

Massachusetts Prison and Jail Phone and Video Rates Background Sheet¹

A month before the Covid-19 pandemic started, the Massachusetts Department of Correction raised prison phone call rates from a long-standing rate of 10 cents per minute to 12 cents for in-state calls and up to 16 cents for interstate calls.² Many county Houses of Correction and jails charge exorbitant rates and fees to inmates and their families for telephone calls, and now video calls and electronic communications. Those in county or state custody have no choice but to use the phone and video provider selected by the facility. All too often, prisons and jails choose a provider because they offer the highest “site commission,” which is a kickback from the provider to the facility.

Legislation offered by Senator Creem, S.1559, and Representative Tyler, H.1900 would require correctional facilities to provide telephone calls, video calls, and electronic communications at *no cost* to those incarcerated or their families. We strongly support the passage of S.1559/H.1900.

The legislature must act to ensure prison telephone consumers are protected and that families remain connected. Studies have shown that contact with loved ones promotes lower recidivism rates and successful reentry.³ Telephone and video communications have become a lifeline for prison families, especially with visits being suspended during the pandemic. But families of the incarcerated are too often forced to choose between calls or necessities. Children are particularly vulnerable and in need of contact with their parents. Sixty-two percent of women and 51% of men in state prisons report having children who are minors.⁴ In addition, prisoners rely on telephones to find housing and jobs on reentry.

It is crucial that the legislature act. Regulation of in-state rates by the Federal Communications Commission (FCC) has been struck down in the federal courts.⁵ The MA Department of Telecommunications and Cable (DTC) provisionally limited in-state rates to the FCC’s interstate cap at the time, of 21 cents per minute for pre-paid and debit card calls and 25 cents for collect calls. The FCC recently ordered a lower, interstate cap of 14 cents for prisons and 16 cents for jails, which will go into effect at the end of this month. Note that Securus Technologies Inc., the primary telephone provider in MA county jails, has flouted these caps, claiming it is exempt from regulation under a statute that deregulated competitive, internet-based services.⁶ This law was never intended to ban regulation of a monopolistic industry like prison telephone service.

The Cost Table submitted by Securus Technologies to the DOC shows three offers, of which the DOC chose the highest rates and highest commission. Commissions can more than double the cost of phone calls, and counties frequently select high commission, high-rate plans. In 2019, Essex County Sheriff’s Department chose the second highest rate and commission offered by Securus. Similarly, Plymouth has contracted with Securus for a baseline commission of 76% but it can go as high as 80% with increased revenues.⁷ Plymouth’s contract also guarantees a minimum of \$600,000 in commissions. ICSolutions likewise guarantees a minimum commission of \$850,000 per year to Hampden.⁸

During the pandemic, some counties have temporarily offered a limited number of free phone calls per week. These free calls have served as a lifeline to families while visits have been suspended. In March 2020, Worcester and Essex, in exchange for two free weekly phone calls, agreed to deduct 2.5 cents per free minute from its commission payments. So, when the sheriffs are paying for the calls, they are 2.5 cents per minute, but when families are paying, they cost 12 or 14 cents per minute.⁹ In Worcester, Securus reserved the right to invoice for any costs beyond 2.5 cents but did not do so.¹⁰ Another way sheriffs are off-setting the cost of free calls is by amending their contracts to lower their commissions.

The table below reflects commissions as updated during the pandemic and the current rate for calls outside of any free weekly calls.

Phone Rates for Massachusetts Prisons and Jails

MA Locality	Per-Minute Rate	15 Minutes	ICS Provider	Site Commission	Contract Date	Contract End Date
<u>Hampshire</u>	\$0.14 ¹¹	\$2.10	ICSolutions	78% ¹²	11/15/20	11/15/23
Barnstable	\$0.14 ¹³	\$2.10	Securus	\$18k/mo.	5/14/20	3/2/28
Worcester	\$0.14	\$2.10	Securus	25%	10/10/19	3/2/28
<u>Dukes</u>	\$0.14	\$2.10	Securus	25% ¹⁴	6/11/12	6/11/22
Berkshire	\$0.14	\$2.10	Securus	0%	2/13/20	3/2/28
Bristol	\$0.14	\$2.10	Securus	0%	8/6/20	3/2/28
Franklin	\$0.14	\$2.10	Securus	0%	4/3/20	3/2/28
Middlesex	\$0.14	\$2.10	Securus	32%	7/15/20	6/30/25
Suffolk	\$0.14	\$2.10	Securus	23%	8/1/19	3/2/28
<u>Essex</u>	\$0.14	\$2.10	Securus	35.5% ¹⁵	9/2/19	3/2/28
Norfolk ¹⁶	\$0.14	\$2.10	Securus	17%	2/1/20	3/2/23
Plymouth	\$0.14	\$2.10	Securus	76%	11/8/18 ¹⁷	3/2/23
Hampden	\$0.12	\$1.80	ICSolutions	85%	10/1/18	9/30/21
MA DOC	\$0.12 in-state	\$1.80	Securus	\$2.5 million/yr.	3/1/18	3/1/28
	\$0.13 inter-state pre-paid	\$1.95				
	\$0.16 inter-state collect	\$2.40				

Video Call Rates and Commissions

Prison and jail video calling is on the rise across the country, and many counties in Massachusetts now contract with Securus and other providers to offer video calls. In most facilities, video calls are offered remotely through the internet, while in others, such as Middlesex, Berkshire, and Suffolk, video calls are offered onsite.¹⁸ Onsite visits require loved ones to come to the facility to see their family member over a video screen. The legislature banned replacing in person visits with onsite video calls in 2018, but many facilities have suspended all visits during the pandemic. To the extent that video services are provided, they offer another way for families to connect with their incarcerated loved ones.

The pandemic has increased the use of video technology in Massachusetts' correctional facilities. Where remote video calls have been introduced, rates are high and commissions variable.¹⁹ The most exorbitant rate and highest commission in the state is in Barnstable county, where remote video calls are charged according to the original Securus contract with the DOC. The rate is \$12.99 for 20 minutes, and the Sheriff receives a 50% commission. In the beginning of October 2020, the DOC amended their contract with Securus allowing for the installation of 200 video terminals for \$1.5 million, and they updated their rates to \$5 for 20 minutes or \$9 for 40 minutes with a 15% commission.²⁰ Essex, Franklin, and Worcester counties also charge \$5 for 20 minutes.²¹ Franklin applies this rate even to attorney video calls.²² Middlesex offers video calls for 25 cents per minute with no commission. Since the pandemic, Suffolk installed first 15 video terminals, then another 36 in August, 2020. They allow individuals two

free 15 minute video calls per week, for which they pay Securus \$3 per call. Like with telephone calls, the monopolistic, commission-based system makes video technology another way of exploiting incarcerated individuals and their loved ones.

Tablet Rentals And Electronic Communications Rates

Some facilities have now introduced tablets that allow for electronic communications and video calls. Tablets may sometimes be used free but are often available only by rental. Many counties contract directly with Securus for these tablets, which they rent out to incarcerated individuals at high daily or monthly costs. The rentals can cost as much as \$8 per month in Barnstable or \$1.50 per day in Middlesex. Even where there are free “community” tablets available, such as in Suffolk, there are only enough community tablets for a 1:4 ratio, and individual tablets are likely to be rented.

Tablet rental is not the only cost associated with these communications; incarcerated individuals are also charged per message sent and received on the tablet. Messaging uses “stamp” currency, with different types of messages costing 50 cents or more. For example, in Barnstable county, tablet rental costs \$8 per month.²³ Even once a tablet is rented, each text message sent costs 1 stamp, or 50 cents, and each videogram costs 3 stamps, or \$1.50. Suffolk, where they charge the same rate for texts and videograms, also allows photos and “ecards” to be sent for 1 stamp. These rates represent the typical costs of electronic messages in the facilities that have tablets.²⁴ Tablets provide another way for counties to cash in on commissions, with commissions as high as 50% in Barnstable, and 20% in Worcester.

The legislature must pass S.1559/H. 1900 to protect those incarcerated and their families from for-profit companies finding new ways to make money off those who can least afford it.

^{1*}This background sheet was prepared by Karina Wilkinson from public records requests she filed and those filed by Bonnie Tenneriello of Prisoners’ Legal Services (PLS), as well as rates obtained by attorney Lee Petro (formerly of Drinker Biddle Reath) and Peter Wagner of Prison Policy Initiative, available at: <http://bit.ly/2fUOhVk>, Exhibit A. Greater Boston Legal Services Fellow Abby Husselbee helped with the current draft. For questions, contact KarinaWilkinson@gmail.com. Contracts are archived at: https://www.prisonpolicy.org/phones/massachusetts_contracts.html

² Interstate calls are 12.75 cents pre-paid debit, 13 cents pre-paid collect and 16 cents collect. As of January 1, 2019, the commission is a flat-rate \$2.5 million, paid in monthly installments, prior to that it was 76.2%. Because the commission is paid as a flat rate, all of the 2 cent rate hike went to Texas-based Securus Technologies.

³ The Report of the Governor’s Commission on Corrections Reform, June 30, 2004 at (i) available at http://www.mass.gov/Eeops/docs/eops/GovCommission_Corrections_Reform.pdf; Daniel LeClair, “The Effect of Community Reintegration on Rates of Recidivism: A Statistical Overview of Data for the Years 1971 Through 1987” at 2, 10, 11 (MA DOC July 1990); Christy A. Visher & Jeremy Travis, *Transitions From Prison to Community: Understanding Individual Pathways*, Annual Review of Sociology 89, 100 (2003); U.S. Department of Justice, Office of the Inspector General, *Criminal Calls: A Review of the Bureau of Prisons’ Management of Inmate Telephone Privileges*, Ch. II, n. 6 (Aug. 1999), available at <http://www.usdoj.gov/oig/special/9908/>; see also Supra note 2 and footnotes 19 and 20 of FCC Notice of Proposed Rulemaking WC Docket No. 12-375.

⁴<http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/05/24/having-a-parent-behind-bars-costs-children-states>

⁵ See *GlobalTel*Link v. Federal Communications Commission*, 859 F.3d 39 (2017).

⁶ GL c 25C s. 6A

⁷ The commission goes to 78% if revenues exceed \$1.1 million, and to 80% if revenues exceed \$1.2 million.

⁸ Securus also guarantees \$575,000 per year to Essex, and ICSolutions guarantees \$170,000 to Hampshire.

⁹ Another way sheriffs are off-setting the cost of free calls is by amending their contracts to lower their commissions. Norfolk lowered its commission from 40% to 25% to secure its two free weekly 15 minute calls. Before the November 1, 2020

transition from Global Tel*Link to Securus, GTL was offering 30 to 60 minutes of free calls. Suffolk reduced its commission from 45% to 38% and agreed to pay \$3 per free video call plus fees.

¹⁰ This was verified for March, 2020 through August, 2020.

¹¹ International calls can be made with a pre-paid card for 50 cents per minute, \$7.50 for 15 minutes. Voicemails are \$1.00 with a 50% commission.

¹² The 78% commission is the rate in the original contract, which might have been amended on August 1, 2021, when the rate dropped to 14 cents from 21 cents.

¹³ International calls are 50 cents per minute.

¹⁴ The 25% commission is the rate in the original contract, which might have been amended on August 1, 2021, when the rate presumably dropped to 14 cents, from \$3.10 for the first minute and \$0.10 thereafter.

¹⁵ The actual commission is 50%, but the county has opted for security features: Automated Information Services 3%, Investigator Pro 4%, Threads 2% and "Guarded Exchange" call monitoring 5.5%, which are subtracted from the 50% commission. The 50% commission might have been amended on August 1, 2021, when the rate presumably was cut to 14 cents.

¹⁶ On August 1, Norfolk cut the number of free calls from two 20 minute calls per week, to one 10 minute call.

¹⁷ The new contract rates went into effect in May 2019. Plymouth used the MA Executive Office of Public Safety and Security Request for Responses for the latest contract without adopting the state's requested 10 cents per minute intrastate rate.

¹⁸ Several counties, including Bristol, Hampden, Hampshire, Plymouth, and Suffolk, still have no video call option.

¹⁹ Berkshire and Suffolk have not disclosed their rates or commissions on video calls. Dukes has not answered.

²⁰ In the original 2018 contract, Securus offered no commission on video calls.

²¹ Essex and Worcester receive a 20% commission, and Franklin has no commission on video calls. Worcester received 17 video terminals after renegotiating their contract with Securus. Franklin also has a rate of \$10 for 40 minutes. It is not clear if the video terminals have been installed at this time.

²² Norfolk only has video calls for attorneys.

²³ Securus reserved the right to renegotiate the tablet rental fee, if after 1 year, Securus' costs exceed revenues.

²⁴ Middlesex, who contracts with Edovo for educational tablets, offers bulk packages of \$10 for 250 160-character texts, \$20 for 600 texts, or \$50 for 2,000 texts, or photos for 25 cents.