

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Implementation of Pay Telephone Reclassification	)	
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	
	)	
Martha Wright, Dorothy Wade, Annette Wade,	)	
Ethel Peoples, Mattie Lucas, Laurie Nelson,	)	
Winston Bliss, Sheila Taylor, Gaffney &	)	CC Docket 96-128
Schember, M. Elizabeth Kent, Katharine Goray,	)	
Ulandis Forte, Charles Wade, Earl Peoples,	)	
Darrell Nelson, Melvin Taylor, Jackie Lucas,	)	
Pater Bliss, David Hernandez, Lisa Hernandez	)	
and Vendella F. Oura	)	

**COMMENTS OF THE AD HOC COALITION FOR THE RIGHT TO COMMUNICATE
REGARDING PETITION FOR RULEMAKING OR, IN THE ALTERNATIVE,
PETITION TO ADDRESS REFERRAL ISSUES IN PENDING RULEMAKING**

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Table of Contents

Table of Contents.....	i
COMMENTS OF THE AD HOC COALITION FOR THE RIGHT TO COMMUNICATE REGARDING PETITION FOR RULEMAKING OR, IN THE ALTERNATIVE, PETITION TO ADDRESS REFERRAL ISSUES IN PENDING RULEMAKING	1
I. The Interest of the Ad Hoc Coalition for the Right to Communicate.....	2
II. Introduction.....	3
A. The <i>Wright Petition</i>	3
B. Scope of These Comments.....	4
C. Private Prisons	5
D. Summary of the Effects of Exclusive Contracts and Collect Call- Only Policies.....	8
III. The Commission’s Policy Allowing Exclusive Dealing Arrangements Severely Limits the Ability of People in Prison to Communicate With Their Families, Hurting Both Penological Interests and Public Safety	13
A. Families Face Great Difficulty in Maintaining Contact With Incarcerated Loved Ones	13
B. Family Contact Furthers Penological Interests	19
C. Family Contact Aids Efforts to Secure and Successfully Complete Parole	20
D. Family Contact Reduces Recidivism	22
E. Family Contact Promotes Reunification.....	26
IV. Allowing Exclusive Dealing Arrangements and Collect Call-Only Policies Severely Limits the Ability of Incarcerated People to Communicate With Their Lawyers	30
V. Conclusion	39
APPENDIX A: STATEMENTS OF INTEREST	i
I. People with family members or friends in prison.....	i
II. Organizations and individuals providing direct services to people in prison & their families	iii
III. Attorneys.....	iv
IV. Advocacy organizations and others	xi
APPENDIX B: DECLARATION OF DR. CREASIE FINNEY HAIRSTON	
Exhibit 1: Dr. Hairston’s Curriculum Vita	

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The Ad Hoc Coalition for the Right to Communicate (“Coalition”), the members of which are listed below, submits these Comments pursuant to the Public Notice regarding the Petition For Rulemaking or, in the Alternative, Petition To Address Referral Issues In A Pending Rulemaking (“*Wright Petition*”) issued by the Federal Communications Commission (“FCC” or “Commission”) on December 31, 2003. In these Comments, the members of the Coalition respectfully urge the Commission to address anticompetitive practices that result in excessive telephone service rates and poor quality service for people incarcerated in privately administered prisons, and also to address collect call-only policies at those prisons.

I. The Interest of the Ad Hoc Coalition for the Right to Communicate

The Coalition, consisting of 61 individuals and organizations, was formed to provide the Commission with information to help it consider whether to address anticompetitive practices that result in excessive long distance collect call rates at privately administered prisons.

The Coalition is composed of a diverse group of people with an intense interest in this issue. It includes four categories of people who need to communicate with people in prison, and who are consequently adversely affected by the anticompetitive practices addressed by the *Wright Petition*:

- 1) parents, siblings and other family members of people in private or public prisons.
- 2) attorneys who must communicate with incarcerated people they represent in criminal cases, immigration cases, and civil cases.
- 3) social service agencies, some of which accept collect calls from people in prison, and some of which cannot afford to do so.
- 4) others, such as a Zen Buddhist priest who has had to refuse calls from people in prison seeking pastoral counseling, and a retired college professor who bears the expense of accepting collect calls from people in prison who she is mentoring for post-graduate degrees.

The signatories also include several organizations dedicated to improving the criminal justice system and to removing impediments to incarcerated people communicating by telephone with families, attorneys and others. The importance of this issue to many sectors of society is clear from the variety of advocacy organizations that have joined the Coalition, including the faith-based Justice Fellowship, the grassroots organization Justice Works!, and many others.

The identity and specific interest of each member of the Coalition is explained in greater detail in Appendix A.

II. Introduction

A. The *Wright Petition*

In November, 2003, Martha Wright and twenty other people who either are incarcerated or receive long-distance collect calls from incarcerated people (including families, lawyers, and others) filed a petition requesting that the Commission take action regarding telephone service for people incarcerated in private prisons. The *Wright Petition* asks the Commission to “prohibit exclusive inmate calling service agreements and collect call-only restrictions at privately-administered prisons and require such facilities to permit multiple long distance carriers to interconnect with prison telephone systems,” and that the FCC “require inmate service providers to offer debit card or debit account service as an alternative to collect calling services.”¹ The *Wright Petition* is accompanied by an affidavit by Douglas A. Dawson, a telecommunications expert with extensive experience providing long distance calling services.

The *Wright Petition* describes the current regime under which most prisons contract for telephone services for incarcerated people. It explains that prisons generally enter into exclusive contracts with telecommunications carriers, with the carrier paying a large “commission” to the prison, which it recoups by charging very high rates for calls by incarcerated people.² It explains that many prisons limit incarcerated people to making collect calls, which further drives up the cost of their calls.³ In the accompanying expert affidavit, Douglas Dawson explains that neither

¹ *In the Matter of Wright Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking*, CC Docket 96-128, at 3-4.

² *Wright Petition* at 2.

³ *Id.* at 4.

the exclusive contracts, nor collect call-only requirements, are necessary to satisfy prisons' interests in maintaining security.

On December 31, 2003, this Commission issued a Public Notice seeking comments on the *Wright Petition*.⁴ In the Public Notice, the Commission noted that the *Wright Petition* "raises important issues" that the Commission will consider in the course of its *Inmate Payphone Rulemaking*, an ongoing proceeding regarding the provision of payphone service for people in prison. The Commission instructed interested parties to file comments no later than 20 days after publication of the notice in the Federal Register; that deadline was later extended to March 10, 2004.⁵ The Coalition submits the instant Comments in response to this request.

B. Scope of These Comments

These Comments focus on the effects of three aspects of the way many private and public prisons arrange for telephone services for the people they incarcerate: 1) the high cost of collect calls by incarcerated people, 2) collect call-only policies, and 3) service problems that companies with exclusive contracts have no incentive to fix.

These Comments focus on the exclusive long-distance telecommunications service contracts entered into by private prisons and collect call-only policies, because that is the subject of the *Wright Petition*. It is important to note, however, that many publicly run prisons enter into similar long distance telecommunications services contracts, with similar effects.

These Comments focus on the ways in which exclusive telecommunications service contracts and collect call-only policies affect people in prison, their families and attorneys, and society in general. In order to assist the Commission in assessing these effects, the Coalition

⁴ See 69 Fed. Reg. 2697 (January 20, 2004).

⁵ 69 Fed. Reg. 7615 (Feb. 18, 2004).

submits the declaration of Dr. Creasie Finney Hairston, the Dean of the Jane Addams College of Social Work at the University of Illinois at Chicago, which is attached as Appendix B.

The breadth of the Coalition makes clear that the families and attorneys on which the Comments focus are just two of the many categories of people and organizations affected by these aspects of prison telecommunications systems. The Statements of Interest included in Appendix A describe how the prison telecommunications systems also affect pastoral counselors, educators, social service agencies, and others.

C. Private Prisons

The issues addressed in the *Wright Petition*, and in these Comments, affect a large number of people. As of the end of 2002, there were 93,771 people incarcerated in private correctional facilities around the country.⁶ This constituted 5.8% of all people in state custody and 12.4% of all people in federal custody.⁷ The current number of people in private prisons is likely even higher: between 1995 and 2000 there was a 507% increase in the number of people housed in private correctional facilities each day, and a 247% percent increase in the number of private correctional facilities.⁸ The people incarcerated in private prisons tend to pose a relatively low security risk: in 2000, approximately 75% of private correctional facilities were low or minimum security facilities.⁹

⁶ U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2002* (July 2003), available at <http://www.ojp.usdoj.gov/bjs/pub/ascii/p02.txt>.

⁷ *Id.*

⁸ U.S. Department of Justice, Bureau of Justice Statistics, *Census of State and Federal Correctional Facilities, 2000* p. 16 (Aug. 2003).

⁹ *Id.*

There is a vast array of types of private correctional facilities. The federal Bureau of Prisons, the federal Bureau of Immigration and Customs Enforcement (“BICE”), and many state and county governments send people to private facilities.¹⁰ Juveniles, women, and immigrants detained for overstaying their visas are just some of the people incarcerated in these facilities.

Many people incarcerated in private prisons are far from their families, attorneys, and other people with whom they wish to communicate. The nation’s largest private prison company, Corrections Corporation of America, incarcerates over 6,000 people in private prisons outside their home states.¹¹ The distances are often very long. For example, more than 1,400 Hawaiians are incarcerated in Corrections Corporation of America prisons in Oklahoma and Arizona.¹² More than 800 Alaskans – a number of whom are represented by Coalition member Averil Lerman – are incarcerated in a Corrections Corporation of America prison in Florence, Arizona, more than 2,000 miles away from their homes.¹³ And Vermont has a contract to send 700 people to private prisons in Kentucky and Tennessee.¹⁴ For these people, communicating by

¹⁰ See Corrections Corporation of America, *CCA at a Glance*, available at <http://www.correctionscorp.com/aboutcca.html> (“The company manages more than 62,000 inmates including males, females and juveniles at all security levels and does business with all three federal corrections agencies, almost half of all states, and more than a dozen local municipalities.”). The federal Bureau of Prisons contracts for private companies to incarcerate approximately 8,500 people. Mary Zahn & Richard P. Jones, *Bill Would Keep Federal Cash, Inmates Out of Private Prisons*, Milwaukee J. Sentinel (Jan. 24, 2000).

¹¹ David Crary, *Overburdened, 11 States Export Inmates*, Associated Press (Jan. 18, 2004).

¹² *Id.*

¹³ See Lerman Statement of Interest. All Statements of Interest of Coalition members are attached to this document as Appendix A.

¹⁴ Crary, *supra* n.11. Additional examples include the Corrections Corporation of America’s Torrance County Detention Center in New Mexico, which takes inmates from the District of Columbia; and Corrections Corporation of America’s Prairie Correctional Facility in Minnesota, which takes inmates from Wisconsin and North Dakota. See Corrections Corporation of

telephone is essential, because it is impractical, or even impossible, for families and attorneys to visit.

The many immigrants who the federal BICE has detained in private prisons – many of whom have not been charged with any crimes but are simply seeking asylum in this country¹⁵ – face particular difficulties communicating with their families, attorneys and others. As of the end of 2002, BICE had placed 1,936 immigration detainees in private facilities under exclusive contract with BICE and another 11,317 in federal, state and local penal institutions, some of which were privately operated.¹⁶ Many of those facilities are located far away from the detainees' homes and lawyers. For example, Coalition member Laura Kelsey Rhodes, an immigration attorney, says that many of her clients are detained at rural facilities so far from both her office and their homes that a visit from family or an attorney is a day-long event.¹⁷

Telephone communication is also particularly essential for the 40% of the U.S. prison population that is functionally illiterate.¹⁸ When the families or attorneys of these people are too distant or too impoverished to visit, there is simply no way to communicate with them.

America, *Facilities List*, available at <http://www.correctionscorp.com/facilitieslist.html> (last accessed February 3, 2004).

¹⁵ As of the end of 2002, the BICE was incarcerating 21,065 people, 8,577 of whom had not been charged with any crimes. U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2002* (July 2003), available at <http://www.ojp.usdoj.gov/bjs/pub/ascii/p02.txt>.

¹⁶ *Id.*

¹⁷ See Rhodes Statement of Interest. Likewise, the Washington, D.C.-based Capital Area Immigrants' Rights Coalition finds that the jails where it visits immigration detainees are located anywhere between 45 minutes and four hours away from its office. See Capital Area Immigrants' Rights Coalition Statement of Interest.

¹⁸ The Center on Crime, Communities & Culture, *Education as Crime Prevention: Providing Education to Prisoners*, Research Brief: Occasional Paper Series 2 (Sept. 1997).

D. Summary of the Effects of Exclusive Contracts and Collect Call-Only Policies

These Comments focus on the effects of three aspects of the way many private and public prisons arrange for telephone services for the people they incarcerate: 1) cost, 2) collect call-only policies, and 3) poor service. All of these problems are largely the result of the exclusive nature of telecommunications service contracts.

1. Cost

When prisons enter into exclusive contracts with telecommunications carriers, one frequent result is that those who accept collect calls from incarcerated people pay shockingly high rates. Here are just a few examples:

- A retired couple living on a fixed income in New Hampshire paid \$5,000 in 2003 in order to accept collect calls from their daughter incarcerated in New York.¹⁹
- A man living in Iowa pays \$18.89 for a 15-minute collect call from a person in prison in Texas, adding up to monthly phone bills of between \$500 and \$700.²⁰
- The Office of the Appellate Defender in New York City and the Metropolitan Public Defender's Office in Davidson County, Tennessee each pay in excess of \$1,000 monthly to accept collect calls from their clients who are in prison.²¹
- A criminal defense lawyer is charged a minimum of \$14 for collect calls by people in prison in one facility, regardless of the length of the call.²²
- The public defender in Kern County, California paid \$460.51 for collect calls from clients in November, 2003 alone.²³

¹⁹ See Wojas Statement of Interest.

²⁰ See Klitgaard Statement of Interest.

²¹ See Office of the Appellate Defender Statement of Interest; Metropolitan Public Defender's Office Statement of Interest.

²² See Rhodes Statement of Interest.

²³ See Arnold Statement of Interest.

- An attorney who accepts long distance collect calls from a person in prison in Cumberland, Maryland, reports that he has been paying a \$3.00 connection fee, and 45 cents each minute.²⁴

The cost of these calls would likely be much lower if telecommunications service providers had to compete with each other for incarcerated people's business, and if incarcerated people had the option of calling direct instead of making collect calls. The bloated nature of these charges is evident when you consider that debit card calls by people incarcerated in prisons operated by the federal Bureau of Prisons cost just 17 cents per minute.²⁵

2. Collect Call-Only Policies

The rates for collect calls are typically higher than for debit card or debit account calls. Denying prison inmates the alternative of debit card or debit account calling thus is another factor inflating the cost of inmate telephone services.

Even if the cost of collect calls from prison were lower, the inability to make direct calls (for example, by using debit cards) would still pose insuperable obstacles to communication for some incarcerated people. As many members of the Coalition have found, people calling collect cannot leave messages on answering machines or voice mail, cannot navigate through electronic phone systems to reach individual extensions, and often cannot place calls to cellular telephones.

3. Service Problems

The members of the Coalition experience serious service problems, which they believe would be ameliorated if telecommunications carriers competed for carrying calls from people in prison and if prisons offered the option of making direct calls instead of collect calls. For

²⁴ See Dunbaugh Statement of Interest.

²⁵ U.S. Department of Justice, Federal Bureau of Prisons, Memorandum For All Institution Controllers All Trust Fund Supervisors, from Michael A. Atwood, Chief, Trust Fund Branch, Trust Fund Message Number 18-02 (Feb. 8, 2002) at 2.

example, some exclusive prison telecommunications carriers erect onerous barriers to connecting collect calls to anyone whose own telecommunications carrier does not have a contract with the prison's carrier. In some instances, the exclusive carrier requires people wanting to receive collect calls from a particular prison to set up a special account and pay an up-front deposit – sometimes as much as \$50.²⁶ This is a prohibitive amount for some low-income families. It is particularly burdensome because if the incarcerated person from whom the family member, lawyer or other account holder wants to accept calls leaves that prison, it can be difficult or impossible to recover the remainder of the deposit.²⁷ In other instances, the exclusive carrier requires people wanting to receive collect calls from a particular prison to provide extensive financial and personal information.²⁸ People who do not know about these requirements, or who have not yet set up an account with the particular carrier holding an exclusive contract with a given prison, simply are unable to receive any calls from that prison.²⁹ This poses particular obstacles for people who have recently been placed in a particular prison, or who are trying to contact a new attorney or social services provider for the first time.

²⁶ See Crane Statement of Interest.

²⁷ *Id.*

²⁸ See, e.g., Holloway Statement of Interest; Teichman Statement of Interest; discussion of “Kathy” in section III, *infra*.

²⁹ See Canino Statement of Interest; Weber Statement of Interest; Rhodes Statement of Interest. See also John O’Brien, *AT&T Blocked Inmates’ Calls: Phone Company Did Not Inform Lawyer That Clients Were Trying to Reach Him*, Post-Standard (Syracuse, NY), Jan. 24, 2003, at B6 (describing blocks AT&T has placed on calls from jail with which it had exclusive service contract, to people whose phone providers do not have contract with AT&T).

As the Commission knows from previous proceedings, exclusive telecommunications service providers regularly employ problematic call blocking techniques.³⁰ Even when people are able to set up an account with a prison's exclusive provider, collect calls to them will often be blocked once their initial deposit has been used up.³¹ Moreover, members of the Coalition report many occasions on which exclusive prison telecommunications carriers have erroneously, and without notice, placed blocks on their telephones even though they have paid their bills or provided an advance deposit.³² Some carriers provide such poor service that even when a customer's bill has been paid, the carrier will place a block on his or her line unless the customer calls the carrier to say that the bill has been paid.³³ Sometimes exclusive carriers simply place

³⁰ In *In re: Petition of Outside Connection, Inc.*, DA 03-874, Ms. Diane King Smith submitted comments describing these blocking techniques used by MCI:

- MCI blocks inmate calls, then requires the customer to pay a deposit or prepay all inmate calls.
- MCI blocks inmate calls then forces the citizen to change their long distance service to MCI in order for the block [to be] removed. The customers are told they will only be able to receive inmate calls if they change their long distance service to MCI.
- MCI blocks inmate calls when the current charges are considered "high", despite the customer having a good credit and phone history. The customer is required to pay the current charges (although the bill is not due) before the block is lifted.
- MCI blocks inmate calls and require[s] the customers to engage in a three-way conversation with their local telecommunications service provider to verify that their current bill has been paid. This practice may be repeated each month.
- MCI blocks inmate calls and requires the customer to provide a copy of their phone bill and a utility bill before the block will be lifted.
- Once the customers comply with the MCI requirements, they have to wait between 48 and 72 hours before the block is removed, and sometimes the block is still not removed and the citizen is back to square one again contacting MCI.
- Some customers receive duplicate bills for inmate calls from MCI and their local telecommunications service provider.

³¹ See Crane Statement of Interest.

³² See Office of the Appellate Defender Statement of Interest.

³³ See Teichman Statement of Interest; discussion of "Kathy" in section III, *infra*. The problem appears to stem primarily from inadequate communication between the prison's exclusive

blocks on lines they decide have accepted too many collect calls.³⁴ Often, the provider does not provide the customer with any notice that the block is in place, so that the customer only finds out when the incarcerated person who is trying to call is able to get word to someone else, who makes a direct call to the customer, alerting the customer of the problem.³⁵ When this happens, the customer generally has no idea why the block has been imposed or how to get it lifted.³⁶

telecommunications carrier and the carrier used by the people awaiting calls from the prison. In September, 2002, the *Providence Journal Bulletin* carried an article describing an incident in which Verizon, which had an exclusive contract with a Rhode Island correctional facility, blocked all calls to people who subscribed to Cox Communication's service. Verizon took this action because it believed – wrongly, it turned out – that it was not receiving compensation for calls to those people. See Timothy C. Barmann, *Verizon, Cox Dispute Blocks Phone Lines at Cranston, R.I., Prison*, Providence J. Bull. (Sept. 18, 2002).

³⁴ See Teichman Statement of Interest; discussion of “Kathy” in section III, *infra*.

³⁵ See Crane Statement of Interest; Office of the Appellate Defender Statement of Interest. See also John O'Brien, *AT&T Blocked Inmates' Calls: Phone Company Did Not Inform Lawyer That Clients Were Trying to Reach Him*, Post-Standard (Syracuse, NY), Jan. 24, 2003, at B6 (lawyer did not know that AT&T was blocking calls to him from people in jail; his phone service provider says, “Most attorneys wouldn't know until their clients in the jail complained.”).

³⁶ *Id.*

III. The Commission's Policy Allowing Exclusive Dealing Arrangements Severely Limits the Ability of People in Prison to Communicate With Their Families, Hurting Both Penological Interests and Public Safety

Exorbitant, commission-driven phone rates, made possible by exclusive dealing arrangements between private prison administrators and their long distance providers, make it unreasonably difficult for families to stay in contact with family members who are incarcerated. In some cases, the arrangements even make phone contact with family impossible. For families with incarcerated loved ones, the phone's ring provokes both delight and dread. It signals a chance to hear the voice of an incarcerated spouse, son, daughter, mother, or father. But the princely sum prison telecommunications carriers charge to relay that voice to families, and the frustrating collect calling process and bill payment procedure, combine to make the simple act of picking up a phone receiver a source of great stress for families with members incarcerated in private and public prison facilities. Low-income families are hardest hit. For them, these choices can be quite stark and difficult – does one pay basic monthly expenses for essentials like food and shelter, or does one instead talk to an incarcerated relative?

A. Families Face Great Difficulty in Maintaining Contact With Incarcerated Loved Ones

Kathy's story is instructive.³⁷ Her only child was 17 years old when he pled guilty to a non-violent offense, received a 5-year sentence, and entered the federal prison system. At the time "he had never been away from home, never worked, and never driven a car," she recalls. Like many parents whose children are incarcerated, she worried about him: "I am in fear for his life every single day." Kathy's son ended up in a private facility run by the Corrections

³⁷ "Kathy" is a pseudonym. The woman who related this story to the Brennan Center requested anonymity. Kathy's Statement of Interest is contained in Appendix A; additional information about her situation is contained in e-mails on file with the Brennan Center.

Corporation of America and telephone calls became her primary way of staying in regular contact with her son. Coalition members John and Linda Wojas know this fear. During their daughter's incarceration, she was physically assaulted so severely that she had to be hospitalized and needed plastic surgery. On another occasion, she was sexually assaulted. "The telephone is the only means of providing immediate support and encouragement during these horrific times," they say.³⁸ Coalition member Janie Canino likewise says she accepts her incarcerated son's long distance collect calls because it gives her "peace to know he is okay."³⁹ The problem works the other way, too: children have a hard time maintaining relationships with their parents in prison. In fact, a Department of Justice report on incarcerated parents found the majority of fathers and mothers in state prison had *never* had a personal visit with their minor children.⁴⁰ One reason is distance – "prisoners are housed in facilities that are an average distance of more than 100 miles from their families."⁴¹

Another reason is the visitation process itself. As Dr. Creasie Finney Hairston, Dean of Social Work at Jane Addams College at the University of Illinois in Chicago, explains:

³⁸ See Wojas Statement of Interest.

³⁹ See Canino Statement of Interest.

⁴⁰ Christopher J. Mumola, *Incarcerated Parents and Their Children*, U.S. Department of Justice, Bureau of Justice Statistics (Aug. 2000).

⁴¹ Jim McKinnon, *Helping Family Ties Penetrate Prisons – Agencies Keep Kids in Touch With Kin*, Pittsburgh Post-Gazette (Nov. 5, 2003) at B1; See also Hairston Declaration at ¶ 22, attached as Appendix B; Jeremy Travis et al., *Families Left Behind: The Hidden Costs of Incarceration and Reentry*, Urban Institute Justice Policy Center (Oct. 29, 2003), available at http://www.urban.org/UploadedPDF/310882_families_left_behind.pdf (citing John Hagan and Juleigh Petty, *Returning Captives of the American War on Drugs: Issues of Community and Family Reentry*, paper prepared for the Reentry Roundtable, Washington, D.C., Oct. 12-13, 2000 (2002)). See also discussion section II, *supra*.

In many facilities, visiting is difficult (and prohibited for some family members) because of policies requiring children's custodial parents to escort them on visits, or limiting children visitors to those for whom birth certificates list the prisoner as the biological parent. Prison officials may deny visitors entry to the facility for other reasons, including constantly changing dress codes, no identification for children, and ion drug scanners that inaccurately signal that a visitor is carrying drugs.

Many family members are discouraged from visiting by the many indignities the visitation process entails. The visit is often a lesson in humility, intimidation and frustration; and a highly charged and anxiety producing event. Among the problems noted in one state report of prison visiting were long waits, sometimes in facilities without seating, toilets and water; the lack of nutritious food in visiting room vending machines; and the absence of activities for children. Body frisks and intrusive searches, rude treatment by staff, and hot, dirty and crowded visiting rooms are the norm in many prisons. These conditions are particularly difficult for children to endure.⁴²

Writing letters is another communication tool. However it, too, presents difficulties, particularly for the many functionally illiterate people in prison. Letter writers must also contend with the vagaries of prison mail delivery. It is not uncommon for a letter sent to someone in prison to arrive months after it was sent, if it arrives at all.⁴³ Coalition member Joan Roberts says her incarcerated son has gone four months without receiving any of the letters she sends him.⁴⁴ For these reasons, for many families, telephone contact is the most realistic and convenient way to stay in touch with incarcerated relatives and friends.

For Kathy, speaking with her son by phone meant dealing with Evercom. The company, which she had never heard of and which she had no choice in selecting, was the sole provider of

⁴² Hairston Declaration at ¶¶ 22-23.

⁴³ See Hairston Declaration at ¶ 24.

⁴⁴ See Joan Roberts Statement of Interest.

long distance collect calling phone service from her son's prison. The experience of dealing with the monopolistic provider changed her life.

"Every minute you're talking you're thinking about how much it is costing," she recalls. Her phone bills for prison calls were high – on average \$200 - \$300 per month, and some months even higher. One particularly steep month her bill was close to \$1,000 – about \$50 of which represented her local service and her non-prison long distance charges. "One of the most frustrating things about it," Kathy reports, was that the phone company would often "drop," or disconnect, her calls with her son in the middle of a conversation. Hanging over every conversation was a cloud of fear that her chat with him would suddenly end. The only sure thing was that each time her son called, even if he was reconnecting after a dropped call, Evercom would charge Kathy a \$2.85 connection fee.

Organizations that support families with incarcerated members pay special attention to the issue of long-distance phone calls, both their cost and importance, warning families like Kathy's to prepare themselves for the financial and emotional strain maintaining phone contact presents. For example, Centerforce, a California-based organization that works to "strengthen individuals and families affected by incarceration through a comprehensive system of education and support,"⁴⁵ addresses the issue this way in its "10 steps to success while your family member is inside":

Budget Your Money

- If you are accepting collect calls from your family member who is incarcerated, expect higher phone bills and budget accordingly; and

⁴⁵ Centerforce, *Our Mission*, available at <http://www.centerforce.org/aboutUs> (last accessed March 8, 2004).

- Know your limits and don't overstep them. Negotiate with your family member inside, and come up with a plan to stay connected without putting you in debt (from number of visits, number of phone calls you can accept, to sending him/her money).

Stay Connected

- Remember that visiting is just one way to stay connected; phone calls can be just as beneficial.

Assisting Families of Inmates, Inc., in Richmond, Virginia, another family support group, suggests this coping strategy to families: "Set financial and emotional limits with your loved one and set them early. Phone calls, visits and financial support for your loved one can easily get out of hand. Decide what you have time and the finances to do and stick to those limits."⁴⁶

"This phone issue is a huge problem for the families. Everyone I know is in the same situation," says Kathy. "I consider myself lucky because I am able to pay the monthly phone bills. If I was in the situation most people are in, I could not talk to my son. I don't know how other families do it."⁴⁷

Others certainly are not as "lucky" as Kathy. Many have lost their primary breadwinner to incarceration, leaving them destitute. Many forego paying for other essentials in order to maintain phone contact. Coalition member Lloyd Snook has a client on death row in Virginia whose mother is AIDS-infected and disabled. Allowed one visit with her son per month, the woman had to choose between speaking with her son by phone – which cost \$100 per month –

⁴⁶ Assisting Families of Inmates, *Coping Strategies*, available at <http://www.afoi.org/Coping.htm> (last accessed February 3, 2004).

⁴⁷ Her son's incarceration affects Kathy's entire family. Her father has started making her mortgage payments, an additional financial burden that stretches his resources, in order to free up funds for her to cover large phone bills.

paying her rent, and purchasing her medication. She chose contact over rent, and now lives in homeless shelters.⁴⁸

For some families, the phone service structure and exorbitant fees make phone contact, the only possible form of contact, simply impossible. For example, more than 800 Alaskans, many of whom are residents of remote rural villages engaged in subsistence living with virtually no cash economy, are housed in Corrections Corporation of America facilities in Florence, Arizona – more than 2,000 miles from their homes. The only possible way for these individuals to maintain family contact is by telephone. However, up-front cash demands, accompanied by exorbitant per minute rates, make it impossible for them to access phone service.⁴⁹

In addition to cost, prisons' collect call-only policies, poor service and lack of service choice also take their toll on families. Kathy's son could only call her collect, which meant he could not leave messages on her answering machine. If she were not home, she could not hear from him. Consequently, Kathy did not want to leave the house for fear she would miss his calls. Bill payment, a relatively simple task, required Kathy to adopt a rather complex routine. First, she would send her payment to her phone company – which billed her for both regular phone service and the prison phone service. Her phone company, in turn, forwarded Evercom's share to Evercom. Even after paying her bill, Kathy feared Evercom might place a block on her phone that would prevent her from receiving phone calls from her son's prison. So, after sending payment to her phone company, she would call Evercom to notify them her bill was paid.⁵⁰ On

⁴⁸ See Snook Statement of Interest.

⁴⁹ See Lerman Statement of Interest.

⁵⁰ The prison phone company placed a block on Kathy's phone if they did not receive payment for a bill or if the phone charges reached \$300 at any point during the month. If the calls reached that amount part-way through the month, even before the bill was due, the company would,

occasion when she did not notify Evercom of a payment, the company blocked her phone even though she had paid her bill. Indeed, Evercom even blocked her phone after receiving notice of her payment. Once the block was in place the burden was on Kathy, first, to discover it (since the company did not provide advance notice that it was blocking the line) and, second, to demand its removal.

For families, monopolistic provider arrangements and collect call policies produce high prices, poor service, and no choice in service provider. When people in prison cannot maintain phone contact with their family members there are other costs as well – to penal institutions, potential parolees, their families and public safety.

B. Family Contact Furthers Penological Interests

People in prison who maintain contact with their families are more likely to have positive interactions with others while incarcerated. The Federal Bureau of Prisons (“BOP”) recognizes this in the preamble to its regulations. “The Bureau of Prisons extends telephone privileges to inmates as part of its overall correctional management. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate’s personal development.”⁵¹ Studies show that “telephone usage and other contacts with family contribute to

without providing notice, block Kathy’s line so her son’s calls could not get through to her. To avoid this Kathy sometimes would call Evercom part way through the month to determine how close she was to the \$300 limit. If necessary, she would pay Evercom part way through the month before her bill was due in order to protect against the interim block. See discussion of similarly burdensome blocking techniques employed by MCI, *supra* n.30.

⁵¹ 28 C.F.R. § 540.100. The 17 cents per minute cost for calls from federal Bureau of Prison facilities reflects this desire to facilitate telephone contact between people and prison and their families, as does the fact that the Bureau of Prisons permits the people it incarcerates to use debit cards to place direct calls. See discussion *supra* section II.D.1; Report of the Virginia State Corporation Commission’s Division of Communications on Rates Charged to Recipients of Inmate Long Distance Calls, Attachment 1 (2000), *available at* <http://www.state.va.us/scc/caseinfo/reports/inmateldrept.pdf>.

inmate morale, better staff-inmate interactions, and more connection to the community, which in turn has made them less likely to return to prison,”⁵² and that quality family visitation improves the mental health of people in prison, as well as their ability to participate successfully in prison programs and avoid disciplinary problems while incarcerated.⁵³

Louisiana’s Department of Public Safety and Corrections, in a publication called “Time in Prison: The Adult Institutions,” writes that “maintaining family contacts is important to an inmate’s ability to adjust in prison and to his/her future potential to return successfully to a community. Access to telephones and visiting support this need.”⁵⁴

C. Family Contact Aids Efforts to Secure and Successfully Complete Parole

Parole review boards consider the strength of ties between people in prison and their families in determining whether to release someone on parole. Research – in Illinois and California, and at the federal level – supports review board perceptions that family matters for parole success. An Illinois study of people released from prisons between 1925 and 1935 showed that 75% of those who had maintained active family interest (i.e., maintained continuing visitation with family members) during their term of incarceration were successful on parole

⁵² 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/99-08/callsp2.htm#background> (last accessed March 9, 2004).

⁵³ Terry A. Kupers, M.D., *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It* (1999).

⁵⁴ State of Louisiana Department of Public Safety and Corrections, *Time in Prison: The Adult Institutions*, p. 5 (2004), available at <http://www.corrections.state.la.us/Whats%20New/PDFs/TimeInPrison.pdf> (last accessed March 9, 2004). Louisiana has contracted for the Corrections Corporation of America to operate the Winn Correctional Center in Winnfield, Louisiana.

while only 34% of those considered loners experienced parole success.⁵⁵ The California Board of Prison Terms evaluates “family support” when deciding whether a person is suitable for parole.⁵⁶ A study of people in California prisons and their families, “Explorations in Inmate-Family Relationships” (1972), found that “in every comparison category, including [people] with three or more prior commitments [to prison], men with more family-social ties [had] the fewest parole failures.”⁵⁷ An assessment of people incarcerated in federal prisons found that 71% of those involved in active family interest groups were successful on parole compared with 50% of those in the no contact with relatives group.⁵⁸ Finally, a recent survey of visitors to two men's prisons found that successful completion of parole is significantly related to the maintenance of family ties during incarceration.⁵⁹

Summarizing the extant research literature, Eva Lee Homer noted that “the convergence of these studies, the consensus of findings, should be emphasized. The strong positive relationship between strength of family-social bonds and parole success has held up for more than 50 years, across very diverse offender populations and in different locales. *It is doubtful if*

⁵⁵ Lloyd Ohlin, *The Stability and Validity of Parole Experience Tables* (1954) (Ph.D. dissertation for University of Chicago), *cited in* Daniel Glaser, *The Effectiveness of a Prison and Parole System* 366 (1964).

⁵⁶ “Studies on recidivism have shown that prisoners who remain in close contact with their families are less likely to commit new offenses after being freed ... The [California] Board of Prison Terms says family support is one of its criteria for deciding whether an inmate is suitable for parole.” Jennifer Warren, *The State Inmates' Families Pay Heavy Price for Staying in Touch Phones*, Los Angeles Times (Feb. 16, 2002) at B10.

⁵⁷ Norman Holt & Donald Miller, *Explorations in Inmate-Family Relationships* (1972).

⁵⁸ Glaser, *supra* n.55.

⁵⁹ N.E. Schafer, *Exploring The Link Between Visits And Parole Success: A Survey Of Prison Visitors*, 38 International J. of Offender Therapy & Comparative Criminology pp. 17-32 (1994).

there is any other research finding in the field of corrections which can come close to this record.”⁶⁰

Communication between people in prison and their family members is a primary indicator of family ties, a tangible factor parole boards look to in order to assess parole requests and make parole decisions. To the extent that monopolistic practices, collect call-only policies, and poor service prevent inmates from making contacts that demonstrate or facilitate ongoing relationship with their families, they could be preventing deserving individuals from securing parole. Not only is this result unfair to those individuals and their families, but it is also costly to taxpayers whose dollars are used to incarcerate people who should be home. “According to June 2001 figures from the California Department of Corrections, it currently costs \$25,607 per year to incarcerate a prisoner. If increased family contact by phone was able to keep just 0.7 percent of the current prison population from re-entering (that's about 1,200 people), the state would save \$30,728,400 in prisoner housing costs”⁶¹

D. Family Contact Reduces Recidivism

Related to parole success, social scientists also conclude that people in prison who maintain family contact while incarcerated are more successful at staying out of the criminal justice system once they return home. As reported in the Annual Review of Sociology, “[p]risoners who experienced more family contact -- whether through visits or mail, or via participation in programs intended to facilitate family contact --experienced lower recidivism

⁶⁰ Eva Lee Homer, *Inmate-Family Ties: Desirable But Difficult*, 47-52 Federal Probation p. 49 (1979) (emphasis added).

⁶¹ Celeste Fremon, *Crime Pays – the Phone Company and the State*, Los Angeles Weekly (June 22, 2001).

rates and greater post release success.”⁶² The studies mentioned above, issued by the Florida House of Representatives Justice Council Committee on Corrections (1994) and the California Department of Corrections Research Division (1972), concluded that encouraging families to remain intact helps lower recidivism.⁶³ District of Columbia Mayor Anthony Williams recently endorsed these findings, stating “when prisoners have contact with their families, and that is coupled with good rehabilitative programs . . . then it pays dividends down the road because you have less recidivism.”⁶⁴ In addition, Dr. Hairston’s review of research on prisoners’ family relationships yielded two consistent findings. “First, male prisoners who maintain strong family ties during imprisonment have higher rates of post release success than those who do not. Second, men who assume responsible husband and parenting roles upon release have higher rates of success than those who do not. There is similar evidence regarding the beneficial value of family ties for females in prisons. Family relationships have a significant influence on relapse prevention among parolees.”⁶⁵ This research accords with the experience of many Coalition members, such as the Women’s Prison Association, which provides social services to 2,000 women annually who are involved in the criminal justice system, and the Center for Community Alternatives, which provides sentencing and parole advocacy and HIV-related services to

⁶² Christy A. Visher & Jeremy Travis, *Transitions From Prison to Community: Understanding Individual Pathways*, Annual Review of Sociology (2003).

⁶³ See also *Families Left Behind*, *supra* n.41 (citing C.F. Hairston, *Family Times During Imprisonment: Do they Influence Future Criminal Activity?* Federal Probation pp. 48-52 (1998)).

⁶⁴ Arthur Santana, *Locked Down and Far From Home; One-Third of D.C. Prisoners Incarcerated More Than 500 Miles Away*, Washington Post (April 24, 2003) at B1.

⁶⁵ Hairston Declaration at ¶¶ 11-12. See also E. Slaght, *Family and Offender Treatment: Focusing on the Family in the Treatment of Substance Abusing Criminal Offenders*, 19 J. of Drug Education 53-62 (1999).

incarcerated people. Both of these organizations have signed these Comments because communication with family members is essential to the ability of the people with whom they work to re-enter society successfully.⁶⁶

Recognizing that telephone contact is critical to parole success and reducing recidivism several corrections officials and agencies have adopted policies explicitly recognizing the importance of extending inmate telephone privileges, including the American Correctional Association,⁶⁷ Federal Bureau of Prisons and National Sheriffs' Association,⁶⁸ among others. For example, the Federal Bureau of Prisons indicates in its program statement on telephone regulations for incarcerated people that:

The Bureau of Prisons extends telephone privileges to inmates as part of its overall correctional management. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate's personal development...Contact with the public is a valuable tool in the overall correctional process. Towards this objective, the Bureau provides inmates with several means of achieving such communication. Primary among these is written correspondence, with telephone and visiting privileges serving as two supplemental methods.⁶⁹

Through its policy statement, the American Correctional Association acknowledges the importance of telephone contact for correctional management purposes:

⁶⁶ See Women's Prison Association and Center for Community Alternatives Statements of Interest.

⁶⁷ The American Correctional Association is the national organization that accredits prisons.

⁶⁸ Resolution of 14 June 1995.

⁶⁹ Bureau of Prisons, Program Statement No. 5264.07, Telephone Regulations for Inmates (Jan. 31, 2002), *available at* http://www.bop.gov/progstat/5264_007.pdf (last accessed March 9, 2004).

[C]onsistent with the requirements of sound correctional management, inmates/juvenile offenders should have access to a range of reasonably priced telecommunications services. Correctional agencies should ensure that:

- A. Contracts involving telecommunications services for inmates/juvenile offenders comply with all applicable state and federal regulations;
- B. 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 should reflect actual costs associated with the provision of services in a correctional setting; and
- C. Contracts for inmate/juvenile offender telecommunications services provide the broadest range of calling options determined to be consistent with the requirements of sound correctional management.⁷⁰

Furthermore, the American Correctional Association, which according to Corrections Corporation of America has accredited 75% of its facilities,⁷¹ expressly adopted in 2002 a policy against excessive phone rates:

Written policy, procedure and practice [must] ensure that offenders have access to reasonably priced telephone services. Correctional agencies [must] ensure that:

- a. Contracts involving telephone services for offenders comply with all applicable state and federal regulations;
- b. 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; and

⁷⁰ Public Correctional Policy unanimously ratified by ACA Delegate Assembly on Jan. 24, 2001.

⁷¹ Corrections Corporation of America, *Why Do Business With CCA*, available at <http://www.correctionscorp.com/4main.html#performance> (last accessed March 9, 2004).

- c. 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.⁷²

E. Family Contact Promotes Reunification

Based on her extensive research, Dr. Hairston concludes that, “communication between prisoners and their families provides the most concrete and visible strategy that families and prisoners use to manage separation and maintain connections. Families visit their imprisoned relatives at the institutions where they are held, talk with them by phone, and exchange cards and letters as a means of staying connected.”⁷³ Contact between people in prison and their families is particularly important for children with incarcerated parents. Most state (55%) and federal (63%) inmates – some 721,500 people – are parents of children under 18.⁷⁴ In 1999, 1.5 million children under 18 had a parent in state or federal prison.⁷⁵ Nationwide 2.1% of minor children had a parent in state or federal prison.⁷⁶ The Department of Health and Human Services

⁷² This standard is contained in the following American Correctional Association manuals: *Standards for Adult Correctional Institutions, third edition*; *Standards for Adult Local Detention Facilities, third edition*; *Standards for Adult Community Residential Facilities, fourth edition*; *Standards for Adult Correctional Boot Camp Programs, first edition*; *Standards for Juvenile Community Residential Facilities, third edition*; *Standards for Juvenile Detention Facilities, third edition*; *Standards for Juvenile Correctional Boot Camp Programs, first edition*; *Standards for Juvenile Training Schools, third edition*; *Standards for Small Juvenile Detention Facilities, first edition*; and *Small Jail Facilities, first edition*.

⁷³ Hairston Declaration at ¶ 17.

⁷⁴ *Incarcerated Parents and Their Children*, *supra* n.40, at 2.

⁷⁵ *Id.*

⁷⁶ *Id.* For African-American and Hispanic children those numbers are even higher – the percentage of black children in the U.S. resident population with an incarcerated parent (7.0 percent) was nearly nine times higher than that of white children (0.8). Hispanic children were three times as likely as white children to have a parent in prison (2.6).

Administration for Children and Families, in a recently issued request for proposals, stresses the importance of communication between incarcerated parents and their children: “In situations where incarcerated parents were actively engaged in the mentoring process, through visits, phone conversations or letters, reunification is a natural process.”⁷⁷

On average, parents in state prison are expected to serve 80 months (almost 7 years), while those in federal prison are expected to serve 103 months (almost 9 years).⁷⁸ In most cases, enabling families to “maintain contact during incarceration reassures children of their parents’ love, motivates parents in their recovery and rehabilitation efforts, and increases the likelihood that families can be successfully reunited when prisoners return home,” according to Shay Bilchik, Executive Director of the Child Welfare League of America.⁷⁹ Dr. Hairston explains:

These contacts allow family members to share family experiences, participate in family rituals, and remain emotionally attached. They help assure incarcerated parents that their children have not forgotten them and help assure children that their parents love and care about them. They allow people in prison to see themselves, and to function, in socially acceptable roles rather than as prison numbers and institutionalized dependents.⁸⁰

⁷⁷ U.S. Department of Health & Human Services, Administration for Children & Families, Family & Youth Services Bureau, *RFP: Mentoring Children of Prisoners*, 69 Fed. Reg. 8201, 8201-8209 (Feb. 23, 2004).

⁷⁸ *Incarcerated Parents and Their Children*, *supra* n.40, at 6.

⁷⁹ Shay Bilchik, *Children of Convicts Struggle with a Prison of Their Own*, Seattle Post-Intelligencer (May 12, 2002), at F9.

⁸⁰ Hairston Declaration at ¶¶ 17-20. Thousands of children across the country are themselves incarcerated in prisons operated by Corrections Corporation of America and other private prison administrators. See <http://www.correctionscorp.com/tourjuvenile.html> for a description of Corrections Corporation of America’s work with juveniles. According to this page, Corrections Corporation of America operates the following juvenile facilities:

Corrections Corporation of America Juvenile Facilities:

- Shelby Training Center - Memphis, Tennessee. A 200-bed, secure juvenile center
- Tall Trees - Memphis, Tennessee. A 63-bed, non-secure juvenile residential facility

Corrections Corporation of America Jails housing Juvenile Offenders:

Finally, it is worth noting that last year, Corrections Corporation of America, which recently “forged a partnership” with Good News Jail and Prisoner Ministry, acknowledges that “[r]elationships [between people in prison and chaplains] are intended to provide a way for [people in prison] to establish connections with the community that will benefit them upon release.”⁸¹ Appreciating both the importance of family-inmate contact, and its high cost, last December, the private prison corporation’s partner made a public appeal for phone cards which Good News Jail and Prisoner Ministry then distributed to inmates in the Guilford Correctional Center in North Carolina.⁸² Unfortunately, Corrections Corporation of America’s policies with respect to telephone services does not reflect a similar understanding of the importance of communications between incarcerated people and their families. Indeed, the high rates charged to people incarcerated at its facilities result in part from the commissions imposed by CCA on inmate telephone service providers.

This is a similar appeal to the Commission to modify existing policies that obstruct contact between people in prison and their families, which in turn harm penological interests, family interests, and public safety. We urge this Commission to eliminate the anticompetitive

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- Bay County Jail and Annex - Panama City, Florida
 - Hernando County Jail - Brooksville, Florida
 - David L. Moss Criminal Justice Center - Tulsa, Oklahoma
 - Houston Processing Center - Houston, Texas

Thus, reasonably priced, quality phone service is key to ensuring contact between free parents and their incarcerated children as well.

⁸¹ See Corrections Corporation of America, *Press Release June 5, 2003*, available at <http://www.correctionscorp.com/index/asp>.

⁸² See *Non-Profit Wish Lists: Give Them a Hand*, North Carolina News & Record (Dec. 7, 2003) at D1 (saying that the organization needs “[t]elephone cards with up to 500 minutes to allow inmates to call family member in United States for holidays”).

practices and collect call-only policies that enable high costs and poor service to flourish, and that devastate families.

IV. Allowing Exclusive Dealing Arrangements and Collect Call-Only Policies Severely Limits the Ability of Incarcerated People to Communicate With Their Lawyers

Exorbitant long distance collect call telephone rates, collect call-only policies, and the exclusivity of prison telephone contracts, which allow companies to provide substandard service, all severely restrict the ability of people in prison to communicate with their attorneys. This burden on communication interferes with the ability of criminal defendants to exercise their constitutional right to legal representation, of immigration detainees and incarcerated people with civil cases to exercise their right of access to the courts, and of incarcerated people to prepare for a successful re-entry into society.

The ability of incarcerated litigants to communicate with their attorneys is of paramount importance. The Sixth Amendment to the U.S. Constitution guarantees criminal defendants the effective assistance of counsel. The United States Supreme Court has held that this provision requires the government to provide counsel to those who cannot afford to hire an attorney.⁸³

All other litigants have a constitutional right of access to the courts under the Fourteenth Amendment to the U.S. Constitution. For many of these litigants, the assistance of an attorney is essential for them to be able to gain access to the courts. In immigration proceedings, for example, an immigrant represented by an attorney is approximately four times more likely to persuade an immigration judge to grant an asylum application than is someone who has no attorney.⁸⁴ If a litigant has limited English skills – as many detained immigrants do – or if a litigant is illiterate – as many prisoners are – the need for an attorney is all the greater.

⁸³ *Alabama v. Shelton*, 535 U.S. 654 (2002); *Gideon v. Wainwright*, 372 U.S. 335 (1963).

⁸⁴ Christopher Nugent, *The INS Detention Standards and You: Facilitating Legal Representation and Humane Conditions of Confinement for Immigration Detainees*, available at www.abanet.org/immigration/probono/home.html.

For people in prison with pending criminal charges or appeals, or with immigration or civil cases, many of whom are incarcerated in privately administered prisons, it is vitally important to be able to speak with and assist the lawyer handling their cases. A person may need to contact his or her lawyer to share information about the case, to learn crucial information about the status of the case, or to make critical strategy decisions.⁸⁵ Often, the telephone is the only or most efficient means to communicate with lawyers because prisons and jails are located far from lawyers' offices, or because resource constraints, busy caseloads, or inconvenient visiting schedules force lawyers to visit only infrequently.

Courts have long recognized that the ability to communicate privately with an attorney by telephone is essential to the exercise of the constitutional rights to counsel and to access to the courts.⁸⁶ They have accordingly held that, when prisons' collect call-only policies interfere with the ability of incarcerated people to communicate with their lawyers, they may violate these

⁸⁵ *Johnson v. Galli*, 596 F. Supp. 135, 138 (D. Nev. 1984) (use of a telephone is essential to contact a lawyer, bail bondsman or other person in order to prepare a case).

⁸⁶ *Murphy v. Waller*, 51 F.3d 714, 718 & n.7 (7th Cir. 1995) ("Restrictions on a detainee's telephone privileges that prevented him from contacting his attorney violate the Sixth Amendment right to counsel. . . . In certain limited circumstances, unreasonable restrictions on a detainee's access to a telephone may also violate the Fourteenth Amendment."); *Tucker v. Randall*, 948 F.2d 388, 390-91 (7th Cir. 1991) (denying a pre-trial detainee telephone access to his lawyer for four days would implicate the Sixth Amendment); *Johnson-El v. Schoemehl*, 878 F.2d 1043, 1051 (8th Cir.1989) (holding that inmates' challenge to restrictions on the number and time of telephone calls stated a claim for violation of their rights to counsel); *Miller v. Carlson*, 401 F. Supp. 835 (M.D. Fla. 1975), *aff'd & modified on other grounds*, 563 F.2d 741 (5th Cir. 1977) (granting a permanent injunction precluding the monitoring and denial of inmates' telephone calls to their attorneys). See also Dana Beyerle, *Making Telephone Calls From Jail Can Be Costly*, Times Montgomery Bureau (Sept. 22, 2002) (Etowah, Alabama county jail under court order to provide phones to people incarcerated in the jail based in part on complaints they could not talk to lawyers).

rights.⁸⁷ The prison telephone arrangements challenged in the *Wright Petition* pose precisely the types of impediments that the courts have found to be unconstitutional. They interfere with the ability of people in prison to communicate with their lawyers, in violation of the Sixth Amendment, in several ways: by keeping the cost of the calls high, by restricting people in prison to making collect calls, and by allowing exclusive telecommunications service providers to provide substandard service.

In section I.D.1, these Comments listed some of the extremely high costs that Coalition members have had to pay in order to accept collect calls from their clients in prison – adding several hundred dollars, and sometimes over a thousand dollars to their monthly phone bills. Publicly funded lawyers, who represent the vast majority of criminal defendants incarcerated in jails and prisons, often cannot afford to accept high-priced collect calls from their clients. State and county governments bear the cost of providing legal representation to the poor in criminal cases, typically by creating public defender programs, or by using private attorneys who are appointed on a case-by-case basis or who contract to accept a county’s full or partial caseload in return for a lump sum.⁸⁸ Indigent defense systems across the country suffer from severe under-

⁸⁷ See, e.g., *Lynch v. Leis*, Docket No. C-1-00-274 (S.D. Ohio Feb. 19, 2002) (holding that where public defender’s office and many private attorneys refused most collect calls, a prison’s collect call-only policy was unconstitutional) (unpublished decision on file with the Brennan Center); *In re Ron Grimes*, 208 Cal. App. 3d 1175, 1178 (1989) (holding that switch by Humboldt County (California) Jail from coin operated to collect-only calls violated the constitutional rights of people incarcerated there because the public defender’s office, other county departments, and some private attorneys did not accept collect calls).

⁸⁸ The Spangenberg Group, *State and County Expenditures for Indigent Defense Services in Fiscal Year 2002* (American Bar Assoc. 2003) (describing each state’s indigent system and expenditures).

funding, which commentators credit with causing a “crisis” in indigent defense.⁸⁹ For example, in Texas – where there are 16 private Corrections Corporation of America facilities (including several county jails and state prisons), and many other privately run jails and prisons – a report on indigent defense practices concluded that none of the counties studied “provide[s] sufficient funds to assure quality representation to all indigent defendants.”⁹⁰ The compensation rates for court-appointed lawyers are so low that often they are not paid for work performed outside of court, such as visiting clients in jail.⁹¹

Faced with these resource constraints, many attorneys representing indigent criminal defendants – including signatories such as Lesli Myers, who represents people incarcerated in a Corrections Corporation of America facility in Broken Arrow, Oklahoma – simply are unable to afford collect calls from their clients, or are forced to severely limit the number of such calls they

⁸⁹ Richard Klein and Robert Spangenberg, *The Indigent Defense Crisis* (The American Bar Assoc., Section of Criminal Justice, Ad Hoc Committee on Indigent Defense Crisis 1993); NAACP Legal Defense and Educational Fund, *Assembly Line Justice: Mississippi’s Indigent Defense Crisis* 6 (2003) (“Lawyers for the poor lack funds to conduct the most basic investigation, to conduct legal research, or to hire experts”); Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Indigent Defense in Pennsylvania* 184 (May 2002) (concluding that indigent defense receives inadequate resources to provide adequate representation); Bill Rankin, *Indigent Defense Rates F*, *The Atlanta J. Constitution* (Dec. 12, 2002) (describing shortcomings and underfunding in Georgia’s indigent defense system, which handles 80% of the state’s criminal cases); Texas Appleseed Fair Defense Project, *The Fair Defense Report: Findings and Recommendations on Indigent Defense Practices in Texas* 10-12 (Dec. 2000) (describing lack of resources in Texas’ indigent defense system); Douglas W. Vick, *Poorhouse Justice: Underfunded Indigent Defense Services and Arbitrary Death Sentences*, 43 *Buff. L. Rev.* 329 (1995) (discussing the problem of underfunding in indigent defense systems); The Spangenberg Group, *A Comprehensive Review of Indigent Defense in Virginia* 82 (American Bar Assoc. Standing Committee on Legal Aid and Indigent Defendants Jan. 2004).

⁹⁰ Texas Appleseed Fair Defense Project, *The Fair Defense Report: Findings and Recommendations on Indigent Defense Practices in Texas* 12 (Dec. 2000).

⁹¹ *Id.*

accept.⁹² For example, four district public defenders in Tennessee – a state in which the Corrections Corporation of America houses almost a quarter of the prison population – do not accept collect calls from prison.⁹³ Likewise, in Hamilton County, Ohio – a state in which approximately 1,800 people are housed in private prisons – the public defender’s office and many private attorneys refuse most collect calls from jails and prisons.⁹⁴ Many other lawyers severely limit the number of collect calls they accept from people in prison. Coalition member North Carolina Prisoner Legal Services Inc., which represents people in prison in both civil litigation and criminal appeals, does not accept collect calls from people in prison except in emergency situations or cases where it represents the client in litigation, when court filing deadlines require it.⁹⁵ Coalition member the Committee for Public Counsel Services, which provides public defender services for the Commonwealth of Massachusetts, accepts collect calls only at certain times of day, and only if the caller’s particular attorney is in the office and

⁹² Myers Statement of Interest. *See also The Issue: Phone Fees, Overcrowding Merit Discussion. Our View: These Two Issues Won’t Go Away When New Jail Opens for Business*, Evansville (Ind.) Courier & Press (Dec. 23, 2003) (Vanderburgh County, Illinois public defender does not accept collect calls from people in jail); *U.S. ex rel. Green v. Washington*, 917 F. Supp. 1238, 1244 (N.D. Ill. 1996) (finding that as a result of 1993 budget cuts the Illinois Office of State Appellate Defender for the First District had to “reduce its budget for travel to prisons and to limit the office’s ability to accept collect phone calls from clients”); *Greer v. St. Tammany Parish Jail*, 693 F. Supp. 502 (E.D. La. 1988) (inmate stated he was only allowed to make collect calls, and the St. Tammany Parish public defender’s office did not accept collect calls); *Malady v. Baker*, 650 F. Supp. 901, 903 (E.D. Mo. 1987) (public defenders in Missouri decide whether to accept inmate collect calls based on “urgency of communications, possibility of correspondence and budgetary concerns”). *See also* cases discussed in note 87, *supra*.

⁹³ E-mail from Andy Hardin, Executive Director of the Tennessee District Public Defenders Conference, Feb. 26, 2004, on file with the Brennan Center; Getahn Ward, *Private Prison Operator Ready to Grow Anew*, *The Tennessean* (Oct. 6, 2003).

⁹⁴ *See Lynch v. Leis*, *supra* n.87; Ohio Department of Rehabilitation and Correction, *The Institutions*, available at <http://www.drc.state.oh.us/web/prisprog.htm>.

⁹⁵ *See* North Carolina Prisoner Legal Services, Inc. Statement of Interest.

available to take the call.⁹⁶ The Prisoner's Rights Information System of Maryland, a private legal services group under contract with Maryland to provide legal services to people in prison, has a similar policy and will accept phone calls from actual clients only.

In addition to interfering with attorney-client communication, the high cost of long distance collect calls from prison reduces the total assets available to finance criminal defense and other types of legal representation for people in prison. Some publicly funded criminal defense lawyers, such as signatories Kern County, California public defender Mark A. Arnold; the Metropolitan Public Defender's Office in Davidson County, Tennessee; and the New York-based Office of the Appellate Defender and Center for Appellate Litigation, are not reimbursed for the collect calls they accept and must absorb the costs of collect calls from their clients.⁹⁷ Many immigration attorneys and legal services lawyers, which receive their limited funding from government sources, foundations, and individual donations, do the same. Other publicly funded criminal defense lawyers, such as signatory Clay Hernandez, P.C., which represents people in

⁹⁶ See Committee for Public Counsel Services Statement of Interest.

⁹⁷ See Arnold Statement of Interest; Metropolitan Public Defender's Office Statement of Interest; Office of the Appellate Defender Statement of Interest; Center for Appellate Litigation Statement of Interest.

Even when lawyers are reimbursed for some collect calls, there are often stringent limits on the number of collect calls from prison for which they will be reimbursed. These limits are presumably a result of the high cost of the calls. For example, lawyers who are appointed to represent indigent criminal defendants in federal criminal cases before the U.S. Court of Appeals for the Sixth Circuit are instructed:

Long distance telephone calls may be reimbursed where it is determined that the calls were reasonable and necessary for proper handling of the case, except that the cost of telephone calls to the client will be reimbursed only where they have been authorized by the court in advance. In any event, funds are not available to cover either counsel's time or expenses for more than three telephone conferences with the client.

United States Court of Appeals For The Sixth Circuit Criminal Justice Act (CJA) Form 20 Submission Instructions, Section C.5 (Revised and Updated: 7/11/2002).

private and public prisons in Arizona, pass the costs of their clients' collect calls on to the governmental entity funding them.⁹⁸ Either way, the net result is that a portion of the scarce public dollars allocated for the defense of indigents in criminal cases and for the representation of low-income people in other types of cases are diverted to private prison administrators and the telephone companies that have exclusive inmate service contracts at those facilities, instead of being spent on investigators, training for attorneys and investigators, law books, and other items essential to providing the legal representation that is so sorely needed, and that is often constitutionally required.

Even if the cost of collect calls from prison were lower, collect call-only policies would still hamper the ability of incarcerated people to communicate with their lawyers. Many criminal defense lawyers – including several of the attorneys participating in the Coalition signing these Comments – use automated telephone systems in order to avoid the expense of employing a receptionist.⁹⁹ These telephone systems generally cannot accept collect calls, with the result that even if the lawyers could afford to accept the calls, they would not be able to do so. A similar problem arises for attorneys who use answering machines or voice mail, because when their incarcerated clients are limited to calling collect, the clients cannot leave messages.¹⁰⁰

Moreover, the service problems described in section I pose serious impediments to the ability of incarcerated people to communicate with their lawyers. For example, Bruce Teichman,

⁹⁸ Likewise, Madison, Wisconsin attorney Anthony Delyea, who takes cases on contract for the state public defender's office, bills calls from indigent clients to the state, which ends up paying the inflated rates. Steven Elbow, *Jailhouse Phone Shakedown; Corporations, Lockups and Prison Here Profit by Forcing Inmates to Make Collect Calls at Crushing Rates*, The Madison Capitol Times (Wis.) (Oct. 5, 2002).

⁹⁹ See Dennis Roberts Statement of Interest.

¹⁰⁰ See Crane Statement of Interest.

a member of the Coalition submitting these Comments, reports that his clients' calls were blocked from a private prison serviced by Evercom. When he contacted Evercom, he was told that his service had been interrupted for failure to pay his phone bill, despite the fact that Mr. Teichman's phone payments were current. The representative advised Mr. Teichman that, in addition to sending his payments, he had to call Evercom each month to notify them that he had made a payment. Before reconnecting service, Evercom requested proof of past payments, a tax identification number and other documents. If private prisons were prohibited from entering into exclusive contracts with phone service providers, market forces and competition would create disincentives to imposing this level of inconvenience and poor service on their customers.

In addition to interfering with the constitutionally protected right to counsel, the telephone policies challenged in the Wright Petition also hurt the ability of incarcerated people to prepare for their eventual re-entry into society. People in prison often need to contact lawyers in connection with civil litigation necessary to ensure that, when they are released, they will have families, homes and employment. For example, people in prison often need to contact their lawyers to arrange for visitation with their children or to fight threatened terminations of their parental rights, to fight threatened foreclosures on their homes, and to preserve their good credit histories.¹⁰¹ When people in prison are unable to contact their lawyers, their ability to participate in this litigation is impaired, with the result that they may lose their parental rights, their homes,

¹⁰¹ For examples of ways in which lawyers often play an essential role in permitting imprisoned parents to retain their relationships with their children, see Legal Services for Prisoners With Children, *Case Studies: Incarcerated Women With Young Children*, available at <http://prisonerswithchildren.org/issues/pwcpmp.htm>; Legal Services for Prisoners With Children, *Case Studies: Pregnant Women*, available at <http://prisonerswithchildren.org/issues/pwcpreg.htm> (both on file with the Brennan Center for Justice).

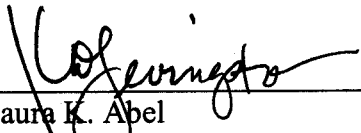
and other elements of a stable, productive life. This makes it much more difficult for them to reintegrate into society upon their release from prison.

V. Conclusion

For the reasons stated herein, the members of the Ad Hoc Coalition for the Right to Communicate respectfully request the Commission to address anticompetitive practices that result in excessive telephone service rates for people incarcerated in privately administered prisons. Such facilities should be required to permit competitive telephone service providers to offer services to incarcerated people in the manner described in the *Wright Petition* and supporting affidavit and should allow such providers to offer debit card or debit account services in addition to collect calling services. Moreover, the payment by telephone service providers of commissions to prison administrators should be prohibited. These steps are all necessary to facilitate reasonably priced telephone services to incarcerated people, which is vital to the penological and rehabilitative goals discussed above.

Respectfully submitted,

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Appendix A

APPENDIX A: STATEMENTS OF INTEREST

I. People with family members or friends in prison

Janie Canino, who lives in Texas, regularly accepts long distance collect phone calls from her son, who is in prison in Louisiana. The cost of accepting these calls from my son adds approximately \$75 to \$100 to her phone bill each month. This is a severe burden, because she is a single parent, supporting two elderly parents and a son in prison on her small salary. However, she cannot refuse her son's calls because when he calls it gives her peace to know he is okay. A mom can tell in her child's voice when things aren't quite right. It gives her son peace knowing he can pick up the phone when he is lonely, depressed, or whatever to be able to talk with his family.

Duane Carter has a son incarcerated in the Florence, Arizona State Prison Complex – Eyman, Cook Unit. He believes that the inmates of prisons are being robbed by the necessity of paying such high prices for phone calls. Just a simple 15 minute collect phone call from Florence, Arizona to Mesa, Arizona costs almost \$6.00. If a long distance company like 10 10 987 were used, it would cost 39 cents to connect plus 3 cents a minute, that would be 84 cents. People can call all over USA, Canada, South America, and most of Western Europe at this rate. Surely there is some way to get a rate, perhaps not as low as this, but a lot more reasonable than what is being used. Another problem the inmates have with telephone service is that it is practically impossible for the inmate to make a call to speak to his attorney or visa versa.

Kathy¹ cares about this issue because she loves her son, who was incarcerated in a private prison. She wants to be able to hear his voice, and be there to support him. She wants him to know his family is here for him, but does not want to have to pay hundreds of dollars per month because the costs of calls are so outrageous. She is a single parent who works a full time job and with the cost of my bills she can not keep my head above water. Having a loved one in the system is difficult as it is and yet the monopoly on the cost of calls only makes a further hardship for everyone.

Phil Klitgaard, who lives in Iowa, has been paying \$18.89 for a 15 minute phone call from a friend in prison in Texas. To keep in touch, he has been paying \$500 - \$700 a month for long distance collect calls. He believes this is basically nothing more than greed on the part of the phone companies since there are no other options open to the inmates or their families and the phone companies control the rates. These phone calls are beneficial to the inmates and their family and friends but cause financial hardship and emotional stress due to the rates.

Maria M. Rangel has a brother located at the Arizona State Prison Complex, Cheyenne Unit in Yuma, Arizona. She participates in these Comments because when he would call her home phone in Peoria, AZ it was an average of \$5.00 per call when you can make a long distance call on a payphone at \$1.00 for 5 minutes.

¹ This is a pseudonym – she wishes to remain anonymous.

Joan Roberts² and her husband – who are respectively 62 and 72 – live in California, and their son is incarcerated approximately 600 miles away in Arizona. His institution limits his telephone calling to collect calls. The Roberts rely heavily on telephone calls to communicate with him, because they live too far away from his institution to visit frequently, and mail delivery in his institution is so unreliable that, at times, he has gone four months without receiving any of the letters she has sent him. The Roberts' phone bill for calls from their son averages more than \$300 monthly.

When **Robin Stewart**'s brother was taken into custody after he showed up 20 minutes late for court, he was unable to call her for three days because her phone company – Comcast – does not allow collect calls unless the customer opts to be able to receive them, and because she had not signed up with a billing service. Ms. Stewart had not done either of these things because she did not know that she had to. For her brother to call his attorney collect from prison costs him \$5.69 for the initial minute, and \$1.69 for each additional minute. Five calls totaling thirty minutes cost \$104.10, without adding in any taxes or surcharges.

Gail Sullivan, who lives in New York, finds that phones are a necessity for communicating with her husband, who is in prison in New York, as they have children together and have needed to have some kind of contact for their sons to speak to their father when situations occur. The cost of the calls takes away money from the food she puts on the table, or compromises her ability to pay her bills. She participates in these Comments because even though her husband committed a crime, she and her children did not. Nonetheless, they are all paying the price. Although the prison system preaches about the value of family contact it isn't making it easy for families to maintain that contact.

Carole Tkacz, of Gary, Indiana, has accepted long distance collect calls from her son when he was in prison. She is a single, self-supporting woman, and the phone bills imposed a tremendous burden on her finances.

John and Linda Wojas are retired parents on a fixed income paying prohibitive costs for collect calls from our inmate daughter, Pamela A. Smart. They have paid thousands of dollars over the past fourteen years (last year \$5,000.00) being forced to use the prison telephone carrier; unable to use their own carrier at a lower rate. In addition, because their daughter is indigent, the Wojas' have absorbed the same telephone costs of attorneys over the years in order that she may have attorney representation in court. It is a nine hour drive to see her, necessitating an overnight stay many times incurring additional costs. During her time in prison, their daughter has been physically assaulted, resulting in hospitalization and plastic surgery. Recently, she was the victim of a sexual assault by a correctional officer. The telephone is the only means of providing immediate support and encouragement during these horrific times. The Wojas' ask the FCC to take into account the punishment levied on parents when they are forced to accept collect calls from a carrier not of their choice in order to maintain a lifeline and keep their daughter's hope alive.

² This is a pseudonym – she wishes to remain anonymous.

II. Organizations and individuals providing direct services to people in prison & their families

The mission of the **Arizona Coalition for Effective Government (AzCEG)** is to have a positive influence in the lives of men and women currently incarcerated in Arizona's prison system by passing legislation that will change the manner in which the Arizona state government operates and to give the inmates the information they need to help them resolve their immediate issues. Most AzCEG volunteers have a loved one in prison, and consequently have to pay the high cost of accepting phone calls from people in prison.

The **Center for Community Alternatives** provides sentencing and parole advocacy services, and HIV related services to defendants detained in local jails and people incarcerated in New York State correctional facilities. As such it is vital for the organization to be able to communicate with its clients without undue costs. The Center is a not-for-profit organization with limited resources and thus must limit the calls that it accepts from its incarcerated clients because of the exorbitant rates. Also, as an agency that works in the field of reentry, it appreciates the critical importance of maintaining family ties. The costs of long distance calls are prohibitive for most prisoner families, who typically are low income. The Center support the Coalition's efforts on behalf of the right of people in prison to communicate.

Families in Crisis, Inc. is a private, not-for-profit organization in Connecticut that provides counseling and support services for families of people in prison. It conducted a survey several years ago revealing that many of the families it works with receive collect calls from people in prison and experience hardship as a result of the high phone bills they must pay to receive those calls. Connecticut sends some of its inmates to Virginia, which makes it difficult and expensive for family members to visit loved ones in prison, and makes phone communication particularly important.

Family and Corrections Network (FCN) is a national provider of resources for families of people in prison and those working with them. The unfair cost of long distance collect calls from people in prison and their families is a major concern for its 150 member organizations and individuals and the thousands of users of our web site. For years, families of members who are in prison have complained to FCN about telephone bills of \$200 or more a month – all going to pay for collect long distance calls. In January, 2003 it published an article by Liz Gaynes, a prison-family member who estimated she had paid \$40,000 for collect calls since 1984.

The Female Offenders Re-entry Program of Lebanon County, Pennsylvania ("F.O.R.E.") works with women coming out of prison. The organization's board of directors includes professionals who see in their jobs the impact that high priced phone calls have on families of people in prison. The board of directors also includes ex-offenders who can attest to the strain the high cost of their collect calls put on their families. The high prices made calling home to their children very hard. The families caring for their children generally did not have a lot of money, so the number of calls they could accept was limited. This was particularly hard on the children, who were already dealing with the issue of separation. If they had a hard day in school or something really great happened for them they needed to share this with their mothers. The high cost of collect calls from prison made that impossible.

The Rev. Kobutsu Malone is a Zen Buddhist priest who serves as a prison and death row chaplain. He has been working with people in prison for around 13 years. His ministry runs on begging – his only income consists of what he can get people to donate. As a result, he has had to refuse calls from some incarcerated people in need of pastoral counseling due to his inability to pay for the calls.

Dr. Eleanor Pam is a Professor Emerita at the Inmate Education Program at John Jay College of Criminal Justice of the City University of New York. She has an ongoing relationship with people in prison who call her frequently at great personal expense to her, especially since she is involved in mentoring them for post-graduate degrees. Phone conversations about their progress and classroom work tend to be lengthy and are often the most immediate link to helping with their questions. Since studies show a connection between recidivism/rehabilitation and education while in prison, it would be helpful if the system supported, rather than impeded, this activity. Telephone costs should not be this prohibitive for those who volunteer their time and energy.

The **Women's Prison Association** provides social services to 2000 women a year who are involved in the criminal justice system. It pays for collect calls from incarcerated people out of its budget. It participates in this Coalition because frequent and affordable phone calls are key to maintaining family connections, providing for the well-being of children, and aiding people in prisons in making a successful adjustment to the community. Supportive families should be helped, not bankrupted.

III. Attorneys

Mark A. Arnold is the Public Defender for Kern County, California. His office accepts collect calls from incarcerated clients. In November, 2003, which was a typical month, collect calls from clients cost his office \$460.51. This money came out of his office's budget, which is extremely limited. If their phone bills were lower, the office could use that money for attorney or investigator training, law books, expert witnesses or other items crucial to his clients' defense. Additionally, his clients' families are routinely charged exorbitant fees for accepting collect calls from their loved ones in prison.

Shane Laughton Brabazon, Esq. is a criminal defense attorney practicing in Green Bay, Wisconsin. As a result of the high cost of collect telephone calls from people in prison, she has been unable to accept the many collect calls her office has received from people seeking representation. Additionally, the high cost of long distance collect calls from prison has forced many of her clients' families to refuse collect calls from their loved ones in prison, even though they would like to be able to accept those calls.

William Bunting is a criminal defense lawyer in Charlotte, North Carolina who must accept collect calls from his clients in order to communicate with them about their cases. Additionally, his clients' families often suffer severe hardship as a result of the high phone bills they must pay in order to keep in touch with their family members in prison.

The **Capital Area Immigrants' Rights Coalition** ("CAIR Coalition") provides services to the immigrant advocacy community and to people in immigration detention in the greater Washington, DC metropolitan area. CAIR Coalition brings together community groups, pro bono attorneys, volunteers and immigrants to work for a fair and humane immigration policy. CAIR Coalition provides education and training, public policy development, forums for sharing information, legal support services and other empowerment programs to individuals and organizations that represent immigrants. Among its many activities, CAIR Coalition assists individuals detained by United States Immigration and Customs Enforcement with their credible fear interviews, conducts legal rights presentations for them regarding immigration remedies, and represents or seeks pro bono representation for them.

CAIR Coalition participates in these Comments because legal representation is pivotal to vulnerable immigrant families, many of which do not have funds to obtain legal representation. Each month, CAIR Coalition visits 4 to 5 county jails in central and southern Virginia where immigrants are detained. A significant percentage of the individuals the Coalition meets are asylum seekers who have committed no crimes, but are co-mingled with U.S. citizen inmates. These jails where they are incarcerated are located anywhere from 45 minutes to four hours away from its office. Collect calls from those facilities cost between three dollars and five dollars per minute, depending on the facilities' distance from the caller. The CAIR Coalition is unable to accept these calls due to their exorbitant costs. Likewise, many pro bono attorneys opt not to represent detained individuals – arguably the most vulnerable population amongst immigrants – due to the high costs of representing them (including the high cost of collect calls). The high cost of the collect calls consequently severely hampers the ability of people in immigration detention to obtain legal assistance.

Dawn E. Caradonna, Esq. represents incarcerated people in criminal, family law and juvenile cases in Peterborough, New Hampshire. She accepts long distance collect calls from her clients, including from a client in a Corrections Corporation of America facility in Leavenworth, Kansas. She pays for these calls herself because it is difficult to track the cost by client and difficult to get reimbursement from the state or federal government. In order to keep her costs down, her staff accepts collect calls only when she is in the office and available to speak to her clients. As a result, clients must sometimes make repeated calls or write to her in order to get information to her, and are not able to get important information to her quickly. Many of the other criminal defense attorneys in her area do not accept collect calls at all.

Ms. Caradonna also participates in these Comments because of the impact that the high cost of long distance collect calls has on her clients' families. Many of these families have already had their finances devastated by the incarceration of a breadwinner; the high cost of long distance collect calls exacerbates their already severe financial problems. Moreover, many of her clients' children are unable to talk to their incarcerated parents on the telephone because their custodial parents are unable to afford the cost of the telephone calls.

The Center for Appellate Litigation is a New York not-for-profit law firm which handles appeals and post-conviction proceedings on behalf of criminal defendants, in cases assigned to it by the New York Appellate Division. The office accepts collect calls from clients who need to provide necessary information about their cases, and to participate in the course of their defense.

Accepting these calls costs the office between \$125 and \$150/month. This money could be better spent on the office's law library or other items essential to representing clients.

The **Committee for Public Counsel Services** is the public defender agency for the Commonwealth of Massachusetts. It spends thousands of dollars a month on local, collect calls from its clients incarcerated in public correctional facilities, funds that could be spent in a number of ways to improve and enhance the legal services provided to its clients. In an effort to control costs, it has implemented a policy limiting the time of day its offices will accept collect calls, and it only accepts calls if the client's attorney is in the office and available to take the call.

Richard Crane is an attorney representing federal and state inmates housed in both public and private facilities. (He was vice-president for legal affairs at Corrections Corporation of America from 1994 through 1997.) When inmates are allowed to place collect calls only, it is very frustrating and expensive for them and their families. When Mr. Crane's phone lines are busy or no one is in the office to accept a collect call, the inmate is not even able to leave a message. If the inmate could leave a message with his question, then an answer could be available when he called back – or better – a thoughtful and complete answer could be mailed to him, saving the cost of an additional call.

Several of Mr. Crane's inmate clients have had the unfortunate experience of being at prisons served by a telecommunications providers named "Evercom" and "Value Added Communications." These companies (they may be one and the same) do not have a billing relationship with Mr. Crane's carrier (AT&T). So, they place a block preventing any client and potential client calls to Mr. Crane's number, without telling them or him that they are doing so. The block is only removed when Mr. Crane has deposited \$50 with the company. When the \$50 is gone, the block is restored; when the inmate is gone, the company keeps what is left of the \$50.

Frank M. Dunbaugh is a civil rights attorney in private practice in Annapolis, Maryland. He accepts long distance collect calls from a person serving a life sentence, who he has represented on a pro bono basis for approximately 20 years in a series of post-conviction, re-sentencing and appeals matters. Until this year, when a new contract was introduced with slightly lower rates, the cost was \$3.00 to connect and 45 cents per minute. When his case is active, they speak for about 20 to 30 minutes each week. The client is incarcerated near Cumberland, Maryland, about 165 miles from Annapolis, where Mr. Dunbaugh lives and works, so Mr. Dunbaugh is rarely able to visit him. Mr. Dunbaugh also accepts numerous local collect calls from people incarcerated in the Baltimore City Jail/Baltimore City Detention Center, who he has represented since 1981 in consolidated cases involving overcrowding and the conditions of confinement.

David Goldberger is a Professor of Law and Director of Clinical Programs at the Ohio State University College of Law. His interest arises from the fact that for over thirty years he has been representing prison inmate clients in litigation seeking to assure that governmental burdens on their rights and activities are confined to legitimate governmental interests and do not improperly burden inmates' First Amendment rights

Clay Hernandez, P.C., represents defendants in both state and federal cases in Tucson, Arizona. When these defendants are incarcerated either before or after trial, they need to make long distance collect calls to his office or to their families. His office accepts these long distance collect calls from these defendants from private prisons, including a Corrections Corporation of America facility in Florence, Arizona, and also from state and federal facilities. Unfortunately, these charges are 4 to 10 times more than the actual cost of phone calls of similar duration from people who are not in prison. In some of his cases, the county or federal government reimburses him for the cost of the calls. In other cases, his office ends up paying for the calls.

Melissa Hill is a sole practitioner doing criminal appellate and habeas corpus work in California and New Mexico. Her clients in both states are distant from her office, so she must maintain communication by telephone. Every one of her clients can only call her if she accepts their calls collect. In most of her cases, she is court-appointed, or working under contracts with the state or state agencies. She is usually paid a flat fee that provides no reimbursement for long distance phone charges. Just accepting a few short collect calls a month from her clients adds an extra \$50 to \$100 to her phone bills. Often, the exorbitant cost of accepting calls from her clients collect, as frequently as they would like to call, strains her monthly budget.

Mary Jo Holloway is a criminal defense attorney practicing in several rural counties in Texas. She has always accepted collect calls from her clients who are in prison. In many instances she has represented the clients as a result of a court appointment and so has ended up bearing the cost as an office expense. She has also had clients' calls to her blocked because her long distance phone service provider did not have a contract with the exclusive phone service provider for the clients' prison, and she was not willing to provide the exclusive provider with the business and personal information it demanded in order to set up an account for her. She knows other defense lawyers who do not accept collect calls from clients in prison because they simply cannot afford the cost. Some of her clients' families have had their phone service shut off because they have been unable to pay the phone bills generated by collect calls from their relatives in prison.

Robert E. Juceam is a senior partner of the Fried, Frank, Harris, Shriver & Jacobson LLP law firm based in New York. He represents persons in prison for criminal convictions and civil detainees for alleged immigration law violations or pending asylum processing. Often, the civil detainees are housed in privately contracted facilities or, in the absence of room in federal civil detention centers, in state penal facilities. Wildly overpriced collect call charges to his home, office and cell phones, and collect call-only policies that make it impossible for his clients to leave a message on voice mail (along with malfunctioning prison telephones) are a persistent and disturbing cause of limiting his clients' access to legal counsel on urgent matters in their cases. He is also knowledgeable about the harm, waste and burdens these aspects of prison and detention center phone call policies cause in other cases, based on his experience as a former member of the American Bar Association's Standing Committee on Pro Bono; an inspector of criminal and civil detention facilities under the "Detention Standards Guidelines" agreed to by the U.S. Department of Justice and the American Bar Association; and a director of Pro Bono Institute, Inc., a Washington, D.C.-based organization that, among other things, sponsors the Law Firm Pro Bono Challenge to enhance pro bono participation by signatories from among the 250 largest U.S. law firms.

Averil Lerman is an Assistant Public Advocate with the Alaska Office of Public Advocacy in Anchorage. Her office provides legal services for indigent Alaskans who are charged with or have been convicted of crimes in Alaska. In addition to representing hundreds of Alaskans who are incarcerated in various locations in Alaska, the office represents a number of the more than 800 Alaskans who are housed in a Corrections Corporation of America facility in Florence, Arizona, more than 2,000 miles from their homes.

The telephone system has been a continuing serious problem for Ms. Lerman's clients, both those in Arizona and those in Alaska correctional centers. Many inmates in both locations come from remote rural villages in which there is almost no cash economy. The exorbitant up-front cash demands made by the telephone company before a person in prison may contact his family often end any opportunity for maintaining contact with family during the period of incarceration. This is true even if the inmate is housed in Anchorage, if the family is living a subsistence traditional life in Bush Alaska. Because of the distance between the imprisoned person and his family, and the complete lack of roads between them, and the lack of a cash economy, the only possible way to maintain contact is by telephone. The unconscionable prices and conditions of phone service should be prohibited.

Since 1973, the **Lewisburg Prison Project** has provided non-profit legal aid to people incarcerated in Pennsylvania. It counsels, assists, and visits people in prison who write to the Project when they encounter problems they perceive as illegal or unfair. The Project listens to grievances and assists the people in prison by talking to prison authorities, furnishing people in prison with appropriate legal materials, evaluating the case, and/or proceeding with litigation. It represents people in prison who need to make long distance collect calls to family members or attorneys and often receives complaints from people who need to accept long distance collect calls from people in prison.

The **Metropolitan Public Defender's Office** represents indigent adults and juveniles accused of criminal or delinquent conduct in Davidson County, Tennessee. The increasingly high cost of telephone calls from jails, prisons and other custodial facilities in Tennessee creates a burden on pre-trial defendants, sentenced inmates, the families of defendants and inmates and on the lawyers who represent the defendants and inmates. Many of the clients of the Metropolitan Public Defender's Office receive sentences to the Tennessee Department of Corrections and are thus incarcerated some distance from Nashville. This requires that the clients be able to make long distance collect calls to the office and to their families or friends. Two of the state prisons are managed by the Correctional Corporation of America. The Correctional Corporation of America also manages one facility in Davidson County, which is dedicated primarily to the incarceration of Davidson County inmates serving sentences of six years or less. The Metropolitan Public Defender's Office accepts collect calls from clients in jails and prisons. The cost for these collect calls is increasing and is currently averaging over \$1,000 a month. This expense is ultimately a public expense and reduces the uses to which the office can put its budgeted funds.

Lesli Ann Myers is a criminal defense attorney in Broken Arrow, Oklahoma. Her clients are held in custody pre-trial by the City/County Jail Facility, which is administered by the

Corrections Corporation of America. She cannot accept collect calls, so her clients are not easily able to communicate with her. Most of them cannot call family members because their family members have cell phones which cannot accept collect calls.

The **National Association of Criminal Defense Lawyers** (NACDL) is the preeminent organization in the United States advancing the mission of the nation's criminal defense lawyers to ensure justice and due process for persons accused of crime or wrongdoing. A professional bar association founded in 1958, NACDL's 10,500 direct members — and 75-plus state and local affiliate organizations with another 28,000 members — include private criminal defense lawyers, public defenders, active-duty military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system. The unfair cost of long distance collect calls is a major concern for NACDL's members, as it places a tremendous burden on attorney-client communication. In August of 2002, NACDL's Board of Directors formally passed the following "Resolution of the Board of Directors on Prison Telephone Systems:" WHEREAS all prisoners are dependent on prison telephone systems for contact with their families, friends, and attorneys; WHEREAS many federal, state and county prisons are profiting from prisoner phone calls by giving contracts to local phone companies who pay the prisons large commissions on all prisoner phone calls; WHEREAS the families, friends, and attorneys of prisoners are forced to pay inflated rates because of these contracts; THEREFORE BE IT RESOLVED that the National Association of Criminal Defense Lawyers supports reform of prison telephone systems so that prisoners, their families, friends, and attorneys are charged reasonable rates for phone calls.

North Carolina Prisoner Legal Services (NCPLS) is a non-profit, public service law firm that provides legal advice and assistance to people incarcerated in North Carolina. NCPLS addresses matters involving inhumane conditions of confinement or illegal criminal convictions and sentences. Providing North Carolina inmates with information about their legal rights and responsibilities, NCPLS works to reduce frivolous litigation and to resolve legitimate problems through administrative channels. When serious problems cannot be resolved administratively, NCPLS offers legal representation in all State and Federal courts throughout North Carolina, and beyond. NCPLS participates in these Comments because telecommunications services are increasingly integral to human interaction in today's society. Separated from family and friends by the fact of their incarceration, inmates may be especially reliant on telephone privileges to maintain contact with loved ones. This is particularly true for a significant percentage of the incarcerated population that has limited literacy skills. For many years, NCPLS' clients and their families have been exploited through excessive rates for inmate-initiated telephone calls.

The **Office of the Appellate Defender** in New York City is a not-for-profit organization that has been providing high quality appellate and post-conviction representation to indigent persons in New York State since 1988. Each month, it spends in excess of \$1,000 on collect calls, which it accepts from all of its clients on a regular basis. This money comes from the limited funds the office receives from the City of New York and from donations from law firms and individuals, and it could be better spent on other costs of representation. Additionally, its clients' families often say that they are unable to communicate with their incarcerated loved ones because of the exorbitant rates charged for collect calls.

In addition to the problem of costs, the Office experiences occasional blocks on its collect calls from people in prison, without any notice by MCI (the exclusive telecommunications carrier for New York prisons). These blocks usually occur because MCI has administratively failed to credit a payment or has lost a check. The company never provides advance notice – or any notice at all – and the Office only learns of the blocks by chance. It generally takes several days of administrative wrangling with MCI to have the block removed.

Gary Peak is a criminal defense attorney in a small town in Texas. He represents a large number of criminal defendants who are unable to make bond. They are stuck in a county jail or prison unit. Accepting collect calls through Evercom from people in prison costs his office at least \$4.50 per connection. This makes it very difficult to communicate with his clients as often as he needs to properly represent them. Any change the FCC can make to prevent this highway robbery would be greatly appreciated.

The **Pennsylvania Institutional Law Project** provides free civil legal assistance to 88,000 institutionalized persons in Pennsylvania. It participates in these Comments because these exorbitant rates impact almost all of its clients and their families, and because the 1996 Telecommunications Act was supposed to improve service and rates but has backfired on these natural monopolies and sanctioned price gouging.

Laura Kelsey Rhodes is a criminal defense attorney and immigration attorney in Washington, D.C., and Maryland, with Albright & Rhodes, LLC. Many of her Maryland and Virginia immigration clients are detained at rural facilities far from both her office and their homes. A visit from family or an attorney is a day-long event – very costly in either instance. Thus, telephone contact is essential. Clients in deportation proceedings are facing life-changing hearings and need to consult frequently with both an attorney and family in order to make informed decisions. Current telephone charges from most facilities are exorbitantly high and have a significant effect on the ability of those detained to make calls. Her office gets charges for accepting collect calls from one facility at a minimum of \$14 regardless of the length of the call. This means that they have to focus on costs often at the expense of focusing on legal representation. Detained immigrants have no right to appointed counsel, so no government funds are ever used to defray these costs. When clients call collect from some facilities, they get a recording saying that her firm does not accept collect calls – this is incorrect. In fact, she may not use the carrier that the prison contract requires her to use. Thus her clients can be completely cut off from calling her.

Dennis Roberts is a criminal defense lawyer in Oakland, California. He is constantly frustrated by dealing with incarcerated people who cannot afford the exorbitant rates to call him. His office phones are electronic, so there is no way to place a collect call to them. He has been forced to make his personal line available for this purpose.

The **Teichman Law Office**, located in Omaha, Nebraska, represents inmates in Corrections Corporation of America facilities. It is concerned about the cost of collect calls from inmates in those facilities, the inability of the inmates to make other than collect calls, and the practice of some prison telephone service providers of placing blocks on attorneys' lines, so that no collect calls can be made to those offices, when the provider arbitrarily decides the office has received

too many calls (without providing prior notice of these blocks). Additionally, the families of many of his clients have had their telephone service shut off because they are unable to pay the high telephone bills generated by collect calls from their loved ones in prison.

The **Washington Association of Criminal Defense Lawyers** is an association made up of attorneys practicing criminal defense law in Washington State. WACDL is a not-for-profit corporation, with 501(c)(3) tax-exempt status. WACDL was formed to improve the quality and administration of justice. Its members represent defendants in trials and appeals of criminal cases. It is concerned about the cost of phone calls made by prisoners because the high cost of calls from people in prison makes it difficult for them to maintain contact with their families, and because of the cost to defense lawyers when their in-prison clients need to communicate them by telephone.

The **Washington Defender Association** is a nonprofit professional association and resource center for public defenders in Washington state. It represents 800 public defense attorneys, some of whom provide post-conviction representation. The attorneys must pay for collect calls from their clients – a cost which ultimately is a public expense.

David R. Weber is the president of Vasquez & Weber, P.C., a law firm in Anchorage, Alaska. The firm represents people held in facilities operated by the State of Alaska or providing services to the State of Alaska. In addition, the firm represents people incarcerated in Federal facilities who may be held in Alaskan facilities or in facilities anywhere in the United States. The firm needs to accept collect telephone calls from its clients and potential clients.

Mr. Weber participates in these Comments to document his experience with a telecommunications provider named “Evercom.” They routinely block the firm’s telephone number, thus preventing his clients from contacting the firm. This has an obvious detrimental impact on his clients’ ability to obtain the assistance of counsel. The firm has no way of knowing how many potential clients have tried to call the firm to retain its services but were prevented from doing so by Evercom. Evercom has never presented the firm with a bill for payment. The firm has always paid its bills, including those for telecommunications services. Mr. Weber’s experience leads him to believe that Evercom (which charges extremely high rates for its services) does not want to pay the local carrier for billing services and so does not have a (traditional) billing arrangement with his local carrier. Unfortunately, it does not seem to have a billing system of its own, either. The business plan seems to be: “Send us your money in advance (we promise not to go bankrupt) and we will allow our captive clientele to call you.”

IV. Advocacy organizations and others

Addictions Coalition of Delaware and the **National Coalition for Full Opportunity for Felons** represent inmates and families who have to make or accept long-distance phone calls from people in prison. These organizations participate in these Comments because the high telephone rates charged by telephone companies under contract with Corrections Corporation of America facilities exploit the situation of people in prison and their family members and supporters.

The **Brennan Center for Justice at NYU School of Law** unites thinkers and advocates in pursuit of a vision of inclusive and effective democracy. Its mission is to develop and implement an innovative, nonpartisan agenda of scholarship, public education, and legal action that promotes equality and human dignity, while safeguarding fundamental freedoms. To advance this mission the Center is challenging an array of policies and practices that serve as barriers for people with criminal convictions, as well as their families and communities, to full political and social participation. The Center is also working to remove barriers to the ability of low income people to obtain access to the courts, including policies and practices that impede attorney-client communication.

Citizens United for Rehabilitation of Errants – Virginia, Inc. (Virginia C.U.R.E.) is a non-profit, membership organization that advocates for people in prison and the families affected by the criminal justice system. It is a chapter of National CURE. Since 1991, Virginia C.U.R.E. has pursued advocacy – including meetings with Virginia officials, proposed legislation, appearing before the State Corporation Commission, and litigation – aimed at reforming the unfair inmate telephone system in Virginia.

The **Correctional Association of New York** is a 158-year-old, private non-profit criminal justice policy and advocacy organization focusing on issues such as conditions of prison confinement, sentencing reform, women in prison and juvenile justice. The Correctional Association is concerned about the exorbitant costs of prison calls set by contracts between telephone companies and prison agencies. It believes the practice of charging telephone rates that are completely out-of-line with charges in the free market is discriminatory, unjust and exploitative.

The **Defender Policy Group and Defender Legal Services Division of the National Legal Aid and Defender Association** (NLADA) participate in these Comments because of the severe impact that the exclusive telecommunications service contracts and collect call-only policies discussed in these Comments have on people facing criminal charges and on their attorneys. The NLADA is a national, nonprofit membership association advocating for criminal defense attorneys and other equal justice professionals. The NLADA's Defender Legal Services Division helps individuals and programs provide quality public defense in criminal cases. The NLADA's Defender Policy Group, composed of public defenders and their clients, advises the NLADA's Board of Directors regarding policy and programs relating to the provision of criminal defense services.

The **Defending Immigrants Partnership** is made up of the National Legal Aid and Defender Association, the Immigrant Legal Resource Center, the National Immigration Project, and the Immigrant Defense Project of the New York State Defenders Association. The focus of its program is aimed at training and providing technical assistance and other resources pertaining to immigration law to criminal defense counsel. The Partnership believes that exorbitant costs for telephone access in prisons and other detention facilities are unfair and harmful to inmates and detainees, and warrant FCC intervention.

The **Justice Fellowship** is a faith based not-for-profit advocacy organization urging reform of the criminal justice system according to the principles of restorative justice. The Fellowship has

been active in support of prisoners and their families seeking relief from the hardship imposed on them by the manner in which most of our prisons – public and private – provide telephone service to them. Fostering and maintaining ties between an inmate and his/her family, relatives and friends is a critical element in the effort to rehabilitate prisoners and return them as law-abiding and productive members of society. The telephone system is one of the few effective tools available to accomplish that end.

While the Comments being submitted by the Coalition relate to a petition involving only privately run prisons, it is the position of the Justice Fellowship that the relief being sought should be extended to all prisoners, whether in public or private institutions.

Justice Works! is a grassroots organization in Seattle, Washington representing people in prison who need to make long distance collect calls and people who need to accept these calls from people in prison. The organization works to resist the profit motive for incarceration, including the extreme costs for families to stay connected throughout the incarceration of a loved one.

Salima Marriott is a state representative in the Maryland General Assembly. She has been instrumental in the founding of more than one organization that advocates for justice on behalf of incarcerated individuals. Her office accepts long distance calls from inmates, and she herself has also accepted long distance collect calls from her family members and their friends imprisoned in Maryland and around the country. As a legislator, she has advocated against the Maryland Department of Correctional Services' practice of subsidizing its budget with the profits returned to them by the telephone companies from overcharging the family members of incarcerated individuals.

The **Maryland Justice Policy Institute** is a not-for-profit organization engaged in public education concerning issues of crime, criminal law, corrections, crime prevention and alternatives. A few years ago the Institute founded the Maryland Prison Telephone Policy Coalition, made up of people interested in lowering the rates of prison telephone calls. The Institute urges that the so-called "commissions" paid to the state by the telephone service provider amount to an illegal tax and that *only* the State legislature has the authority to decide who to tax, what activity is to be taxed, and how much they should be taxed. The Institute also believes that the activities funded by this money are things that the state should fund with its general budget. Some are activities which the state is obligated to fund, so it is unfair to pass these costs on to the families of people in prison, when the obligation is owed by all citizens.

The **Montclair (New Jersey) Alumni Chapter of Delta Sigma Theta Sorority Inc.** works to improve our criminal justice system nationally. Its members have considerable experience with the hardships that the high cost of telephone calls from prison impose on families with loved ones in prison. It participates in these Comments to oppose the continued destruction of families that the high costs foster.

NuLeadership Policy Group (NuLPG), housed at the Medgar Evers College of the City University of New York, is the first university based, national public policy think tank and community organization developed and operated by formerly incarcerated professional and community activists. It provides a legitimate voice for the currently and formerly incarcerated.

The NuLPG is opposed to the practice by the Corrections Corporation of America of contracting only with a single company to provide telephone service for inmates at each institution it operates, because this practice exploits incarcerated men and women and their families.

The Prison Show is a weekly radio show on Houston's Pacifica Network radio station, KPFT-FM. Each week it allows families to call the station for one or two hours on Friday nights to speak to their friends and families in Texas prisons. The Prison Show does that because people incarcerated in Texas rarely get an opportunity to call their families, friends and others on the outside. In many places where they do get an opportunity to call home, rates are prohibitive.

Appendix B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Implementation of Pay Telephone Reclassification	)	
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	
	)	
Martha Wright, Dorothy Wade, Annette Wade,	)	
Ethel Peoples, Mattie Lucas, Laurie Nelson,	)	
Winston Bliss, Sheila Taylor, Gaffney &	)	CC Docket 96-128
Schember, M. Elizabeth Kent, Katharine Goray,	)	
Ulandis Forte, Charles Wade, Earl Peoples,	)	
Darrell Nelson, Melvin Taylor, Jackie Lucas,	)	
Pater Bliss, David Hernandez, Lisa Hernandez	)	
and Vendella F. Oura	)	

DECLARATION OF DR. CREASIE FINNEY HAIRSTON

Dr. Creasie Finney Hairston declares that the following is true under the penalty of perjury:

I. INTRODUCTION

1. My name is Dr. Creasie Finney Hairston and I am Dean of the Jane Addams College of Social Work (the “College”), University of Illinois at Chicago, located at 1040 West Harrison Street, Room 4018 Chicago, Illinois 60607-7134. I am also a professor there. Jane Addams College of Social Work builds on the legacy of its namesake, the Illinois-born social reformer, Nobel Peace Prize winner, and pioneer of American social work, who in the late 1800’s promoted the development of programs to enhance health, literacy, workplace safety, education, justice for children, outreach to oppressed immigrant groups, and social investigations. The College carries out the mission of Jane

Addams, adapting it to contemporary needs and the realities of today's urban settings. Its commitment to social, racial, and economic justice is reflected in the racial and cultural diversity of the faculty, staff, and student body; the curriculum of the degree programs; community service projects; and research and evaluation projects and initiatives.

2. Jane Addams College of Social Work's master's and bachelor's programs are fully accredited by the [Council on Social Work Education](#). Its Master of Social Work program is one of the ten largest programs in the United States and the largest in the Big Ten region. Our graduates are prepared to work as practitioners, caseworkers, administrators, policy advocates, and community organizers in a variety of settings and with diverse populations, including individuals involved in the criminal justice system as well as their families and children; children and families in agency, school and community settings; persons with severe and persistent mental illness, individuals with acute and chronic health problems, including HIV/AIDS; and persons who abuse alcohol and drugs.

3. The College's graduates comprise the majority of new social workers entering the profession in the Chicago area each year, and its graduates are found in social work practice throughout the United States and the world. Consistent with the College's tradition, the doctoral program prepares scholars to focus on research and practice that promotes social and economic justice.

4. I received both my Ph.D. and M.S.S.A. from Case Western Reserve University, and my B.S. (*summa cum laude*) from Bluefield State College. Prior to joining Jane Addams College I served on the faculties of the University of Tennessee, the State University of New York, and West Virginia University, and as Associate Dean at Indiana University. Prior to attending graduate school I was a social worker with the Cuyahoga

County Welfare Department in Cleveland, Ohio. My curriculum vitae is appended as Exhibit 1.

5. My current professional distinctions and associations include membership on the Urban Institute Roundtable on Prisoner Re-entry, the National Advisory Board for the Center for Mental Health Services and Criminal Justice Research, the Illinois Children and Families Research Institute Advisory Committee, and the Chicago Board of Health.

6. I submit this declaration in support of the above-captioned petition to have the Federal Communications Commission (“Commission” or “FCC”) address certain issues involving prison inmate calling services referred to the Commission by the United States District Court for the District of Columbia in *Wright, et al. v. Corrections Corporation of America, et al.* (“*Wright*”). I have specific experience and expertise relating to families and the criminal justice system, and in particular to the importance of maintaining and promoting contact between people in prison and their family members, which is relevant to the issues addressed in this proceeding.

7. I have researched and written extensively on the impact of incarceration and reentry on families with children and specifically, on the importance of family communication in securing and successfully completing parole. My articles appear in leading academic journals and textbooks and in publications for practitioners and the general public. Among my recent publications, are:

- o Prisoner Reentry: Social Capital and Family Connections, Women, Girls & Criminal Justice 4/5, 67-68 (2003);
- o Fathers in Prison: Responsible Fatherhood and Responsible Public Policies, Michigan Family Impact Seminars Briefing Report No. 2002-1, 21-26 (2002);

- o The Importance of Families in Prisoners' Community Reentry, ICCA Journal on Community Corrections 11-12(14) (2002);
 - o Prisoners and Families: Parenting Issues During Incarceration, in From Prison to Home: The Effect of Incarceration and reentry on Children, Families and Communities (2002). Washington, DC U.S. Department of Health and Human Services.
 - o The importance of Families in Prisoners' Community Reentry, Family and Corrections Network Report 30 (1), 11-12 (2001).
 - o Prisoners and Their Families and Friends, proceedings of the International Conference on Human Rights and Prison Reform (pp. 29-31). Washington, DC: National CURE (2001).
 - o Serving incarcerated and ex-offender fathers and their families: A review of the field. (2001). New York: Vera Institute of Justice. (Co-authors: John M. Jeffries and Suzanne Menghraj).
 - o Children with parents in prison: Child welfare policy, program, and practice issues. (2001). Piscataway, NJ: Transaction Publishers. (Co-editor: Cynthia B. Seymour).
 - o Justice matters are family matters: Social work and the criminal justice system. (1999, August). NASW New York State Chapter Update 24, 2.
8. My work in promoting family-oriented correctional policies and institutional and community partnerships to address broad social services and criminal justice goals has been nationally recognized. I have reviewed and documented programs serving families of prisoners, conducted program evaluations of parenting programs in prisons and jails,

and studied the impact of incarceration on families and communities. As a result of my research, writing, evaluations, and consultations, I have an in-depth understanding of the vital role that communication plays in the lives of incarcerated people and their families.

II. PURPOSE OF TESTIMONY

9. The preservation and strengthening of families has a longstanding history as a United States public policy priority and as a major objective of governmental agencies. One way to keep families with incarcerated members remain strong is to keep family members connected throughout the period of incarceration.

10. In this affidavit, I discuss the critical role that ongoing communication and contact plays in the lives of people in prison and their families. In my experience the issues raised in the *Wright* petition – monopolistic phone service, exorbitant phone rates, and impractical collect-calling arrangements – are both common and problematic. This affidavit discusses 1) how maintaining family contact contributes to family cohesion, 2) hurdles that make contact difficult, and the benefits of contact for people in prison, families, and 3) broader social interests.

III. BENEFITS OF MAINTAINING FAMILY CONTACT BETWEEN PEOPLE IN PRISON AND THEIR INCARCERATED FAMILY MEMBERS

11. Family contact serves to prevent recidivism and delinquency. My review of research on prisoners' family relationships has yielded two consistent findings. First, male prisoners who maintain strong family ties during imprisonment have higher rates of post release success than those who do not. Second, men who assume responsible

husband and parenting roles upon release have higher rates of success than those who do not.

12. There is similar evidence regarding the beneficial value of family ties for females in prison. Dowden and Andrews' (1999) analysis of research on female offenders identified family involvement and affection as the strongest predictors of female offenders' success, and Slaght (1999) found family relationships to have a significant influence on relapse prevention among parolees.

13. Social scientists and practitioners have used these findings to demonstrate that programs including family members in prisoners' treatment during incarceration and after their release can produce positive results for prisoners, families, institutions, and communities (Jeffries, Menghraj, and Hairston, 2001; Wright and Wright, 1992).

14. Communication between people in prison and their children is important not only for people in prison, but for their children as well. Practitioners providing or advocating for parenting programs in prison offer the perspective that incarcerated parents' involvement with, and attachment to, their children can prevent their children from committing crimes.

15. Many studies have demonstrated the importance of family relationships and parenting practices in child development and the prevention of delinquency (Tolan, Guerra, and Kendall, 1995). The maintenance of family ties for incarcerated individuals has been found to produce more positive outcomes for young people who are incarcerated, as well as for adults (Borgman, 1985). Moreover, research indicates that the effects of parental criminality on delinquency are indirect and mediated by parental

attachment (to which communication is essential) and by other factors (Larzelere and Patterson, 1990).

16. Based on my research and experience I conclude that correctional policies that promote the maintenance of familial bonds and responsible parenting serve the interests of people in prison, their families, and society at large.

IV. ONGOING COMMUNICATION AND FAMILY COHESION

17. Communication between prisoners and their families is an essential strategy that families and prisoners use to manage separation and maintain connections. Families visit their imprisoned relatives at the institutions where they are held, talk with them by phone, and exchange cards and letters as a means of staying connected. These contacts allow family members to share family experiences, participate in family rituals, and remain emotionally attached. They help assure incarcerated parents that their children have not forgotten them and help assure children that their parents love and care about them. They allow people in prison to see themselves, and to function, in socially acceptable roles rather than as prison numbers and institutionalized dependents.

18. Families with members in prison engage in a process of role change and adaptability that can be referred to as pitching in and helping out. Some relatives pitch in by taking full or major responsibility for something the prisoner used to do. Some relatives help out with new responsibilities that families acquire as a result of incarceration, e.g. negotiating with the prison system, accepting collect phone calls from the prisoner and then serving as an emissary between the prisoner and his/her children and other relatives, or arranging for and paying the costs of phone bills and prison visits.

19. Prisoners who maintain family connections must adapt to new family roles.

Incarcerated parents are not in a position to make significant financial contributions to their family nor are they able to physically take care of or protect their children. Family role expectations of prisoners, therefore, center on demonstrations of caring and concern for children or other family members or participation in decisionmaking about select family issues.

20. People in prison participate in family life by calling home or calling the place where other family members have gathered on holidays, sending cards to acknowledge birthdays and other events of family relevance, and writing letters to inquire about and encourage children's progress in school and giving advice on how to handle different problems.

V. OBSTACLES TO MAINTAINING FAMILY CONTACT WHILE IN PRISON

21. Telephone calls are an important way for prisoners and their families to maintain contact, because other methods are difficult and sometimes impossible.

22. In many facilities, visiting is difficult (and prohibited for some family members) because of policies requiring children's custodial parents to escort them on visits, or limiting children visitors to those for whom birth certificates list the prisoner as the biological parent. Prison officials may deny visitors entry to the facility for other reasons, including constantly changing dress codes, no identification for children, and ion drug scanners that inaccurately signal that a visitor is carrying drugs. Even when visiting is permitted it may be prohibitively expensive when prisoners are located hundreds or thousands of miles from their homes. Distant prison visits are costly, as they involve

transportation, usually to geographically remote locations; meals and vending machine snacks during visits; and, sometimes, overnight lodging.

23. Many family members are discouraged from visiting by the many indignities the visitation process entails. The visit is often a lesson in humility, intimidation and frustration; and a highly charged and anxiety producing event. Among the problems noted in one state report of prison visiting were long waits, sometimes in facilities without seating, toilets and water; the lack of nutritious food in visiting room vending machines; and the absence of activities for children. Body frisks and intrusive searches, rude treatment by staff, and hot, dirty and crowded visiting rooms are the norm in many prisons. These conditions are particularly difficult for children to endure.

24. Written communication – another possible method of communication – also cannot replace telephone calls. Many people in prison, and many of their family members, are functionally illiterate. People who do write find that prisons often lose their mail, or delay delivering it for weeks at a time. In any event, writing is no substitute for hearing a loved one's voice.

25. For these reasons telephone communication is vital to maintaining family bonds, particularly between parents and children.

26. In theory, the vast majority of correctional facilities permit telephone contact between people in prison and their families. However, the primary intent of the rate structure for prisoner telephone systems seems to be to subsidize prison budgets, generate profits, and/or exert social control, not only over people in prison, but over their kin as well.

27. Relatives caring for the children of prisoners, for example, incur additional financial expenses if they promote the maintenance of parent-child relationships. Allowing children to converse with their incarcerated parents by phone is exceedingly costly. Depending on the prison, a thirty-minute phone call once a week could put a \$125 or higher dent in the family's monthly budget.

I declare under penalty of perjury that the foregoing is true and correct.

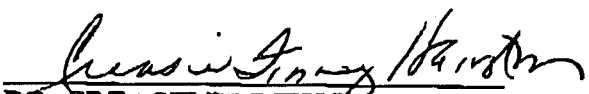

DR. CREASIE FINNEY HAIRSTON
March 8, 2004

Exhibit 1

Creasie Finney Hairston

HOME ADDRESS

5140 South Hyde Park Boulevard, 17A
Chicago, Illinois 60615
(773) 643-7939

BUSINESS ADDRESS

University of Illinois at Chicago
Jane Addams College of Social Work (M/C 309)
1040 West Harrison Street
Chicago, Illinois 60607-7134
(312) 996-3219 office
(312) 996-1802 fax
CFH@UIC.EDU

EDUCATIONAL BACKGROUND

- 1978** Ph.D., Case Western Reserve University
Cleveland, Ohio
- 1973** M.S.S.A., Case Western Reserve University
School of Applied Social Sciences
Cleveland, Ohio
- 1966** B.S. (summa cum laude), Bluefield State College
Bluefield, West Virginia

WORK EXPERIENCE

Dean, Professor, University of Illinois at Chicago Jane Addams College of Social Work,
Chicago, Illinois
August 1991 to present

Associate Dean, Professor, Indiana University School of Social Work, Indianapolis, Indiana
October 1986 to August 1991

Professor, Associate Professor, Charleston Center Coordinator, West Virginia University
School of Social Work, Morgantown, West Virginia
July 1984 to October 1986

Associate Professor, Assistant Professor, University of Tennessee, Knoxville School of
Social Work, Knoxville, Tennessee
August 1982 to July 1984
September 1977 to August 1981

Assistant Professor, State University of New York at Albany Nelson A. Rockefeller College of Public Affairs and Policy, School of Social Welfare, Albany New York
September 1981 to August 1982

Research Associate, Case Western Reserve University School of Applied Social Sciences, Human Services Design Laboratory, Cleveland, Ohio
August 1976 to August 1977

Planning Associate, Acting Deputy Project Director, East Cleveland Community Human Services Center, East Cleveland, Ohio
September 1971 to August 1974

Social Worker, Cuyahoga County Welfare Department, Cleveland Ohio
September 1967 to September 1971

PROFESSIONAL DISTINCTION

Illinois Sheridan Policy Group, 2003-present

Illinois NASW Strategic Planning Committee, 2003

Center for Mental Health Services and Criminal Justice Research Advisory Board, 2002-present

Urban Institute Roundtable on Prisoner Re-entry, 2001-present

National Association of Black Social Workers, Chicago Chapter, Academic Achievement Award, 2001

Chicago Board of Health, 2000-present

Advances in Social Work Journal Editorial Advisory Board, 1999-present

National Association of Deans and Directors of Social Work Programs Nominating Committee, 1999-2000

National Association of Deans and Directors of Social Work Programs National Spokesperson Task Force Chair, 1998-1999

Child Welfare Journal, Special Edition Co-Editor, 1998

International Center for Health Leadership Development Advisory Committee, 1997-present

Academy of Certified Social Work Managers, Founding Chair, 1997-present

Illinois Guardianship Waiver Research Advisory Committee, 1997-present

National Association of Deans and Directors of Social Work Programs Board of Directors, 1996-1998

National Network of Social Work Managers Board of Directors, 1996-2002; Chair, Certification Committee, 1997-1998

Illinois Children and Families Research Institute Advisory Committee, 1996-present

National Institute of Justice Task Force on Children, Families, and the Justice System, 1996-2000

National Network of Social Work Managers Management Institute Board of Directors, 1996-2002

Illinois African American Family Commission, Founding Member, 1995-1998

Illinois Deans and Directors of Social Work Programs, 1994-present; Founding Chair, 1994-1995

Attorney General's (Illinois) Service Recognition Award, 1994

Council on Social Work Education Board of Directors Nominee, 1994

Journal of Social Work Education Editorial Advisory Board, 1991-1993

Governor's (Indiana) Task Force on Human Services Reorganization, 1989-1990

State of Indiana Sagamore of the Wabash Award, 1990
Council on Social Work Education Annual Program Corresponding Committee, 1989, 1994, 1996
Association of Social and Behavioral Sciences Annual Program Meeting Session Organizer,
1989, 1990
Administration in Social Work Journal Editorial Advisory Board, 1990-present
Council on Social Work Education Policy and Legislative Affairs Committee, 1989-90
Second National Conference on Families of Offenders Program Chair, Conference Proceedings
Editor, 1989-1990
National Leadership Group on Families of Adult Criminal Offenders, 1988
National Institute of Mental Health Training Fellowship, 1974-1977

UNIVERSITY SERVICE

Associate Vice Chancellor for Faculty Affairs Search Committee (Illinois)
Director of the Office for Protection of Research Subjects Search Committee (Illinois)
Dean of the Graduate College Search Committee, Chair (Illinois)
Hull House Museum Planning Committee (Illinois)
University Hospital Continuum of Care Steering Committee (Illinois)
Deans' Council (Illinois)
Great Cities Strategic Planning Committee (Illinois)
Associate Vice Chancellor for Student Services Search Committee (Illinois)
Provost and Vice Chancellor for Academic Affairs Search Committee (Illinois)
Vice Chancellor for Student Services Search Committee (Illinois, New York)
Doctoral Program in Education Review Committee, Chair (Illinois)
Dean of the College of Pharmacy Search Committee, Chair (Illinois)
Associate Director for Research Search Committee (Illinois)
Great Cities Crime and Justice Committee (Illinois)
Campus Priorities and Strategic Planning Committee (Illinois)
President's Retreat Session Chair (Illinois)
Children and Youth Interdisciplinary Perspectives Book Committee (Illinois)
Center for Urban Education and Research Review Committee, Chair (Illinois)
Doctoral Dissertation Committees (Illinois, New York)
Graduate Program Review Committee (Indiana)
Center for Urban Education and Research Director Review Committee, Chair (Illinois)
University Human Subjects Review Committee (Indiana)
Faculty Seed Fund for Research Project Review Committee (Indiana)
Associate and Assistant Deans Group (Indiana)
Director of the Center on Philanthropy Search Committee (Indiana)
Center on Philanthropy Faculty Advisory Committee (Indiana)
Center on Philanthropy Curriculum Committee (Indiana)
Undergraduate College Reorganization Committee (Indiana)
Continuing Education Committee (Tennessee)
Chancellor's Commission on Blacks (Tennessee)
Faculty Recruitment Committee (Illinois, Indiana, West Virginia, Tennessee, New York)
Special Student Grievance Committee Chair (Indiana)
College Curriculum Committee (Indiana, West Virginia, Tennessee, New York)
College Promotion and Tenure Committee (Tennessee, West Virginia)
Curriculum Committee Chair (West Virginia, Tennessee, New York)
College Executive Committee (Illinois)

Policy Advisory Committee (Tennessee)
Promotion and Tenure External Reviewer (New York University, Case Western Reserve University, Columbia University, Cleveland State University, East Carolina University, Indiana University, Rutgers University)

REFeree EXPERIENCE

Journals

Administration in Social Work, Advances in Social Work, Families in Society, Journal of Social Service Research, Child Welfare, Journal of Social Work Education, Social Casework, The Journal of Correctional Health Care, Criminal Justice Review, Family Relations

Grants

National Institute of Child Health and Human Development, Administration on Children, Youth, and Families, U.S. Department of Health and Human Services, City of Chicago Department of Public Health

GRANTS AND SPONSORED PROJECTS

(Principal Investigator or Major Author)

Child Welfare Education Training Partnership (with Donna Petras) - Illinois Department of Children and Family Services, 2000-2002, 2003-2005

Foster Parent Recruitment and Retention - Illinois Department of Children and Family Services, 2000

Elderly Case Management Program - Illinois Department of Aging, Chicago Department of Aging, 1999-present

Jane's House Evaluation - Hull House Association/Illinois Department of Corrections, 1999-2000

Project STAR Evaluation - U.S. Centers for Disease Control, 1997-2000

Roots to Wings Evaluation - Metropolitan Family Services/Amoco Foundation, 1996-1999

Management Development - Illinois Department of Children and Family Services, 1995-1999

Dialogues on Child Welfare - Illinois Department of Children and Family Services, 1995-1999

Child Welfare Education Training Partnership (with Robert Weagant) - Illinois Department of Children and Family Services, 1995-1999

Social Work Education Program for Supervisors - Illinois Department of Children and Family Services 1995-1997

Child Welfare Curriculum Development and Evaluation (with Robert Weagant) - U. S. Department of Health and Human Services, 1990-1993

Children of Incarcerated Parents - U.S. Department of Health and Human Services, 1985-1990

Women in Jail - Indianapolis Foundation, 1989-1991

Domestic Violence Intervention (with Sheldon Siegel) - Marion County Indiana Prosecutor's Office, 1988-1990

Parenting Programs in Prison - Church Action for Safe and Just Communities, 1986

Child Welfare Training and Curriculum Development (with Sheldon Siegel) - U.S. Department of Health and Human Services, 1985-1988

Mental Health Curriculum Development (with Lou Beasley) - National Institute of Mental Health, 1982-1984

Evaluation of the YWCA - YWCA of Nashville, 1983

Alumni Survey - University of Tennessee, 1980, 1982

YWCA of the USA Operational Review - YWCA of the USA, 1975-1978
East Cleveland Lead Control Program - U.S. Department of Health, 1973-1975

COMMUNITY SERVICE

African American Family Research Institute Board of Directors, Vice Chair, Founding Member,
2002-present
Chicago Children's Advocacy Center Advisory Committee, 2001-2002
Illinois Volunteers of America Board of Directors, 2000-present
Child Welfare Education and Training Committee, 1998-2002
Hull House International Conference Advisory Committee, 1998-1999
Child Welfare Research Center Advisory Committee, 1997-present
John Howard Association Board of Directors, 1997-present
Metropolitan Family Services Murdock Center Advisory Board, 1996-1998
Salvation Army Emergency Lodge Advisory Committee, 1995-2002
Project Hope Health and Human Services Program Committee, Chair, 1991-1992
Family and Corrections Network Board of Directors, President, 1991
Offender Aid and Restoration of Marion County Board of Directors, 1988-1991
Rethinking Prisons Task Force, 1987-1991
Parents in Prison, Inc. Board of Directors, 1983-1990
Indiana Council of Black Executives, 1986-1991
United Way of Kanawha Valley Board of Directors Executive Committee, 1984-1986
YWCA of Nashville Board of Directors, 1981-1983
East Cleveland Day Care Center, Founding Member of the Board of Directors, 1973-1978
Independent School of East Cleveland Board of Directors, 1975-77; Vice President, 1976-1977

CONSULTATION AND TECHNICAL ASSISTANCE

Casey Family Programs, Pasadena, California, 2000
Vera Institute of Justice, New York, N.Y., 1999-2001
U.S. Department of Justice, Washington, D.C., 1999
Family and Corrections Network, Waynesboro, Virginia, 1986-1991, 1993-1994
University of Wisconsin, Milwaukee, Wisconsin, 1991-1992
Flanner House Community Services Center, Indianapolis, Indiana, 1991-1992
National Institute of Corrections, Washington, D.C., 1991
OAR of Marion County, Indianapolis, Indiana, 1988-1991
Veterans Administration Hospital, Indianapolis, Indiana, 1986-1987
Marshall University Social Work Program, Huntington, West Virginia, 1984-1986
West Virginia NASW, Charleston, West Virginia, 1984-1985
Prentice-Hall, Inc. Englewood Cliffs, New Jersey, 1981-1990
Mental Health Association of New York State, Albany, New York, 1981-1983
National Board of the YWCA, New York, New York, 1978-1986

PUBLICATIONS

- "Social Capital and Family Connections." *Women, Girls & Family Connections*, 4, 5 (August/September, 2003). James Rollin, co-author.
- "Families, Prisoners, and Community Reentry: A Look at Issues and Programs." *Heading Home: Offender Reintegration into the Family*. Vivian L. Gadsden, Ed. Lanham, MD: American Correctional Association, 2003.
- "Fathers in Prison: Responsible Fatherhood and Responsible Public Policies." *Michigan Family Impact Seminars Briefing Report No. 2002-1*, 2002.
- "The Importance of Families in Prisoners' Community Reentry." *ICCA Journal on Community Corrections* (2002).
- "Prisoners and Families: Parenting Issues During Incarceration." *From Prison to Home: The Effect of Incarceration and Reentry on Children, Families and Communities*. Washington, DC: U.S. Department of Health and Human Services, 2002.
- "Fathers in Prison: Responsible Fatherhood and Responsible Public Policies." *Marriage and Family Review*, 32(3/4) (2001).
- Children with Parents in Prison*. Piscataway, NJ: Transaction Publishers, 2001. Cynthia Seymour, co-editor.
- "The Importance of Families in Prisoners' Community Reentry." *Family and Corrections Network Report*, 30, 1 (2001).
- "Prisoners and Their Families and Friends." *Proceedings of the International Conference on Human Rights and Prison Reform*. Washington, DC: National CURE. (2001).
- Serving Incarcerated and Ex-Offender Fathers and Their Families: A Review of the Field*. Vera Institute of Justice, New York: NY, 2001. John M. Jeffries and Suzanne Menghraj, co-authors.
- Foreword. In Patricia O'Brien, *Making It in the "Free World": Women in Transition from Prison*. Albany, NY: State University of New York Press, 2001.
- "Justice Matters are Family Matters: Social Work and the Criminal Justice System." *NASW New York State Chapter Update* 24, 2 (1999, August).
- Kinship Care: Improving Practice Through Research*. Washington, DC: Child Welfare League of America, 1999. James P. Gleeson, co-editor.
- "Kinship Care When Parents Are Incarcerated: Establishing A Research Agenda." *Kinship Care: Improving Practice Through Research*. James P. Gleeson and Creasie Finney Hairston, Eds. Washington, DC: Child Welfare League of America, 1999.

- "Future Directions for Research on Kinship Care." *Kinship Care: Improving Practice Through Research*. James P. Gleeson and Creasie Finney Hairston, Eds. Washington, DC: Child Welfare League of America, 1999. James P. Gleeson, co-author.
- "The Forgotten Parent: Understanding the Forces that Influence Incarcerated Fathers' Relationships with Their Children." *Child Welfare* LXXVII, 5 (1998, September/October).
- "Children with Parents in Prison." Special Issue of *Child Welfare* LXXVII, 5 (September/October 1998). Cynthia B. Seymour, co-editor.
- Children, Families, and Correctional Supervision: Current Policies and New Directions*. Chicago, IL: Jane Addams Center for Social Policy and Research, 1997. Shonda Wills and Nancy Wall, co-authors.
- "Family Programs in State Prisons." *Social Work Roles in the Criminal Justice System*. Albert R. Roberts and Aaron McNeese, Eds. Chicago, IL: Nelson Hall Publishers, 1997.
- Foreword. In Albert R. Roberts (Ed.), *Social Work in Juvenile and Criminal Justice Settings* (2nd ed.). Springfield, IL: Charles C. Thomas, 1997.
- "Unlocking the Prison Cycle for Women." *The Keepers Voice* 17, 4 (1996).
- "How Correctional Policies Impact Father-Child Relationships." *Family and Corrections Network Report* 8 (1996).
- "Foster Care Trends and Issues." In Paul R. Raffoul and Aaron McNeese (Eds.), *Future Issues for Social Work Practice*. Needham Heights, MA: Allyn and Bacon, 1996.
- "Fathers in Prison." In Denise Johnston and Katherine Gables (Eds.), *Children of Incarcerated Parents*. Lexington, MA: Lexington Books, 1995.
- "Family Views in Correctional Programs." *Encyclopedia of Social Work*, 19th Edition. Washington, DC: NASW Press, 1995.
- "Women in Jail: Family Needs and Family Support." *The State of Corrections*. Laurel, Maryland: American Correctional Association, 1992.
- Visiting with Families and Friends: A Handbook for Prisoners*. Indianapolis, Indiana: Indiana University School of Social Work, 1991. Clifford Taylor, co-author.
- "Mothers in Jail: Parent-Child Separation and Jail Visitation." *Affilia: Journal of Women and Social Work* (1991, Summer).
- "Family Ties During Imprisonment: Important to Whom and for What?" *Journal of Sociology and Social Welfare* 17 (1990, December).
- Book Review. *Women at the Wall: A Study of Prisoners' Wives Doing Time on the Outside*, by Laura T. Fishman. *Federal Probation* 4 (1990, December).

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"Parenting Programs in Prison: A Program Development and Research Agenda." *The State of Corrections*. Laurel, MD: American Correctional Association, 1990.

***Prisoners, Families and Children: Building a National Data Base*. Indianapolis, IN: Indiana University School of Social Work, 1990.**

***Fathers in Prison: Visiting Policy Guidelines*. Indianapolis, IN: Indiana University School of Social Work, 1990.**

***Voices and Visions: Proceedings of the First National Conference on the Family and Corrections* (Editor). Waynesboro, VA: Family and Corrections Network, 1989 and Laurel, MD: American Correctional Association, 1990.**

"Men in Prison: Family Characteristics and Parenting Views." *Journal of Offender Counseling and Rehabilitation* 14, 1 (1989).

***Families and Children: A Study of Men In Prison*. Indianapolis, IN: Indiana University School of Social Work, 1989.**

"Regulating Parent-Child Communications in Correctional Settings." *Corrections Today* 51, 2 (1989, April). Peg McCartt Hess, co-author.

"Black Adoptive Parents: Who They Are and How They View Adoption Services." *Social Casework* 70, 19 (1989, November). Vickie Gardine Williams, co-author.

"Prisoner Family Ties: Do They Influence Future Criminal Activity?" *Federal Probation* LII, 1 (1988, March).

"Fathers in Prison: Not Just Convicts." *Nurturing Today for Self and Family Growth* X, 1 (1988).

"Parents in Prison: New Directions for Social Services." *Social Work* 32, 2 (1987, March-April). Patricia Lockett, co-author.

"Parents in Prison: A Child Abuse and Neglect Prevention Strategy." *Child Abuse and Neglect: The International Journal* 9 (1986). Patricia Lockett, co-author.

Book Review. *Mothers in Prison*, by Phyllis Jo Baunach. *Social Work* 31, 6 (1986, November-December).

"Costing Nonprofit Services." In Simon Slavin (Ed.), *Administration in Social Work* (1985, Winter). Also in *Social Administration: The Management of the Human Services*. New York: Haworth Press, 1985.

"Using Ratio Analysis for Financial Accountability." *Social Casework* 66, 2 (1985, February).

***A Survey of Graduates of the University of Tennessee School of Social Work 1979-1983*. Knoxville, TN: University of Tennessee, 1984.**

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"Budgeting for Cash in Human Services Agencies." In Vivian Grove (Ed.), *Executive Management for Women: A Trainer's Guide*. New York: National Board of the YWCA, 1982.

Book Review. *Producing Workshops, Seminars, Short Courses: A Trainer's Handbook*, by John W. Loughary and Barrie Hopson. *Journal of Continuing Social Work Education* 1, 3 (Summer).

"Improving Cash Management in Non-profit Organizations." *Administration in Social Work* 5, 2 (1981, Summer). Also in Simon Slavin (Ed.), *Social Administration: The Management of the Human Services*. New York: Haworth Press, 1985.

"Work Experiences of Social Work Administrators with Different Educational Preparation." *ARETE* 6, 3 (1981, Spring).

"Financial Management in Social Work Education." *Journal of Education for Social Work* 11, 2 (1981, Spring).

"Educational Preparation and Job Performance: Perceptions of Social Work Administrators." *Administration in Social Work* 4, 4 (1980, Winter).

A Survey of Graduates of the University of Tennessee School of Social Work. Knoxville, TN: University of Tennessee, March 1980.

"The Nominal Group Technique in Organizational Research." *Social Work Research and Abstracts* 15, 3 (1979, Fall).

"Organizational Resources and National Orientation: A Comparative Analysis of the Local Units of a National Voluntary Association." Unpublished Ph.D. dissertation, 1978.

National Board of the Young Women's Christian Association, Looking to the Future: A Plan for Study and Action, Cleveland, Ohio: Human Services Design Laboratory, Case Western Reserve University, 1977. Noreen Haygood, Lenore Olsen, and Susan Ostrander, co-authors.

"A Guide for Designing a Management Information System for a Goal-oriented Service Agency." In R. O. Washington (Ed.), *A Strategy for Services Integration: Case Management*. Springfield, Virginia: NTIS, 1974.

Quantification of Human Services Outcomes: A Manual for Applying Program Budgeting, Systems Analysis and Cost Benefit Analysis to Human Service Programs. Springfield, Virginia: NTIS, 1974. R. O. Washington and Douglas Yates Rowland, co-authors.

WORKSHOP/CONFERENCE PRESENTATIONS

"Challenges of Prisoner Re-entry: Family Connections and Social Assets." Paper presented at the Academy of Criminal Justice Sciences 40th Annual Meeting, Boston, Massachusetts, March 2003. James Rollin, co-presenter.

- "Challenges of Prisoner Re-entry: Family Connections and Social Assets."** Paper presented at the Midwest Criminal Justice Sciences Annual Meeting, Chicago, Illinois, October 2002. James Rollin, co-presenter.
- "Challenges of Reunification."** Paper presented at the National Network for Women in Prison, 10th National Roundtable for Women in Prison, New York, New York, June 2002.
- "Juvenile Justice System 103 Years After Jane Addams."** Keynote address given at the There are No Disposable Children Symposium on Juvenile Justice, Chicago, Illinois, April 2002.
- "Fathers in Prisons: Responsible Fatherhood and Responsible Public Policies."** Paper presented at the Michigan Family Impact Seminars, Lansing, Michigan, February 2002.
- "Faculty Issues Faced by All Deans."** Paper presented at the National Association of Deans and Directors of Social Work Programs Annual Meeting, Nashville, Tennessee, February 2002.
- "The Impact of Incarceration on Families."** Paper presented at the National Policy Conference of the National Institutes of Health, Bethesda, Maryland, December 2001.
- "Prisoners and Families: Parenting Issues During Incarceration."** Paper presented at the National Policy Conference: From Prison to Home, Bethesda, Maryland, December 2001.
- "Prisoners and Their Families and Friends."** Paper presented at CURE's International Conference on Human Rights and Prison Reform, New York, New York, October 2001.
- "What Works: Family Importance—Reintegrating Family to Offender."** Paper presented at the Research Plenary of the International Community Corrections Association, 37th Annual Conference, 9th Annual Research Conference, Philadelphia, Pennsylvania, September 2001.
- "Social Work Management and Leadership."** Paper presented at the Illinois-NASW Conference, Lisle, Illinois, September 2001.
- "Improving Outcomes for Children and Families of Incarcerated Parents."** Paper presented at the North American Conference on Fathers Behind Bars and In the Streets, Durham, North Carolina, September 2000. Robin Bates, co-presenter.
- "Mothers in Prison."** Paper presented at the Annual Meeting of the American Academy of Criminology, Toronto, Canada, November 1999.
- "Innovations in Service Delivery."** Paper presented at the National Weed and Seed Conference, Houston, Texas, August 1999.
- "Incarcerated Parents and Their Children."** Keynote address at the Prison Family Support Service's Annual Meeting, Richmond, Virginia, February 1999.

- "Serving Children with Parents in Prison: Working with Incarcerated Fathers."** Paper presented at the Child Welfare League of America's Annual National Conference, Washington, D.C., February 1999.
- "Establishing Policy Directions."** Plenary session moderator and panelist at the Fifth North American Conference on the Family and Corrections, Bethesda, Maryland, September 1998.
- "Improving Outcomes for Young Children of Criminal Offenders Through the Integration of Policy, Research, and Practice."** Workshop presented at Head Start's Fourth National Research Conference, Washington, D.C., July 1998.
- "Keeping Love and Hope Alive: Private Family Visits."** Panelist at the Sixth National CURE Convention, Washington, D.C., June 1997.
- "The Importance of Prison Visitation."** Paper presented at the Sixth National CURE Convention, Washington, D.C., June 1997.
- "Publish or Perish? That is the Question."** Paper presented at the Association of Social and Behavioral Scientists Annual Meeting, Nashville, Tennessee, March 1997.
- "University-Community Partnerships."** Paper presented at the Council on Social Work Education Annual Program Meeting, Chicago, Illinois, March 1997.
- "Mothers in Prison: Children in Crisis."** Keynote address at the Indianapolis Correctional Association Annual Meeting, Indianapolis, Indiana, May 1996.
- "Incarcerated Parents and their Children."** Keynote address at the Child Welfare League of America Children of Incarcerated Parents Institute, Washington, D.C., March 1996.
- "The State of Child Welfare."** Opening address at the Caring for Children and Families in the Next Century Symposium, Chicago, Illinois, May 1995.
- "The Family Side of Justice."** East Carolina University Minority Initiatives Lecture, Greenville, North Carolina, April 1995.
- "Post Conviction Issues in Criminal Justice."** Panelist, Illinois Attorney General's Symposium on Criminal Justice, Chicago, Illinois, January 1994.
- "The Challenge of Social Work Curriculum Design."** Panelist at the Illinois Association of Family Service Agencies Annual Conference, Chicago, Illinois, November 1993.
- "Pro Family Efforts in the Correctional Process."** Paper presented at the Fourth National CURE Convention, Washington, D.C., June 1993.
- "Incarcerated Women and their Children."** Paper presented at the National Council on Crime and Delinquency Women and the Justice System Symposium, San Francisco, California, December 1992.

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- "Women in Jail: Family Needs and Family Supports."** Paper presented at the American Correctional Association 122nd Congress, San Antonio, Texas, August, 1992.
- "Corrections: Twenty-five Years into Reform."** Paper presented at the Crime, the Cities, and Presidential Commissions Conference, Chicago, Illinois, October 1992.
- "Family Support and the Justice System: Alternative Perspectives on a Cycle of Failure."** Special focus session presented at the Family Resource Coalition Fourth National Conference, Chicago, Illinois, May 1992.
- "Using Research Findings for Program and Financial Resource Development."** Workshop presented at the Third North American Conference on The Family and Corrections, Topeka, Kansas, September 1991.
- "Program Strategies for Helping Incarcerated Parents Build Relationships with Their Children."** Teleconference presentation for the National Child Welfare Party Line of the University of Southern Maine, December 1990.
- "Parenting Programs in Prison: A Program and Research Agenda."** Paper presented at the 120th Congress of the American Correctional Association, San Diego, California, August 1990.
- "Ordinary People, Special Problems: Families of Prisoners."** Keynote address at the American Friends Services Committee Regional Forum on Two Hundred Years of Prisons, Dayton, Ohio, March, 1990.
- "Designing and Managing Family-oriented Social Services in Correctional Settings."** Workshop presented at the National Association of Social Workers Annual Conference, San Francisco, California, October, 1989.
- "Regulating Parent-Child Communication in Correctional Settings: Policy Recommendations."** Paper presented at the Second North American Conference on the Family and Corrections, Albany, New York, April 1989.
- "Fathers in Prison."** Paper presented at the Church Action for Safe and Just Communities Annual Seminar, Indianapolis, Indiana, April 1989.
- "Prisoners and Their Families: A Research Agenda."** Paper presented at the Annual Meeting of the Academy of Criminal Justice Sciences, San Francisco, California, April, 1988.
- "Regulating Parent Child Communications in Correctional Settings."** Paper presented at the First National Conference on the Family and Corrections, Sacramento, California, April 1988.
- "Inmate-Family Ties: Important to Whom and for What?"** Paper presented at the 37th Annual Meeting of the Society for the Study of Social Problems, Chicago, Illinois, August 1988.
- "Crime's Other Victims: Families of Adult Criminal Offenders."** Paper presented at the Third World Congress of Victimology, San Francisco, California, July 1987.

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- "Ordinary People, Special Problems: Families of Adult Offenders."** Paper presented at the Church Action for Safe and Just Communities Annual Seminar, St. Louis, Missouri, March 1987.
- "Families, Offenders, and Post-release Success."** Paper presented at the Annual Program Meeting of the Academy of Criminal Justice Sciences, St. Louis, Missouri, March 1987.
- "Social Work in Juvenile and Criminal Justice Settings."** Faculty development workshop presented at the Council on Social Work Education Annual Program Meeting, St. Louis, Missouri, March 1987.
- "Parents in Prison: A Program to Strengthen Families."** Workshop presented at the Central Regional Conference of the Child Welfare League of America, Columbus, Ohio, April 1985.
- "Black Family Support Systems and Violent Behavior Among Black Males: A Call for New Research Directions."** Paper presented at the Association of Social and Behavioral Scientists Fiftieth Annual Conference, Atlanta, Georgia, March 1985.
- "West Virginia Black Administrators, Faculty and Students: State Colleges and Universities."** Paper presented at the West Virginia Black Leadership Summit Annual Meeting, March 1985.
- "Teaching Inmates Parenting Skills to Prevent Child Abuse."** Paper presented at the First National Conference on the Prevention of Homicide and Other Assaultive Behaviors, Nashville, Tennessee, June 1984.
- "Black Women and the Corrections System: New Research Directions."** Paper presented at the Association of Social and Behavioral Scientists Annual Conference, Nashville, Tennessee, June 1984.
- "Financial Administration and Development."** Advanced management institute presented at the National Learning Center of the YWCA of the USA, Cincinnati, Ohio, April 1983; Phoenix, Arizona, 1984.
- "Not Forgotten by a Few: A Look at the Outside Social Networks of Black Male Prisoners."** Paper presented at the National Association of Black Social Workers Annual Conference, Miami, Florida, April 1983.

CERTIFICATE OF SERVICE

I, Gareth White, hereby certify that on this 10th day of March 2004, I caused to be served on the following individuals by regular mail a copy of the foregoing Comments of the Ad Hoc Coalition for the Right to Communicate Regarding Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking, which was filed electronically with the FCC today.

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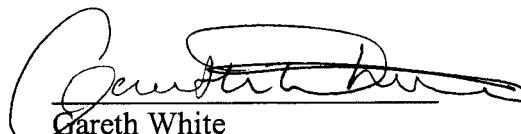
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