



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

November 3, 2016

Sent via email to:
tarrad35@gmail.com

Tarra Simmons, Co-Chair
Washington Statewide Reentry Council

Re: Washington State DOC Phone and Video Visitation Contracts

Dear Tarra:

The Human Rights Defense Center (HRDC) appreciates this opportunity to present our recommendation that the Washington Statewide Reentry Council include, as part of its work, a call on the Governor to issue an Executive Order eliminating all commissions, effectively nothing more than kickbacks, from prison phone and video visitation contracts executed by the Washington State Department of Corrections (DOC). We also recommend that in the future, such contracts be bid on the basis of which contractor can provide the best service at the lowest cost to the consumers who actually pay the bills.

Inmate Calling Services

HRDC is a Washington State non-profit organization and co-founder and leader of the national Campaign for Prison Phone Justice, which was created to reduce the exorbitant rates and fees prisoners' families must pay to stay connected to their loved ones during the critical time of incarceration. As a result of our efforts, the Federal Communications Commission (FCC) ordered rate caps for interstate (long distance) Inmate Calling Services (ICS) that went into effect on February 11, 2014. While a historic first step, over 85% of calls made from detention facilities are to numbers located within the same state. Through the Campaign for Prison Phone Justice we continued to lobby the FCC for regulation of **all** calls made from prisons and jails, and were again successful in obtaining an FCC order in November 2015 that capped the rates for all calls made from state prison systems at \$0.11/min. The FCC increased the rate cap in a second order to \$0.13/min. after the U.S. Court of Appeals for the DC Circuit stayed implementation of the initial rate caps in response to an appeal filed by ICS providers; the rate caps detailed in the second order were also appealed by the same ICS providers and have just been stayed by the appellate court.

801 Second Ave., Suite #800
Seattle, WA 98104
Phone: 206-489-5604 Fax: 866-735-7136
cwilkinson@humanrightsdefensecenter.org

Recognizing the importance of family communication, the DOC implemented a rate of \$0.11/min. on March 17, 2016 for **all** calls made from its facilities even though the FCC's rate cap had been stayed by the DC Circuit. While the DOC made the right decision, this action was a long time coming; the cost of a 15-minute call from the DOC in 2010 was \$18.30 (one of the highest rates in the nation) – that same call today costs just \$1.65.

There is future work to be done to continue to reduce ICS rates in Washington state (HRDC advocates for a rate of \$0.05/min. for all calls with no additional fees), but one immediate action that can be taken is for the Governor to issue an Executive Order barring the DOC from accepting the commission it currently receives from ICS revenue, and further requiring the DOC to reduce ICS rates proportionately and bid future contracts on the basis of which contractor can provide the best service at the lowest cost to the consumers who actually pay the bills – i.e., primarily prisoners' families.

The existing prison phone business model in Washington State only allows for contract negotiations between an ICS provider and the DOC, and the goal for both entities is to make as much profit as possible. This is done by artificially raising the rates that must be paid by the true consumers – prisoners and their families – so the ICS provider can still make a healthy profit after paying commissions to the DOC in exchange for its monopoly ICS contract. Commissions are nothing more than a regressive tax levied against some of our state's poorest and most vulnerable citizens to subsidize the DOC.

As noted above, the DOC reduced ICS rates to \$0.11/min. for all calls on March 17, 2016 under Amendment 6 to Contract No. CDOC6840. (**Attachment 1**). In addition to reducing ICS rates, the amendment also eliminated the Minimum Annual Guarantee (MAG) of \$4,028,400 previously paid annually to the DOC, and replaced it with a 56% revenue sharing commission. **Thus, the DOC receives \$0.062 for each minute of every ICS call, with \$0.048 going to the ICS provider.** We urge the Governor to issue an Executive Order eliminating all commission payments to the DOC and reducing the phone rates for all calls from DOC facilities to \$0.05/min. Nine state prison systems (West Virginia, Virginia, New Mexico, New Jersey, New Hampshire, Rhode Island, New York, Minnesota and Ohio) currently have rates of \$0.05/min. or less for prison phone calls, and Washington State should become the tenth.

The ability of prisoners to communicate with their loved ones while incarcerated is critical in addressing the reentry issues detailed in Governor Inslee's Executive Order 16-05¹, including employment, education, housing and eligibility for many social service benefits. Maintaining family ties through affordable phone calls while incarcerated is equally as important because this not only increases the chances for successful reentry back into society, but will also help reduce the devastating toll that incarceration places on our state's children. In its recent policy report, *A Shared Sentence*, the Annie E. Casey Foundation calls on "correctional systems, communities and state and local public agencies to help stabilize families and preserve their connection during incarceration – and successfully move forward once parents come home."² An estimated 109,000 children in Washington State have had a parent in jail or prison at some point in their childhood.³ Maintaining family ties during times of incarceration not only benefits

¹ Executive Order 16-05: Building Safe and Strong Communities through Successful Reentry.

² <http://www.aecf.org/m/resourcedoc/aecf-asharedsentence-2016.pdf>

³ *Id.*

children and families, but also helps all citizens by effecting smoother reentry into society and lower recidivism rates.

Video Visitation

The availability of video visitation services has increased markedly since the regulation of interstate ICS calls in February 2014. This is due in part to advances in technology, but also because ICS providers have ramped up other for-profit services to replace lost phone revenue due to the FCC's phone rate caps. HRDC supports video visitation as a no-cost to the consumer alternative to in-person visitation for families that may face challenges such as age, distance and cost in traveling to a detention facility to visit their loved ones.

Unfortunately, video visitation services are provided using the same business model as ICS; a model that benefits the provider and DOC at the expense of Washington State prisoners and their families.

In a February 2016 report titled *A New Role for Technology? Implementing Video Visitation in Prison*,⁴ the Vera Institute for Justice reported that “the implementation of a video visitation system had virtually no impact on Washington State’s budget,” and that the ongoing cost to the DOC is \$67,793 annually.⁵ Over \$1.885 billion of the state’s budget is directed to corrections⁶; the annual cost of video visitation represents roughly .0035 of one percent of the DOC’s annual budget. Yet according to the Vera report, a 30-minute video visit in Washington costs \$12.95 (\$0.43/min.), and the DOC collects 23% (\$3.00) for each visit.⁷ In contrast, the King County Jail in Seattle does not accept commissions for video visitation and is able to provide the service at a cost of \$5.00 for a 25-minute visit (\$0.20/min).⁸ More importantly, in countries as diverse as the Netherlands and the Philippines, prisoners are able to enjoy video visitation with friends and family at no cost. There is no reason, other than the existence of a commission, that the per-minute rate for video visitation services at the DOC is well over two times the cost of the same service at the King County Jail, or that it is not entirely free. No one else in America is paying for video visitation except for prisoners and their families.⁹

There is no law or mandate that requires prisons and jails to accept commissions from telecom companies that prey on the weakest, poorest and most vulnerable populations in the state. The ten states that have eliminated ICS commissions¹⁰ have done so as a result of external intervention, either through Executive Order or legislation. Therefore, we urge the Governor to issue an order barring the DOC from accepting commissions for ICS and video visitation contracts, and reducing the rates for those services proportionately. We also urge the Governor to order the DOC to bid future ICS contracts based on which contractor can provide the best service at the lowest cost to the end consumers, and to explore the possibility of providing video visitation at no cost to prisoners or their visitors. The state’s budget would not be affected in any significant way as the result of these actions, but the difference to prisoners and their families would be literally life changing.

⁴ <http://archive.vera.org/sites/default/files/resources/downloads/video-visitation-in-prison.pdf>

⁵ *Id.* at 11-12.

⁶ <http://www.ofm.wa.gov/budget15/recsum/310.pdf> at 2.

⁷ <http://archive.vera.org/sites/default/files/resources/downloads/video-visitation-in-prison.pdf> at 12.

⁸ <http://komonews.com/news/local/video-visitations-popular-for-intmates-at-king-county-jails>

⁹ E.g., services such as Skype and Google video are free.

¹⁰ California, New York, New Mexico, Nebraska, Missouri, Michigan, Ohio, South Carolina, New Jersey, Rhode Island.

Thank you for your time and efforts in these regards. Please let me know if you have any questions or require additional information.

Sincerely,

HUMAN RIGHTS DEFENSE CENTER



Carrie Wilkinson,
Prison Phone Justice Director

Attachment

Attachment 1



State of Washington
Department of Corrections

Contract No. CDOC6840
Amendment No. 6

This Amendment to Contract No. CDOC6840 is made by the Washington State Department of Corrections, hereinafter referred to as "Department" or "DOC", and Value-Added Communications, Inc. hereinafter referred to as "VAC", for the purposes set forth herein.

WHEREAS the parties have expressed interest in moving the hosting of the platform used to support the Inmate Calling Services (ICS) equipment; and

WHEREAS the parties desire to establish a sound plan to implement reduced ICS rates for telephone calls placed by Department offenders, to be compliant with and in accordance with *Order 15-136* adopted by the Federal Communications Commission (FCC) on October 22, 2015 ("FCC Order");

WHEREAS the parties agree to eliminate the current Minimum Amount Guaranteed (MAG) and establish a revenue sharing amount calculated as a percentage of total revenue;

WHEREAS the parties desire to memorialize the end date of the Contract, which is extended to align with the termination date of other offender communications services, thereby facilitating the Department's intent to pursue competitive procurement of bundled communication services at the end of the Contract term;

NOW THEREFORE, in consideration of the terms and conditions contained herein the Department and VAC agree as follows:

1. VAC will complete, at its own expense, the following changes to the inmate telephone system and associated equipment supplied by VAC under the Contract:
 - a. **Update of hosting platform.** Update the current platform used to support the inmate telephone equipment to a hosted solution. This includes an update to all software and hardware used in connection with the platform, including, but not limited to, the monitoring and recording systems to be compatible with the most current version of the Microsoft Windows operating system. A list specifying the upgrade is provided in Exhibit B to this Amendment. On-site training for the new system will be provided to Department personnel at VAC's expense on an as needed basis as communicated to VAC by the Department Contract Manager; and
 - b. **Removal of unused equipment.** Remove all equipment and supplies replaced by VAC in response to Department requests for technology refreshes, as allowed in the Contract. Removal of equipment will be completed at VAC's expense, within ten (10) business days of the technology refresh.
2. Effective March 17, 2016, VAC will reduce the rates and charges for intrastate and interstate inmate telephone calls made using the inmate telephone system (ITS) to rates and charges that are no greater than those allowed by *Order 15-135* adopted by the FCC on October 22, 2015.

The parties hereby agree that the rates charged to users of the ICS will at no time exceed the following:

- a. **Inmate Telephone Service Call Rates.** The per-minute-of-use call rate shall not exceed the maximum rates authorized by the Washington Utilities and Transportation Commission (UTC) and the FCC. Interstate and intrastate ITS calls, whether made using a collect, debit,

prepaid/ AdvancePay™ format, or any other format shall at no time exceed the maximum eleven cents (\$0.11) per minute of use.

The rates charged are exclusive of taxes, and other amounts collected by VAC on behalf of, or paid to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by VAC in connection with such programs.

- b. **Ancillary Fees.** VAC may charge certain ancillary fees, which at no time shall exceed the maximum rates as authorized by the state UTC and the FCC Order. The parties agree that the maximum allowed fees shall be:

Fee for automated payment for credit card, debit card, and bill processing fees	\$3.00 per use
Fee for payment using live operator	\$5.95 per use
Fee for paper bill/statement	\$2.00 per use
Fee for use of third-party money transmitter (e.g., MoneyGram, Western Union, credit card processing, transfers from third-party commissary accounts)	The exact fee from the third-party provider passed through directly to customer with no markup

3. **Elimination of the MAG.** The parties hereby agree to the complete elimination of the MAG effective March 17, 2016. The prorated MAG, due to the Department for the period of January 1, 2016 through March 16, 2016, shall be paid to the Department no later than April 30, 2016.

Effective March 17, 2016 the MAG and other commission and revenue share payable by VAC under the Contract will be replaced with a fifty six percent (56%) call revenue sharing amount calculated monthly, as further described below. Call revenue shall mean all revenue generated by every completed intrastate call that is accepted by an end user and billed via a local exchange carrier or prepaid to VAC. Call revenue on which monthly revenue share will be paid does not include: (i) taxes and tax-related surcharges; (ii) credits; (iii) ancillary fees; (iv) revenue from interstate calls; and (v) any amount Company collects for, or pays to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by Company in connection with such programs. This call revenue sharing amount shall be due to the Department in quarterly payments in arrears due no later than the 30th day of each of these months: July, October, January, and April. Final call revenue sharing payments due under the Contract shall be paid within 60 days of the Contract end date.

4. **Contract Termination Date.** The Department previously intended to pursue competitive solicitation of the ICS to begin following the end of the original Contract term. However, the Department delayed competitive procurement due to uncertainty in the ICS market associated with pending FCC proceedings. In light of a recent partial stay granted for the FCC Order, and in an effort to align contract termination dates for offender communications services, including telephone services, so as to facilitate competitive procurement of bundled communication services at the end of this Contract term, the parties agree that the Contract term shall extend until December 31, 2018 or until full implementation of a new Contract resulting from the competitive solicitation, whichever is later. The

Department agrees to give VAC ninety (90) days advanced written notice of the full implementation date.

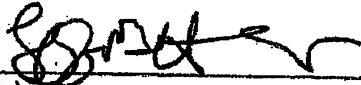
5. **VAC Cooperation at End of Contract.** Upon final termination of CDOC6840, VAC agrees to reasonably cooperate with the Department and any new Contracted vendor in accomplishing an efficient and effective transfer of responsibilities. All equipment and supplies currently owned or serviced by VAC under the current Contract at the time of full implementation of the new Contract will be removed within ten (10) business days of full implementation. The removal of equipment and supplies will be conducted at VAC's own expense.

All other terms and conditions remain in full force and effect. The effective date of this amendment is the date of final execution.

THIS AMENDMENT, consisting of three pages and two (2) exhibits is executed by the persons signing below who warrant that they have the authority to execute the Contract amendment.

VALUE-ADDED COMMUNICATIONS, INC.

DEPARTMENT OF CORRECTIONS

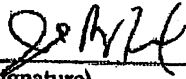


(Signature)
Jeffery B. Haidinger

(Printed Name)
President and COO

(Title)
3/23/16

(Date)



(Signature)
John R. Nispel

(Printed Name)
Acting Contracts Administrator

(Title)
3/17/16

(Date)

Approved as to Form:
This amendment format was approved
by the office of the Attorney General.
Approval on file.

EXHIBIT A

Inmate Telephone Handsets

WINTEL 7090SSE Cord-On-Top Inmate Telephone




- Built-in user controlled volume "LOUD" button for ADA mandated volume control (must be user-controlled volume amplification AND volume must reset to normal with on-hook to meet ADA requirements).
- 180 rotating swivel elbow with at least 1,000# pull strength
- Allows for handsets with extremely short cords to be hung.
- Raised bump on '5' digit key.
- Heavy duty 14 gauge brushed stainless steel provides rugged vandal resistant telephone housing designed and built for inmate use.
- Confidencer technology, built into every dial, filters out background noise at the user's location, allowing better sound to the called party.
- All-in-one electronic dial features modular incoming line and handset connections for quick maintenance. Carbon and DuraClear® Handsets have separate 4-pin connections.
- Heavy chrome metal keypad bezel, buttons, and hookswitch lever withstand abuse and vandalism.
- Armored handset cord is equipped with a steel lanyard (1000# pull strength) and secured with a 14 gauge retainer bracket for maximum vandal resistance. 
- Handset has sealed transmitter and receiver caps, suitable for heavy use and abuse locations.
- Pin-in-head security screws minimize tampering
- Hearing aid compatible and FCC registered
- US: 1DATE05BITC-254, IC: 3267A-ITC254

EXHIBIT B

Upgraded Inmate Telephone Service Platform

Focus HMP

- **Focus HMP (Host Media Processing) Single Tenant System hosted in Data Center**
- **V-Track V5 Secure Investigative Interface with Expanded Feature Set**
- **WebITS Secure Administrative Interface**
- **Import of Existing Call Records and Recordings**
- **Hosted Correctional Industries Commissary IVR**
- **Full Compatibility with existing Washington DOC Interfaces**
 - **STG (Security Threat Group) Data Exchange**
 - **Commissary Ordering via Inmate Phones**
 - **Inmate Mugshot Data Exchange**
 - **OMNI JMS (Jail Management System) Interface**