

July, 2020

Massachusetts Prison and Jail Phone Rates Reform Background Sheet*

A month before the Covid-19 pandemic started, the Massachusetts Department of Corrections raised prison phone calls from 10 cents per minute to 12 cents for in-state calls and up to 16 cents for interstate calls.¹ Many county Houses of Correction and jails are charging exorbitant rates and fees to inmates and their families. Those in county or state custody have no choice but to use the phone 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. 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. Essex County Sheriff’s Department recently chose the second highest rate and commission offered by Securus. The tables below outline current rates and commissions for correctional facilities in MA.

Legislation offered by Senator Brownsberger, S.1372 would require correctional facilities to provide calls at *no cost* to those incarcerated or their families. We strongly support the passage of S.1372.

It is crucial that the legislature act. Regulation of in-state rates by the FCC has been struck down in the federal courts.² The MA Department of Telecommunications and Cable (DTC) has limited in-state rates to the FCC’s interstate cap of 21 cents per minute for pre-paid and debit card calls and 25 cents for collect calls. But 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.³ This law was never intended to ban regulation of a monopolistic industry like prison telephone service.

Counties In Violation of the DTC Interim Rate Cap for In-State Calls

MA County	First Minute	Additional Minute	15 Minutes	ICS Provider	Site Commission	Contract Date ⁴	Contract End Date
Bristol	\$3.16	\$0.16	\$5.40	Securus	None, \$820k in 2016 ⁵	5/9/11	6/30/20
Barnstable	\$3.10	\$0.10	\$4.50	Securus	85% ⁶	9/1/17	8/31/20
	\$3.75	\$0.01 ⁷	\$3.80 Local				
Dukes	\$3.04 ⁶	\$0.03 ⁶	\$3.55 Local	Securus	25%	6/11/12	6/11/22
	\$3.10	\$0.10	\$4.50				

The legislature must act to ensure prison telephone consumers are protected. Families must remain connected, and contact with loved ones and friends promotes lower recidivism rates and successful reentry.⁹ The telephone has become a lifeline for prison families, especially with visits being suspended during the pandemic. Some facilities are allowing a few free phone calls per week. But families of the incarcerated are too often forced to choose between a telephone call or their utility bills. Children are particularly vulnerable and in need of contact with their parents. Sixty-two percent of women in state prisons and 51% of men in state prisons report having children who are minors.¹⁰ In addition, prisoners rely on telephones to find housing and jobs on reentry.

Localities Charging In-State Rates at the DTC Interim Cap or Below

MA Locality	First Minute	Additional Minute	15 Minutes	ICS Provider	Site Commission	Contract Date	Contract End Date
Hampshire	\$0.21 ¹¹	\$0.21	\$3.15	ICSolutions	78% ¹²	12/15/15	N/A
Worcester	\$0.21	\$0.21	\$3.15	Securus	35%	10/10/19	3/2/28
Franklin ¹³	\$0.21	\$0.21	\$3.15	Securus	0%	4/3/20	3/2/28
Berkshire	\$0.21	\$0.21	\$3.15	Securus	0%	2/13/20	3/2/28
	\$0.25 inter-state collect	\$0.25	\$3.75				
Middlesex	\$0.18 ¹⁴	\$0.18	\$2.70	Securus	45% + \$125k/year	11/1/16	6/30/20
Suffolk	\$0.18	\$0.18	\$2.70	Securus	45% ¹⁵	8/1/19	3/2/23
Essex	\$0.18	\$0.18	\$2.70	Securus	35.5% ¹⁶	9/2/19	3/2/23 ¹⁷
Norfolk	\$0.16	\$0.16	\$2.40	GTL	40% + \$8,333.31 ¹⁸	5/23/16	12/31/19
Plymouth	\$0.14	\$0.14	\$2.10	Securus	76%	11/8/18 ¹⁹	3/2/23
Hampden	\$0.12	\$0.12	\$1.80	ICSolutions	85% ²⁰	10/1/18	9/30/21
MA DOC	\$0.12 in-state	\$0.12	\$1.80	Securus	\$2.5 million/year ²¹	3/1/18	3/1/28
	\$0.13 inter-state pre-paid	\$0.13	\$1.95				
	\$0.16 inter-state collect	\$0.16	\$2.40				

* 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 & Reimold LLP).
¹ Interstate calls are 12.75 cents pre-paid debit, 13 cents pre-paid collect and 16 cents collect. As of January 1, 2020, the commission is a flat-rate \$2.5 million, paid in monthly installments, prior to that it was 76.2%.

² See *GlobalTel*Link v. Federal Communications Commission*, 859 F.3d 39 (2017).

³ GL c 25C s. 6A.

⁴ "Contract Date" is the effective date, or where the effective date is not available the date the proposal was signed.

⁵ The \$820k was labeled a "signing bonus" on 1/5/2016 in Attachment B of the DOC/DPU December 2018 Report. Also, yearly salary for two on-site administrators, \$130,000 total. Initial contract was for 5 years, with four one year extensions (p. 4, Bristol Securus Proposal, 2011). The commission was 48% + \$75k per year until October 21, 2015.

⁶ Barnstable County Sheriff's Office has three one year renewal options with a 1% commission increase each year starting in 2020. The site commission for video visits and voicemail is 50%.

⁷ Local calls are capped at \$3.80.

⁸ Local rates were supplied by the 2018 DOC Report.

⁹ The Report of the Governor's Commission on Corrections Reform, June 30, 2004 at (i) available at http://www.mass.gov/Eoeps/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.

¹⁰ <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/05/24/having-a-parent-behind-bars-costs-children-states>

¹¹ International calls can be made with a pre-paid card for 50 cents per minute, \$7.50 for 15 minutes. There is a “public pay telephone” rate of 50 cents for 15 minutes for local calls and 21 cents per minute for “long distance” or a flat fee of \$100 per month, separate from the quoted rate for pre-paid and collect calls. Voicemails are \$1.00.

¹² The county has a minimal annual guarantee of \$170,000 per year. The county also receives a 50% commission on completed voicemails. In December, 2018 Hampshire negotiated for a month to month contract extension.

¹³ Franklin County also contracted with Securus for tablets that can be rented for \$5 per month. Text messages cost 1 “stamp” \$0.50, photo and eCards are also 1 stamp, and video is 3 stamps. Attorneys and families can access video calls for \$5 for 20 minutes and \$10 for 40 minutes.

¹⁴ This information is based on the 2018 DOC Report. The original contract was for 21 cents per minute.

¹⁵ Suffolk has “Guarded Exchange” call monitoring which deducts 10% off the 55% commission.

¹⁶ Securus guarantees the county a minimum of \$575,000 per year. 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.

¹⁷ The documents provided by the county state that they are tied to the state contract, but then give a date of 3/2/28, which appears to be a typo.

¹⁸ The contract was amended on 6/22/18 for 7 months with a lump sum payment of \$11,666.69 through 1/31/19 (\$20k/year).

¹⁹ 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.

²⁰ Hampden County Sheriff’s Department receives a guaranteed minimum commission of \$850,000 per year.

²¹ The initial contract had a 76.2% commission, but it was amended effective 1/2/2019. The annual \$2.5 million was prorated for the contract year ending March 2, 2019.