

**Orbeton, Jane**

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**From:** Black, Anna <Anna.Black@maine.gov>  
**Sent:** Sunday, October 2, 2022 2:47 PM  
**To:** Senft, Samuel; Orbeton, Jane  
**Cc:** Liberty, Randall  
**Subject:** MDOC's adult resident phone system policy  
**Attachments:** Policy 21.3.pdf

**This message originates from outside the Maine Legislature.**

Hello Sam and Jane,

Attaches is the MDOC's just newly revised Adult Facility Policy 21.3, Resident Telephone System. Procedures A.19, 20, 21, 27, Procedure B, and Procedure F.1 are most relevant to this committee.


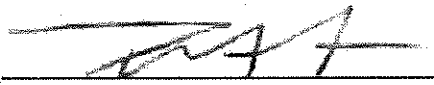
Thanks,

Anna

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<b>POLICY TITLE: ADULT RESIDENT TELEPHONE SYSTEM</b>		<b>PAGE 1 of 13</b>
<b>POLICY NUMBER: 21.3</b>		
<b>CHAPTER 21: ADULT RESIDENT COMMUNICATION</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT of CORRECTIONS</b>  <b>Approved by Commissioner:</b>  	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VIII</b>
	<b>EFFECTIVE DATE:</b> <b>May 14, 2002</b>	<b>LATEST REVISION:</b> <b>September 27, 2022</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

Adult Facilities

**III. POLICY**

It is the policy of the Department of Corrections to permit adult facility residents reasonable access to telephones as a means to maintain ties with the community.

**IV. DEFINITIONS**

1. Facility law enforcement officer - facility correctional investigative officer (detective) or facility Special Investigations and Intelligence Unit (SII) officer.

**V. CONTENTS**

- Procedure A: Resident Telephone System, General
- Procedure B: Privileged Phone Calls
- Procedure C: Indigent Resident Phone Calls and Other Free Calls
- Procedure D: Blocking of Numbers and Termination of Calls
- Procedure E: Suspension and Restriction of Telephone Privileges
- Procedure F: Monitoring of Resident Telephone Calls
- Procedure G: Appeals and Grievances

**VI. ATTACHMENTS**

- Attachment A: Resident Telephone System Language Preference
- Attachment B: Resident Telephone System Legal Call Number List
- Attachment C: Resident Phone Call Minutes Application
- Attachment D: Authorization to Monitor Communications (paper/fillable)
- Attachment E: Communications Monitoring Record (paper/fillable)

## VII. PROCEDURES

### Procedure A: Resident Telephone System, General

5-ACI-7D-11

1. The Commissioner, or designee, shall ensure any contract involving telephone services for adult residents shall:
  - a. comply with all applicable state and federal regulations; and
  - b. be based on rates and surcharges that are commensurate with those charged to the general public for like services, with any deviation reflecting actual costs in the provision of services, including any necessary security measures, and the purpose of generating funds for deposit into the facilities' resident benefit accounts.  
*5-ACI-7D-12 & 4-ACRS-5A-19-1*
2. The Chief Administrative Officer, or designee, of each adult facility shall implement facility specific practices to provide residents with reasonable access to the resident telephone system in accordance with Department policy.
3. Residents shall not be permitted to use credit or debit cards, calling cards, call forwarding, three way calling, or conference calling.
4. Residents shall not be permitted to make calls on electronic communication devices, including, but not limited to, a cell phone, tablet, computer, or any other device containing a means of internet access or capable of receiving or transmitting information electronically, except for facility provided video visitation, if applicable, or a privileged call under the circumstances described in Procedure B.
5. Residents shall not be permitted to make calls to toll-free numbers, except for toll-free numbers authorized by the Commissioner, or designee (e.g., PREA hotline, statewide sexual assault response line, etc.).
6. Residents shall not be permitted to receive incoming phone calls.
7. The facility Chief Administrative Officer, or designee, shall make available specialized services or equipment for providing telephone access to any resident in need of a reasonable accommodation due to a physical disability. *5-ACI-7D-13 & 4-ACRS-5A-19*
8. In the event of an emergency involving the family of a resident, if facility staff verifies the emergency exists by contacting the appropriate agency (e.g., law enforcement, fire, rescue, hospital, nursing home, school, funeral home, etc.), the resident's case manager, or other designated staff, shall notify the resident and may allow a special phone call on a staff phone, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D. The appropriate staff shall be notified in order to monitor the resident's reaction to the situation and provide any necessary follow up with the resident.
9. A resident's case manager may allow a special phone call on a staff phone for program or release planning purposes, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D.

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10. Designated facility staff may allow a privileged phone call on a staff phone under the circumstances described in Procedure B.
11. Unless otherwise authorized by the facility Chief Administrative Officer, or designee, all other resident telephone calls shall be placed through the resident telephone system.
12. The facility Chief Administrative Officer, or designee, shall develop a telephone schedule. All telephone calls placed through the resident telephone system shall be made during the authorized times.
13. Except for privileged phone calls, at medium or higher security facilities, there is a limit on the duration of phone calls placed through the resident telephone system by general population residents to thirty (30) minutes, which may be implemented through an automatic cut-off time. Except for privileged phone calls, at lower security facilities, there is a limit on the duration of phone calls placed through the resident telephone system by general population residents to sixty (60) minutes, which may be implemented through an automatic cut-off time.
14. Residents on protective custody status shall be provided access to phone calls similar to general population residents, except to the extent that the calls must be limited consistent with reasonable precautions designed to protect safety, security, and orderly management of the facility.
15. For a resident on administrative status, disciplinary segregation status, or housed in the Administrative Control Unit or the Intensive Mental Health Unit, the number of telephone calls and the duration of telephone calls may be further limited.
16. Otherwise, limits may not be placed on the number or duration of phone calls placed through the resident telephone system unless facility staff determines it is necessary to allow other residents reasonable access to the resident telephone system.
17. Except for indigent phone calls or other free phone calls made in accordance with Procedure C, the resident shall be responsible for costs associated with calls made through the resident telephone system, regardless of whether a call is successfully completed or not. A resident who experiences a problem completing a phone call may submit a trouble report form to designated staff.
18. During facility orientation, residents shall be provided information concerning the facility's telephone schedule and rules. Residents shall also be informed that withdrawals for phone calls placed through the resident telephone system are automatically made from the resident's individual phone account and shall be provided information about sample call rates.
19. During facility orientation, residents shall be informed of the possibility of phone calls, except privileged calls, being monitored. The phone rules and a notice stating that phone calls are subject to being listened to and/or recorded, except privileged calls, shall also be included in the resident handbook.

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20. The facility Chief Administrative Officer, or designee, shall designate staff to post signage approved by the Department's Director of Operations, or designee, adjacent to all resident telephones, including phones in visit booths, stating that phone calls are subject to being listened to and/or recorded, except for privileged calls.
21. The resident telephone system shall include a recorded warning of the possibility of phone calls, except privileged calls, being monitored before the recipient accepts the call.
22. During facility orientation, each resident shall be asked whether they wish to designate a language preference other than English for the recorded warning for any of the numbers they intend to call using Resident Telephone System Language Preference form (Attachment A). If the resident wishes to designate such a language preference, they shall be instructed to submit the form to the intake staff, their case manager, or other designated facility staff.
23. A resident may request at any time that a language preference for the recorded warning be changed by submitting a new form to their case manager or other designated facility staff.
24. A resident shall not be allowed to make personal phone calls to a Department staff member, volunteer, or student intern unless approved by the Chief Administrative Officer, or designee, of the facility where the resident is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
25. The Chief Administrative Officer, or designee, shall determine the extent of telephone privileges for all residents who are housed outside the facility, e.g., in hospitals, nursing homes, halfway houses, etc.
26. All funds generated from the resident telephone system shall be deposited in the facility resident benefit account.
27. The Department's Director of Operations, or designee, shall designate appropriate Department staff to conduct an audit at least annually to ensure that all of the provisions of this policy related to privileged and free phone calls are adhered to.

**Procedure B: Privileged Phone Calls**

1. A legal phone call (also considered a privileged phone call) is a call concerning a legal matter involving an adult resident between that resident and any of the following:
  - a. their attorney or a paralegal or private investigator working for their attorney;
  - b. court clerk's offices;
  - c. Maine Human Rights Commission; and
  - d. legal advocacy organizations, including, but not limited to, American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and the National Lawyers Guild.

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2. During initial orientation, each resident shall be asked to designate, in writing, those names and numbers to which the resident wishes to make legal telephone calls. A resident may designate up to ten (10) legal call numbers, using the Resident Telephone System Legal Call Number List (Attachment B). If the resident wishes to designate legal call numbers, they shall be instructed to submit the form to the intake staff, their case manager, or other designated facility staff.
3. Designated facility staff shall verify each attorney name and number on the list by using the Maine Bar Directory or the website for the Maine Board of Overseers of the Bar. If the attorney name and number cannot be verified in this way, but the resident says the attorney is licensed out of state, the staff shall contact the relevant jurisdiction's attorney licensing board for verification.
4. For a paralegal, private investigator, court clerk's office, or legal advocacy organization other than one listed above, the staff shall use an appropriate verification method.
5. As necessary, the staff shall contact the Department's legal representative in the Attorney General's office for assistance with the verification process.
6. Once the resident's legal phone call number(s) are verified, the designated facility staff enter the number(s) as a contact for that resident in CORIS and shall enter the number and mark it as privileged (private) in the phone data base for the Department's contract telephone services provider and shall also note in both places the specifics of who the number belongs to (e.g., attorney Jane Doe, Lewiston District Court Clerk's Office, etc.).
7. All residents may make privileged phone calls to the Maine Human Rights Commission and the legal advocacy organizations listed above.
8. Only designated staff may mark a phone number as privileged and only a phone number verified as being a legal phone number as defined above or the number of the statewide sexual assault response line may be marked as privileged or be treated as privileged, unless the Commissioner, or designee, determines that another number may be treated as privileged.
9. A resident who intentionally designates as a legal call number a number that does not belong to an attorney, paralegal, private investigator, court clerk's office, or a legal advocacy organization may be subject to suspension or restriction of telephone privileges, discipline, or other appropriate action.
10. A resident may request at any time that a name and number be added to or deleted from the resident's legal call number list by submitting a new form to their case manager or other designated facility staff. If a requested addition would cause the list to exceed the limit, the resident must request a deletion to bring the request within the limit.
11. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization on a resident's legal call number list may submit a written request to be removed from the list and, if requested, the number shall be blocked for that resident. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization may be reinstated to the resident's list upon written request by the resident and the person or organization previously on the list.

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12. If it is discovered that a person has used a legal phone call to communicate about anything other than a legal matter involving the resident, or it is otherwise discovered that the person's relationship with the resident is no longer a professional one, that person's number shall be deleted from the resident's legal call number list and shall no longer be designated as privileged.
13. A phone call between a resident and the toll-free statewide sexual assault response line concerning a complaint of sexual misconduct shall be treated as a privileged phone call.
14. The duration of privileged phone calls made on the resident phone system shall not be limited unless staff determines it is necessary to allow other residents reasonable access to the resident telephone system or for other reasons of safety, security, or orderly management of the facility. Unless staff limits a call for one of these reasons, if a privileged phone call is cut off prior to the completion of the call, the resident shall be permitted to redial the number. All other rules governing resident phone calls shall apply.
15. Reasonable efforts shall be made to allow residents to make confidential privileged phone calls. If a resident who is unable to make a privileged phone call that is sufficiently private using the resident phone system requests a special privileged phone call to a number that has been marked as privileged in accordance with this policy, or if the recipient of privileged phone calls from the resident requests such a call, designated facility staff shall allow a confidential phone call on a staff phone or using a facility cell phone, tablet, or computer.
16. Staff may verify with the recipient that the call is needed (for example, by verifying that a letter to or an in-person visit from the resident's attorney would not be sufficient) and may make arrangements with the recipient for the timing of the call based on the recipient's, staff's, and facility's schedules. The number and the duration of special privileged telephone calls may be limited for reasons of safety, security, or orderly management of the facility.
17. Privileged phone calls, whether made on the resident phone system or otherwise, are confidential. Under no circumstances may any Department staff intentionally listen to or record the call. Designated staff may visually monitor the resident, without the ability to listen to the call, to ensure that there is no damage to facility property, that the resident is not accessing records in a staff office, or for other reasons of safety, security, or orderly management of the facility.

**Procedure C: Indigent Resident Phone Calls and Other Free Calls**

1. All residents may make free phone calls to the toll-free PREA hotline, toll-free statewide sexual assault response line, and other toll-free numbers authorized by the Commissioner, or designee. All residents may also make free phone calls to the Maine Human Rights Commission and the legal advocacy organizations listed above. Residents may also make free phone calls to their facility's law enforcement officers using the numbers designated for this purpose.

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2. Only designated staff may mark a phone number as free in the phone data base for the Department's contract telephone services provider and only a phone number described above may be marked as a free number or treated as a free number, unless the Commissioner, or designee, determines that another number may be treated as free.
3. For the purposes of this policy, if an adult resident has no more than \$10.00 combined in their phone account and general account at the facility, excluding a personal savings escrow account, after obligations have been deducted, they are considered indigent and are eligible for free phone call minutes.
4. An indigent resident may apply for free phone call minutes by completing the Resident Phone Call Minutes Application form (Attachment C) and submitting it to the facility business office. An incomplete application shall be returned to the resident.
5. If the resident has made a false statement on the application, the application shall not be approved, and the matter shall be referred to a facility law enforcement officer or other designated staff.
6. The facility business office staff shall review the resident's accounts to ensure that the resident does not have more than \$10.00 total in the accounts.
7. If the resident is not eligible for free phone call minutes, the application shall not be approved, and the facility business office staff shall so notify the resident.
8. If the resident is eligible for free phone call minutes, except as set out below, the facility business office staff shall approve the application, notify the resident of the approval, and mark in CORIS and the phone data base for the Department's contract telephone services provider that the resident is to receive sixty (60) minutes of free phone call time each week.
9. The number of free phone call minutes shall be reset to sixty (60) minutes weekly, with no carryover of prior unused minutes.
10. If a resident who has been approved for free phone call minutes in the future acquires more than \$10.00 combined in their phone account and general account at the facility, excluding a personal savings escrow account, after obligations are deducted, the free phone call minutes shall be discontinued. If the amount in the resident's accounts later makes them eligible for free phone call minutes, they may reapply.
11. If the Chief Administrative Officer determines that a resident has abused the free phone call minutes process (e.g., by manipulating the funds in their accounts, allowing another resident to use their free phone minutes, etc.), the Chief Administrative Officer may give a written warning to the resident to cease the abuse and if it does not cease after the warning may deny approval or withdraw a prior approval. Only the Chief Administrative Officer may deny or withdraw approval due to resident abuse of the process. If approval is denied or withdrawn, after ninety (90) days have passed, a resident who is eligible may reapply for free phone call minutes.

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## **Procedure D: Blocking of Numbers and Termination of Calls**

1. If a written request is received from an adult or guardian of an adult that an adult resident not be allowed to make phone calls to that adult, the Chief Administrative Officer, or designee, shall ensure the adult's specific phone number(s) are blocked.
2. If a written request is received from a parent or guardian of a minor that a resident not be allowed to make phone calls to that minor, the Chief Administrative Officer, or designee, shall ensure the minor's specific phone number(s) are blocked.
3. Designated facility staff shall block specific number(s) as necessary under the following circumstances:
  - a. A resident who is currently in the Department's legal custody for domestic violence, a sex offense, or child abuse shall not be allowed to make phone calls to the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - b. A resident who is currently in the Department's legal custody for child neglect shall not be allowed to make phone calls to the victim without the prior approval of the Chief Administrative Officer, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - c. A resident who has a current child protection case with the Department of Health and Human Services (DHHS) regarding the victim shall not be allowed to make phone calls to the victim unless granted a waiver by the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - d. A resident who is a victim of a domestic violence offense or a sex offense shall not be allowed to make phone calls to the offender without the prior approval of the Chief Administrative Officer, or designee.
  - e. When all contact or telephone contact between a resident and another person is prohibited by a current court order (e.g., custody order, protection from abuse or other protective order, etc.), the resident shall not be allowed to make phone calls to that person.
  - f. When all contact or telephone contact between a resident and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the resident shall not be allowed to make phone calls to that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation, current detention order for violation of conditional release, or current return from community reintegration status or supervised community confinement.
  - g. When a resident is prohibited by a current notification issued pursuant to Title 17-A, section 506-A, for the resident not to engage in harassing conduct against another person, the resident shall not be allowed to make phone calls to that person.
  - h. When a resident's parental rights have been terminated, unless the termination was voluntary and not the result, direct or indirect, of a child protection investigation by DHHS, the resident shall not be allowed to make phone calls to the victim while the victim is still a minor.

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- i. The person is a former resident or resident within one year of discharge from any correctional facility for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
  - j. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
  - k. A resident may be prohibited by the Chief Administrative Officer, or designee, from making a phone call to any other person when there is reasonable suspicion that allowing a call between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
  - l. A resident may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, when there is reasonable suspicion that the resident or other person has violated or will violate the telephone rules.
  - m. A resident in the Intensive Mental Health Unit (IMHU) may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that phone calls between them would create a risk to the mental health of the resident.
4. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to phone calls, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting calls.
  5. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to calls.
  6. Designated facility staff may determine not to allow or to terminate a phone call at any time for reasons of safety, security, or orderly management of the facility. The staff shall complete appropriate documentation and submit it to the Chief Administrative Officer, or designee.

**Procedure E: Suspension and Restriction of Telephone Privileges**

1. If a telephone call is not allowed or terminated due to the behavior of an adult resident, the Chief Administrative Officer shall determine whether to impose a suspension or restriction of that resident's telephone privileges.
2. The Chief Administrative Officer may impose a suspension or restriction of a resident's telephone privileges at any time for any other reason of safety, security, or orderly management of the facility.
3. Telephone privileges relating to legal phone calls shall not be restricted or suspended unless the reason for restriction or suspension occurred in relation to a legal call, e.g., the resident was threatening the safety of the attorney, etc. The Chief Administrative

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Officer shall consult with the Department's legal representative in the Attorney General's Office before suspending or restricting a resident's telephone privileges with respect to legal calls.

4. The resident shall be notified in writing of a suspension or restriction of their telephone privileges.
5. A suspension or restriction may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed only by the Chief Administrative Officer.
6. In the case of a suspension or restriction of a resident's telephone privileges for a definite period of time, once the specified time has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
7. In the case of a suspension or a restriction of a resident's telephone privileges for an indefinite period of time, after a year has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
8. If a resident's telephone privileges have been suspended, the resident shall be informed in writing that they may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that they may reapply after one year has elapsed.
9. Nothing in this telephone policy applies to a resident who receives a disciplinary disposition of loss of telephone privileges for a disciplinary violation in accordance with the Department's disciplinary policy.

**Procedure F: Monitoring of Resident Telephone Calls**

1. All telephone calls made on the resident phone system, except for privileged calls, may be recorded. These phone calls and/or the recordings of these phone calls may be listened to with written authorization from the Chief Administrative Officer, or designee, using the Authorization to Monitor Communications (Attachment D).
2. If authorized in writing by the Chief Administrative Officer, or designee, this monitoring may be done by a facility law enforcement officer if the officer is:
  - a. conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility;
  - b. cooperating with an investigation being conducted by another criminal justice agency; or
  - c. engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile justice, including, but not limited to:

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- 1) investigating a disciplinary offense;
  - 2) monitoring the phone calls between a resident and a person the resident is prohibited from calling;
  - 3) randomly monitoring the phone calls of residents prohibited to have contact by this policy; or
  - 4) upon request of the Department's Director of Victim Services, or designee, monitoring the phone calls of a resident who is prohibited to have contact with a victim by this policy, regardless of whether or not the resident has requested a waiver for contact with a victim.
3. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
  4. No other Department staff may listen to phone calls and/or the recordings of phone calls or be told the contents of calls made on the resident phone system, except that a facility law enforcement officer may permit other staff to listen or disclose the contents of calls to other staff as part of engaging in any activity that is related to the administration of criminal justice or the administration of juvenile justice.
  5. Recordings of any communications related to an investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with departmental policy.
  6. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer to monitor communications during telephone calls, the officer shall document on the Communications Monitoring Record (Attachment E):
    - a. the name and MDOC number of the resident;
    - b. the date and time of the phone call;
    - c. a description of the communications monitored, including the name of the person called and the subject matter of the communication;
    - d. a description of any other action taken and the grounds justifying such action; and
    - e. the name of the officer monitoring the communications.
  7. The officer shall attach to the Communications Monitoring Record the written authorization from the Chief Administrative Officer, or designee, to listen to the resident's phone calls.
  8. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer and copies of the forms shall be forwarded to the Chief Administrative Officer.
  9. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the resident shall not be notified of the monitoring without the approval of the prosecuting attorney.

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10. In any case, the resident shall not be notified of the reason for the monitoring.
11. Neither a facility law enforcement officer nor other facility staff shall provide a recording of a resident phone call to, allow a recording to be listened to by, or disclose any specifics relating to a resident phone call (e.g., who the resident made the phone call to, the contents of the call, etc.) to the resident; the person to whom the call was made; or any other person or entity outside of the Department, except a court or criminal justice agency if related to the administration of criminal justice or the administration of juvenile justice or a state agency if related to a statutory function of that agency, or as otherwise allowed by law and policy, and, if necessary, after consultation with the Department's legal representative in the Attorney General's Office.
12. Nothing in this procedure prevents the presentation of a recording as an exhibit in a resident disciplinary proceeding or prevents a facility law enforcement officer from disclosing to Department staff the specifics relating to a resident phone call if necessary to the staff's job responsibilities.
13. In addition, if necessary to the staff's job responsibilities, Department staff may request a facility law enforcement officer to provide them a log showing a resident's phone call history.
14. If there is reasonable suspicion that phone calls to a privileged phone number are not actually privileged in nature, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.

**Procedure G: Appeals and Grievances**

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, an adult resident may use the grievance process to grieve a decision related to phone calls.
2. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a resident may appeal the denial as set out in that policy.

**VIII. PROFESSIONAL STANDARDS**

**ACA**

- 5-ACI-7D-11 **Written policy, procedure, and practice provide for inmate access to public telephones.**
- 5-ACI-7D-12 **Written policy, procedure, and practice ensure that offenders have access to reasonably priced telephone services. Correctional agencies ensure that:**
  - **Contracts involving telephone services for offenders comply with all applicable state and federal regulations.**
  - **Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.**
  - **Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.**



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- 5-ACI-7D-13** Written policy, procedure, and practice provide inmates with documented hearing and/ or communication challenges, and inmates who wish to communicate with parties who have such disabilities, access to assistive technology. The technology provided to an inmate with hearing or speech disabilities shall be determined based on an individual assessment of the needs of the inmate. Public telephones with volume control are also made available to inmates with hearing impairment. Inmates shall not be denied access to assistive technology, except when the warden/superintendent or designee can present clear and convincing evidence that access will jeopardize the safety and security of the institution or the visitors.
- 4-ACRS-5A-19** There are telephone facilities on the premises which provide for inmate access to public telephones. Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties who have such disabilities, shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control also shall be made available to inmates with hearing impairments.
- 4-ACRS-5A-19-1** Offenders have access to reasonably priced telephone services. Correctional agencies ensure that:
- Contracts involving telephone services for offenders comply with all applicable state and federal regulations.
  - Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.
  - Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.

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POLICY TITLE: ADULT RESIDENT TELEPHONE SYSTEM		PAGE <u>1</u> of <u>13</u>
POLICY NUMBER: 21.3		
CHAPTER 21: ADULT RESIDENT COMMUNICATION		
	STATE of MAINE DEPARTMENT of CORRECTIONS	PROFESSIONAL STANDARDS:
	Approved by Commissioner: 	See Section VIII
EFFECTIVE DATE: May 14, 2002	LATEST REVISION: September 27, 2022	CHECK ONLY IF APA [ ]

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

Adult Facilities

**III. POLICY**

It is the policy of the Department of Corrections to permit adult facility residents reasonable access to telephones as a means to maintain ties with the community.

**IV. DEFINITIONS**

1. Facility law enforcement officer - facility correctional investigative officer (detective) or facility Special Investigations and Intelligence Unit (SII) officer.

**V. CONTENTS**

- Procedure A: Resident Telephone System, General
- Procedure B: Privileged Phone Calls
- Procedure C: Indigent Resident Phone Calls and Other Free Calls
- Procedure D: Blocking of Numbers and Termination of Calls
- Procedure E: Suspension and Restriction of Telephone Privileges
- Procedure F: Monitoring of Resident Telephone Calls
- Procedure G: Appeals and Grievances

**VI. ATTACHMENTS**

- Attachment A: Resident Telephone System Language Preference
- Attachment B: Resident Telephone System Legal Call Number List
- Attachment C: Resident Phone Call Minutes Application
- Attachment D: Authorization to Monitor Communications (paper/fillable)
- Attachment E: Communications Monitoring Record (paper/fillable)

## VII. PROCEDURES

### Procedure A: Resident Telephone System, General

5-ACI-7D-11

1. The Commissioner, or designee, shall ensure any contract involving telephone services for adult residents shall:
  - a. comply with all applicable state and federal regulations; and
  - b. be based on rates and surcharges that are commensurate with those charged to the general public for like services, with any deviation reflecting actual costs in the provision of services, including any necessary security measures, and the purpose of generating funds for deposit into the facilities' resident benefit accounts.  
*5-ACI-7D-12 & 4-ACRS-5A-19-1*
2. The Chief Administrative Officer, or designee, of each adult facility shall implement facility specific practices to provide residents with reasonable access to the resident telephone system in accordance with Department policy.
3. Residents shall not be permitted to use credit or debit cards, calling cards, call forwarding, three way calling, or conference calling.
4. Residents shall not be permitted to make calls on electronic communication devices, including, but not limited to, a cell phone, tablet, computer, or any other device containing a means of internet access or capable of receiving or transmitting information electronically, except for facility provided video visitation, if applicable, or a privileged call under the circumstances described in Procedure B.
5. Residents shall not be permitted to make calls to toll-free numbers, except for toll-free numbers authorized by the Commissioner, or designee (e.g., PREA hotline, statewide sexual assault response line, etc.).
6. Residents shall not be permitted to receive incoming phone calls.
7. The facility Chief Administrative Officer, or designee, shall make available specialized services or equipment for providing telephone access to any resident in need of a reasonable accommodation due to a physical disability. *5-ACI-7D-13 & 4-ACRS-5A-19*
8. In the event of an emergency involving the family of a resident, if facility staff verifies the emergency exists by contacting the appropriate agency (e.g., law enforcement, fire, rescue, hospital, nursing home, school, funeral home, etc.), the resident's case manager, or other designated staff, shall notify the resident and may allow a special phone call on a staff phone, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D. The appropriate staff shall be notified in order to monitor the resident's reaction to the situation and provide any necessary follow up with the resident.
9. A resident's case manager may allow a special phone call on a staff phone for program or release planning purposes, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D.

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10. Designated facility staff may allow a privileged phone call on a staff phone under the circumstances described in Procedure B.
11. Unless otherwise authorized by the facility Chief Administrative Officer, or designee, all other resident telephone calls shall be placed through the resident telephone system.
12. The facility Chief Administrative Officer, or designee, shall develop a telephone schedule. All telephone calls placed through the resident telephone system shall be made during the authorized times.
13. Except for privileged phone calls, at medium or higher security facilities, there is a limit on the duration of phone calls placed through the resident telephone system by general population residents to thirty (30) minutes, which may be implemented through an automatic cut-off time. Except for privileged phone calls, at lower security facilities, there is a limit on the duration of phone calls placed through the resident telephone system by general population residents to sixty (60) minutes, which may be implemented through an automatic cut-off time.
14. Residents on protective custody status shall be provided access to phone calls similar to general population residents, except to the extent that the calls must be limited consistent with reasonable precautions designed to protect safety, security, and orderly management of the facility.
15. For a resident on administrative status, disciplinary segregation status, or housed in the Administrative Control Unit or the Intensive Mental Health Unit, the number of telephone calls and the duration of telephone calls may be further limited.
16. Otherwise, limits may not be placed on the number or duration of phone calls placed through the resident telephone system unless facility staff determines it is necessary to allow other residents reasonable access to the resident telephone system.
17. Except for indigent phone calls or other free phone calls made in accordance with Procedure C, the resident shall be responsible for costs associated with calls made through the resident telephone system, regardless of whether a call is successfully completed or not. A resident who experiences a problem completing a phone call may submit a trouble report form to designated staff.
18. During facility orientation, residents shall be provided information concerning the facility's telephone schedule and rules. Residents shall also be informed that withdrawals for phone calls placed through the resident telephone system are automatically made from the resident's individual phone account and shall be provided information about sample call rates.
19. During facility orientation, residents shall be informed of the possibility of phone calls, except privileged calls, being monitored. The phone rules and a notice stating that phone calls are subject to being listened to and/or recorded, except privileged calls, shall also be included in the resident handbook.

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20. The facility Chief Administrative Officer, or designee, shall designate staff to post signage approved by the Department's Director of Operations, or designee, adjacent to all resident telephones, including phones in visit booths, stating that phone calls are subject to being listened to and/or recorded, except for privileged calls.
21. The resident telephone system shall include a recorded warning of the possibility of phone calls, except privileged calls, being monitored before the recipient accepts the call.
22. During facility orientation, each resident shall be asked whether they wish to designate a language preference other than English for the recorded warning for any of the numbers they intend to call using Resident Telephone System Language Preference form (Attachment A). If the resident wishes to designate such a language preference, they shall be instructed to submit the form to the intake staff, their case manager, or other designated facility staff.
23. A resident may request at any time that a language preference for the recorded warning be changed by submitting a new form to their case manager or other designated facility staff.
24. A resident shall not be allowed to make personal phone calls to a Department staff member, volunteer, or student intern unless approved by the Chief Administrative Officer, or designee, of the facility where the resident is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
25. The Chief Administrative Officer, or designee, shall determine the extent of telephone privileges for all residents who are housed outside the facility, e.g., in hospitals, nursing homes, halfway houses, etc.
26. All funds generated from the resident telephone system shall be deposited in the facility resident benefit account.
27. The Department's Director of Operations, or designee, shall designate appropriate Department staff to conduct an audit at least annually to ensure that all of the provisions of this policy related to privileged and free phone calls are adhered to.

**Procedure B: Privileged Phone Calls**

1. A legal phone call (also considered a privileged phone call) is a call concerning a legal matter involving an adult resident between that resident and any of the following:
  - a. their attorney or a paralegal or private investigator working for their attorney;
  - b. court clerk's offices;
  - c. Maine Human Rights Commission; and
  - d. legal advocacy organizations, including, but not limited to, American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and the National Lawyers Guild.

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2. During initial orientation, each resident shall be asked to designate, in writing, those names and numbers to which the resident wishes to make legal telephone calls. A resident may designate up to ten (10) legal call numbers, using the Resident Telephone System Legal Call Number List (Attachment B). If the resident wishes to designate legal call numbers, they shall be instructed to submit the form to the intake staff, their case manager, or other designated facility staff.
3. Designated facility staff shall verify each attorney name and number on the list by using the Maine Bar Directory or the website for the Maine Board of Overseers of the Bar. If the attorney name and number cannot be verified in this way, but the resident says the attorney is licensed out of state, the staff shall contact the relevant jurisdiction's attorney licensing board for verification.
4. For a paralegal, private investigator, court clerk's office, or legal advocacy organization other than one listed above, the staff shall use an appropriate verification method.
5. As necessary, the staff shall contact the Department's legal representative in the Attorney General's office for assistance with the verification process.
6. Once the resident's legal phone call number(s) are verified, the designated facility staff enter the number(s) as a contact for that resident in CORIS and shall enter the number and mark it as privileged (private) in the phone data base for the Department's contract telephone services provider and shall also note in both places the specifics of who the number belongs to (e.g., attorney Jane Doe, Lewiston District Court Clerk's Office, etc.).
7. All residents may make privileged phone calls to the Maine Human Rights Commission and the legal advocacy organizations listed above.
8. Only designated staff may mark a phone number as privileged and only a phone number verified as being a legal phone number as defined above or the number of the statewide sexual assault response line may be marked as privileged or be treated as privileged, unless the Commissioner, or designee, determines that another number may be treated as privileged.
9. A resident who intentionally designates as a legal call number a number that does not belong to an attorney, paralegal, private investigator, court clerk's office, or a legal advocacy organization may be subject to suspension or restriction of telephone privileges, discipline, or other appropriate action.
10. A resident may request at any time that a name and number be added to or deleted from the resident's legal call number list by submitting a new form to their case manager or other designated facility staff. If a requested addition would cause the list to exceed the limit, the resident must request a deletion to bring the request within the limit.
11. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization on a resident's legal call number list may submit a written request to be removed from the list and, if requested, the number shall be blocked for that resident. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization may be reinstated to the resident's list upon written request by the resident and the person or organization previously on the list.

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12. If it is discovered that a person has used a legal phone call to communicate about anything other than a legal matter involving the resident, or it is otherwise discovered that the person's relationship with the resident is no longer a professional one, that person's number shall be deleted from the resident's legal call number list and shall no longer be designated as privileged.
13. A phone call between a resident and the toll-free statewide sexual assault response line concerning a complaint of sexual misconduct shall be treated as a privileged phone call.
14. The duration of privileged phone calls made on the resident phone system shall not be limited unless staff determines it is necessary to allow other residents reasonable access to the resident telephone system or for other reasons of safety, security, or orderly management of the facility. Unless staff limits a call for one of these reasons, if a privileged phone call is cut off prior to the completion of the call, the resident shall be permitted to redial the number. All other rules governing resident phone calls shall apply.
15. Reasonable efforts shall be made to allow residents to make confidential privileged phone calls. If a resident who is unable to make a privileged phone call that is sufficiently private using the resident phone system requests a special privileged phone call to a number that has been marked as privileged in accordance with this policy, or if the recipient of privileged phone calls from the resident requests such a call, designated facility staff shall allow a confidential phone call on a staff phone or using a facility cell phone, tablet, or computer.
16. Staff may verify with the recipient that the call is needed (for example, by verifying that a letter to or an in-person visit from the resident's attorney would not be sufficient) and may make arrangements with the recipient for the timing of the call based on the recipient's, staff's, and facility's schedules. The number and the duration of special privileged telephone calls may be limited for reasons of safety, security, or orderly management of the facility.
17. Privileged phone calls, whether made on the resident phone system or otherwise, are confidential. Under no circumstances may any Department staff intentionally listen to or record the call. Designated staff may visually monitor the resident, without the ability to listen to the call, to ensure that there is no damage to facility property, that the resident is not accessing records in a staff office, or for other reasons of safety, security, or orderly management of the facility.

**Procedure C: Indigent Resident Phone Calls and Other Free Calls**

1. All residents may make free phone calls to the toll-free PREA hotline, toll-free statewide sexual assault response line, and other toll-free numbers authorized by the Commissioner, or designee. All residents may also make free phone calls to the Maine Human Rights Commission and the legal advocacy organizations listed above. Residents may also make free phone calls to their facility's law enforcement officers using the numbers designated for this purpose.

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2. Only designated staff may mark a phone number as free in the phone data base for the Department's contract telephone services provider and only a phone number described above may be marked as a free number or treated as a free number, unless the Commissioner, or designee, determines that another number may be treated as free.
3. For the purposes of this policy, if an adult resident has no more than \$10.00 combined in their phone account and general account at the facility, excluding a personal savings escrow account, after obligations have been deducted, they are considered indigent and are eligible for free phone call minutes.
4. An indigent resident may apply for free phone call minutes by completing the Resident Phone Call Minutes Application form (Attachment C) and submitting it to the facility business office. An incomplete application shall be returned to the resident.
5. If the resident has made a false statement on the application, the application shall not be approved, and the matter shall be referred to a facility law enforcement officer or other designated staff.
6. The facility business office staff shall review the resident's accounts to ensure that the resident does not have more than \$10.00 total in the accounts.
7. If the resident is not eligible for free phone call minutes, the application shall not be approved, and the facility business office staff shall so notify the resident.
8. If the resident is eligible for free phone call minutes, except as set out below, the facility business office staff shall approve the application, notify the resident of the approval, and mark in CORIS and the phone data base for the Department's contract telephone services provider that the resident is to receive sixty (60) minutes of free phone call time each week.
9. The number of free phone call minutes shall be reset to sixty (60) minutes weekly, with no carryover of prior unused minutes.
10. If a resident who has been approved for free phone call minutes in the future acquires more than \$10.00 combined in their phone account and general account at the facility, excluding a personal savings escrow account, after obligations are deducted, the free phone call minutes shall be discontinued. If the amount in the resident's accounts later makes them eligible for free phone call minutes, they may reapply.
11. If the Chief Administrative Officer determines that a resident has abused the free phone call minutes process (e.g., by manipulating the funds in their accounts, allowing another resident to use their free phone minutes, etc.), the Chief Administrative Officer may give a written warning to the resident to cease the abuse and if it does not cease after the warning may deny approval or withdraw a prior approval. Only the Chief Administrative Officer may deny or withdraw approval due to resident abuse of the process. If approval is denied or withdrawn, after ninety (90) days have passed, a resident who is eligible may reapply for free phone call minutes.

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**Procedure D: Blocking of Numbers and Termination of Calls**

1. If a written request is received from an adult or guardian of an adult that an adult resident not be allowed to make phone calls to that adult, the Chief Administrative Officer, or designee, shall ensure the adult's specific phone number(s) are blocked.
2. If a written request is received from a parent or guardian of a minor that a resident not be allowed to make phone calls to that minor, the Chief Administrative Officer, or designee, shall ensure the minor's specific phone number(s) are blocked.
3. Designated facility staff shall block specific number(s) as necessary under the following circumstances:
  - a. A resident who is currently in the Department's legal custody for domestic violence, a sex offense, or child abuse shall not be allowed to make phone calls to the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - b. A resident who is currently in the Department's legal custody for child neglect shall not be allowed to make phone calls to the victim without the prior approval of the Chief Administrative Officer, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - c. A resident who has a current child protection case with the Department of Health and Human Services (DHHS) regarding the victim shall not be allowed to make phone calls to the victim unless granted a waiver by the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
  - d. A resident who is a victim of a domestic violence offense or a sex offense shall not be allowed to make phone calls to the offender without the prior approval of the Chief Administrative Officer, or designee.
  - e. When all contact or telephone contact between a resident and another person is prohibited by a current court order (e.g., custody order, protection from abuse or other protective order, etc.), the resident shall not be allowed to make phone calls to that person.
  - f. When all contact or telephone contact between a resident and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the resident shall not be allowed to make phone calls to that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation, current detention order for violation of conditional release, or current return from community reintegration status or supervised community confinement.
  - g. When a resident is prohibited by a current notification issued pursuant to Title 17-A, section 506-A, for the resident not to engage in harassing conduct against another person, the resident shall not be allowed to make phone calls to that person.
  - h. When a resident's parental rights have been terminated, unless the termination was voluntary and not the result, direct or indirect, of a child protection investigation by DHHS, the resident shall not be allowed to make phone calls to the victim while the victim is still a minor.

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- i. The person is a former resident or resident within one year of discharge from any correctional facility for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
  - j. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
  - k. A resident may be prohibited by the Chief Administrative Officer, or designee, from making a phone call to any other person when there is reasonable suspicion that allowing a call between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
  - l. A resident may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, when there is reasonable suspicion that the resident or other person has violated or will violate the telephone rules.
  - m. A resident in the Intensive Mental Health Unit (IMHU) may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that phone calls between them would create a risk to the mental health of the resident.
4. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to phone calls, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting calls.
  5. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to calls.
  6. Designated facility staff may determine not to allow or to terminate a phone call at any time for reasons of safety, security, or orderly management of the facility. The staff shall complete appropriate documentation and submit it to the Chief Administrative Officer, or designee.

**Procedure E: Suspension and Restriction of Telephone Privileges**

1. If a telephone call is not allowed or terminated due to the behavior of an adult resident, the Chief Administrative Officer shall determine whether to impose a suspension or restriction of that resident's telephone privileges.
2. The Chief Administrative Officer may impose a suspension or restriction of a resident's telephone privileges at any time for any other reason of safety, security, or orderly management of the facility.
3. Telephone privileges relating to legal phone calls shall not be restricted or suspended unless the reason for restriction or suspension occurred in relation to a legal call, e.g., the resident was threatening the safety of the attorney, etc. The Chief Administrative

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Officer shall consult with the Department's legal representative in the Attorney General's Office before suspending or restricting a resident's telephone privileges with respect to legal calls.

4. The resident shall be notified in writing of a suspension or restriction of their telephone privileges.
5. A suspension or restriction may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed only by the Chief Administrative Officer.
6. In the case of a suspension or restriction of a resident's telephone privileges for a definite period of time, once the specified time has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
7. In the case of a suspension or a restriction of a resident's telephone privileges for an indefinite period of time, after a year has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
8. If a resident's telephone privileges have been suspended, the resident shall be informed in writing that they may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that they may reapply after one year has elapsed.
9. Nothing in this telephone policy applies to a resident who receives a disciplinary disposition of loss of telephone privileges for a disciplinary violation in accordance with the Department's disciplinary policy.

**Procedure F: Monitoring of Resident Telephone Calls**

1. All telephone calls made on the resident phone system, except for privileged calls, may be recorded. These phone calls and/or the recordings of these phone calls may be listened to with written authorization from the Chief Administrative Officer, or designee, using the Authorization to Monitor Communications (Attachment D).
2. If authorized in writing by the Chief Administrative Officer, or designee, this monitoring may be done by a facility law enforcement officer if the officer is:
  - a. conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility;
  - b. cooperating with an investigation being conducted by another criminal justice agency; or
  - c. engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile justice, including, but not limited to:

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- 1) investigating a disciplinary offense;
  - 2) monitoring the phone calls between a resident and a person the resident is prohibited from calling;
  - 3) randomly monitoring the phone calls of residents prohibited to have contact by this policy; or
  - 4) upon request of the Department's Director of Victim Services, or designee, monitoring the phone calls of a resident who is prohibited to have contact with a victim by this policy, regardless of whether or not the resident has requested a waiver for contact with a victim.
3. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
  4. No other Department staff may listen to phone calls and/or the recordings of phone calls or be told the contents of calls made on the resident phone system, except that a facility law enforcement officer may permit other staff to listen or disclose the contents of calls to other staff as part of engaging in any activity that is related to the administration of criminal justice or the administration of juvenile justice.
  5. Recordings of any communications related to an investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with departmental policy.
  6. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer to monitor communications during telephone calls, the officer shall document on the Communications Monitoring Record (Attachment E):
    - a. the name and MDOC number of the resident;
    - b. the date and time of the phone call;
    - c. a description of the communications monitored, including the name of the person called and the subject matter of the communication;
    - d. a description of any other action taken and the grounds justifying such action; and
    - e. the name of the officer monitoring the communications.
  7. The officer shall attach to the Communications Monitoring Record the written authorization from the Chief Administrative Officer, or designee, to listen to the resident's phone calls.
  8. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer and copies of the forms shall be forwarded to the Chief Administrative Officer.
  9. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the resident shall not be notified of the monitoring without the approval of the prosecuting attorney.

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10. In any case, the resident shall not be notified of the reason for the monitoring.
11. Neither a facility law enforcement officer nor other facility staff shall provide a recording of a resident phone call to, allow a recording to be listened to by, or disclose any specifics relating to a resident phone call (e.g., who the resident made the phone call to, the contents of the call, etc.) to the resident; the person to whom the call was made; or any other person or entity outside of the Department, except a court or criminal justice agency if related to the administration of criminal justice or the administration of juvenile justice or a state agency if related to a statutory function of that agency, or as otherwise allowed by law and policy, and, if necessary, after consultation with the Department's legal representative in the Attorney General's Office.
12. Nothing in this procedure prevents the presentation of a recording as an exhibit in a resident disciplinary proceeding or prevents a facility law enforcement officer from disclosing to Department staff the specifics relating to a resident phone call if necessary to the staff's job responsibilities.
13. In addition, if necessary to the staff's job responsibilities, Department staff may request a facility law enforcement officer to provide them a log showing a resident's phone call history.
14. If there is reasonable suspicion that phone calls to a privileged phone number are not actually privileged in nature, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.

**Procedure G: Appeals and Grievances**

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, an adult resident may use the grievance process to grieve a decision related to phone calls.
2. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a resident may appeal the denial as set out in that policy.

**VIII. PROFESSIONAL STANDARDS**

**ACA**

- 5-ACI-7D-11      **Written policy, procedure, and practice provide for inmate access to public telephones.**
- 5-ACI-7D-12      **Written policy, procedure, and practice ensure that offenders have access to reasonably priced telephone services. Correctional agencies ensure that:**
- **Contracts involving telephone services for offenders comply with all applicable state and federal regulations.**
  - **Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.**
  - **Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.**

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- 5-ACI-7D-13** Written policy, procedure, and practice provide inmates with documented hearing and/ or communication challenges, and inmates who wish to communicate with parties who have such disabilities, access to assistive technology. The technology provided to an inmate with hearing or speech disabilities shall be determined based on an individual assessment of the needs of the inmate. Public telephones with volume control are also made available to inmates with hearing impairment. Inmates shall not be denied access to assistive technology, except when the warden/superintendent or designee can present clear and convincing evidence that access will jeopardize the safety and security of the institution or the visitors.
- 4-ACRS-5A-19** There are telephone facilities on the premises which provide for inmate access to public telephones. Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties who have such disabilities, shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control also shall be made available to inmates with hearing impairments.
- 4-ACRS-5A-19-1** Offenders have access to reasonably priced telephone services. Correctional agencies ensure that:
- Contracts involving telephone services for offenders comply with all applicable state and federal regulations.
  - Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.
  - Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.

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