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FEDERAL COMMUNICATIONS COMMISSION

Inmate Payphone Service)
Proceeding)
FCC MAIL ROOM)

CC Docket No. 96-128

OPENING COMMENTS OF UCAN

I. Introduction:

Pursuant to the Common Carrier Bureau's request to update and refresh the above captioned proceeding, the Utility Consumers' Action Network (UCAN) herein submits and files its Opening Comments in a timely manner on June 21, 1999.

By way of re-introduction, UCAN is a non-profit consumer advocacy and education organization with a 15 year history of defending and advancing the rights of nearly 40,000 small residential consumers in San Diego, California.

UCAN takes a special interest in this proceeding. UCAN recently undertook a detailed six month investigation into the billing practices of collect calls that originate from correctional facilities. UCAN seeks to shares its findings with the Commission and to educate the Commission staff as to the paramount issues at stake in this proceeding.

By way of summary, UCAN offers the following Opening Comments for consideration:

- Empirical research suggests that encouraging families to remain intact may help lower recidivism.
- State rate-caps are a necessary and desirable form of rate regulation.
- Any form of rate regulation must squarely address the issue of surcharges.
- Overbilling and unlawful mis-billings continue to plague the inmate phone providers services market.

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- **Compensation mechanisms must be tied directly to specific cost studies for providing the security measures inherent in prison originated calls.**
- **States must exhibit the financial responsibility and fiscal integrity to ensure that the state's commissions are spent for prisoner related expenditures, and are not simply put back into the states' general funds.**

II. Empirical research suggests that encouraging families to remain intact may help lower recidivism.

As perhaps one of the most important policy matters at stake, there is abundant empirical research, as well as common sense, that informs the Commission that encouraging family members to remain intact helps to lower recidivism. Research findings from the Florida House of Representatives indicate that "family and community contacts can play a very important role in helping released offenders avoid returning to prison." (*"Maintaining Family Contact When a Family Member Goes to Prison: An Examination of State Policies on Mail, Visiting, and Telephone Access,"* Florida House of Representatives, Justice Council, Committee on Corrections, November 1998.) In fact, Finding No.1 of the Florida Legislature noted the strong connection between familial contact and reduced recidivism. (*See Id.* at 3)

The importance and impact of this research can not be underestimated. Sound public policy dictates that revenue and rates for prison calls be mitigated against the public cost of repeat offenders. The public interest in providing affordable and accessible access to phone contact must be recognized by the Commission as a primary mitigation against permitting significant changes in rate regulation. (*See* Attachment One for Editorial Board Article from the San Francisco Chronicle)

III. State rate-caps are a necessary and desirable form of rate regulation.

State rate caps serve the public interest and the financial interest of the providers of such services. As an example, in those states where no rate caps presently exist, such as California,

rates are frequently determined by the General Services Agreement (GSA) entered into by the State (Department of General Services) and the provider (in California, it is MCI/Worldcom). In such instances, the GSA may randomly set the rates according to a benchmark or amount decided upon by the contracted parties.¹ State regulators and state utility service commissions have no jurisdiction directly over the allowable rates of such prison calls. Moreover, the states' financial incentive to earn commission from such calls creates a scenario where rates are not regulated according to any condition or term, or rates are without reference to the actual cost of providing the service. UCAN takes note that the state commission process may create one of the few state contracts wherein the state has a financial incentive accept the highest bidder. Further, the exclusivity of the contract ensures a lack of competitive choice for the recipient of the collect calls.

State rate caps ensure that state Public Service Commissions, not the GSA's, control the reasonableness of rates. State caps also allow the reasonableness of the rates to be set appropriately at the state level, where state specific factors such as the number of inmates, type and size of facilities and cost of providing service may be taken into account. State rate caps allow each state to determine the highest allowable rate appropriate to each state's goal of penal and correctional services.

IV. Any form of rate regulation must squarely address the issue of surcharges.

Any form of rate regulation, whether it be state or federal, must consider the issue of surcharges. Without exception, surcharges are the most expensive cost associated with prison calls. As a typical example, MCI Long Distance charges a minimum \$3 surcharge on every prison call in the State of California. For many calls with short duration, the cost of receiving a collect prison calls, including the surcharge, is upwards of \$1.50 a minute. Rate regulation without concern for surcharges is without merit. Rates *and* surcharges must be factored into any compensation mechanism allowable. Otherwise, the Commission will miss a significant revenue stream and cost to consumers.

¹ In California, pursuant to the most recent contract for prison calls, MCI is entitled to charge rates according to the formula: "Interlata price ceilings [are] maintained at AT&T's comparable rates and surcharges. Local and intralata price ceilings will be maintained at the LEC's comparable rates and surcharges." State of California, Master Agreement, Contract No.5-92-58-14)

V. Overbilling and unlawful mis-billings continue to plague the inmate phone providers services market.

One of the disturbing aspects of prison calls is the measurable trend among telephone providers is the increasing problem of overbilling and mis-billing the family members of prisoners. Mis-billing problems are often chronic, system-wide billing errors involving millions of dollars in unlawfully billed funds. A few examples of recent instances of prison related overbillings and mis-billings are highlighted as follows:

- 1997-1998, in Illinois and Kentucky, relatives or prisoners or government agencies have sued, investigated or fined companies for prison overbilling.
- In Florida in 1997, MCI was forced to pay over \$2 million in restitution for overbilling prison calls.
- In Kansas in 1997 Sprint was forced to reimburse customers for overbilling for county and city facilities.
- In California in 1999, a formal complaint was recently filed before the California Public Service Commission alleging MCI routinely overbills on prison related calls. The proceeding will be heard before the Commission in 1999. (*See Attachment Two*)

Due to the increasing problem of overbilling and mis-billing, UCAN strongly avers that phone service providers' request for improved compensation mechanisms must be viewed in the context of a market with increasing forms of fraud and bad billing practices. As such, **the Commission must consider the adoption of rules that find a breach of contract between the state and the provider should a state public service commission find in a formal decision instances of overbilling.** This simple rule is the best penalty and deterrent to a growing problem. The Commission should not tolerate providers of such service that engage in overbilling, as such providers compete unfairly as well as produce adverse financial effects.

VI. Compensation mechanisms must be tied directly to specific cost studies for providing the security measures inherent in prison originated calls.

Any considered compensation mechanism must be tied directly to specific cost studies for providing the security measures inherent in prison originated calls. To date, UCAN has seen only one study from the providers given to the Commission in an "Ex Parte Presentation" dated March 12, 1999, Re: Docket 96-128, submitted by Jacob Farber of Dickstein, Shapiro, Morin & Oshinsky LLP on behalf of the Inmate Calling Services Providers Coalition. This submission is fatally flawed. It contains no substantive or quantifiable hard evidence of the actual costs of providing such services in different states or different facilities. The Commission would be gravely mistaken if it considers such anecdotal evidence as evidentiary proof.

In the course of UCAN's investigation into the appreciably difficult task of providing a reliable cost estimate relevant to prison calls, UCAN has located only one remotely reliable study. "An Introduction to Prison Phone Technology" by Tom Farley is to UCAN's knowledge the best description of the varying technologies required to provide prison calls. (See Attachment Three) The research offers a semi-detailed description of the technologies and their costs.

According to the article, "most county and state prisons use a call processor to approve and place calls. There are two approaches. The first method employs a pre-existing switch using custom software written for the prison industry and quite often for the individual facility itself. Switch based platforms excel at supporting the greatest number of ports (sometimes to 8,000). The other approach uses a dedicated system based on PC or microprocessor technology. PC-based platforms shine at providing flexibility. **Figure on stand alone switches costing from \$160,000 to \$700,000, compared to a PC platform starting around \$60,000 with only 96 ports or 48 channels.**"

According to this rough cost estimate, initial start up costs are markedly low relative to the revenue derived from prison collect calls. For example, the State of California was estimated to have received \$15 million in state commissions -- only 40% of the overall revenue as per the

General Services Agreement. This significant revenue dwarves the relatively small costs associated with the infrastructure and technology need to route, screen and provide collect calls.

UCAN strongly recommends that the FCC hear further comment and research regarding the exact costs of providing prison collect calls before accepting mere anecdotal evidence advanced by the providers to date. Such cost studies must be performed and accepted before the Commission can properly consider changes in compensation mechanisms or whether state rate caps are impede revenue growth.

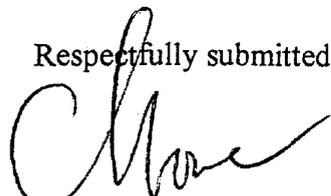
VII. States must exhibit the financial responsibility and fiscal integrity to ensure that the state's commissions are spent for prisoner related expenditures, and are not simply put back into the states' general funds.

Finally, UCAN takes note that California is one of the few states that directs that commissions from collect calls to be directed to the State's General Fund rather than specifically earmarking those funds for correctional facilities, prisoner trust funds or prisoner advocate (public and private) community based organizations. UCAN strongly objects to the use of commissions for any purpose other than expenditure toward prison related services. The use of commission's for any other purpose creates a perverse financial incentive for the cost of collect calls to subsidize the tax base.

VIII. Conclusion:

For all the foregoing reasons, UCAN respectfully requests that the Commission consider these Opening Comments, and consider implementing the aforementioned recommendations.

Respectfully submitted,



Charles Carbone

June 21, 1999

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*The Opening Comments of UCAN are filed electronically. All Attachments, including the Comments, referred to above were sent to the Office of the Secretary via first class mail on June 21, 1999 as well as International Transcription Services and the Competitive Pricing Division.

ATTACHMENT ONE

San Francisco Chronicle

THE VOICE OF THE WEST

TUESDAY, JUNE 15, 1999

EDITORIALS

A Cruel and Unusual Prison Phone Scam

ONE OF THE MAIN lifelines to family for California's 161,000 convicts locked away in 33 far-flung prisons is the collect telephone call.

Phone calls to the outside world are an important privilege that inmate advocates insist is vital to rehabilitating prisoners and keeping families together.

So it was disturbing to learn that the state Department of General Services' contracts with phone carriers — MCI and GTE — gouge inmates and provide a handsome commission to the state's general fund from each call.

Chronicle staff writer Deborah Solomon reports General Services, which bids state contracts, picks phone companies that give the largest kickbacks to state coffers, rather than the lowest rates for inmates. MCI pays the state 44 cents on the dollar, GTE pays 33 cents.

Last year, the state received \$16 million from inmate phone calls. Commissions are expected to exceed \$20 million next year as the prison population grows and phone rates increase.

Those are unseemly profits made at the expense of convicts and their families, who are often in financial distress.

Currently the 2,400 prison phones — some

32 percent of the state's pay phones — yield 75 percent of the state's pay phone revenues.

It doesn't take an accountant to see the inequity: a 15-minute collect phone call from San Quentin Prison to Oakland costs about \$5, compared to \$2.55 just outside the walls.

Solomon writes of the plight of an Oakland single mother of two who went broke after amassing \$400 monthly phone bills from the father of her children locked up in San Quentin.

The woman eventually limited the calls to one a week, but Solomon notes some families are unable to afford the high phone rates, and have lost contact with inmate relatives altogether.

Advocates warn that inmates who do not maintain

outside connections are far likelier to return to crime when they are released from prison.

California is due to rebid its pay-phone contracts next month. When it does, the state should consider not just commissions, but the practical rehabilitative powers of phone calls and family contacts.

The state should make it clear to phone companies that such obscene profits at the expense of inmates and their families are unfair, unacceptable and bad public policy.

*Phone companies
gouge prisoners
while providing
handsome
commissions to
the state's coffers.*

The Fog of Peace

THE AFTERMATH of the Balkans war continues to spin off troubling challenges that need firm answers from NATO

genuine self-rule, and if so, who will guard the tiny nation from possible Serbian attacks?

ATTACHMENT TWO



The First House was too Small

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Heavy Toll on Calls From Prison Inmates' families accuse state, phone companies of price-gouging

Monday, June 14, 1999
San Francisco Chronicle
 CHRONICLE SECTIONS

Deborah Solomon, Chronicle Staff Writer

Jennine Grigsby was evicted from her Oakland apartment, her car was repossessed and she was forced to move in with her mother after she could no longer make her rent or car payments.

Grigsby had not lost a job or fallen ill. Instead, the single mother had amassed \$400 monthly phone bills by accepting collect calls from the father of her two children -- an inmate at San Quentin State Prison.

Like many people who have loved ones behind bars, Grigsby was forced to pay just about the highest phone rates in the market.

That is because prisoners can make collect calls only from pay phones run by the company that has won the exclusive contract to offer phone service at their prison. California, which awards the contracts, collects a big commission -- as much as 44 cents per dollar -- on prison pay-phone charges. Like many other states, California picks the phone company that gives it the biggest commission, not the lowest rates for prisoners.

Grigsby pays about \$5 for a 15-minute collect call from San Quentin to Oakland. The same call made from a pay phone right outside the prison costs about \$2.55.

Consumer and prisoner advocates say this system gouges the friends and families of prisoners. And they say the state encourages price-gouging because it gets a share of the phone companies' profits.

Today, the Utility Consumers Action Network, based in San Diego, plans to file a complaint

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They're Here!

with state regulators alleging that MCI WorldCom overcharges the families of prisoners and should be forced to stop.

"Right now, the phone companies are taking advantage of a vulnerable community," said UCAN's Charles Carbone. "They're saying it's OK to bilk families of prisoners and overcharge them because they're a vulnerable community and they probably won't do anything about it. That's not right."

In Illinois, Kentucky and Florida, relatives of prisoners or government agencies have sued, investigated or fined companies for alleged prison price-gouging.

To pay off her debts, Grigsby has limited her calls from San Quentin to once a week. Some families have had to cut off contact with prisoners altogether -- something prisoner advocates warn will harm society, because prisoners who lose contact with the outside world are more likely to commit a crime when they get out.

In fact, a 1998 report by the Florida House of Representatives found that the 70 percent of prisoners who maintained contact with a family member were less likely to get rearrested during their first year out of prison. Those who had no contact were six times more likely to return to prison in their first year.

"Most inmates come from disadvantaged backgrounds, so when the companies charge these incredible rates, it puts a severe financial strain on the families," said Kara Gotsch, with the American Civil Liberties Union's national prison project. "It's unfortunate that correctional systems find it necessary to allow this burden to continue on families so they can make a profit."

CAPTIVE AUDIENCE

In California state prisons, inmates can make collect calls using only MCI or GTE -- whichever has the exclusive contract in their prison.

MCI provides long-distance service at 33 California state prisons, and GTE provides pay-phone service at four.

The phone companies say some of the money they collect from prison calls pays for mandatory operator assistance, added security features and commissions to the state.

For each dollar it collects on prison calls, MCI pays the state 44 cents. GTE pays 33 cents.

Last year, those commissions amounted to about \$16 million. This year, that figure is expected to exceed \$20 million because of rate increases and a growing prison population, according to state officials.

The Department of Corrections would not comment on the prison pay-phone contract, referring questions to the Department of General Services, which bids all contracts for the state.

Bill Case, manager of the state Department of General Services' pay-phone division, said "The state tries to get the best commission it can from a vendor, whether it's Burger King going on a University of California campus" or MCI offering phone service in state prisons.

Right now, long-distance collect calls from pay phones in state-run prisons cost about 50 cents per minute, on top of an automatic \$3 surcharge for each call.

By comparison, people outside prisons typically pay 8 to 55 cents per minute for a long-distance collect call, plus a \$2.25 to \$3.25 surcharge for operator assistance.

The high end of that range represents collect, operator-assisted peak-hour calls from places like airports and hotel rooms. Most people can avoid those extremes by being careful about how they place their calls. Prisoners do not have that option.

"They have a truly captive customer base," said Carbone.

Rates probably will go even higher.

MCI recently filed an application with the state Public Utilities Commission to raise rates on local toll calls from California state prisons to a flat rate of 30 cents per minute. Right now, those calls cost from 6 to 20 cents per minute.

Additionally, California plans to rebid its pay-phone contract in August. Sources said the state probably will seek larger commissions, which could lead to even higher rates for prisoners.

PROFITS ALL AROUND

The phone companies will not disclose how much they earn from prison revenue. But consumer watchdogs say the phone companies bid high for these contracts because they are so lucrative.

"The state has gone into the phone business and is sharing the profits with these providers," said Gerald Norlander, deputy director of the Public Utility Project in Albany, N.Y. "The companies are definitely making a profit off this. The cost for the hardware they need to install has been tumbling, and the actual cost of providing the call is very cheap. It can be very lucrative for these companies; that's why they are willing to give these states \$20 million."

However, Ian Hicks, an executive manager with MCI, said these contracts are profitable but also require a big investment.

"We have extensive call security technology in place in addition to an advanced network," he said.

WHERE THE MONEY GOES

Many states award their prison- phone contracts to the highest bidder, but use most of their commissions to benefit inmates. New York, Florida and Ohio collected a total of \$48 million last year, but sent that money to inmate welfare funds to pay for books, prison education programs and other inmate-related expenses.

In California, prison pay-phone revenues go into the state's general fund. Only a handful of other states -- including Hawaii, Delaware and Virginia -- send prison-phone rebates to their general funds.

The state gets a commission from pay phones that MCI and GTE operate in all state-owned facilities -- not just prisons but also state office buildings, state-run hospitals and state colleges.

California gets the same commission percentage from all phones on state property. But the per-minute rates and surcharges are much higher in prisons.

In fact, the state gets about 75 percent of its pay-phone revenues from prisons, even though they represent only 25 percent of the total phones on state property.

Critics say the state's commissions on the 7,500 phones on state property are mainly profit, since it does not pay to install, maintain or operate the phones. Instead, those costs are paid by MCI and GTE.

Prison officials say part of the commission pays for staff to escort inmates to phones and monitor their calls to make sure they are not planning a crime.

State officials would not say how much they spend on those activities, but a report prepared by the Department of Corrections staff last year pointed out that prisons do not monitor all inmate calls.

"Currently, the actual monitoring and investigation of inmate calls is limited," the report said.

Those familiar with the prison industry say California's costs do not come close to what the state collects in commission.

"Moving (prisoners) from one cell to another place may take resources too, but I think they've been working that out for 100 years or more,"

Norlander said. "When a guy has to go to the chaplain or to recreational yard or to see a lawyer, they have to figure out how to keep track of them in transit. They don't need \$20 million to do it."

CONTACT CRUCIAL

Prisoner advocates say it is crucial for prisoners to stay in contact with the outside.

"They need a support system," said Gotsch of the ACLU. "The way to continue a family bond is through phone contact because many times it's very difficult and expensive for the family to come and visit."

Pat Nolan, the former California legislator who served time in a federal prison in Dublin, said the high prison phone rates "put a barrier to keeping in touch that is just unconscionable. The prison system should be doing all it can to encourage contact with prisoners' families." Nolan is now president of The Justice Fellowship, a prisoner advocacy group.

OTHER FEES

Prisoners' families say that besides high rates and surcharges, they are hit with other unfair fees. Among their complaints:

-- Calls often are disconnected after a minute or two, forcing the inmate to redial and pay an additional \$3 surcharge.

A bill from one inmate's wife who lives in Gardena but did not want to be identified shows two dropped calls in one weekend. By the time the couple finally completed their 15-minute call, the cost was more than \$16.

Hicks said MCI has heard similar complaints and said it may be caused by technical glitches.

"We go out to the prisons and do hear that complaint every now and then," Hicks said. "We try to isolate where that problem is coming from." He also said some calls may be cut off by prison personnel, who are allowed to monitor

calls and end them if the conversation broaches a topic deemed illegal.

-- Some are charged for calls that last longer than the 15-minute time limit imposed by the Department of Corrections.

Lara Johnson, whose husband is incarcerated at Sacramento state prison, was billed last year by MCI for a 113-minute call she says she never received. She was eventually given a \$12 refund for the call.

-- Charges for calls from prison sometimes exceed the published rates.

James Nunn, whose son is in Calipatria State Prison in Southern California, was billed \$7.42 by MCI for a seven-minute call to his home in Tucson, Ariz. Minus the \$3 surcharge, that comes out to 63 cents per minute

--13 cents more per minute than what MCI says it charges.

Rick Jackson lives in Reno, and his wife is in Chowchilla State Prison. His MCI bill shows a 15-minute call that cost \$11.10. Without the \$3 surcharge, that breaks down to 54 cents per minute, 4 cents over MCI's published rate.

MCI and GTE say they do not charge more than their stated rates. "There's a capped rate to make sure no one goes off the chart, and we follow that," said Hicks of MCI.

He also said the company could charge as much as 55 cents a minute, but stays below that.

CHEAPER TO MOVE

Allison Walters, whose husband was in Calipatria State Prison, has bills that show the huge difference between a collect call from prison versus a calling-card call.

A six-minute calling-card call placed from a pay phone outside Calipatria prison to Walters' home in Hemet cost \$1.08. A six-minute collect call made from her husband to the same number cost

\$3.92.

When her husband was transferred to Folsom State Prison, Walters packed up her things and moved 472 miles from Hemet to Sacramento so she could be close enough to talk to him in person.

"This has caused so much hardship for me and my husband," said Walters. He's the one who's in prison, but I'm the one being punished by having to pay these bills and then move myself up here. That shouldn't be."

CALIFORNIA NOT ALONE

In other states, prisoner families and government agencies have taken action against high prison phone rates.

In April, the families of Illinois prison inmates sued MCI, AT&T and Ameritech, contending that the phone companies unfairly charge higher rates for collect calls from jails.

The Kentucky Public Service Commission is investigating complaints that MCI overcharged customers for calls made from jail and prison pay phones.

In 1997, the Florida Public Service Commission ordered MCI to refund customers for overcharging them by \$2 per call for collect calls made from Florida correctional facilities from February to July 1996.

To settle the claims, MCI paid a \$10,000 fine and put \$189,482.49 into a prisoners fund.

Two years ago, an outcry from prisoners and their families in Virginia prompted the state to negotiate a new contract with MCI. Its surcharges dropped from \$3 to \$2.25.

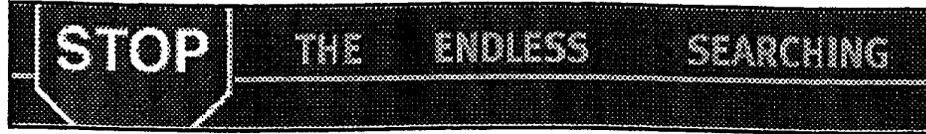
UCAN's Carbone said California should follow Virginia's lead and consider lowering the surcharges and getting rid of the bidding system.

"The families of prisoners shouldn't be going broke just trying to stay in contact," Carbone

said. "If nothing else, the cost of the calls should be tied to the cost of providing the service."

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THE SAN DIEGO UNION-TRIBUNE • TUESDAY, JUNE 15, 1999

MCI overcharges for calls from prison, group alleges

By Mike Drummond
STAFF WRITER

MCI Worldcom is overcharging families and friends of state prisoners for collect calls, a San Diego-based consumer group alleged yesterday in a formal complaint to the California Public Utilities Commission.

The Utilities Consumer Action Network accused MCI of price gouging and shoddy service, citing a six-month study of phone bills that showed the company is charging more for collect calls from state prisons than for other customers.

Moreover, UCAN's Charles Carbone said MCI routinely drops or disconnects collect

calls originating from prisons, forcing inmates to redial and incur additional and automatic \$3 surcharges.

"They're literally gouging family members of prisoners, not prisoners," Carbone said.

MCI has billed surcharges for collect calls in which a machine answered, he added. Companies can only impose a collect-call surcharge if a person accepts a call.

MCI spokesman Les Kumagai said it's unfair to compare collect-call rates between prison and civilian sectors, noting that the company had to deploy special and costly telecommunications software to prevent inmates from placing harassing calls to crime

victims, officers of the court and the public.

"We're charging the appropriate rate as per our contract with the state," Kumagai said.

Still, advocates and agencies in other states have sued or fined companies, including MCI, for prison price gouging. Virginia forced MCI to lower its surcharges two years ago. In 1997, Florida ordered MCI to refund customers for overcharging them by \$2 for collect calls from correctional facilities.

Families in Illinois are suing MCI, AT&T and Ameritech for allegedly price gouging. The Kentucky Public Service Commission is probing complaints that MCI is overpricing collect calls from prisons there.

UCAN worked closely with prisoner-rights groups in the state, which worry that sky-high phone bills will decrease contact inmates have with families. The groups cite studies showing inmates who had no contact with their families are more likely to return to prison.

In California state prisons, inmates can only make long-distance collect calls using MCI or GTE. MCI provides long-distance service at 33 state prisons; GTE provides service at four.

The state averages long-distance contracts based in part on how big a commission it

See **INMATES** on Page C-7

Inmates

MCI says it charges appropriate rates

Continued from C-1

receives. MCI pays the state 44 cents from every dollar billed for a collect call; GTE pays 33 cents.

Carbone called this revenue-sharing arrangement "perverse" because the state awards long-distance contracts to the highest bidder.

And unlike most other states, California uses the money to feed the general fund, not prison programs.

UCAN wants the state to funnel money back to prisons and impose a cap on what companies can charge for long-distance calls from prison.

Long-distance collect calls from California prisons cost about 50 cents a minute, in addition to an automatic \$3 surcharge for each call.

Outside the walls, consumers usually pay 8 cents to 55 cents a minute for a long-distance collect call, plus a \$2.25 to \$3.25 surcharge for operator assistance. The upper end reflects operator-assisted calls at peak times from places such as airports and hotels.

Ken Hunt, spokesman for the Department of General Services, which oversees the contracts with MCI and GTE, defended the current system.

"We're trying to do the best by state taxpayers," Hunt said.

He noted that the state will open bids for new five-year contracts in August.

MCI has had its contract since 1992; GTE since 1990.

Hunt said the state also looks at a company's technical merit and its compliance with contract provisions.

The San Francisco Chronicle contributed to this report.

ATTACHMENT THREE

Date: Wed, 2 Oct 1996 16:00:46 -0400 (EDT)
From: ptownson@massis.lcs.mit.edu (TELECOM Digest Editor)
Subject: Prison Phone Technology

Tom Farley is another great member of our online community who writes a print journal from time to time known as {Private Line}. I shared his most recent issue with Digest readers recently and now I have another excellent report from Tom, this time on telephones in prisons.

Without wasting any more bandwidth, let's read it!

PAT

From: Tom Farley <privateline@delphi.com>
Subject: Prison Phone Technology
Date: Wed, 2 Oct 96 14:31:56 -0500
Organization: Delphi (info@delphi.com email, 800-695-4005 voice)

Hello, Pat. Here's something from my latest e-zine. I can e-mail people a copy of the ezine although it should be up at privateline.com soon.

Best wishes, Tom Farley

IV. AN INTRODUCTION TO PRISON PHONE TECHNOLOGY--

by Tom Farley -- tom@privateline.com -- privateline@delphi.com

A. A brief overview

- B. Three different call processing approaches
 - 1. Class of service approach
 - 2. Generic switch utilizing custom software
 - a. Close up of one switch: NACT's 120LCX
 - 3. Dedicated system using PC technology
 - 4. Typical Call processors' anti-fraud features
 - a. Call blocking on a permanent basis
 - b. Call blocking on an as needed basis
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C. The federal Inmate Telephone System (ITS)

- 1. Introduction
- 2. Letter from jail
- 3. Discussion and speculation
- 4. Federal Bureau of Prison (B.OP.) Time Line
- 5. Discussion continues
- 6. ITS Account Report
- 7. A report on ITS from Jail
- 8. Real short conclusion
- 9. Bibliography

A. General Overview

The prison phone business is big and getting bigger. At least 50,000 inmate phones now exist with more being added all the time. By comparison, colleges account for 60,000 public phones and hotels

and motels 80,000. [1] Phone companies pay big commissions to states and counties to service the rapidly growing prison market. The decades old practice of letting inmates call collect to any number they wish is now being replaced by allowing collect calling or direct dialing to pre-selected numbers. Just how that is accomplished is the focus of this article.

Prison phone systems come in a bewildering number of shapes and sizes. County, state and some Federal prisons configure their operations for their requirements, consequently, there are no standards, much like all PBX's vary widely in features and operating methods. But like PBX's, there are some features common to all "inmate call control technologies."

At the very least, a prison phone system uses a call processor to approve and place the call, surveillance equipment to monitor it, and recording equipment to archive the conversation. Only smaller counties and, curiously, the Texas Department of Criminal Justice, "the largest state prison system on earth, still unlock the cells and let prisoners use a phone on someone's desk, a la Barney Fife." (2) In past years prisoners could call collect to anyone they wished. The new trend, though, is toward allowing direct or collect calls to pre-approved numbers. The most controversial approach is a pre-approved number scheme, as practiced by the federal Inmate Telephone System (ITS). But before we look at ITS, let's look at the technology state and county prisons use to process automated collect calls.

B. Three approaches to call processing

While line based call blocking is an effective solution for some facilities, most county and state prisons use a call processor to approve and place calls. There are two approaches. The first method employs a pre-existing switch using custom software written for the prison industry and quite often for the individual facility itself. Switch based platforms excel at supporting the greatest number of ports (sometimes to 8,000). The other approach uses a dedicated system based on PC or microprocessor technology. PC-based platforms shine at providing flexibility. Figure on stand alone switches costing from \$160,000 to \$700,000, compared to PC-platforms starting around \$60,000 with only 96 ports or 48 channels. [3] Let's first look at what a telco can do and then we'll look at call processors.

1. Class of service approach

Large and small telcos offer many kinds of call blocking to institutions. The advantage is simplicity. Order from your local phone company and pay by the month. Pacific Bell calls their two offerings the "COPT (Customer Owned Pay Telephone) Inmate Line" and the "COPT Inmate Collect Only Line." [4] The COPT Inmate Line is a low security offering, with only 900/976 and international direct distance dialing (IDDD) permanently blocked. 'O+' calls are screened for collect only. All other calls, including local, '411', '611', '911' '0-' (operator dialed) and so on must be blocked with customer owned equipment. Their COPT Inmate Collect Only Line, by comparison, costs more but blocks all of the above calls, at least

over Pacific Bell's network. Line based call blocking may be good to have, however, it can't replace a prison's call processor.

2. Generic switch using custom software.

Switches like the Summa Four, Excell, Harris 20/20 are often used to managing prison calls. National Applied Computer Technology (NACT), for example, sells a switch called the LCX 120C switching system. [4] It's a tandem digital switch, often used by long distance carriers, prepaid calling card sellers, payphone route handlers and other service providers. The 120C is a medium to large trunk switch, capable of putting long distance traffic out to the toll network without going through the local central office first. It's a generic switch, therefore, with software making the difference. NACT is heavily involved in the correctional industry. Let's look a little more closely at this switch, since it is so often used in prisons and other high fraud locations.

a. Close up of one switch: NACT's LCX120C

Although I do not have the name of the operator, a NACT LCX120C is currently operated by a company which manages or owns over 2,500 COCOTs in New York City. 1+, 0+ and 0- calls are processed through the switch and all traffic is scrutinized by NACT's proprietary Control and Validation Unit (CVU). Most software, by the way, is developed in "C". NACT claims fraud losses will drop from 20% on average to 0.5 percent and the return on investment for this operator was only six weeks. Perhaps.

The cabinet housing the switch stands three feet tall and two feet wide. A clear plexiglass door covers the electronic bay housing the electronics. Two 125 cfm fans keep the air moving. The control and validation unit (CVU) stands at the top of the assembly. The CVU is the primary processor, equipped with dual 330/520 MB harddrives and a 250 MB cartridge tape drive. Using older but serviceable technology, the processor is an MC680x0, utilizing 8 megs of ram and drawing on a 400 watt power supply. The CVU does validation and controls the trunk control unit (TCU) below it.

Up to four trunk control units can be supported, each TCU controlling 120 ports (60 talk paths). The TCUs contain "processor and trunk control cards to handle line signalling, send/receive digits, and interface with the CPU." Each TCU utilizes a "realtime industrial processor", 128 Kb of RAM, 80 KB of ROM and a 300 watt power supply. An uninterruptible power supply sits below the TCU and a remote diagnostics system, with a modem, of course, sits below that. [5] Add an administration workstation and a printer and you're ready to roll.

2. Dedicated system using PC technology.

The other approach to prison call processing uses a dedicated system, often based on PC or microprocessor hardware. Such a beast will use a 486 processor or a Pentium, typically running under DOS rather than UNIX. TELEQUIP, CPDI and others use this approach. [6] TELEQUIP's ACP-4000 (Automated Call Processor (R)) is marketed just to correctional facilities. That might make it simpler to install.

TELEQUIP boasts that "ACP installation is the easiest in the industry. No wall space or card racks! Simple plug-and-play is standard. Set the ACP anywhere on-site, connect one cable to a 66 block, plug in the power and your ACP is processing inmate calls!" [7] Wonderful. N.A.C.T., by comparison, says six weeks are required to install their switch. TELEQUIP says their equipment services 8,000 prison lines and six state contracts. That's a pretty large slice of the prison pie. But for variety, let's take a look at CPDI's offering to get an idea of a PC-platform based switch.

b. Close up look at a PC-based switch

CPDI's PC-switch approach is typical. It relies on a file server, a card processor, a workstation, Dialogic telephone interface cards, a Novel local area network, a hub and some proprietary software. [8] The file server is actually a souped up PC, a computer with file management software, voice boards for prompts and a big hard drive. T1 lines usually terminate directly into the card processors. Each processor supports 48 ports or 24 channels. A tape backup and a hard drive backup are usually standard, indeed, a redundant file server is often used in case of failure. The administration workstation may have a modem and a dial up remote access port.

So what do these two kinds of systems have in common? Plenty, especially when it comes to anti-fraud features.

3. Call processors' anti-fraud features

Many state and county prison calls are dialed collect from a pre-approved list. Allowing and supervising calls from hundreds or possibly thousands of prisoners at an institution requires a fraud resistant automated collect calling system. Everett Castor, switch operations manager for N.A.C.T says "You can't possibly simulate in a lab everything an inmate can think to do." [9] Here's a list of features a modern processor may have:

a. ~~Call blocking on a permanent basis~~ -- Most inmates are not allowed to talk to a live operator of any sort. In addition, 700, 800, 900 and 950 services are all permanently blocked. "Country codes, information digits, NPAs (area codes), third party numbers" can also be shut down.

b. ~~Call blocking on an as-needed basis~~ -- Inmates and their compatriots are notorious for their ability to find home phone numbers of guards, wardens and family members of same. Witnesses, judges and many others are also targets. Most systems accommodate nearly limitless amounts of non-dialable numbers. This does not prevent a third party, though, from manually bridging a call.

c. Limiting long distance carriers -- Most systems now use one carrier, keeping inmates from switching, for better or worse, to another LD provider.' [10]

d. Flash hook prevention -- keeps inmates from

breaking out of of a call and dialing a new number.
[11] This was a problem with older analog processors which were built along PBX lines.

e. Rotary dial acceptance -- Some systems allow a rotary dialed party to signal collect acceptance by holding the line, however, this normally requires the switch to be programmed for this ahead of time.

f. Limiting automated message attempts -- Like many of us, inmates try to send coded messages with an automated collect system. This feature limits attempts to a certain number within a certain amount of time, keyed to the inmates' account number.

g. Reverse battery supervision -- Disables keypad after destination number is dialed. Prevents fun and games and possibly getting a new dial tone. Pressing different buttons on the keypad while an automated collect system worked may have allowed an unrestricted dial tone in older systems.
[12]

h. Three way call prevention -- TELEQUIP claims near 100% 3-way call prevention with their patented ACP processor. They go on to say that AT&T's Inmate Processing System deters only 93% of such attempts. I do not see how manually bridging a call can be stopped. It is also possible that call forwarding or foreign exchange circuits could circumvent this.

i. Call limitations -- allows an institution to limit calls by length, billing type, dollar amount and so on. May prevent a huge bill from being placed to a subscriber who has no intention of paying.

D. The Federal Inmate Telephone System (ITS)

1. An introduction

The Federal Bureau of Prisons (B.O.P.) incarcerates approximately 100,000 prisoners at 84 institutions across the country. Fully a quarter of that population are foreign nationals, willing and often able to spend big bucks to call home. This captive market might seem ideal for private competition, with hundreds of long distance companies bidding for a Federal contract. Oddly enough, though, the U.S. still carries calls themselves over the government's normal FTS2000 network. That's composed of, essentially, heavily discounted Sprint lines. (Local telephone companies handle local calls). [13] A new contract, however, will be awarded for this traffic due to a court settlement, indeed, a whole new inmate telephone system will be developed in the next year or two. For now, though, the B.O.P. continues to manage things their own way. So what's going on here? And what kind of technology do the Feds use to process these calls? Before we answer those questions, though, let's take a break and look at the letter that got this article started:

2. Letter from jail

March 12, 1996

private line journal
P.O. Box 1059
Isleton, CA

Re: A "Beseeching", of sorts . . .

As may be evident, I am currently incarcerated within a federal correctional center in Coleman, Florida. I have been placed in this hell hole due to ideas run-afoul . . . I am here for wire fraud. It seems that I may have gotten ahead of myself in that I "accidentally" wired money from a corporation's account that I neither worked for, nor had the authorization to be meddling with. Never-the-less, some funds, as I said before, "accidentally" ended up in my account (which was opened in another name, by the way -- I am not totally lame!).

Anyhow, I would hope that I may be able to convince you to send me a couple of your back issues, or better yet, a subscription to your fine journal? I await your reply with high hopes.

name withheld

3. Discussion

Damn that wire fraud! Turns out our man is the author of, appropriately enough, Credit Card Fraud and Toll Fraud Issues, a slim tome detailing how "scam artists can take advantage of you without your knowledge." Great. In any case, I sent him a copy of private line and he replied with all sorts of interesting information on the Inmate Telephone System.

ITS is a switch based system controlled by a UNIX workstation at 41 federal penitentiaries. I doubt a switch sits at each facility, however, that is certainly possible. But remember, a switch like a N.A.C.T. can sit anywhere in the United States and take calls. The traffic simply has to be routed to it. You could even own a switch and have it located at N.A.C.T.'s headquarters in Utah, just so that it gets around the clock attention. It would be natural, though, that some sort of G.T.E. switching is employed since G.T.E. helped develop I.T.S. Maybe in Texas? Collect calls that are authorized use AT&T's automated collect call program. [14]

In accordance with a settlement last year, "prison officials have now agreed to tie their rates to those of state prisons, which are controlled by state utility boards." [15] That might cut down on complaints about high costs, especially overseas calls. Rates like \$9.99 a minute to Vietnam were not uncommon. Even domestic calls are sufficiently high that a foreign exchange circuit may be less expensive to arrange rather than paying for direct dialing. (I've paid as high as 61 cents a minute to accept an ITS call from Florida in the middle of the day.) Whether the ITS officer in each prison would allow this is a whole different question, since the whole system is in flux and because each facility is allowed a great deal of leeway in

deciding its rules. As an example 38 facilities allow only direct dialing to pre-approved numbers, 28 still provide direct calling only and 18 provide both. The settlement does allow 120 minutes of collect calling to all inmates, no matter what the policy is at a particular institution.

Anti-fraud features are basically the same as noted under '3' above. 3-way calling is definitely frowned upon. As one prisoner notes "the ITS system (through GTE/OPUS's proprietary specialized programming) detects such calls in real time, cuts off the inmate-caller, flags the inmates PAC and records the telephone number the inmate was connected to during the 3-way calling attempt." [16]

The Bureau of Prisons originated the Inmate Telephone System in 1990, implemented part of it through 1993 and watched as it fell apart in 1995. ITS lingers on at many institutions, but only until the entire system is scrapped after a new contract is awarded. That may take another year to let. Maybe two. The cornerstone of the system, direct dialing to pre-approved numbers has been heavily modified. The funding method, whereby the B.O.P. raided an inmate welfare fund to install the system, without having to officially publish their rules or intent, has been crushed, with Federal officials having returned \$4,000,000 in mis-appropriated funds. What a mess. Take a look at the time line that follows:

4. Federal Bureau of Prison (B.OP.) Time Line

Pre-1973	-- Each institution's warden sets phone policy
1973	-- B.O.P. sets uniform national phone policy
6/29/1979	-- B.O.P. issues final Rule (44FR 38249) for policy
6/1/1983	-- B.O.P. amends 1979 rule (44FR 24622)
1990	-- B.O.P. conceives Inmate Telephone System
1991	-- GTE & OPUS begins installing ITS at certain prisons.
4/1992	-- B.O.P. starts charging AT&T rates plus 75 cents a call.
7/1993	-- An anonymous LD carrier sponsors class action suit against B.O.P.
8/1993	-- B.O.P. stops installing ITS after 41 facilities due to court injunction.
4/1994	-- B.O.P. admits official policy not often practiced.
4/1994	-- AT&T submits unsolicited bid to develop new system.
4/1994	-- Final rule published in the Congressional Record.
5/1995	-- Mediation begins, seeking to resolve problems.
8/2/95	-- Settlement reached.

5. Discussion continues

ITS was supposedly implemented to provide better security and to enable prisoners to better account for their money. The security angle seems spurious in light of existing call processors that offer excellent results. Money management seems odd as well. Direct dialing meant that prisoners needed to pay for calls out of their prison accounts. Yet B.O.P. officials would often take money sent by relatives and friends to cover phone expenses, in order to recover other debts owed by the prisoner. Endless arguments and excitement followed. Prisoners thought long distance costs were too high. Long distance companies felt shut out and the courts were also unhappy. Without going further into the history and machinations of

all of this, [17] let's look at how ITS works in practice. Before we get an account from a private line reader in jail, though, let's look at what a typical account report looks like, just so we get familiar with the terms. A register number, by the way, is like a prisoner's serial number . . . :

6. ITS Account Report

Inmate Telephone Account Report FCI LFREEH

Page 1 of 1 Report Date Jan. 12, 1996 12:12 /dev/ttyl1f

Register Number	Inmate Name	Phone Access Code	Date Entered
03496823	Louis Freeh	478274228	25-FEB-96

Inmate Dialing Instructions

Inmate Telephone System (ITS)

To place:

- A Local Call:
 1. Listen for the dial tone.
 2. Enter the seven digit telephone number.
 4. Enter your Phone Access Code (PAC).Example: 555-1234-478274228

- A Long Distance Call:
 1. Listen for the dial tone.
 2. Enter 1, area code and telephone number.
 4. Enter your Phone Access Code (PAC).Example: 1-202-555-1234-478274228

- An International Call:
 1. Listen for the dial tone.
 2. Enter 011, country code and telephone number.
 4. Enter your Phone Access Code (PAC).Example: 011-24-335937-478274228

To obtain your ITS account balance and the cost of your last call:

- I. Listen for the dial tone.
 2. Enter 118, then enter your Phone Access Code (PAC).
- Example 118-478274228

7. A report on ITS from Jail

A hacker at Lompoc writes private line to say:

"ITS is pretty crappy. All my phone numbers have to be submitted to my counselor prior to calling (up to 30 numbers). In a few days the numbers are verified and put on my phone list. Each

inmate is assigned a 10 digit pin when they first arrive.

The phones are like those information phones at airports. They're all in a row, about 25 of them with the small partition dividing each phone. I don't know if it's important but the handsets all smell like shit. When the handset is lifted you are greeted by a standard dialtone. After you dial the number you get a second dialtone. Then you enter the PIN and wait for validation.

The whole system is pretty Mickey Mouse and the ~~cross talk is almost unbearable~~. Throughout your conversation you can hear DTMF tones from the neighboring phones. Each call is limited to 15 minutes but you can call back immediately if no one is waiting. When you get down to your final minute they drop carrier for a split second to warn you have 15 seconds left.

~~If a foreign dialtone or ring is detected you are dropped immediately~~. This is to prevent people from three-waying phone calls. ~~It's easily corrected if the receiving party places a call, waits for an answer and then bridges the call~~. All calls are monitored, most likely recorded, in case you conspire to commit another crime over the phone. The Feds are always looking for a new indictment.

Everything is handled by a machine they have on the compound. It's some UNIX box that treats each phone as /dev/???. [18] The only numbers you can dial are those on your approved phone list. Thereby eliminating the problem of people stealing kodez!, or dialing any unauthorized numbers. ("0", 911, 800's, 700's, etc.)

Basically, it's run by a script . . . a person can pretty much write the whole ITS in modem commands.

The system's primary concern is security with inmate's phone calls as a secondary function. ~~The rates are similar to calling card rates, a call to L.A. costs me \$3.75 for 15 minutes~~. Interestingly it costs the same to Sacramento . . ."

8. Real short conclusion

ITS seems like some bureaucrats 'better idea' gone seriously astray. B.O.P's Request will be interesting to watch for in the next year or so. They'll need to specify what kind of system they want so that companies can bid on it. Lots of technical details should be included. My guess is that they will go with more conventional equipment and techniques -- I'm unsure if they can build on ITS technology, no matter how well it works, since GTE and OPUS's approach is proprietary. Hmm. Got any more information or personal experience with prison phones? Send it in and I'll print it here.

9. --Bibliography--

[1] "Long Distance Runaround" _New York Newsday_ Michael Moss, May 14, 1995

[2] 'Dialing For Dollars: Taxpayers Could Win Big With Prison Pay Phones' _John Sharp Opinions and Editorials_ Undated :(John Sharp, State Comptroller of Public Accounts

<http://www.cpa.texas.gov/comptrol/oped/oped18.html> (5k)

[3] "Calling Card Platforms -- The Intelligence Behind The Cards" Ed Metcalf Premier Telecard December 1995-January 1996 28 (+1(805) 547-8500 for Premier)

[4] Pacific Bell. For questions, try +1(415) 452-7455

[5] National Applied Computer Technology, 744 South 400 East, Orem, Utah 84058 (801) 225-6248 FAX (801) 224-8456

[6] TELEQUIP Labs Inc., 1820 N. Greenville Ave., Suite 100 Richardson, TX 75801 1(800) 329-3290; Communications Product Development Incorporated 915 Broadway, Suite 100 Vancouver, WA 98660 (360) 694-2977 FAX (360) 694-2553

[7] TELEQUIP advertisement Public Communications Volume 11, No. 4 April, 1995 49. This ad extols the virtues of their patented switch. This means you could do a patent search and read all about it. Consult private line No. 4 (Volume 2, No. 1 January/February 1995) for my lengthy article on patent searching.

[8] "Calling Card Platforms -- The Intelligence Behind The Cards" ibid.

[9] "LCX 120C A Success In Camden County Correctional Facility," CCQ-Correctional Communications Quarterly April, 1994. I have a reprint of this article, as supplied by N.A.C.T., however, I have no further information on CCQ.

[10] "Letter from Prison" 2600 Winter 1992-93 (Volume Nine Number Four)13

[11] CCQ ibid.

[12] Letter to the Editor by C. Rebel 2600 Autumn 1990 (Volume 7, Number 3) 29

[13] "Federal Prison Telephone Plan Stuck on Hold" Legal Times Naftali Bendavid May, 22 1995 Well researched and balanced article on ITS issues. +1(457-0686) 1730 'M' Street N.W., Suite 802 Washington, D.C. 20036

[14] Each time I've accepted a collect call from ITS the automated voice announces "AT&T".

[15] "Plaintiffs, Feds Connect in Settlement; Inmates Laud Deal Over Prison Phones" Legal Times Naftali Bendavid August 14, 1995 Follow on to the article in 13 above.

[16] name withheld -- Personal correspondence

[17] B.O.P.'s point of view is contained in the Federal Code of Regulations: 28 CFR 540 -- Telephone Regulations and Financial Responsibility. Or look it up in the April 4, 1994 Federal Register. It's the Big Kahuna of ITS documents, as far as rules, regs and explanations go. Not much technical info, however, you may want to