

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 482.00: TELEPHONE ACCESS AND USE

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482.01: Purpose

The purpose of 103 CMR 482.00 is to establish Department procedures regarding access to, use of, and the monitoring and/or recording of, inmate telephones and telephone calls. Inmates shall have access to reasonably priced telephone services. Contracts for services shall provide the broadest range of calling options consistent with the requirements of sound correctional management and comply with all applicable state and federal rules and regulations. 103 CMR 482.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

482.02: Cancellation

103 CMR 482.00 cancels all previous Departmental and institutional policy statements, bulletins, directives, orders, notices, rules and regulations regarding inmate telephone calls, as well as inmate telephone access and use, which are inconsistent with 103 CMR 482.00.

482.03: Applicability

103 CMR 482.00 is applicable to all inmates in all Department institutions and facilities.

482.04: Access to Regulation

103 CMR 482.00 shall be maintained in the central policy file of the Department and shall be accessible to all Department employees. A copy of 103 CMR 482.00 shall also be maintained in each Superintendent's Central Policy File and at each inmate library.

482.05: Definitions

Call Detail. Information concerning a telephone number called, including, but not limited to, the PIN of the caller, the number called, the duration of the call, the detection of three-way switching, and the date and time of the call.

Commissioner. The chief executive officer of the Department of Correction.

Consular Officer/Consul. A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.

Department. Department of Correction.

Diplomat. An official of a foreign government assigned to an embassy in Washington, D.C. Diplomats may also perform consular functions and should be treated the same as a consular officer.

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Foreign National. Any person who is not a U.S. citizen, including resident aliens who have a resident alien registration card.

Global Access Number. A telephone number, designated by the Deputy Commissioner of the Prison Division, and available for use by all inmates housed within the Department of Correction.

Inmate Telephones. Telephones designated for the exclusive use of inmates.

PIN Number. An authorized personal identification number (PIN) assigned to each inmate for use with inmate telephones.

Special Status Inmates. Inmates, detainees and/or civil commitments held with special, specific conditions of custody, which statuses include, but are not limited to, disciplinary detention, administrative segregation, protective custody/special housing unit, a Departmental disciplinary unit, or inmates on awaiting action status. Said inmates may be housed in general population, depending on the custody conditions under which he or she is being held.

Superintendent. The chief administrative officer of a correctional institution.

Telephone Monitoring. The monitoring and/or recording of telephone conversations of an inmate.

482.06: Institution Procedures for Inmate Telephone Access and Use

(1) General. Each Superintendent shall develop procedures to insure that inmates have access to telephones. Access should be regulated in such a manner as to provide for the orderly and safe use of telephones by inmates.

(2) Inmate Telephone Use. Each Superintendent shall make arrangements to have an adequate number of inmate telephones available for inmate use. Institution business telephones shall not be used for inmate telephone contact except in emergency or unusual situations (*e.g.*, seriously ill family member or oral arguments for Court hearings) and then only with the permission of the Superintendent or a designee. Outgoing telephone calls only shall be allowed, subject to the conditions authorized by 103 CMR 482.00.

(3) Inmate Telephone Restrictions.

(a) Inmate telephone calls shall be placed as either a collect call or a pre-paid debit call, all utilizing an automated operator. A transfer of money from personal funds to a debit phone account must be done prior to making debit calls. All international calls shall be debit calls.

(b) Direct dialed calls, three way or conference calling and calls to 411, 800, 900, 550, 976 or other multiple long distance carriers are prohibited, except upon the approval of the Commissioner.

(c) Inmates may be allowed a total of 15 telephone numbers authorized for use in conjunction with the inmate's PIN. Five of these numbers shall be reserved for attorney telephone numbers.

(d) All inmate telephone calls, except calls to pre-authorized attorney telephone numbers, a foreign national's pre-authorized telephone number for his or her consular officer or diplomat, pre-authorized clergy telephone numbers and pre-authorized licensed psychologist, social worker and/or mental health professional telephone numbers are subject to telephone monitoring.

(e) All inmate telephone calls are subject to duration limits, or other restrictions such as authorized calling hours as determined by procedures developed by the Superintendent of each institution.

(f) All inmate telephone calls require positive call acceptance by the called party prior to the call being connected. Passive acceptance of inmate calls may be allowed with the approval of the Deputy Commissioner of the Prison Division, Director of Administrative Services, or Superintendent. The telephone system shall use a pre-recorded name to announce who the call is from.

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(g) All inmate telephone calls to the North American Dialing Plan shall contain a pre-recorded announcement identifying that the collect call is originating from an inmate at a Massachusetts Department of Correction (institution) shall indicate that the call is subject to being recorded, and shall indicate that any attempt to access a three-party line or conference call will cause the system to immediately disconnect the call. This announcement may be played at various intervals during all telephone calls subject to monitoring and/or recording.

(h) An inmate's telephone privileges, with the exception of attorney telephone calls or a foreign national's call to his or her consular officer or diplomat, may be suspended or curtailed pending either disciplinary action, administrative action, or as part of a disciplinary sanction.

(4) Suspension of Inmate Telephone Use. A Superintendent or a designee may suspend telephone usage by the inmate population on an emergency basis when, in the Superintendent's opinion, telephone use by the entire inmate population presents a threat to the institution's security. After 24 hours, the Superintendent or designee, if necessary, shall authorize a continuation of the suspension of telephone use, to be reviewed every 24 hours thereafter and reauthorized as necessary.

(5) International Debit Calling. Inmates shall be allowed to call five international numbers in addition to the ten personal numbers that can be called collect/debit. International debit calling is permitted to areas where North American Dialing Plan collect calls cannot be completed. Prior to placing any international calls, the inmate must complete an Inmate International Debit Request Form to transfer money from his/her personal account to a debit account for the purpose of placing an international telephone call. The inmate is responsible to pay for the call prior to the call being completed.

(6) Commissions. All Commissions received that are derived from inmate calling shall be returned to the General Fund of the Commonwealth. This shall be done on a monthly basis by the Director of Administrative Services.

(7) Reports detailing all receipts and expenditures of inmate telephone commissions shall be kept on file by the Director of Administrative Services.

482.07: Inmate Telephone Use for Court, Attorney Contact, Consular Officer/Diplomat Contact, Pre-approved Ordained Clergymen Contact, and Licensed Psychologist, Social Worker, and/or Mental Health and Human Service Professionals Contact

(1) Telephone calls to pre-authorized attorney, consular officer/diplomat numbers, or the Global Access numbers, shall not be suspended or curtailed except in accordance with 103 CMR 482.06(4) or 482.08. Telephone calls to pre-authorized attorney numbers, consular officer/diplomat numbers, or the Global Access numbers, shall not be subject to telephone monitoring or recording.

(2) Inmates shall be allowed to make unmonitored and unrecorded collect/debit telephone calls to their designated and pre-approved ordained clergymen, pre-approved and licensed psychologists, social workers, and/or mental health and human service professionals.

No clergyperson employed by the Department of Correction and no professional employed by the Department, or contracting to provide services on behalf of the Department, may be designated by an inmate, nor shall such individuals be pre-approved for Pin number purposes.

In order to complete the pre-approval process, the inmate must provide a designation of the clergyperson or professional and a letter from the clergyperson or professional attesting to the professional relationship that exists with the inmate. The Superintendent may require additional documentation as necessary.

482.08: Telephone Access and Use for Special Status Inmates

(1) Disciplinary Detention. Inmates confined in disciplinary detention shall not have access to a telephone, except to directly contact a court, an attorney, or a consular officer/diplomat, unless authorized by the Superintendent or a designee. Inmates placed in disciplinary awaiting action status shall have telephone access to include two personal telephone calls per week lasting 15 minutes in duration. In addition, disciplinary awaiting action inmates shall have access to a telephone to directly contact a court, attorney or his/her consular officer or diplomat.

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(2) Awaiting Action Status. Institution policy shall provide for the manner and extent of telephone access for inmates confined in administrative segregation and administrative segregation awaiting action status.

(3) Protective Custody/Special Housing Unit and Protective Custody/Special Housing Unit Awaiting Action Status. Institution policy shall provide for the manner and extent of telephone access for inmates confined in protective custody/special housing unit or protective custody/special housing unit awaiting action status.

(4) Department Disciplinary Unit. Inmates housed in the Department Disciplinary Unit shall have telephone privileges as authorized by the Superintendent.

(5) Mental Health Watch Inmates. Inmates on mental health watch status pursuant to 103 DOC 650.09: *Mental Health Consultation in the Disciplinary Process* shall have telephone privileges as authorized by the Superintendent, but only to the extent that said privileges are not contraindicated in the inmate's mental health treatment plan developed pursuant to 103 DOC 650: *Mental Health Services*.

(6) Other Special Status. Other special status inmates may be permitted to make emergency telephone calls (in addition to calls permitted under 103 CMR 482.07), upon the approval of the Superintendent.

482.09: Telephone Monitoring

(1) Inmate acceptance of a PIN and use of inmate telephones shall be deemed as consent to the conditions and restrictions placed upon inmate telephone calls, including call monitoring, recording, call detail, and pre-recorded announcements.

(2) Procedures for the authorization and changing of inmate pre-authorized telephone numbers shall be developed to occur no less than on a quarterly basis and as outlined in institutional procedures authorized by the Superintendent.

(3) Access to a particular telephone number, including pre-authorized numbers, may be blocked at the discretion of the Superintendent.

482.10: Downloading Recorded Voice Conversations

All downloading of recorded voice conversations to compact discs (CDs) or other recording media must be done by Department staff. This pertains to downloading of voice conversations for Department investigations or relative to any request received by any other law enforcement agency.

482.11: Responsible Staff

The Superintendent of each institution shall be responsible for developing related institutional procedures, in addition to implementing and monitoring 103 CMR 482.00.

482.12: Annual Review

103 CMR 482.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the Central Policy File indicating revisions, additions or deletions which shall be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

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482.13: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 482.000 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 482.00.

REGULATORY AUTHORITY

103 CMR 482.00: M.G.L. c. 124, § 1 (b), (c) and (q) and c. 272, § 99.