

Massachusetts Prison and Jail Phone Rates Reform Background Sheet*

While Massachusetts state prisons offer in-state phone calls for a reasonable 10 cents per minute and interstate for 11 or 14 cents¹, county Houses of Correction and jails are charging exorbitant fees to inmates and their families. Those in county 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. See the table below.

Legislation offered by Senators Montigny and Brownsberger, S.1430, and Representative Tyler, H.3452, would *end commissions*, a move that has lowered rates in prisons and jails in the dozen or so states that have eliminated them. This legislation will also require that state and county correctional facilities negotiate telephone contracts based on *the lowest cost to users*, such that prison phone rates should be the same as the rates charged for comparable residential telephone service.

Counties In Violation of the DTC Rate Cap and Above the FCC Interstate Cap for In-State Calls

MA County	First Minute	Additional Minute	15 Minutes	ICS Provider	Site Commission	Contract Date ²	Contract End Date
Franklin Pre-Paid ³	\$0.50	\$0.50	\$7.50	Securus	32%	9/1/13	6/30/20
Franklin	\$3.21	\$0.21	\$6.15	Securus			
Berkshire HOC	\$3.20 ⁴	\$0.20	\$6.00	Securus	45%	5/21/14	6/30/20
Berkshire Jail	\$3.17	\$0.17	\$5.55				
Bristol	\$3.16	\$0.16	\$5.40	Securus	\$820k/year ⁵	5/9/11	6/30/20
Essex	\$2.65	\$0.15	\$4.75	Securus	41% ⁶	8/8/11	1/13/20 ⁷
Barnstable	\$3.10	\$0.10	\$4.50	Securus	85% ⁸	9/1/17	8/31/20
	\$3.75	\$0.01 ⁹	\$3.80 Local				
Dukes	\$3.046	\$0.036 ¹⁰	\$3.55 Local	Securus	25%	6/11/12	6/11/22
	\$3.10	\$0.10	\$4.50				
Worcester	\$3.10 ¹¹	\$0.10	\$4.50	Securus	38% ¹²	12/1/12	6/30/20
Suffolk	\$3.00 ¹³	\$0.10	\$4.40	Securus	41% +\$187.5k	9/30/15	5/31/19

It is crucial that the legislature act. Regulation of in-state rates by the FCC has been struck down in the federal courts.¹⁴ 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 county jails, has flouted these caps, claiming it is exempt from regulation under a statute that de-regulated competitive, internet-based services.¹⁵ This law was never intended to ban regulation of a monopolistic industry like prison telephone service.

The legislature must act to ensure prison telephone consumers are protected. Contact with loved ones promotes lower recidivism rates and successful reentry.¹⁶ The telephone has become a lifeline for prison families, since prisons are often located in areas that are not accessible by public transportation. 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.¹⁷ In addition, prisoners rely on telephones to find housing and jobs on reentry.

Localities Charging In-State Rates at the DTC Cap/FCC Interstate Rate Cap or Below

MA Locality	First Minute	Additional Minute	15 Minutes	ICS Provider	Site Commission	Contract Date	Contract End Date
Plymouth	\$0.14	\$0.14	\$2.10	Securus	76%	11/8/18	3/2/23 ¹⁸
Hampshire	\$0.21 ¹⁹	\$0.21	\$3.15	ICSolutions	78% ²⁰	12/15/15	N/A
Middlesex	\$0.21 ²¹	\$0.21	\$3.15	Securus	45% + \$125k/year	11/1/16	6/30/20
Norfolk	\$0.16 in-state	\$0.16	\$2.40	GTL	40% + \$8,333.31 ²²	5/23/16	6/30/19
	\$0.21 inter-state debit	\$0.21	\$3.15				
	\$0.25 inter-state collect ²³	\$0.25	\$3.75				
Hampden	\$0.12	\$0.12	\$1.80	ICSolutions	85% ²⁴	10/1/18	9/30/21
MA DOC	\$0.10 in-state	\$0.10	\$1.50	Securus	76.2%	3/1/18	3/1/23
	\$0.11 inter-state pre-paid	\$0.11	\$1.65				
	\$0.14 inter-state collect	\$0.14	\$2.10				

* 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 PLS, attorney Lee Petro (Drinker Biddle Reath) and Peter Wagner of Prison Policy Initiative, available at: <http://bit.ly/2fUOhVh>, Exhibit A. Contracts can be found at: https://www.prisonpolicy.org/phones/massachusetts_contracts.html

¹ Interstate calls are 10.75 cents pre-paid debit, 11 cents pre-paid collect and 14 cents collect. The commission is 76.2%

² "Contract Date" is the effective date, or where the effective date is not available the date the proposal was signed.

³ Franklin's Pre-Paid rate does not appear in the "Study and Report of the Department of Correction," of December 2018 ("2018 DOC Report"), under Acting Director Carol A. Mici and in consultation with the Department of Telecommunications and Cable (DTC), submitted to the Chairs of the Judiciary, Telecommunications and Homeland Security committees.

⁴ There is a discrepancy between the rates reported in the county and the 2018 DOC Report. The report states that the HOC rates are \$3.21 for the first minute and 21 cents after, so \$6.15 for 15 minutes. Current rates were effective as of September 26, 2016 through June 30, 2017 (amendment end date).

⁵ 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 The county and Securus agreed to two lump sum payments of commission in the amount of \$820,000 in July, 2016 and January, 2017.

⁷ The documents provided by the county are unclear as to the exact date that the contract ends, but there is mention of four one year renewals in a 2016 amendment.

⁸ 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%.

⁹ Local calls are capped at \$3.80.

¹⁰ Local rates were supplied by the 2018 DOC Report.

¹¹ The 2018 DOC Report states the rates as \$3.14 for the first minute and 14 cents after, so a 15 minute call is \$5.24.

¹² The commission is an average between pre-paid and direct billed calls based on revenue and commission as stated by the county on September 26, 2016. There is a discrepancy with the rates that Lee Petro obtained from Securus in October 2017.

¹³ Suffolk is operating on a three-month interim contract from March 1, 2019 to May 31, 2019. There is a discrepancy between the county documents and those from Securus as obtained by Lee Petro in October, 2017 and the 2018 DOC Report. Securus says the first minute is \$3.10 and 10 cents thereafter, so \$4.50 for a fifteen-minute call. The rate was suspended 6/20/16 to 9/19/16, because of an FCC intrastate rate cap that was overturned in federal court. Securus held back \$29,028.16 from the June, 2016 commission payment.

¹⁴ See *GlobalTel*Link v. Federal Communications Commission*, 859 F.3d 39 (2017).

¹⁵ GL c 25C s. 6A.

¹⁶ 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.

¹⁷ <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/05/24/having-a-parent-behind-bars-costs-children-states>

¹⁸ 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.

¹⁹ 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.

²⁰ 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.

²¹ The 2018 DOC Report says the rates are 18 cents per minute, so \$2.70 for 15 minutes.

²² 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). No commission on interstate calls. International calls are charged at the rates published on GTL's website.

²³ The 2018 DOC Report does not include Norfolk's interstate collect rate.

²⁴ Hampden County Sheriff's Department receives a guaranteed minimum commission of \$850,000 per year.