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cc 92-177

California Association of Jail Educators

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June 21, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Mr. Reed:

I respectfully wish to object to Billed Party Preference in jails and prisons on behalf of the California Association of Jail Educators, an association of school districts and community colleges who provide basic adult education and related academic services to inmates in correctional facilities.

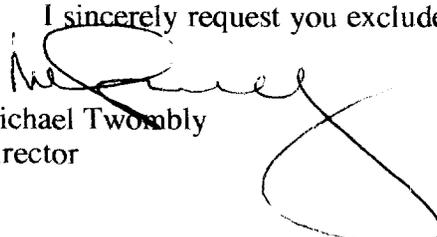
Inmate Welfare Funds are the backbone of rehabilitation and education funding in California jails. These funds represent, according to a recent study of jail education funding, over 56% of the dollars spent on inmate education in California jails. In recent years, these inmate welfare funds have meant the difference in our ability to provide the level and quality of inmate education sufficient to begin to reduce recidivism and help inmates become taxpayers.

The loss of inmate welfare funds, which would be the result of instituting BPP in our jails, means a loss of at least \$13 million in education funding for inmates of local correctional facilities out of a total budget of \$ 25 million annually. Correctional education would not survive in California as we know it.

There are many reasons why BPP should not be forced on correctional facilities, including fraud, blocked calls, and security issues. I am certain you have seen the enclosed article from American Jails (January 1994).

I sincerely request you exclude BPP from correctional facilities.

Michael Twombly
Director



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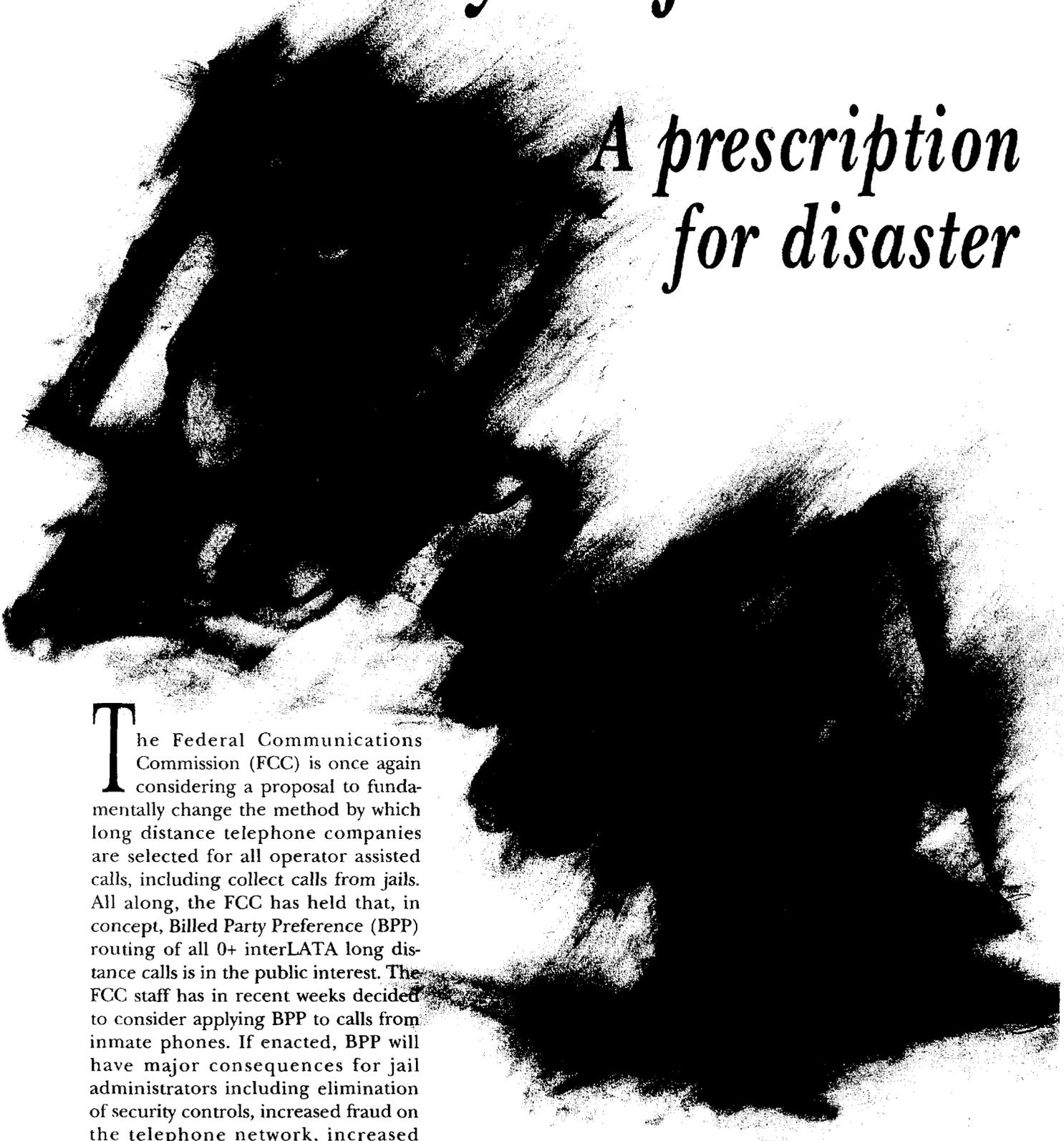


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Billed Party Preference...

*A prescription
for disaster*



The Federal Communications Commission (FCC) is once again considering a proposal to fundamentally change the method by which long distance telephone companies are selected for all operator assisted calls, including collect calls from jails. All along, the FCC has held that, in concept, Billed Party Preference (BPP) routing of all 0+ interLATA long distance calls is in the public interest. The FCC staff has in recent weeks decided to consider applying BPP to calls from inmate phones. If enacted, BPP will have major consequences for jail administrators including elimination of security controls, increased fraud on the telephone network, increased

PERRY R. EICHLOR AND VINCENT TOWNSEND

Fortunately, in the inmate phone industry there is a movement underfoot by informed jail administrators to mandate that inmate phone service providers charge regulated and monitored rates.

hardships for families of inmates, and the virtual elimination of all phone service commissions. This article focuses on the need to understand the problems BPP will present to confinement facilities and suggests a rational approach to resolving the problems that now affect jail administrators, inmates, inmate families, and the private inmate phone service providers.

What Is Billed Party Preference?

In order to persuade someone to buy into or accept something, it is first necessary to make sure they understand what you're saying. This is not as easy as it sounds because few people have the ability to convert their reasons into analogies that relate to the other person's experiences. Even fewer people have the ability to actually enter the world of the other person. Even then, the other person's degree of believing is in direct proportion to his existing needs and desires. Such is the case in attempting to examine the many emotional and logical faces of BPP as it relates to confinement facilities, the inmates confined there, their families, their jailers' access to the legal process, and the inmate phone service providers. While space will not allow a complete entry into the world of each player in this unfolding drama, the examination which follows will attempt to provide an understanding of the emotional underpinnings and logic behind the desires and needs of each group.

BPP is a proposal currently pending before the FCC regarding a fundamental change in the method by which long distance telephone companies are selected for all operator assisted calls, including calling card calls, collect calls, and calls billed to third numbers. These calls would include calls made by the public from pay telephones and motels as well as collect calls placed by inmates in jails. As originally proposed by Ameritech in 1986, a national database would route all calls to the long distance telephone company picked by the party paying for the call.¹ This party is the "billed party," hence the name Billed Party Preference.

The FCC order on BPP outlines what it believes will be another advantage of BPP, namely refocusing of competition from the payment of commissions to improved quality and reduced rates. Currently, operator service providers (OSP) compete for contracts by offering commission payments to confinement facilities. It is the

FCC's opinion and bias that the success of an OSP in the marketplace is directly related to the amount of commissions it offers and in some cases, regrettably, the higher costs of these commissions are passed on to consumers through higher operator service rates. Fortunately, in the inmate phone industry there is a movement underfoot by informed jail administrators to mandate that inmate phone service providers charge regulated and monitored rates.

What Would BPP Mean for the Public?

Ask the people on the street what Billed Party Preference is and what it means to them and you're liable to get a puzzled look followed by typical body language indicative of confusion. Average persons have no earthly idea what BPP is and what its implications would be. If you explain that it would allow them to select the long distance carrier of their choice at pay phones and in motels, they will give you a shrug and tell you that they do that now, by dialing 10288 for AT&T, as an example. If you tell them BPP would automatically route (without dialing an access code) their long distance calls to their picked carrier, they will probably be in favor of it. If you tell them that the cost of this automatic routing will increase the cost of their call, they will tell you they don't want it. It is interesting to note that the FCC's final report to Congress in 1992 on the results of the Telephone Operators Consumer Services Improvement Act of 1990 stated the cost of calls is coming down and consumers are able to reach the carrier of their choice through the operations of the competitive market.² It is also worth noting that not one public interest group has filed comments with the FCC favoring BPP.

Since the present article attempts to examine the consequences of BPP as it relates to the special problems of confinement facilities, their administrators, their inmates, and the inmates' families, the most logical question at this point is, "What are the problems with BPP in confinement facilities?" Next, one would need to ask the following questions: What does BPP mean to jail administrators? What would BPP mean to inmates and their families? What would BPP mean to inmate phone service providers? Who keeps urging the FCC to adopt BPP? And, finally, What do we need to do now to prevent this disaster?

What Are The Problems With BPP in Confinement Facilities?

In order to understand the problems BPP presents for jail administrators, it is first necessary to explain why confinement facilities are unique and why specialized phone system equipment is necessary there. First, a confinement facility is a controlled environment, not like public areas where, for example, public pay phones may be available. The FCC is already on record as recognizing this critical difference. Moreover, based on material presented by experts in telecommunications problems and fraud control, confinement facilities were specifically exempted in 1991 from the Commission's rules that prohibit the blocking of access code dialing at public pay phones and hotels.³ Second, inmate phone systems must balance a number of needs in providing service. Such systems must not jeopardize maintenance of security. Such systems should provide inmates with reasonable access to phones for contact with family, friends, and attorneys. Inmate phone systems must be designed and operated in a manner that prevents criminal activity including harassment and fraud without placing undue manpower requirements on staff.

Experience has shown that blocking calls to specific numbers is necessary. Experience has also shown that in some situations it is necessary to allow inmates to call only specific numbers. This prevents or reduces harassing calls as for example in calls to judges, witnesses, and jurors. Blocking also prevents or reduces other criminal activity. It is also necessary to block inbound calls to inmates. Some systems must be equipped with listening and/or recording capabilities necessary for detecting and preventing criminal activity. Similarly, such systems must be capable of providing real time call detail and special reports in investigations of criminal activities. By requiring such systems to be fully automated, the ability of inmates to harass or defraud live operators is virtually eliminated. This obviously negates the need to provide special training for live operators. Such systems also need to inform the collect call recipient that the calling party is making a call to them from a confinement facility and that the call will be a collect call. This is necessary to ensure that the called party is informed before accepting the call. Such systems must also provide for affirma-

BPP would require routing to the billed party's operator service provider of choice. As a result, specialized requirements could be restricted or impaired, resulting in increased opportunity for fraud, harassment, and other criminal activity.

tive responses (by verbal responses or entry of digits on keypad) to accept or not accept such calls. Most important, specialized systems are necessary to block the transfer of calls to third parties once a collect call is accepted. Even with specialized systems, the annual losses to inmate toll fraud are staggering.

The bottom line is that specially adapted telephone systems help maximize control and monitoring of inmate calling. The systems enable correctional administrators to limit calls to collect or other types of designated calling, to

ensure that calls are placed on an automated basis only or at least only through specially trained operators, to control more tightly who, when, how often and for how long inmates can call. Furthermore, these specially adapted telephone systems have generally been provided at very low cost or for free and have also been a source of revenue for confinement facilities.

BPP would require routing to the billed party's operator service provider of choice. As a result, specialized requirements could be restricted or impaired, resulting in increased opportunity for fraud, harassment, and other criminal activity. In this regard, it is clear that not all long distance companies would have the blocking or call restriction capabilities institutions require. The net effect to jails and prisons would be the potential for high fraud, no specialized services (blocking, phone number searches, etc.), and no real time monitoring or call detail reporting capabilities that are often required. Appropriate operator handling (live or automated) cannot be ensured either. Additionally, there is no guarantee that appropriate responses to network signaling by another carrier's network would be ensured.

What Does BPP Mean to Jail Administrators?

Under the current system of inmate-only phones, less supervision is required in cellblock areas because an officer is not required each time an inmate places a call. Reduced supervision requirements mean reduced administrative costs and security risks, better discipline, and measurably higher inmate morale. Under BPP, more supervision would be required to control calling by inmates. For example, BPP would take away from correction officials the authority to control the routing of inmate calls, eliminate limits on the types of calls, cause

loss of control on whether the calls would be handled by automated or live operators, and otherwise dilute the controls associated with modern inmate phone systems. In addition, the FCC proposal would eliminate the current revenue sharing opportunities which now constitute a source of revenue for confinement facilities and which are in most cases the major source of revenue for inmate welfare funds.

But perhaps the biggest concern of jail administrators is the fact that BPP will also result in the demise of competitive providers of inmate telephone systems. Confinement facilities will once again have to deal only with the telephone companies. Currently, competitive providers are able to bid to provide inmate telephone systems because they control the routing of calls from the inmate facility and they carry the call on their networks.

They will lose this ability under BPP. With BPP, telephone companies will now control the routing of all calls. They will be the sole recipient of revenues from the long distance companies for passing the calls on. With BPP, long distance carriers will not have the ability to contract with confinement facilities for the inmate calling traffic, but instead will receive the traffic based on the preselection of the billed or called party. Accordingly, the long distance companies will not be motivated to share revenue with the jail/prison authorities. There will be no pressure, from competitive providers of inmate phone systems, on either the telephone companies or the long distance companies to make them share any of the revenue they receive. This means that there will be little or no revenue sharing.

Once competitive providers of inmate phone systems disappear, correctional authorities will once again find themselves at the mercy of the telephone companies' offerings. They will have little leverage to demand or receive from the telephone company the specialized systems and features they now enjoy, unless the telephone company chooses to make them available for a fee. Confinement facilities serviced by small independent telephone companies will have no choice but to request budget allocations for these systems, purchase them, and operate them.

Inmate populations are growing at rates estimated from 12 to 15 percent per year. This means that by the end of the century, inmate populations could be increased by 40 percent. As inmate populations grow, so does the need for manpower. Again, manpower needs are expected to increase by 40 percent by the year 2000. Accordingly, counties and states will face even tougher economic pressures than currently exist. Those that cur-



rently exist are already straining city, county, and state budgets, past the breaking points. In order to house the inmates, new jails and other correctional facilities will have to be built. The public demands this, but the problem is there are no readily available funds to build such facilities. Jail administrators already know this. They also know that county and state officials will not and cannot provide revenue for inmate welfare funds. Accordingly, jail administrators already know that if BPP becomes a reality, their county and state officials are not very likely to invest in expensive inmate-only phone systems. Even if they did, at most facilities who could operate them, who could provide the technical expertise to monitor three-way calling, call velocity checks, and produce real time call detail reports?

When BPP becomes a reality, private inmate phone service providers will disappear taking their specialized phone systems with them. Then, jail administrators will have no choice but to return to the chaos that existed in the days before deregulation and divestiture of the telecommunications monopoly. As the old-timers will tell you, during the monopoly era, telephone privileges for inmates were extremely rare, because of the limited number of phones. When a husband was incarcerated the inability to communicate regularly with his family led to tragic hardships; family suffering and breakup was the rule. These are just some of the consequences that will result with BPP, consequences that experienced jail administrators dread, consequences that the FCC must be made to comprehend.

What Would BPP Mean to Inmates and Their Families?

Certain inmate activist groups have strongly objected to exempting prison telephone services from the BPP billing option. One such group, the Citizens United for the Rehabilitation of Errants (CURE) submitted comments to the FCC stating: "The Commission's proposal to implement a Billed Party Preference (BPP) routing scheme for 0+ interLATA operator traffic would benefit a significant segment of CURE's membership by helping to reduce the substantial costs associated with collect calls they receive from offenders using inmate-only prison telephones. These savings would not only benefit these parties by helping to remove a considerable financial barrier to communicating with loved ones in prison, such savings also would benefit society in general by facilitating family and community ties that have a demonstrable effect in reducing recidivism, preserving the family unit, easing prison tensions, and promoting society's efforts to rehabilitate offenders."⁴

The emotional whirlwind that inmates are caught up in has led them to believe that with BPP their families will receive immediate economic relief. In all probability, however, the rates will actually increase. BPP requires that each call "dip" into a national database to determine which carrier to route the call through to reach the billed party. Such "dips" will increase the cost of all BPP calls. If the local telephone companies and long distance telephone companies require that other databases be "dipped" for security purposes, additional expenses as well as additional routing expenses will be incurred. It is unreasonable to expect the telephone companies to absorb the costs of such "dips" and additional routing.



Who Is Going to Pay for This?

It is unclear who will pay for BPP and no one knows exactly what BPP will cost. Estimates of the cost for BPP implementation run in excess of \$1.5 billion for local telephone company expenses alone. Hundreds of millions of dollars will need to be spent by the long distance companies to re-educate consumers on how to make long distance calls. But, if history and experience are any indication of what costs will be, the costs to implement such a regulatory nightmare will far exceed the \$1.5 billion estimate. Since the costs of BPP will affect all calling, the more an inmate uses the phone under BPP, the more the costs will be to his family and loved ones. Indeed, for CURE, the implementation of BPP will truly be a giant step backwards. If BPP is implemented, most jail administrators will eliminate pay phones from their facilities because of security requirements and, therefore, the problems that CURE has indicated will be exaggerated rather than eliminated.

What Would BPP Mean to Inmate Phone Service Providers?

For most inmate phone service providers, BPP would spell their demise. Without the ability to control and process the calls, the source of their revenues will disappear. There would be no alternative to removing their phone systems from confinement facilities because there would be no revenues to pay the telephone companies the monthly line charges.

There can be no doubt about the consequences of the unethical actions and greed of a certain segment of the inmate phone service provider industry. It would certainly be regrettable if the actions of a few unscrupulous providers ultimately prove responsible for the demise of an industry that has fought hard to keep the telecommunications industry competitive and that has fought hard to prevent fraud and the financial suffering that results when inmates commit economic crimes. Hundreds of facilities already benefit from the private providers and the commissions they provide to operate inmate welfare funds.

The Inmate Calling Services Providers Task Force, a working group within the auspices of the American

Public Communications Council of NATA, is currently warning of the impending disaster that could result if the greed-prone and unethical providers don't clean up their act. At this writing, efforts to police the industry are well under way, but the industry needs and must have the support and cooperation of the confinement industry to complete the shake out.

To correct the abuses of a few unethical providers and avoid the disaster of BPP, a simple solution is readily available. This solution will meet all of the needs of inmates, their families, and their activist groups; it will meet the needs of the confinement industry and the needs of the inmate phone service provider industry. The solution is simply this: Absolutely, positively insist (1) that all contracts with inmate phone service providers be based on intrastate regulated rates and interstate rates that are fair to the inmate families, (2) that such contracts guarantee strict compliance with such tariffed rates, and (3) that failure to comply will result in termination of the contract without penalty or damages of any sort to the county or facility. It's that simple.

Who Keeps Urging the FCC to Adopt BPP?

BPP was first introduced by Ameritech in 1986. Ameritech is comprised of Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, and Wisconsin Bell. Ameritech has been joined by Bell Atlantic, Southwestern Bell, and Pacific Bell in supporting Billed Party Preference. All of these Regional Bell Operating Companies (RBOC) except Bell Atlantic have gone on record favoring BPP for inmate phones. It is interesting to note that with BPP these telephone companies will gain control of the routing of calls and will receive a fee for processing every call. MCI is the only long distance carrier that favors the implementation of BPP for confinement facilities. MCI readily acknowledges: "Implementation of BPP will also significantly reduce or eliminate the existing system of commission payments to the prisons which has come to be viewed as a source of revenue to federal, state and local governments. The carrier industry and the prison authorities will have sufficient opportunity, due to the time it will take to deploy BPP, to devise new products and to adjust to the changes that BPP will require for Call Control." Regrettably, the very people who think BPP will save them money will be the ones who will pay more for their calls. These increased costs will be necessary to cover the fees charged by the RBOCs to transfer the calls to their picked carrier, plus the fees charged by the carriers for the "new products" MCI admits will have to be developed to provide inmate calling.

This raises two very interesting questions: (1) How much are these "new products" actually going to cost? (2) Does anybody really believe that the RBOCs and MCI are behind BPP because they want to cut back their services, reduce their control, and lower their rates?

What Do We Need to Do Now to Prevent This Disaster?

If you believe that BPP will dilute your authority to control inmate calling and will result in increased fraud and hardships in terms of wasted manpower, and increased expenses to inmate families, you need to make your views known immediately. Write the FCC and write your congressional representatives. Ask your representatives to investigate the FCC proposal and urge the FCC not to adopt Billed Party Preference. Time is critical as this issue may be on the FCC agenda in early 1994. Tell the FCC that as a jail administrator you believe that contracts requiring rate guarantees and rate monitoring will protect inmate families far better than BPP. Your letter to the FCC should be sent to: The Honorable Reed Hundt, Chairman, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. ☛

References

1. Letter from Ameritech to Judge Greene, U. S. District Court for the District of Columbia Circuit, in the Spring of 1986.
2. Final Report of the Federal Communications Commission Pursuant to the Telephone Operator Consumer Service Improvement Act of 1990, November 13, 1992, p. 18.
3. Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744, 2752 (1991).
4. Federal Communications Commission, Docket No. 92-77. Comments of Citizens United for the Rehabilitation of Errants, May 6, 1993.
5. Ex Parte Comments filed with FCC, Docket No. 92-77, October 25, 1993, by MCI.

Perry R. Eichor is the Director of the Greenville County Community Service Department and the Greenville County Detention Center, a 203-bed facility housing over 400 prisoners. In January of 1994 a 288-bed addition will be opened and work is in progress on a 198-bed workcamp.

Eichor is a member of the American Correctional Association, the American Jail Association, past Secretary/Treasurer of the South Carolina Jail Administrators Association, and a life member of the International Association of Chiefs of Police. He has 40 years' experience in the criminal justice field and is a graduate of Michigan State University and the American University Correctional Institute. He can be reached at (803) 271-5361.

Vincent Townsend is President of Pay Tel Communications, Inc. Pay Tel owns and operates over 500 inmate phones serving 55 county confinement facilities in Virginia, North Carolina, and South Carolina.

Mr. Townsend is the President of the North Carolina Payphone Association and a Board Member of the American Public Communications Council (APCC) Inmate Calling Service Providers Task Force. Mr. Townsend also serves as the APCC representative on the National Toll Fraud Prevention Committee. Mr. Townsend has a B. S. degree in Business Administration from the University of North Carolina at Chapel Hill. He can be reached at (919) 852-7419.

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