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ARTHUR LIMAN PUBLIC INTEREST PROGRAM

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Re: Elimination of Monthly Limit on Telephone Calls

Dear Acting Director Kane:

We write to request that the Bureau of Prisons (BOP) revisit and rescind its monthly limit on telephone calls.¹ This restriction, which appears to have first become effective in 2002,² impedes policy goals aimed at facilitating reentry and enabling prisoners to remain connected to their communities and families. These commitments are central to contemporary criminal justice policy and reflect positions adopted by the Bureau,³ Congress,⁴ and the Department of Justice.⁵

A word of introduction is in order, as this letter comes to you from a Co-Chair of the National Association of Women Judges' Committee on Women in Prison (NAWJ), the Liman Program at Yale Law School, the Columbia Law School prison clinic, and the Human Rights Defense Center (HRDC). Founded in 1979, NAWJ brings together judges from all levels of the judiciary to improve access and equality in the justice system. The Liman Program at Yale Law School works to improve conditions of confinement in prisons and to enhance access to justice in both the civil and criminal systems. The Columbia prison clinic advocates and litigates for people incarcerated in federal prisons on issues related to

their conditions of confinement. HRDC co-founded the Campaign for Prison Phone Justice in 2011 and has worked with the Federal Communications Commission (FCC) to challenge the exorbitant rates imposed on low-income families by the prisoner calling services industry.

The cap on minutes for prisoners in the federal system is thus of great concern to all of us. Communication with family members and support networks facilitates rehabilitation during incarceration and is essential for successful reentry. Studies have confirmed that people who maintain family relationships during incarceration are better equipped to cope with the psychological challenges of prison⁶ and more likely to enjoy success upon release.⁷ Telephone access is an indispensable and cost effective means of communication for supporting family relationships. Further, telephone access is critical for post-release planning between incarcerated people and community organizations. Promoting both reentry and family relationships is not only central to the wellbeing of prisoners but is also wise, given that the overwhelming majority of people currently in prison will return home.⁸

The BOP has repeatedly acknowledged the importance of maintaining relationships during incarceration. In fact, the very same program statement that imposes monthly limits on telephone access states that its primary aim is to help incarcerated people "maintain family and community contact via the telephone."⁹ Similarly, the BOP's website states that "maintaining family ties will improve the likelihood of a successful reentry into the community, thus reducing the potential for recidivism."¹⁰ Further, in 2013, former Bureau Director Charles E. Samuels, Jr. wrote that the BOP "remains committed to keeping inmates as close to home as reasonably possible in order to assist with maintaining family ties and preparation for reentry."¹¹

Last year, no less than the President made it a priority to reduce the degrees of isolation that people experience in prison. The President not only visited people incarcerated at a federal prison but also issued a groundbreaking statement calling for limits on solitary confinement.¹²

The puzzle, therefore, is why the BOP continues to impose a restriction that is in tension with the Bureau's own goals. The monthly limit on telephone calls significantly undercuts opportunities for meaningful communication. Were a prisoner to make daily telephone calls, the average time for each call could be less than ten minutes per day—less than even the fifteen-minute limit on calls suggested by the BOP.¹³

In practice, this time limit works hardships in a variety of ways. As every parent knows, talking to children requires some time to "warm up" and reconnect. Ten minutes does not allow for opportunities to help with homework or talk about activities, let alone to coordinate with caregivers and spouses or plan for release. In large or extended families, family members might not share phone lines or be in the same place. Moreover, the time that people spend waiting on hold while communicating with government and community organizations in the course of post-release planning can rapidly deplete the 300-minute allotment.

The blanket application of this restriction to all federal prisons is as unnecessary as it is unwise. Different institutions will face varying challenges and constraints. As the language of the BOP's suggested fifteen-minute limit on individual calls implicitly recognizes, there is no need to mandate a nationwide limit on access to telephones. Moreover, the relaxed limit of 400 minutes in November and December confirms that increased access to telephones is feasible.

The BOP's monthly limit is also an outlier, in that state prison systems typically do not impose monthly limits on the use of telephones in general population.¹⁴ These states recognize that monthly caps on telephone access are unnecessarily burdensome and counterproductive.

In sum, we believe that the current BOP policy is deeply misguided. We write to ask that the Bureau revisit and rescind the 300-minute monthly limit on telephone access. We look forward to hearing from you and would be happy to meet with you to discuss these changes.

Sincerely,

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Brett Dignam
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cc: Sally Yates, Deputy Attorney General, Department of Justice

¹ FED. BUREAU OF PRISONS, PROGRAM STATEMENT P5264.08, INMATE TEL. REGULATIONS 9 (Feb. 11, 2008), https://www.bop.gov/policy/progstat/5264_008.pdf.

² FED. BUREAU OF PRISONS, PROGRAM STATEMENT P5264.07, TEL. REGULATIONS FOR INMATES 4, (Feb. 4, 2002) https://www.bop.gov/policy/progstat/5264_007.pdf.

³ See Press Release, Fed. Bureau of Prisons, *Incarcerated Parents Reconnect with Their Children*, (Sept. 26, 2013), https://www.bop.gov/resources/news/20130925_reconnecting.jsp.

⁴ See Second Chance Act of 2007, Pub. L. No. 110-199, 122 Stat. 657 (2008); BUREAU OF JUSTICE ASSISTANCE, *Justice Reinvestment Initiative: What is Justice Reinvestment*, U.S. DEP'T OF JUSTICE (last visited, Oct. 1, 2016), https://www.bja.gov/programs/justicereinvestment/what_is_jri.html ("[T]he Bureau of Justice Assistance (BJA) launched the Justice Reinvestment Initiative (JRI) with funding appropriated by Congress in recognition of earlier successes of justice reinvestment efforts."); see also Press Release, *Murphy, Gillibrand, Lead Senate Effort Calling on Bureau of Prisons to Suspend Transfer of Female Inmates from Danbury Women's Prison Until Critical Questions Answered* (Aug. 2, 2013), <https://www.murphy.senate.gov/newsroom/press-releases/murphy-gillibrand-lead-senate-effort-calling-on-bureau-of-prisons-to-suspend-transfer-of-female-inmates-from-danbury-womens-prison-until-critical-questions-answered>.

⁵ See Press Release, Dep't of Justice, *Deputy Attorney General James M. Cole Delivers Remarks at the Children of Incarcerated Parents Initiative "Champions of Change" Event*, (June 12, 2013), <https://www.justice.gov/opa/speech/deputy-attorney-general-james-m-cole-delivers-remarks-children-incarcerated-parents>.

⁶ John D. Wooldredge, *Inmate Experiences and Psychological Well-Being*, 26 CRIM. J. & BEHAVIOR 235 (1999).

⁷ Ryan Shanahan & Sandra Villalobos Agudelo, *The Family and Recidivism*, 26 AMER. JAILS 17 (2012); Mark T. Berg & Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism*, 28 JUST. Q. 382 (2010).

⁸ Timothy Hughes & Doris James Wilson, *Reentry Trends in the U.S.*, BUREAU OF JUSTICE STATISTICS (Sept. 28, 2016), <http://www.bjs.gov/content/reentry/reentry.cfm>.

⁹ PROGRAM STATEMENT P5264.08, *supra* note 1, at 2.

¹⁰ *Communications*, FEDERAL BUREAU OF PRISONS (last visited Sept. 28, 2016), <https://www.bop.gov/inmates/communications.jsp>.

¹¹ Letter from Charles E. Samuels, Jr., Dir., Fed. Bureau of Prisons, to Sen. Christopher Murphy (Sept. 27, 2013).

¹² Barack Obama, *Why We Must Rethink Solitary Confinement*, WASH. POST (Jan. 25, 2016), https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html?utm_term=.bfb52c9e959e; see also U.S. DEP'T OF JUSTICE,

REPORT AND RECOMMENDATIONS CONCERNING THE USE OF RESTRICTIVE HOUSING (Jan. 2016), <https://www.justice.gov/dag/file/815551/download>.

¹³ PROGRAM STATEMENT P5264.08, *supra* note 1, at 9.

¹⁴ See, e.g., COLO. DEP'T OF CORR., ADMIN. REGULATION 850-12, TEL. REGULATIONS FOR OFFENDERS (NOV. 15, 2015), <https://drive.google.com/file/d/0B4vYiI52TzO6eG9Ybzk3cUdieEE/view>; N.Y. DEP'T OF CORR. AND CMTY. SUPERVISION, DIRECTIVE 4423, INMATE TEL. CALLS (MAY 21, 2015), <http://www.doccs.ny.gov/Directives/4423.pdf>; VA. DEP'T OF CORR., OPERATING PROCEDURE 803.3, OFFENDER TEL. SERV. (JUNE 1, 2015), <https://vadoc.virginia.gov/about/procedures/documents/800/803-3.pdf>. These jurisdictions limit the duration of individual calls to twenty or thirty minutes.