



January 19, 2016

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WC Docket No. 12-375  
Comments re Third Further Notice of Proposed Rulemaking,  
**Video Calling and Other Advanced Inmate Communication Services**

Dear Ms. Dortch:

Legal Services for Prisoners with Children (LSPC) respectfully submits this comment for WC Docket No. 12-375. In particular, LSPC welcomes the opportunity to provide advocacy to the Federal Communications Commission (FCC) on the issue of video visitation and its impact on the rights of incarcerated people and their loved ones.

LSPC is a civil rights and grassroots organizing non-profit that advocates to release incarcerated people, to restore human and civil rights, and to reunify families and communities. A core principal of our work recognizes that incarcerated people come from families—they are sons, daughters, siblings, parents, and grandparents. Their incarceration impacts their families and communities and LSPC has advocated for many years for meaningful access to visitation.

The development of video communication technology provides exciting potential to enhance the ability of incarcerated people to maintain strong family relationships. We are concerned, however, that without regulation, this new service may be used to decrease the quality of family contact and to extract unfair and unaffordable costs from some of the most financially vulnerable in our society.

We therefore urge the FCC to adopt regulations establishing that, when a jail, prison, or other detention center offers video calling services, those services (1) should not be used to replace in-person visits; (2) should be evaluated as distinct from intra-facility video visits; (3) should be subject to the same rate caps as existing Inmate Calling Services (ICS); (4) should be available without background checks or similar restrictions for those in contact with incarcerated individuals; and (5) should be subject to minimum standards of technological functionality.

I. Video Calling Should Supplement, Not Replace, In-Person Visits

As of 2015, three-quarters of county jails across the country that had implemented video calling services had also eliminated in-person visitation.<sup>1</sup> In California, this disturbing trend has already occurred in at least two counties (Napa and Solano). At least five additional California

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<sup>1</sup> Rabuy, B., & Wagner, P. (2015). *Screening Out Family Time: The for-profit video visitation industry in prisons and jails*. Easthampton: Prison Policy Institute. Available at <http://www.prisonpolicy.org/visitation/report.html>.

counties (Placer, Tulare, Imperial, Orange, and San Mateo) have severely restricted or plan to restrict or eliminate in-person visits upon the installation of video visitation systems.

Studies have repeatedly shown that strong family ties are vital to helping incarcerated people reenter society successfully and to decreasing disciplinary infractions for those who are still incarcerated.<sup>2</sup> As anyone who has tried to maintain contact with a loved one over Skype or Facetime can attest, video visitation simply cannot replace the value of face-to-face communication or a hug. Children especially need in-person and physical contact with their parents in order to form and maintain critical bonds.

## II. Off-Site Video Calling and On-Site Video Visiting Must Be Evaluated Differently

It is important to distinguish between off-site video calling – which is essentially a phone call with a visual component – and video visitation that happens on institutions grounds. Institutions have increasingly begun to offer “visits” between incarcerated people and their loved ones that occur through a computer screen despite the fact that the visitor is on facility grounds. We believe that neither visitors nor incarcerated individuals should ever be charged a fee for these on-site video visits, as this would create an incentive for institutions to replace in-person visits with lower-quality, digital visits. These on-site video visits should only be used in circumstances when a visitor is present at the institution, but at that time is otherwise ineligible to have in-person visits with their incarcerated family member or friend.

## III. Rates for Video Calling Services Must Be Capped

While maintaining strong family and community connections is best facilitated by the availability of in-person visitation, friends and family members of incarcerated individuals do not always have the financial resources necessary to travel to jails or prisons. According to the Bureau of Justice Statistics 62% of parents in state prisons and 84% of parents in federal prisons are incarcerated more than 100 miles from home. In fact, 43% of parents in federal prisons are incarcerated more than 500 miles from home.<sup>3</sup>

A study published soon before the promulgation of the recent FCC phone rate caps found that one in three families of incarcerated individuals goes into debt just to pay for visits and calls with their incarcerated loved one.<sup>4</sup> If the rates for video calling services are not limited in the same manner as rates for phone calls, we are concerned that prisons and jails may replace phone calls with more expensive, audio-only video calls in order to circumvent FCC regulations. Instead, limiting the rates which institutions and providers charge for video calling will significantly increase the likelihood that this technology will be used to connect incarcerated people and their communities, rather than to extort families already struggling to survive.

## IV. Access to Video Calling Should Not Be Restricted

California state law prohibits any individual previously incarcerated in state prison from visiting a prison or jail without receiving prior approval from that institution’s head. All in-person visitors to California prisons or jails must submit to a background check before they can visit an incarcerated family member, friend, or even legal client. The California Department of Corrections and Rehabilitation has also established various administrative hurdles to

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<sup>2</sup> See, e.g., U.S. Department of Justice, National Institute of Corrections (2015). *Video Visiting in Corrections: Benefits, Limitations and Implementation Considerations*. Washington D.C. P. 3.; Minnesota Department of Corrections (2011). *The Effects of Prison Visitation on Offender Recidivism*. St. Paul, MN: Minnesota Department of Corrections; Gary C. Mohr (2012). *An Overview of Research Findings in the Visitation, Offender Behavior Connection*. Columbus, OH: Ohio Department of Rehabilitation and Correction.

<sup>3</sup> U.S. Department of Justice, Bureau of Justice Statistics (2000). *Incarcerated Parents and their Children*. Available at <http://www.bjs.gov/content/pub/pdf/iptc.pdf>.

<sup>4</sup> Ella Baker Center for Human Rights, Forward Together, and Research Action Design (2015). *Who Pays? The True Cost of Incarceration on Families*. Available at <http://whopaysreport.org/who-pays-full-report/>.

bringing minor children to visit an incarcerated family member. Because off-site video calls do not present any of the potential security issues present for in-person visits, there should be no age restrictions placed or background checks required before an individual may use this service.

V. Video Calling Services Must Have Minimum Quality Standards

Institutions offering off-site video calling services should be required to maintain minimum technological standards in order to ensure that family member and incarcerated individuals actually receive the services for which they are paying. Without certain minimum standards – such as sufficient Internet speed – family members and friends risk paying for calls they did not actually receive or having to endure bureaucratic administrative complaint processes to receive reimbursement when video calls fail.

Again, LSPC strongly believes in the importance of facilitating family unity for incarcerated people and their loved ones and we feel that video calling services, if properly regulated to augment in-person visiting rather than replace it, have the potential to facilitate that unity. Thank you for the opportunity to comment on this issue.

Sincerely,

Brittany Stonesifer  
Staff Attorney

