaid, debit or collect, there are some exceptions. Nine jails have separate rates for prepaid/debit and collect calls. Fifteen-minute calls in Chelan, Clark, Kitsap, Lewis and Thurston counties, which all contract with Telmate (owned by GTL), cost $3.75 if they are prepaid ($0.25/minute), but twice as much if they are collect.

Interestingly, there is great inconsistency between phone rates at jails that use the same telecom provider. For example, the cost of a 15-minute in-state call from the Skagit County jail is currently $2.25; it's $4.50 in Mason County and $6.41 in Walla Walla County. The same 15-minute call from the Clallam County jail costs $10.14. All of those jails use Securus for their phone services.

It is unclear why the costs vary so widely when the facilities contract with the same telecom provider. For its part, Clallam County claims Securus has the final say.

"Securus sets the phone rates in our contract ... and I believe it is associated with the call volume from our facility," Wendy Peterson, Chief Corrections Deputy for the Clallam County Correction Facility, told *PLN*. She did not explain how a private company can set phone rates at the jail when the county controls the contracting process.

A Cowlitz County official explained that if its phone rates are indeed higher than those at other facilities, it would take action to lower them.

The $13.69 cost for a 15-minute interlata call at the Cowlitz County jail "is the most expensive set of circumstances. For Cowlitz, calls made using inmate debit can be as low as $3.15 for a 15-minute phone call," Marin Fox, Director of Cowlitz County Corrections, told *PLN* via email. "If we are able to confirm that our rates are significantly higher than other counties we will work with Securus to have them adjusted to be comparable," he added.

In response to a request for comment from *PLN*, Securus spokesman Mark Southland stated, "Some of the data obtained by *Prison Legal News* is misleading. For example, the average cost of a call in Cowlitz County is actually just 31 cents per minute. While we work to keep prices as accessible as possible for every facility we serve, call rates for individual jurisdictions can be impacted by a number of factors."

In fact, however, according to the rate calculator on Securus' website, as verified by a customer service representative during a chat session and by a rate sheet prepared by Securus that was produced pursuant to a public records request, the phone rates at the Cowlitz County jail range from $3.14 for a 15-minute local call ($2.44 first minute + $0.05/additional minute) to $13.69 for a 15-minute interlata call ($4.73 first minute + $0.64/additional minute). While the average cost for calls made from the jail may be $0.31/minute as stated by Southland, the fact remains that the rates are much higher for certain types of calls.

Thus, it appears that Securus, not the data, is being misleading.

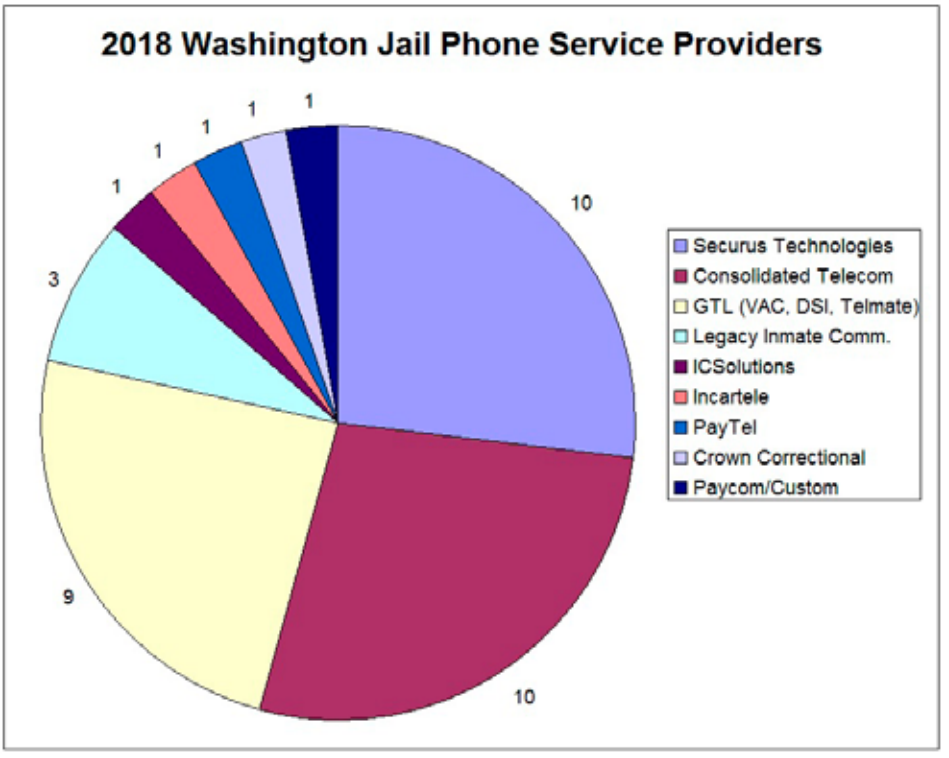
Michael Darrington, the former prisoner who served time at the Snohomish County jail, noted the cost of phone calls

directly impacts the ability of prisoners to communicate with their families. He told *PLN* that about 20 percent of the people he knew in prison would go three or four months without talking to their family members due to high phone rates.

"They would only be able to put about $100 on their account to last for the whole year," he said. "They'd try to make it last, but by about September, they would run out of money to talk to their wives and kids until the new year."

Suzanne Cook – whose husband is incarcerated at the Washington State Penitentiary – spoke of positive experiences with the lower call rates in state prisons. She uses phone calls to stay in touch with her husband in addition to face-to-face visits.

"The cost for a 20-minute phone call now is around $2.60 per call. Prior to the [rate] change, a 20-minute call was about $4.00. Less dropped calls and paying by the minute probably cut my phone expense by a third, even with the increased fees," Cook told *PLN*.



Within the Washington county jail telecom market, Securus and Consolidated Telecom each have contracts with ten jails; GTL and its subsidiaries (including Telmate, DSI and VAC) have nine contracts, followed by Legacy Inmate Communications with three and a handful of smaller companies. The Washington DOC's phone service provider is GTL.

Roadmap for Rate Reductions

How can in-state prison and jail phone rates be lowered? One way is through legislation or executive orders that cap the cost of calls made from detention facilities. Around a dozen states have banned kickbacks from phone service providers in their prison systems, including New York, California, New Mexico, South Carolina and Michigan.

The governor or DOC director can order the elimination of telecom kickbacks in state prisons, while county commissioners and sheriffs can refuse to enter into kickback-based phone contracts at local jails – but few have the political will or moral fortitude to do so. They could also, but typically do not, bid out monopoly phone contracts on the basis of which company can provide the best service at the lowest cost to consumers – a novel concept in the prison telecom industry.

In some jurisdictions the state Public Utility Commission, Public Service Commission or equivalent agency has authority to regulate intrastate phone rates, though in many states telecom services have been deregulated. The Washington Utilities and Transportation Commission (UTC), which regulates telecommunication and other utility services in the state, says its mission is to "protect the people of Washington by ensuring that investor-owned utility and transportation services are safe, available, reliable and *fairly priced*" (emphasis added).

When contacted by *PLN*, the agency indicated it does not regulate phone services at Washington state prisons.

"The UTC does not have jurisdiction over the prison phone contract for the

Department of Corrections," said Kate Griffith, the agency's Media and Communications Manager. "DOC's contract process for internal phone contracting is a competitive bid process and is not subject to UTC regulation. While the UTC does not have authority to set rates for operator service providers for prison phone services, it does have authority to ensure that these companies provide accurate rate quotes to customers before those customers commit to using the services."

Additionally, some states have public or quasi-public technology agencies that provide telecommunications services for state and local government offices. In Washington that agency is Washington Technology Solutions, also known as WaTech, which supplies IT, audio/visual conferencing and phone services to state, county and city governments.

According to its website, WaTech provides "free calling within the local exchange area, access to the state's long distance network, and access to the local operator and emergency services," plus Skype for Business. It also supplies "reduced rate long distance telephone service for state and local government agencies in Washington via the Switched Long Distance (SLD) service," at rates of less than $0.05/minute for both intrastate and interstate calls.

In response to an inquiry by *PLN*, WaTech reported that it "does provide phone services for administrative staff at many state Department of Corrections, DOC, facilities," but no prisoner calling services. The agency's communications director, Jeremy Barclay, said his understanding was that "some security system differentiation ... needs to be maintained between the data transmission of staff and the incarcerated population's phone lines."

Yet if WaTech has the ability to provide low-cost, secure telecom services for state and local government agencies, including the DOC and state police, presumably it can also provide secure, low-cost phone services for prisoners held in state prisons and county jails. More likely, no public official has ever asked them if they could.

While the phone rates at Washington jails are unfairly high, averaging $4.31 for a 15-minute local call and up to $14.59 for a single 15-minute in-state interlata call, some would consider the Washington DOC's $0.11/minute rate to be reasonable. In fact, however, based on nationwide data collected by the Campaign for Prison Phone Justice, the DOC's phone rate is more expensive than in 23 other state prison systems.

Fees, Fees, Fees

Even if detention facilities charged significantly lower phone rates – such as when long distance rates were capped by the FCC – ancillary fees charged by telecom companies also create a financial burden for prisoners and their families.

In May 2013, the Prison Policy Initiative released a report that detailed the numerous, often hidden fees charged by prison phone companies. The report noted that "These fees – the vast majority of which do not exist in the ordinary telephone market – drive the telephone bills charged to people with incarcerated loved ones to astronomical levels." Such fees "can easily double the cost of a single telephone call, and can add 50% to the phone bills charged to the families that receive more frequent calls," it added.

At that time, prison telecom companies charged billing statement fees, phone

validation fees, refund fees and fees to add funds to prepaid or debit phone accounts. The latter fees appear to be unique to the prison phone industry – other than prisoners and their families, who pays a fee for making a payment for their phone service; that is, a fee to pay their bill?

In its 2013 order capping interstate prison and jail phone rates, the FCC limited the fees that telecom companies can charge to just three: up to a $3.00 automated payment fee (such as online), a $5.95 fee for depositing funds using a live agent and a $2.00 fee for paper billing statements. But those fees can still add up.

Keegan Patterson's boyfriend is incarcerated at the Monroe Correctional Complex in Monroe, Washington, and in an interview with *Prison Legal News* he described the financial hurdles he faces when receiving calls from the prison. Patterson cited the fees he must pay when adding money to his account using AdvancePay, owned by GTL. If he deposits $50, the $3.00 he is charged represents a six percent fee. If he adds $25 the fee is 12 percent, and if he adds only $10 the fee represents 30 percent of his payment. He is limited to a maximum deposit of $50 and must pay a fee each time he adds funds to his phone account.

It could be worse – if he made deposits using a live agent, the $5.95 per-transaction fee would represent almost 12 percent of a $50 deposit, 24 percent of a $25 deposit and 59.5 percent of a $10 deposit.

Patterson has limited himself to roughly $50 a week for phone calls from his boyfriend, or $200-$300 per month. Which means about $12-$18 of that amount is spent on fees alone each month, or around $145-$215 per year.

Patterson, who shared one of his monthly bills with *PLN*, said he spends more on prison phone costs than he does on his own cell phone service.

"I can't adequately describe how frustrating it is that my personal cell phone bill is a fraction of what I spend every month to talk to my boyfriend in prison," he explained. "I actually have to limit how often I fund his account because there have been months where I've spent over $300 just on phone calls and this has caused a strain on my finances and our relationship. My boyfriend gets anxiety when he can't call me and I carry horrible guilt for not being able to spend even more money on phone calls than I already do."

Patterson also noted that GTL's phone connection often has poor audio quality, and said time is wasted when he has trouble hearing his boyfriend and when reconnecting dropped or inaudible calls. It happens so often, he added, that it has become "normal" and "part of the routine" when accepting calls from the prison.

"Although I'm sure I could complain to GTL about not receiving credits for disconnected phone calls and poor connection quality, it just doesn't seem worth it when this essentially amounts to 11 cents per occurrence, even though this adds up quickly," Patterson remarked, referring to the $0.11/minute rate for phone calls from Washington state prisons. "Maybe that's what GTL is counting on."

He added he is far from alone in having these concerns, pointing to the Monroe Corrections Support Group on Facebook, which he said has become an extended family of sorts and a key network that families and friends of Monroe prisoners use to discuss common experiences and troubleshoot common concerns. The cost of fees associated with prison phone calls, plus technical problems that occur during the calls, are chief among those issues.

Fees imposed by telecom companies are especially profitable because they're exempt from kickback payments to the contracting corrections agencies. The companies can simply pocket that money, which gives them an incentive to maximize fee revenue. One way they do so is by capping the amount families can add to phone accounts – usually a limit of $50. If they want to add more, they have to pay multiple deposit fees.

The fees are how prison phone companies pad their profits. The kickbacks they give to corrections agencies in exchange for monopoly contracts to exploit prisoners and their families are based on the phone rates charged and payments received for the calls. The fees are essentially pure gravy for the companies, since they are not subject to kickbacks. Indeed, these fees did not even exist 15 years ago, but were invented out of whole cloth by the prison telecom industry to boost their profits as corrections agencies became greedier and demanded larger and larger kickbacks to increase their revenue from phone contracts.

Following the Kickback Money

As noted above, almost all prison and jail phone contracts are based on a revenue-generating "commission" model, in which telecom companies pay kickbacks – typically a percentage of the gross revenue generated from phone calls – to the contracting corrections agency in exchange for a monopoly contract to provide phone services for prisoners.

In any other context the practice of

contractors paying kickbacks to government agencies to obtain lucrative contracts would be illegal – but such arrangements are business as usual in the prison telecom industry.

High phone rates at detention facilities are one thing, but they beg another question: where does the kickback money generated by those rates go, and what is it spent on once pocketed by the corrections agencies that receive it? That requires a closer examination of prison phone kickbacks and Inmate Welfare Funds.

Inmate Welfare Funds (IWFs), also known as Inmate Benevolence Funds, Inmate Trust Funds and Inmate Betterment Funds, are accounts maintained by prisons and jails to hold and manage money that – as the names imply – is used to benefit the prisoner population. That is, the funds are supposed to be spent on shared goods and services for the collective benefit of prisoners. IWFs are funded from two primary sources: commissary revenue and kickback revenue from phone services.

In Washington State, every county jail except one receives kickbacks from its telecom provider. Those payments, representing a portion of phone revenue, range from a high of 70 percent at the Whatcom County jail jail to a low of 10 percent in Mason County. Of the 36 jails that receive kickbacks (excluding Wahkiakum County, which does not get them, and Douglas and San Juan counties, which do not have jails), 18 receive kickbacks of 50 percent or higher. The average kickback was 47 percent.

Most of the kickbacks specified in prison and jail telecom contracts are based on a percentage of gross revenue from phone calls made by prisoners; as noted above, kickbacks are also paid for video calling services. Seven Washington jails, though, receive payments based on a per-minute rate – that is, they receive a set amount of the per-minute phone rates charged by the telecom provider, sometimes referred to as "cost recovery" rather than commissions. That's a distinction without a difference, since those counties still get payments from their phone service providers. Clark, Grant, Kitsap, Lewis, Snohomish, Stevens and Thurston counties receive per-minute kickbacks ranging from $0.03/minute to $0.09/minute.

In addition to phone revenue kickbacks, some counties reap other financial benefits from telecom companies. When Whatcom County awarded its jail phone contract to Legacy Inmate Communications, in addition to a 70 percent kickback it received a $20,000 signing bonus. And when Jefferson and Skamania counties contracted with Consolidated Telecom, they each received a $3,000 bonus. The Lincoln County jail received a $1,000 signing bonus.

Beyond its phone kickback, Grant County gets an additional $18,000 annual payment from GTL for "inmate benefit programs or projects." The Columbia County jail uses its kickback payments to purchase phone calling cards, which it then sells to prisoners – though it claims it doesn't profit from that arrangement. Other jails have received bonuses in the form of calling cards instead of cash.

So how profitable are the kickbacks from prison phone providers? Unsurprisingly, small county jails with few prisoners (who thus make fewer phone calls) receive small kickback payments. Larger jails with more prisoners get larger kickbacks. Some examples: among the smaller jails in Washington, with 50 or fewer beds, Adams County received just over $10,000 in 2017 while Skamania County received

If You Write to *Prison Legal News*

We receive many, many letters from prisoners – around 1,000 a month, every month. If you contact us, please note that we are unable to respond to the vast majority of letters we receive.

In almost all cases we cannot help find an attorney, intervene in criminal or civil cases, contact prison officials regarding grievances or disciplinary issues, etc. We cannot assist with wrongful convictions, and recommend contacting organizations that specialize in such cases – see the resource list on page 68 (though we can help obtain compensation *after* a wrongful conviction has been reversed based on innocence claims).

Please do not send us documents that you need to have returned. Although we welcome copies of verdicts and settlements, do not send copies of complaints or lawsuits that have not yet resulted in a favorable outcome.

Also, if you contact us, please ensure letters are legible and to the point – we regularly receive 10- to 15-page letters, and do not have the staff time or resources to review lengthy correspondence. If we need more information, we will write back.

While we wish we could respond to everyone who contacts us, we are unable to do so; please do not be disappointed if you do not receive a reply.

$7,425.91. In the jails with over 1,000 beds, King County had $563,444.08 in kickbacks in 2017 and Pierce County received $576,004.34.

Last year alone, 31 Washington jails received a combined total of more than $2.33 million from their phone service providers. That does not include kickback amounts that were unavailable or insufficient for five counties – meaning the actual aggregate kickback total is higher.

Under its contract with GTL, the Washington DOC previously received a 51 percent kickback with a minimum annual guarantee (MAG) of almost $4.03 million as of August 2014. The MAG was discontinued effective March 17, 2016 and replaced with a 56 percent kickback on gross revenue from intrastate calls. More recent data for the DOC's phone kickback payments was not available at the time this issue of *PLN* went to press.

Notably, all prison and jail phone kickbacks come from revenue paid by prisoners or their family members and friends. If corrections agencies did not accept kickback payments, the cost of phone calls from their facilities could be lowered accordingly; i.e., if they didn't receive a 50 percent kickback then the phone rates could be 50 percent lower. That would not affect the telecom providers, which would make the same amount of profit since they pass through all kickback revenue to the contracting corrections agencies anyway. Nor would it affect the ancillary fees the companies charge.

Inmate "Welfare" Funds

The kickback payments that county jails receive usually go into their Inmate Welfare Funds or equivalent accounts where, presumably, the money is used to benefit prisoners.

In practice, however, IWF accounts are sometimes used for other things, as there are no statutory restrictions in Washington State as to how IWF funds can or cannot be spent. In at least five Washington counties – King, Thurston, Spokane, Yakima and Walla Walla – IWFs are used to pay the salaries and benefits of jail employees.

King County, the state's most populous county with the largest jail population, serves as a large-scale case study of how money goes from the pockets of prisoners and their families, via payments for phone calls, to the telecom service provider and then, through kickback payments, to the jail's IWF. From there, according to King County Department of Adult and Juvenile Detention Chief Financial Officer Vicki Day, some of that money is used to cover the employee costs of Nancy Garcia, the staff member who administers the IWF account.

Based on records obtained by *Prison Legal News*, $82,268 of the IWF account's $1.15 million in expenditures in 2017 went toward Garcia's salary. In addition, another $14,650 was used to pay her medical, dental and life insurance plus $6,797.44 for Social Security and Medicare contributions, $10,127.96 for retirement benefits and $2,768.74 for workplace safety insurance. That totals $116,613.14, or 10.1 percent of the IWF's expenses in 2017.

Taking a broader view, King County's general budget for adult and juvenile detention in 2017-2018 was $291.93 million. This begs the question of why – with a budget that size – the salary and benefits of a jail employee are paid from the much smaller IWF, which is supposed to be used for the benefit of the prisoner population. In comparison, the IWF account is around 0.4 percent of King County's total detention services budget.

A similar situation exists in Thurston County, the state's sixth largest county by population. The jail allots a portion of its IWF account to pay the salary and associated benefits of a financial services employee, explained Chief Deputy Todd Thoma with the Thurston County Sheriff's Office.

Last year the jail used its IWF to pay $12,055 for the employee's salary (25 percent of their total salary according to Thoma), plus $917.29 for Social Security contributions, $1,440.54 for retirement benefits, $2,503.50 for health insurance and $185 in combined workers' compensation, unemployment compensation and long-term disability costs. That totals $17,101.33, or 5.3 percent of the jail's $323,271.57 IWF expenditures in 2017. The Thurston County jail's general budget that year was $20.8 million.

Spokane County's jail utilizes its IWF to cover the salary and employee benefits of a teacher, two case managers and a technical assistant, the county's Public Policy and Communications Manager, Jared Webley, told *PLN*.

In 2017 the jail paid $214,972.39 from its IWF account for those employees' salaries, $1,227.21 for a paid time-off cashout, $12,184.59 in overtime and holiday pay, $78.86 for off days, $111.16 for shift differential payments (hours worked dif-

ferently than standard hours), $66,272.21 for dental and medical insurance, $2,965.84 for workers' compensation, $17,043.43 for Social Security contributions, $144 for life insurance, $1,128.90 for long- and short-term disability, and $18,229.86 for retirement health insurance plans – a total of $334,358.45.

That was 32.5 percent of the $1.027 million in IWF expenses at the Spokane County jail in 2017. The IWF, in turn, represented a fraction of the jail's $33.6 million general budget that year.

In Yakima County, $184,296.29 from the jail's IWF account went toward a line item labeled "JI Officer & Clerk" in 2017 – 43.3 percent of the IWF's $425,221.31 in expenditures. The general budget for the Yakima County jail that year was $30.29 million.

"The Jail Industries Division (JI) oversees inmate worker and programs in the Yakima County Jail. There are six staff positions in the JI Division," Ed Campbell, director of the Yakima County Department of Corrections, told *PLN*.

Thus, the inflated phone rates that prisoners and their families pay are being used to fund a jail slave labor program that further facilitates the prisoners' economic exploitation.

In Walla Walla County, a small county with a correspondingly smaller prisoner population, the jail used almost half the money in its IWF to fund salary and benefits costs. In 2017 the jail paid $20,494.14 toward the salary of the employee who administers the IWF account, the commissary and, more broadly, the facility's overall budget. That employee, Caroline Weber, works as an executive assistant in the Walla Walla County Sheriff's Office.

The IWF was also used to pay for Weber's medical, dental and life insurance ($6,371), plus her Social Security contributions ($1,514.75) and retirement benefits ($2,447.15). The total, $30,827.04, represented a remarkable 48.3 percent of the $63,785.29 in IWF expenses in 2017. The general budget for the Walla Walla County jail that same year was about $2.38 million.

While some may argue that using Inmate Welfare Funds to pay the salaries of jail employees indirectly "benefits" prisoners, most would consider that a stretch. Public employees should be paid with public taxpayer funds designated for that purpose – not with IWF money specifically intended to benefit prisoners. What would happen if prisoners stopped making phone calls? Would the jails terminate employees paid from IWF accounts, or would they pay them from the general budget like all other staff members?

The use of IWF funds to pay the salaries and benefits of jail employees is all the more egregious given the size of the jails' general budgets, which dwarf the balances in IWF accounts. Such employee expenses would be a miniscule percentage of the general budget but constitute a significant portion of much-smaller Inmate Welfare Funds – as noted above, over 40 percent of annual IWF expenditures in some counties.

Jails that use IWF money to pay their employees apparently view those accounts less as a means of benefiting prisoners and more as slush funds for their own benefit. In Kitsap County, phone kickbacks go into the county's general fund.

Some Good News ... But Not in Washington

Not all corrections agencies price-gouge prisoners and their families through exploitive phone rates, and some states and

Jail Phone Rates Increase (cont.)

local jurisdictions outside Washington have taken steps to rein in the worse abuses of the prison phone industry.

In one of the country's largest states, and one not exactly known for its progressive policies, the Texas Board of Criminal Justice recently approved a decrease in the cost of calls made from state prisons from $0.26/minute to $0.06/minute. The lower rates went into effect on September 1, 2018.

"Under the new contract with CenturyLink, the cost of a typical 15-minute phone call will drop from about $4 to 90 cents. Phone call limits will also increase from 20 minutes to 30 minutes, and CenturyLink will install technology to allow for video visitation from major metro areas to rural areas," *The Texas Tribune* reported. "The revenue from the phone system, under state law, is split – 60 percent goes to the contractor and 40 percent goes to the state, mostly to the Texas Crime Victims Fund."

Taking an even more drastic approach, in August 2018 the nation's largest metropolis, New York City, made all prisoner phone calls free in its jail system. Previously, Securus had charged an "initial fee of 50 cents, plus 5 cents per minute for calls within New York, as well as fees for depositing funds," Human Rights Watch wrote in an article about the new policy.

The Big Apple, notoriously known by those who follow criminal justice issues for its Rikers Island Jail, became the first major city in the U.S. to implement a free phone call policy. Under the arrangement with Securus, the city will no longer receive a minimum of $5 million in annual kickback payments. Prisoners' families and friends who previously had to pay for the calls are expected to save an estimated $8 million per year.

In June 2016, Davidson County, Tennessee Sheriff Daron Hall, who previously served as president of the American Correctional Association, announced intrastate phone rates in the county's jail system would be lowered to $0.05/minute – one of the lowest rates in the nation for a local jail. The county will no longer accept kickbacks from its phone service provider, GTL.

"The vast majority of inmates in our jails – and jails across the country – are in pretrial status," Sheriff Hall said. "They have not been found guilty of any crime; therefore, they should have access to the privilege of calling loved ones regardless of their economic status."

In jurisdictions where phone rates remain high at local jails, some are fighting back. For example, in response to excessive rates at the Bristol County jail in Massachusetts, a class-action lawsuit was filed in May 2018 that alleges the jail's phone contract with Securus constitutes an illegal kickback scheme. [See: *PLN*, Aug. 2018, p.55].

According to the complaint, between August 2011 and June 2013 the Bristol County Sheriff's Office collected $1.7 million in kickback payments from Securus. Additionally, the company paid the Sheriff's Office another $820,000 to cover kickbacks for the years 2016-2020. See: *Pearson v. Hodgson*, Suffolk Superior Court (MA), Case No. 18-1360.

Several lawsuits were filed in the U.S. District Court for the Northern District of California that alleged illegal phone contract kickbacks at four county jails, though the cases were dismissed in August 2017. The suits were based on the argument that high phone rates amounted to violations of the First Amendment, the Fifth Amendment's unlawful takings provision, the Fourteenth Amendment's equal protection clause and the Sherman Antitrust Act. They noted that Alameda County received at least $1.5 million a year from a 70 percent contractual kickback, while Santa Clara County was paid a 61 percent kickback that resulted in $1.7 million annually and Contra Costa County received kickbacks of over 50 percent of phone revenue amounting to $720,000 per year. [See: *PLN*, Aug. 2018, p.44].

While the California lawsuits were dismissed, other legal challenges to exorbitant prison and jail phone rates will likely be filed by prisoners' family members who are fed up with being price-gouged and exploited.

In regard to video-only visitation policies at local jails, counties in Mississippi and Texas, as well as the District of Columbia, have reversed course and reinstated in-person visits. The Dallas County jail brought back face-to-face visits, which had been replaced with video calls, in September 2015; the jail still uses remote video calling.

And the Adams County jail in Mississippi scrapped its Home Wav video calling system and reinstated non-contact in-person visits in April 2016.

Adams County Sheriff Travis Patten noted the cost of the video calls was a factor in his decision to return to face-to-face visitation.

"A lot of people couldn't afford those calls," he said. "We know that if someone is in the jail they've done something to be there, but I think everybody should have the right to check in on their child and make sure they're OK."

The District of Columbia's jail system ditched in-person visits in favor of video calling in 2012. Three years later, Mayor Muriel Browser announced that face-to-face visits would return; according to the D.C. Department of Corrections, they were reinstated and made available to prisoners "as an incentive for positive behavior." The D.C. jail still uses remote video calls.

"Video and in-person visits both allow inmates to maintain family and community ties and promote rehabilitation," said Rodney Mitchell, with the D.C. Department of Corrections' office of Government and Public Affairs.

"Nothing can replace sitting with a parent and hugging a parent," observed Ann Adalist-Estrin, who directs the National Resource Center on Children and Families of the Incarcerated at Rutgers University in New Jersey, commenting on the impersonal nature of video calls. "Everyone deserves a choice about how they get to see their loved ones. The families aren't incarcerated, and they shouldn't be punished."

A Call for Reforms

Despite the FCC's 2013 order that capped interstate prison and jail phone rates, eliminated most fees imposed by telecom companies and instituted other reforms, it is apparent there are still significant problems with the prison phone industry.

Prisoners and their families continue to be price-gouged by high rates, such as $10.14 charged at the Clallam County jail for a 15-minute local phone call. Or the $14.59 it costs – almost a dollar a minute – to make a 15-minute interlata call at the Kittitas County jail ($14.25 for a similar call from Adams County). Or the $7.50 cost of a 15-minute local call from jails in Wahkiakum and Klickitat counties.

Such excessive, unregulated in-state phone rates are due in part to the commission-based monopoly contracts between telecom companies and county jails. In Washington State, every jail except one receives a kickback from its phone service provider, ranging from 10 to 70 percent and averaging 47 percent. Only Wahkiakum County has foregone kickbacks – yet in-state phone calls at its jail are still pricey, at $0.50/minute.

Last year, 31 jails in Washington received a combined $2.33 million in kickbacks from their phone service providers, all of which was paid by prisoners and their families and loved ones through inflated phone rates. Were it not for the kickbacks that telecom companies pay to the counties, the rates could be much lower. Prison and jail calls would also cost less if there were fewer or less expensive fees for adding money to phone accounts.

With respect to video calling services, which are often bundled with phone contracts, the growing trend is for jails to eliminate in-person visits in order to increase the use of fee-based remote

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video calls – which also serves to increase kickback payments. Every county jail in Washington that provides remote video calling receives kickbacks, ranging from 10 to 50 percent of the video call revenue with an average of 26.75 percent.

Again, absent kickbacks the fees charged for video calling could be lower – though the practice of charging prisoners and their families anything to see each other is itself questionable, particularly when people outside of prison can use free video services such as Skype, Google Hangouts and Facebook Messenger group video chat, plus free video conferencing.

Fully a third of Washington county jails have done away with in-person visits and now only allow video calls, either on-site, remotely or both.

So what can state and local governments do to reform the exploitive prison telecom industry, since there is unlikely to be any action on the federal level in the foreseeable future following the D.C. Circuit Court of Appeals' ruling that struck down the FCC's rate caps on intrastate prison and jail phone calls?

The critical roadblock lies with elected government officials: the governor, state legislators and county commissioners, as well as sheriffs and jail administrators who have put greed ahead of the public interest when they enter into kickback-based telecom contracts.

In any other circumstance, the government awards contracts based on who can provide the best service at the lowest price, not who can pay the largest kickback. For those who believe in the mythology of the free market, the lack of competition in the prison phone industry, in which telecom companies are awarded monopoly contracts to provide services in jails or entire prison systems, is also a major part of the problem.

It is critical to consider that this contracting process has taken place behind closed doors, with no public debate or input, one county jail and one prison system at a time. Basic reforms that need to be implemented include:

• Allow prisoners' family members and others who pay for calls made by prisoners to select which phone carrier they use, which would end monopoly contracts and increase competition in the prison telecom industry.

• If the practice of awarding monopoly prison and jail phone contracts continues, require that they be awarded on the basis of which company can provide the best service at the lowest cost – just as most other government contracts are bid.

• Prisons and jails should refuse to accept any kickbacks or similar incentive payments from the prison phone industry. Currently only one jail in Washington State does not accept kickback payments. Nationally, a dozen states have banned kickbacks from prison telecom providers, including New York, which did so through legislation.

• Institute caps on in-state prison and jail phone rates and fees through legislation, an order from the governor's office or regulation by the state Public Utility Commission, Public Service Commission or similar agency. In 2014, for example, Alabama's Public Service Commission issued a comprehensive order reforming prison phone services in that state.

• Consider using telecom services at prisons and jails that are already supplied by public agencies such as Washington Technology Solutions, which provides low-cost phone, video and other communications services to state, county and city offices.

• Prohibit the elimination of in-person visits at prisons and jails, and require jails that only use video calling to reinstate in-person visitation. In May 2015, Texas passed a law that requires jails to provide prisoners with at least two in-person visits each week. Similar efforts have been made in California.

• Use versions of Skype, Google Hangouts or similar free or low-cost video calling and conferencing services to supplement in-person visitation at prisons and jails.

• Provide all prisoners with at least one hour per week of free phone time and free video calling, so they can maintain contact with their families, children and other loved ones.

We can and must demand better from our government officials. While they pay lip service to reducing recidivism, encouraging prisoners to maintain family ties and otherwise advancing the welfare of all citizens, the reality of exploitation and avarice with respect to prison and jail telecom services in Washington State belies those claims.

The time has come, after decades of experience with the prison phone industry and its price-gouging practices, to acknowledge it as the failure it is, institute much-needed reforms and move to modern telecommunications services that are appropriate for the 21st century – with no "commission" kickbacks, no monopoly contracts, and lower rates and fees.

The rest of America has figured this out. Why can't its prisons and jails?

Ed. Note: Support for this investigation came from a generous grant from the Legal Foundation of Washington as a result of the *Judd v. AT&T* litigation, in which Washington state consumers were not informed of the cost of phone calls made by prisoners from Washington Department of Corrections facilities between 1996 and 2000. The