

“A sentence to jail or prison should not include the additional punishment of being cut off from family, friends, legal assistance, and community resources.” – Federal Communications Commission, 2021

“You’re more than your worst mistake, right? So are they.” – Denise Rock, Executive Director, Florida Cares Charity Corporation, speaking about inmates in jails and prisons



**Policy Briefing: Addressing the High Costs of Phone Calls
from the Alachua County Jail and Other Related Issues**

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To the Alachua County Commission from the Sunshine Forum:

The Sunshine Forum and ACLC asks that the Alachua County Commission provide the necessary funding on a yearly basis to the Alachua County Jail so that inmates and their conversation partners are guaranteed 15 minutes of phone call time per day. This service would be free to all parties. We also request that Alachua County not receive any remuneration from these provided phone services.

This policy concerning telephone services, and the set of reforms endorsed by the Sunshine Forum and ACLC will reduce recidivism, reduce the financial hardship the incarceration of loved ones has on their families and eliminate the unseemly profitable commissions the Alachua County Jail now receives from precious communications between incarcerated persons and their loved ones. It will eliminate a de facto regressive tax on the poorest Floridians, will promote re-integration and reduce the placement of incarcerated persons' children in the foster care system. This policy will also introduce consumer centered competition into the inmate communication services market and reduce the impact of pretrial incarceration including greater access to inmate legal counsel.

Data shows that greater communication between inmates and family/community members will promote public safety within the County and, through a reduction in the prison population, reduce costs to the state. *Our organization is merely asking for phone calls – noting the quality and rudimentary nature of the technologies used to make such calls within Alachua County's Jail – to be made free so that inmates and the individuals they call are guaranteed a BASELINE level of communication.*

The Issue

“The FCC in 2021 highlighted how a national survey identified the cost of phone calls as the primary barrier preventing incarcerated people from keeping in touch with loved ones”¹

The Alachua County Jail contracts with Securus to provide telephone services to inmates within the jail. Inmates are given 15 minutes of phone calls per day. Only outgoing calls are permitted from jails and prisons, and they are collect calls – meaning that the individuals who receive them, typically the families of incarcerated persons, are charged by the minute. The price of a 15-minute phone call from the Alachua County Jail is \$3.15.² By contrast, the cost of a 15-minute phone call from a Florida Department of Corrections facility is \$2.025.³ *Immediately, then, it is evident that jail calls are more expensive than prison calls.*

As the FCC indicated in a 2021 report, the cost of phone calls is the primary barrier preventing incarcerated people from keeping in touch with loved ones. To explain WHY the cost of phone calls becomes such a barrier, the reverse-competitive market of inmate telephone services must be explained. The FCC observed in their 2021 report how:

[b]ecause correctional facilities generally grant exclusive rights to service providers, incarcerated people must purchase service from ‘locational monopolies’ and subsequently face rates far higher than those charged to other Americans...providers of telephone services to incarcerated people have monopoly power in the facilities they serve. The record demonstrates...that incarcerated people have no choice in the selection of their calling services provider. The authorities responsible for prisons or jails typically negotiate with the providers of inmate calling services...Once the facility makes its choice—often resulting in contracts with providers lasting several years into the future—incarcerated people in such facilities have no means to switch to another provider, even if the chosen provider raises rates, imposes additional fees...or offers inferior service. Therefore, no competitive forces within the facility constrain providers from charging rates that far exceed the costs such providers incur in offering service. Because correctional officials typically allow only one provider to serve any given facility, however, there are no competitive constraints on a provider’s rates once it has entered into a contract to serve a particular facility...because the bidder who charges the highest rates can afford to offer the

¹ Federal Communications Commission. 2021. Washington, D.C. 20554. *FACT SHEET—Rates for Interstate Inmate Calling Services*. WC Docket No. 12-375. THIRD REPORT AND ORDER, ORDER ON RECONSIDERATION, AND FIFTH FURTHER NOTICE OF PROPOSED RULEMAKING

² Sixth amendment to contract between Alachua County Board of County Commissioners and Securus Technologies, LCC executed on December 14th, 2021.

³ Contract between the Florida Department of Corrections and Global Tel*Link executed on December 7th, 2020.

confinement facilities the largest location commissions, the competitive bidding process may result in higher rates. Thus, even if there is 'competition' in the bidding market, it is not the type of competition...having an ability to exert downward pressure on rates for consumers."⁴

What does this mean? Inmate telephone services providers contract with Board of County Commissioners to provide telephone services to inmates of the Alachua County jail. Whenever an inmate makes a call, the County will receive a commission from it, like a sale. Each month, Securus will transfer the totality of that month's commissions to the County. Therefore, telephone companies compete by charging inmates the highest rates possible so that the counties will receive the maximum commissions and be most likely to select them. This competition creates a regressive tax on the families of incarcerated persons, who are forced to use this service to talk to their loved ones, or work or rental offices or legal counsel. Inmates have no choice but to use such contracted services, so the families of incarcerated persons are forced to pay unbearable rates in order to stay connected.

In examining the 5th Amendment of Alachua County's Contract with Securus:

As of the Fifth Amendment Effective Date and throughout the Term of the Agreement, Provider will guarantee a minimum annual revenue to the County of \$340,000 based on current ITS call volume."

"As of the Fifth Amendment Effective Date, Provider will reduce ITS commissions from 59% to 41.2% but will begin to pay commission on interstate calls."⁵

In short, the Alachua County Commission at a minimum receives hundreds of thousands of dollars in commissions each year from Securus Technologies from 15-minute phone calls between incarcerated persons and their families.

As a result of this anti-competitive process, the FCC found that:

- 1) Besides expensive phone calls being the primary barrier to contact with incarcerated persons, "some low-income families are forced to choose between telephone calls to incarcerated family members and buying essential food and medicines."

⁴ Federal Communications Commission, 2021.

⁵ Fifth amendment to contract between Alachua County Board of County Commissioners and Securus Technologies, LCC executed on May 21st, 2020.

- 2) The FCC reaffirmed what the Ella Baker Center for Human Rights concluded in 2015: “one in three families of incarcerated people went into debt to pay for phone calls and visits.”
- 3) The FCC concluded that “Egregiously high rates and charges and associated unreasonable practices for the most basic and essential communications capability – telephone service – impedes incarcerated peoples' ability to stay connected with family and loved ones, clergy, and counsel, and financially burdens incarcerated people and their loved ones.”⁶

But what specific costs and difficulties do inmates of Alachua County's Jail encounter? In the Alachua County Jail, if an inmate cannot pay his bail and is detained pre-trial, at a bare minimum:

- 1) They face a \$4/day subsistence fee
- 2) Their loved ones face a \$3.15 fee for each day's 15-minute phone call
- 3) Per Florida Statute 27.52⁷, they face a \$50 fee to be determined indigent so that they can receive representation from a public defender

The Florida Speedy Trial Rule provides that once a person has been arrested, they must be brought to trial within:

- 1) 175 days of their arrest if charged with a felony: or
- 2) 90 days of their arrest if charged with a misdemeanor.

Taken altogether, if someone remains in Alachua County's Jail for the maximum amount of time legally allowed for a felony or misdemeanor, from subsistence fees, phone calls and the public defender fee alone, they face a cost of \$721.40 for a misdemeanor or \$1,355.50 for a felony.^{8,9}

⁶ Federal Communications Commission, 2021.

⁷ “A person seeking a public defender under S.27.51 based on an inability to pay must apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.”

⁸ These costs are by no means the ONLY costs incarcerated persons and their families will face—court fees, jail laundry costs and more add to this burden.

⁹ Because calls are collect, the families of incarcerated persons incur them, but it is reasonable to assume incarcerated persons and their families share finances, so the burdens are borne by all of them.

Princeton Alumni Weekly provides some perspective on the additional effects of pretrial incarceration due to an inability to pay bail:

Beyond the obvious unfairness of such a system, those stuck in jail often lose their jobs or their place in school. Their families also suffer from their absence, financially and emotionally. Studies have shown that people stuck in jail are more likely to be convicted and sentenced to prison when they do go to trial. Knowing that, poor defendants are more likely to plead guilty to the charges against them, which leaves them with criminal records that may impede their employment prospects in the future.

Therefore, the costs of phone calls in this instance add to the burdens faced by a) individuals detained pretrial because they cannot pay their bail and b) their families, who have committed no alleged crimes in this process. *The burden of these costly phone calls, combined with other costs of incarceration, are disproportionately borne by the family members of incarcerated persons, and increase the likelihood that these family members, including their children, will be forced to choose between calls and paying rent or buying food.*

The US Supreme Court has enshrined the notion that individuals should be presumed innocent until proven guilty:

The law presumes that persons charged with crime are innocent until they are proven, by competent evidence, to be guilty. To the benefit of this presumption the defendants are all entitled, and this presumption stands as their sufficient protection, unless it has been removed by evidence proving their guilt beyond a reasonable doubt. – *Coffin v. United States*, 156 U.S. 432 (1895)

So why are these individuals and their families so devastated financially – namely by phone calls – when they are presumed innocent under the law?

Additionally, the Prison Policy Initiative found in 2015 that the median annual income of incarcerated individuals was \$19,185 pre-incarceration, which is 41% lower than non-incarcerated individuals of similar ages. This means that for incarcerated persons with families, the financial burden of such costs will be even greater because the families they have been raising on that income are already limited in their finances. While family members on the outside will pick up the tab for costly phone calls, those family members and their incarcerated loved ones likely will also have to pool their resources to meet other costs of incarceration, including purchases at the inmate commissary, for which families of incarcerated persons must put money on their incarcerated loved ones' accounts.

Furthermore, in fiscal year 2020-2021 the acquittal/dismissal rate for defendants going to trial was 19%.¹⁰ The conviction rate of cases going to trial was only 56%. An additional 25% of defendants plead out after entering the trial phase. While many people may view these defendants as guilty, it is worth noting they felt confident enough they were either innocent or the charges against them unfairly severe that they assumed the risks associated with proceeding to a jury trial before being offered a plea. This is not a presumption of innocence!

The current costs of phone calls from the Alachua County Jail therefore cannot continue. Our proposed policy—15 minutes of telephone calls per day guaranteed in the Alachua County Jail, free of charge to inmates and the individuals who receive their calls, with no commissions received by the Alachua County Commission – must be enacted.

Recidivism

Incarcerated people who have regular contact with family members are more likely to succeed after release and have lower recidivism rates because they are able to maintain vital support networks.¹¹

The inverse relationship between incarcerated individuals maintaining contact with their loved ones and recidivism is well-researched and documented in studies reaching back to the 1970s.^{12 13} In 2016, the Department of Corrections reported that 25.4% of the inmates who left Florida's prisons will recidivate within three years.¹⁴ *Therefore, the attention to recidivism cannot be understated. By promoting increased contact between incarcerated people in the Alachua County Jail and their family members, the County can play a role in helping reduce recidivism within Alachua County and make our community safer.* On a state level, the County through the proposed policy can help all of Florida's communities become safer and help the state's correctional facilities by helping to reduce Florida's 25.4% recidivism rate.

¹⁰ Office of State Courts Administrator. Trial Court Statistics Search Tool. (Accessed August 15, 2022).

¹¹ Federal Communications Commission, 2021.

¹² Naser, Rebecca & Visher, Christy. 2006. "Family Members' Experiences with Incarceration and Reentry. *Western Criminology Review* 7: 20-31.

¹³ Shanahan, Ryan, and Sandra Villalobos Agudelo. 2012. "The Family and Recidivism". *Prison Policy Institute and Vera Institute of Justice*: <https://www.prisonpolicy.org/scans/vera/the-family-and-recidivism.pdf>

¹⁴ Florida Department of Corrections Office of Strategic Initiatives. *Florida Prison Recidivism Report: Releases from 2008 to 2019*, 2021.

Costs to the state reduced and families preserved

The FCC concluded that:

- 1) Rate reform will reduce these financial burdens and also promote increased communication which preserves essential family ties, allowing incarcerated people to parent their children and connect with their spouses, helping families stay intact, and decreasing the trauma suffered by children whose parents have been incarcerated
- 2) The benefits of lowering inmate calling services rates also ripple throughout communities and society in other tangible and intangible ways” because “making communications less costly and easier to use for incarcerated people promotes their ability to plan for housing, employment, and successful integration into communities once released from prison. In financial terms, increased communications helps reduce repeated incarceration, which benefits society by saving millions of dollars in incarceration-related costs annually. Additionally, the record shows that the ability to communicate regularly with families reduces foster placement of children of incarcerated people, which result[s] in measurable savings to society of tens of millions of dollars per year.¹⁵

Therefore, the issues of financial hardship and overall well-being for the families of the incarcerated, public safety, the welfare of the children of incarcerated persons, the presumption of innocence, and expenses to the taxpayer in order to house inmates can all be addressed within the County by making 15 minutes per day of phone calls from Alachua County’s Jail free of charge to all parties. *Eliminating the commissions the Alachua County Commission receives from these telephone calls, which adds to the financial burden of incarcerated people and their families, is just the moral thing to do.*

On a statewide scale, the County’s adoption of this policy can help the state save dollars due to emptier correctional facilities and less children forced into the foster care system through strained families. Continued ties between incarcerated persons and their loved ones will help preserve their families, and incarcerated people will more easily reenter the world and start new, reformed lives.

¹⁵ Federal Communications Commission, 2021.

Funding

Proposal 1: that the Alachua County Commission on an annual basis transfer to the Alachua County Jail a reimbursement or disbursement such that the Alachua County Jail can fulfill the our request; or

Proposal 2: That the Alachua County Jail, from its own existent funds, utilize such money to fulfill the our request.

Cost Estimate (based on publicly available data):

According to the Florida Department of Corrections Bureau of Research and Data Analysis, in January 2021, the average daily population of the Alachua County Jail was 797 inmates.¹⁶

Assuming each inmate makes a 15-minute call per day, and further assuming the Board of County Commissioners retains the same contract terms and conditions with Securus, the estimated cost would be:

797 inmates multiplied by \$3.15 (rate for a 15-minute call) = \$2,510.55 for one day
 = **916,350.75 annually**

Anecdotes

Kevin Scott of Just Income GNV and Florida Prisoner Solidarity, on behalf of those organizations, has attested to the poor quality of telecommunications in the Alachua County Jail and within correctional facilities across the state. It is difficult to hear phone conversations, calls sometimes drop, and other issues have been reported. These telephone services are not luxury items or sophisticated devices; they are comparable to 90s era payphones. *Fundamentally, in asking for such services to be free, we are asking for a BASELINE level of communications to be guaranteed to incarcerated persons in Alachua County Jail and those they call.*

¹⁶ Excludes the number of inmates at the juvenile detention facility or work camp within the county.

Bruce Miller, Public Defender for Florida's 1st Judicial Circuit, Gene Mitchell, a private attorney in the Pensacola area, and Rodney Jones, a former member of the NAACP in that area, have emphasized the poor quality of and issues with telephone services from Escambia's County Jail, as well as the recording of confidential calls between attorneys and their clients by contracted telephone companies. Especially due to COVID, inmates were increasingly reliant on telephone services as their only means of maintaining contact with their loved ones. *These telephone services are costly, of poor quality and not dependable – and when calls drop or do not function properly, these individuals have stressed that it can be challenging or impossible to receive refunds due to the minute-by-minute rate.* For the reasons emphasized within this handout, this is a waste of precious dollars and is a significant issue—not to mention the violation of attorney-client privilege which can occur. If such issues have been reported at other jails within Florida, and have been corroborated by Kevin Scott and others within his organizations, such problems are similarly existent within Alachua County's jail and across the state.

Gene Mitchell has indicated, furthermore, that during COVID, it was nearly impossible between the months of March and December of 2020 for him to communicate with his clients. GTL provided video tablets due to the Escambia County Jail's pause on in-person visits, but these tablets had audio and visual errors (screeching sounds, black screens, et cetera) and presented similar issues with requested refunds. Mr. Mitchell reported that when he emphasized these problems to GTL, he was met with indifference and was forced to bring the issue before the Escambia County Commission, which was so unaware of the problem, commissioners were unable to identify what GTL was. On May 24th, 2022, the problems returned in full swing. Gene Mitchell reported that out of three virtual visits he had with clients, two were compromised by issues with GTL's video tablets – from black screens to screeching sounds that drowned out his and his clients' voices. Additionally, Gene reported that Rodney Jones again encountered the same problems with GTL's technology, and further that an inmate named Brandon and his father Van experienced such issues as well. Gene mentioned again that, when he went to GTL for redress, their employee brushed off his concerns and issues with GTL's equipment and blamed the problem on Gene's technology. These repeated problems emphasize the neglect of GTL in guaranteeing baseline communication services or even addressing issues, and the severity of the inmate voice and video communication situation overall. They also stress the dire need for current and long-term reform. These experiences further illustrate the depth of the

problem concerning especially the ignorance of officials in positions of influence, like Escambia's County Commissioners.

Carlos J. Martinez, Public Defender for the 11th Circuit, has attested to three ideas. First, the idea that increasing the amount of time inmates can spend communicating with loved ones and removing the barrier of cost would promote safer jails, as inmates would become more occupied with their own matters and engage in less conflicts with each other and guards. Additionally, he emphasizes that making phone calls from correctional facilities would assist inmates with reintegration upon release. He finally concludes due to COVID, court backlogs and other issues, has lengthened pretrial stays in jails in Florida. He references how the average length of stay in Miami-Dade County jails is 50.49 days as opposed to 36 days pre-COVID. Thus, if this issue is reflected statewide, more inmates in the Alachua County Jail likely are incurring costs and the other problems presented within this handout. Lastly, Martinez has observed the recording of confidential calls between attorneys and inmates and religious advisors and inmates, attesting to the need to restrict the ability of contracted telephone companies to record calls.

Denise Rock, Executive Director and founding member of Florida Cares Charity Corp., a nonprofit based in West Palm Beach that works with the incarcerated and their families, has emphasized the need, for all the reasons laid out within this handout, for reform within Florida of costly phone calls from jails and prisons. Her organization, FL Cares, partnered during the 2021 Legislative Session with the organization Worth Rises to write legislation addressing this issue which Senator Lauren Book sponsored. Worth Rises is an organization which assisted legislators in Connecticut pass a bill to make all calls from jails and prisons free. Ms. Rock has emphasized the costs of staying in touch with an incarcerated loved one long term and the overall costs of incarceration on incarcerated persons' families. In order to put money in an inmate's account so they can make purchases at the commissary for extra food and supplies, as few baseline materials are provided and food is often of low quality, money must be transferred through companies like Jpay, which apply extra fees. Inmate commissary purchases can cost hundreds of dollars per week, which leaves little money for expensive phone calls. While stays in jail are for shorter terms, the fact remains that all of these same

costs still exist, just for a shorter duration, and the Alachua County Commission for all of these reasons should adopt the proposed reform for the Alachua County Jail. Denise has also found that the money incarcerated families save can be further invested into their community, meaning that saving the families of incarcerated people from expenses on phone calls from the Alachua County Jail would lead to more patronage of businesses and other establishments within the County.

Recent reform within Florida

In email correspondence, James Hall, the South Regional Director of Residential Services with the Department of Juvenile Justice, as well as Dixie Fosler, the Assistant Secretary of Detention Services with the DJJ,¹⁷ and Kevin Housel, the South Region Director of Detention Services with the DJJ, all have emphasized that the DJJ provides all calls to juveniles and the individuals whom they call free of charge, with no departmental commissions. The collect calling procedures were discontinued so long ago that these current officials with the DJJ cannot recall when such procedures were eliminated. The fact that Florida already provides calls free of charge to juveniles and their conversation partners lends weight to the proposal; it is not a novel idea.

Additionally, the Miami-Dade County Commission voted to make 15 minutes of phone calls per-week, per-inmate free for adults in November 2021.¹⁸ The County Commission would go on to make all phone calls free for adults in April 2022.¹⁹

For the reasons explained in this handout, the proposed policy ought to be adopted.

¹⁷ Email correspondence between Graham Bernstein and James Hall on May 16th, 2022; Email correspondence between Graham Bernstein and Dixie Fosler from May 16th, 2020 to May 17th, 2020; Kevin Housel from May 16th, 2022.

¹⁸ Ovalle, David. "Miami-Dade jails dramatically cut prices of jail calls." *Miami Herald*, November 9, 2021, <https://www.miamiherald.com/news/local/crime/article255638111.html>.

¹⁹ Miami-Dade County Board of County Commissioners Resolution R-340-22, 2022.