

TITLE: ACCESS TO TELEPHONES		PAGE 1 OF 13
POLICY NUMBER: 16.2		
CHAPTER 16: COMMUNICATION, MAIL AND VISITING		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
	EFFECTIVE DATE: February 1, 2002	LATEST REVISION: September 27, 2021

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

All Departmental Juvenile Facilities

III. POLICY

It is the policy of the Department of Corrections to permit juvenile residents reasonable access to telephones to maintain ties with family, community and others who have had a positive influence on a resident's life to maximize the resident's development, growth, and promote a successful reentry into the community. Access to telephones shall be allowed with limitations necessary to maintain safety, security, and orderly management of the facility.

IV. DEFINITIONS

1. Juvenile community residential facility - housing outside the secure perimeter of Long Creek either on or off grounds in a staff supervised residential setting.
2. Staff - for purposes of this policy, Department employee or a person in a juvenile facility providing services to a juvenile resident by agreement with or under contract with the Department (e.g., facility health care staff), but not including a volunteer, student intern, delivery person, etc.
3. Security staff - for purposes of this policy, Juvenile Program Worker, Juvenile Program Specialist, Juvenile Facility Operation Supervisor, or correctional investigative officer or other facility law enforcement officer.

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VI. ATTACHMENTS

- Attachment A: [Resident Telephone System Language Preference](#)
- Attachment B: [Resident Free Phone Call Minutes Application form](#)
- Attachment C: Authorization to Monitor Communications ([paper/fillable](#))
- Attachment D: Communications Monitoring Record ([paper/fillable](#))

VII. PROCEDURES

Procedure A: General *4-JCF-3A-16, JCRF 5G-05, & JCRF 5G-05-1*

1. The Commissioner, or designee, shall ensure that contracts for telephone services for juvenile residents:
 - a. comply with all applicable state and federal regulations;
 - b. are based on rates and surcharges that are commensurate with charges to the general public for like services;
 - c. shall reflect actual rates associated with the provision of services in a correctional setting; and
 - d. provide the broadest range of calling options, consistent with the requirements of sound correctional management.
2. The Superintendent, or designee, shall implement practices to provide residents with reasonable access to the resident telephone system, in accordance with Department policy and written facility specific practices.
3. A resident who is hard of hearing, deaf, or speech impairments and residents who wish to communicate with people who have such disabilities, shall be afforded:
 - a. access to a Telecommunications Device for the Deaf (TDD) or comparable equipment; and/or
 - b. telephones with volume control.
4. Unless otherwise authorized by the Superintendent, or designee, all resident telephone calls shall be placed through the resident telephone system.
5. Residents shall not be permitted to use credit or debit cards, calling cards, call forwarding, three-way calling, or conference calling.
6. Residents shall not be permitted to make calls on electronic communication

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devices, including, but not limited to, a cell phone, tablet, computer, or any other device containing a means of internet access or capable of receiving or transmitting information electronically, except for facility provided video visitation, or as otherwise allowed by the Superintendent, or designee.

7. Residents housed in a juvenile community residential facility may be allowed cell phones (state-issued or personal) if allowed by the Superintendent, or designee.
8. Residents shall not be permitted to make calls to toll-free numbers, except for toll-free numbers authorized by the Commissioner, or designee (e.g., PREA hotline, statewide sexual assault helpline).
9. Residents shall not be allowed to receive incoming general phone calls.
10. During facility orientation, residents shall be provided information concerning the facility's telephone schedule and rules. Residents shall also be informed that withdrawals for phone calls placed through the resident telephone system are automatically made from the resident's individual phone account and shall be provided information about sample call rates.
11. During facility orientation, residents shall be informed of the possibility of phone calls being monitored. The phone rules and a notice stating that phone calls are subject to being listened to and/or recorded, except privileged calls, shall also be included in the resident handbook.
12. The Superintendent, or designee, shall post signage approved by the Department's Director of Operations, or designee, adjacent to all resident telephones, including phones in visit booths, stating that phone calls are subject to being listened to and/or recorded, except for privileged calls.
13. The resident telephone system shall include a recorded warning of the possibility of phone calls, except privileged calls, being monitored before the recipient accepts the call.
14. At a juvenile community residential facility, residents using the resident telephone system shall be allowed to make phone calls under circumstances that do not permit other residents to overhear their conversations. Staff shall not intentionally listen to such calls, except as set out in Procedure G.
15. During facility orientation, each resident shall be asked whether they wish to designate a language preference other than English for the recorded warning using the Resident Telephone System Language Preference form (Attachment A). If the resident wishes to designate such a language preference, they shall be instructed to submit the form to their social worker or other designated facility staff.
16. A resident may request at any time that a language preference for the recorded warning be changed by submitting a new form to their social worker or other designated facility staff.

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17. All funds generated from the resident telephone system shall be deposited in the facility resident benefit account.

Procedure B: Resident Telephone Calls, General

1. Every newly received juvenile resident shall be entitled to one ten (10) minute call at facility expense to each of the resident’s parent(s)/legal guardian(s) after being admitted. This call shall be made immediately following the admitting process, unless that time would not be reasonable, in which case, it must be completed within the first twenty-four (24) hours. If the parent//legal guardian cannot be reached at the time of the initial phone call, the resident shall be permitted to call back once every four (4) hours during reasonable times until contact is made or it becomes clear contact is not possible.
2. The Juvenile Program Manager (JPM), or designee, shall develop a telephone schedule for their housing unit. Except as set out below, all telephone calls placed through the resident telephone system shall be made during the authorized times.
3. In the event of a special family situation or an emergency involving the family of a resident, if facility staff verifies the family situation or emergency exists by contacting the appropriate agency (e.g., law enforcement, fire, rescue, hospital, nursing home, school, funeral home, etc.), the resident’s Juvenile Program Manager (JPM), or designee, or in their absence, the Juvenile Facility Operations Supervisor (JFOS) shall notify the resident and may allow a special phone call at facility expense. The appropriate staff shall be notified in order to monitor the resident’s reaction to the situation and provide any necessary follow-up with the resident.
4. A resident’s JPM, or designee, may allow a resident to make a special phone call at facility expense for a therapeutic reason, family reintegration, emotional well-being, etc. in accordance with the resident’s Case Plan or otherwise when the JPM, or designee, determines it would be in the resident’s best interests.
5. Additional telephone calls may be offered to a resident as part of the resident’s Behavior Motivation Program as rewards for appropriate behaviors or achievements, through the JPM, or designee. Additional phone calls are considered a privilege.
6. A resident’s social worker may allow a special phone call for programming or release planning purposes.
7. Under no circumstances may a phone call be allowed when one of the reasons for blocking the phone number or otherwise not allowing contact is known to exist as set out in Procedure E.
8. There is a limit on the duration of phone calls placed through the resident telephone system of thirty (30) minutes, which may be implemented through an automatic cut-off time.

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9. For committed residents, the Unit Treatment Team (UTT), which includes the Juvenile Community Corrections Officer (JCCO), shall develop each resident's approved telephone contact list.
10. For detained residents, the JPM, or designee, in collaboration with the JCCO shall develop each resident's approved telephone contact list.

Procedure C: Privileged Phone Calls *4-JCF-3A-01*

1. A legal phone call (also called a privileged phone call) is a call concerning a legal matter involving a juvenile resident made between that resident and any of the following:
 - a. their attorney, paralegal, or private investigator;
 - b. court clerk's offices;
 - c. Maine Human Rights Commission; and
 - d. legal advocacy organizations, including, but not limited to; American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and the National Lawyers Guild.
2. During initial orientation, each detained resident shall be asked to provide to the Juvenile Program Manager (JPM), or designee, those names and numbers to which the resident wishes to make legal telephone calls. A committed resident may be asked to provide to the JPM, or designee, those names and numbers to which the resident wishes to make legal telephone calls. A resident may provide up to ten (10) legal call numbers.
3. The resident's social worker or other designated facility staff shall verify each attorney's name and number by using the Maine Bar Directory or the website for the Maine Board of Overseers of the Bar. If the attorney name and number cannot be verified in this way, but the resident says the attorney is licensed out of state, the staff shall contact the relevant jurisdiction's attorney licensing board for verification.
4. For a paralegal, private investigator, a court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization, the staff shall use an appropriate verification method.
5. As necessary, the staff shall contact the Department's legal representative in the Attorney General's office for assistance with the verification process.
6. Once the resident's legal phone call number(s) are verified, the social worker or other designated facility staff shall mark the number(s) as privileged for that resident in the Department's phone database.
7. A resident who intentionally designates as a legal call number a number that does not belong to an attorney, paralegal, private investigator, court clerk's office,

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the Maine Human Rights Commission, or a legal advocacy organization as defined above may be subject to suspension or restriction of telephone privileges, discipline, or other appropriate action.

8. A resident may request at any time that a name and number be added to or deleted from the resident's approved legal call number list by notifying their JPM, or designee. If a requested addition would cause the list to exceed the limit, the resident must request a deletion to bring the request within the limit.
9. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization on a resident's legal call number list may submit a written request to be removed from the list and, if requested, the number shall be blocked. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization may be reinstated to the resident's list upon written request by the resident and the person or organization previously on the list.
10. A phone call between a resident and the toll-free statewide sexual assault helpline concerning a complaint of sexual misconduct shall be treated as a privileged phone call.
11. The length of privileged phone calls shall not be limited unless staff determines it is necessary to allow other residents reasonable access to the resident telephone system. All other rules governing resident phone calls shall apply.
12. Privileged phone calls made on the resident phone system are confidential. Under no circumstances may any Department staff intentionally record or listen to the conversation.
13. If it is discovered that a person has used a legal phone call to communicate about anything other than a legal matter involving the resident, or it is otherwise discovered that the person's relationship with the resident is no longer a professional one, that person's number shall be deleted from the resident's legal call number list and shall no longer be designated as privileged in the Department's phone database.
14. If a resident is allowed to make a privileged phone call on a staff phone, the resident shall be informed that the call is not confidential and may be overheard because staff will be present during the call.

Procedure D: Indigent Resident Phone Calls

1. For the purposes of this policy, except as set out below, if a juvenile resident has no more than \$10.00 combined in their phone account or general account at the facility after obligations have been deducted, they are considered indigent and are eligible for free phone call minutes.
2. If a resident repeatedly expends their funds for commissary items within the prior thirty (30) days in order to become eligible for indigent calls, the Juvenile

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Program Manager (JPM), or designee, may determine that the resident is not considered indigent and is not eligible for free phone call minutes.

3. If a resident is known to have an outside bank account or investments, the resident is not considered indigent and is not eligible for free phone call minutes.
4. An indigent resident may apply for free phone call minutes by completing the Resident Free Phone Call Minutes Application (Attachment B) and submitting it to the facility business office. An incomplete application shall be returned to the resident.
5. If the resident has made a false statement on the application, the application shall not be approved, and the matter may be referred to a facility law enforcement officer or other designated staff.
6. The facility business office staff shall review the resident's accounts, both to ensure that the resident does not have more than \$10.00 total in the accounts and to check that the resident has not repeatedly expended their funds for commissary items within the last thirty (30) days in order to become eligible for indigent calls.
7. If it appears that the resident is not eligible for free phone call minutes, the business office staff shall inform the JPM, or designee, and the JPM, or designee, shall make a decision on whether to approve or disapprove the application and shall notify the resident of the decision.
8. If the application is approved, the JPM, or designee, shall ensure thirty (30) minutes of free phone call time is placed on the resident's phone account weekly.
9. If a resident who has been approved for free phone call minutes later acquires more than \$10.00 in their phone account and/or general account, the free phone call minutes shall be discontinued.
10. The resident may be denied approval for free phone call minutes or have a prior approval withdrawn at any time for any reason at the complete discretion of the facility Superintendent, or designee.

Procedure E: Blocking of Numbers and Termination of Calls

1. If a written request is received from an adult or legal guardian of an adult that a resident not be allowed to make phone calls to that adult, the Superintendent, or designee, shall ensure the adult's specific phone number(s) are deleted from the resident's approved telephone contact list.
2. If a written request is received from a parent or other legal guardian of a minor that a resident not be allowed to make phone calls to that minor, the Superintendent, or designee, shall ensure the minor's specific phone number(s) are deleted from the resident's approved telephone contact list.

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3. Designated facility staff shall delete specific number(s) from a resident's approved telephone contact list as necessary under the following circumstances:
 - a. A resident who is currently in the Department's legal custody for domestic violence, a sex offense, child abuse, or child neglect shall not be allowed to make a phone call to their victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - b. A resident who has a current child protection case with the Department of Health and Human Services (DHHS) regarding the victim shall not be allowed to make a phone call to their victim unless granted a waiver by the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - c. A resident who is a victim of a domestic violence offense, sex offense, child abuse, or child neglect shall not be allowed to make phone calls to the offender without the prior approval of the Superintendent, or designee.
 - d. When contact between a resident and another person is prohibited by a current court order (e.g., custody order, protection from abuse or other protective order, etc.), the resident shall not be allowed to make phone calls to that person.
 - e. When contact between a resident and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the resident shall not be allowed to make phone calls to that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation, current detention order for violation of conditional release or current return from community reintegration status or supervised community confinement.
 - f. When a resident is prohibited by a current notification issued pursuant to Title 17-A, section 506-A, for the resident not to engage in harassing conduct against another person, the resident shall not be allowed to make phone calls to that person.
 - g. When the resident's parental rights have been terminated, unless the termination was voluntary and not the result, direct or indirect, of a child protection investigation by DHHS, the resident shall not be allowed to make phone calls to that child.
 - h. The person is a former resident (juvenile or adult) within one year of discharge from any correctional facility for whom an exception to receive phone calls has not been approved by the Superintendent, or designee.
 - i. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to receive phone calls has not been approved by the Superintendent, or designee.

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- j. A resident may be prohibited by the Superintendent, or designee, from making a phone call to any other person when there is reasonable suspicion that allowing a call between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility or to the welfare of the resident or other residents
 - k. A resident may be prohibited from making phone calls to any other person by the Superintendent, or designee, when there is reasonable suspicion that the resident or other person has violated or will violate the telephone rules.
4. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to phone calls, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting calls.
 5. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to calls.
 6. Designated facility staff may terminate a phone call at any time for reasons of safety, security, or orderly management of the facility. The staff shall complete appropriate documentation and submit it to the Superintendent, or designee.
 7. Staff shall terminate a phone call if the resident is exhibiting behavior that is inappropriate or it is determined that the call contains information related to criminal activity, violation of the facility rules, or a risk to the safety of persons, security, orderly management of the facility, or the welfare of the resident or other residents or that the resident is violating the telephone rules.
 8. When a resident is prohibited or otherwise restricted from making phone calls, the Superintendent, or designee, shall ensure that a memo is sent to all appropriate staff, with a copy to the resident's Master Administrative Record and housing unit Case Management File.

Procedure F: Suspension and Restriction of Telephone Privileges

1. If telephone calls are not allowed or terminated due to the behavior of the resident, the Superintendent shall determine whether to impose a suspension or restriction of telephone privileges.
2. The Superintendent may impose a suspension or restriction of telephone privileges for any other reason of safety, security, or orderly management.
3. The resident shall be notified in writing of a suspension or restriction of their telephone privileges.
4. A suspension or restriction may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed only by the Superintendent.

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5. In the case of a suspension or restriction of a resident's telephone privileges for a definite period of time, once the specified time has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Superintendent. The Superintendent may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
6. In the case of a suspension or a restriction of a resident's telephone privileges for an indefinite period of time, after a year has elapsed, the resident may apply for reinstatement of full telephone privileges by writing to the Superintendent. The Superintendent may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
7. If a resident's telephone privileges have been suspended, the resident shall be informed in writing that they may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that they may reapply after one year has elapsed.
8. Nothing in this telephone policy applies to a resident who receives a disciplinary disposition of loss of telephone privileges for a disciplinary violation related to phone calls in accordance with the Department's disciplinary policy.
9. Telephone privileges relating to legal phone calls shall not be restricted or suspended unless the reason for restriction or suspension occurred in relation to a legal phone call, e.g., resident was threatening the safety of the attorney, etc.

Procedure G: Recording and Monitoring of Resident Telephone Calls

1. All telephone calls, except for privileged calls, may be recorded. These phone calls and/or the recordings of these phone calls may be listened to with written authorization from the Superintendent, or designee, using the Authorization to Monitor Communications (Attachment C).
2. This monitoring may be done by a facility law enforcement officer (either the facility correctional investigative officer (detective) or a Special Investigations and Intelligence Unit (SII) officer), if the officer is conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility, is cooperating with an investigation being conducted by another criminal justice agency, or is engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
3. If authorized in writing by the Superintendent, or designee, a facility law enforcement officer may listen to phone calls between a resident and a person the resident is prohibited from calling.

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4. Recordings of any communications related to the investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with Departmental policy.
5. In every case in which the Superintendent, or designee, authorizes a facility law enforcement officer to monitor communications during telephone calls, the officer shall document on the Communications Monitoring Record (Attachment D):
 - a. the name and MDOC number of the resident;
 - b. the date and time of the phone call;
 - c. a description of the communications monitored, including the name of the person called and the subject matter of the communication;
 - d. a description of any other action taken and the grounds justifying such action; and
 - e. the name of the officer monitoring the communications.
6. The officer shall attach to the Communications Monitoring Record the written authorization from the Superintendent, or designee, to listen to the resident's phone calls.
7. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer, and copies of the forms shall be forwarded to the Superintendent. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the resident shall not be notified of the monitoring without the approval of the prosecuting attorney.
8. If there is reasonable suspicion that phone calls to a privileged phone number are not actually privileged in nature, the Superintendent, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.
9. In order to determine whether a resident has contacted or attempted to contact any victim with whom they are prohibited to have contact by this policy, facility law enforcement officers shall:
 - a. upon request of the Department's Director of Victim Services, or designee, monitor the phone calls of a resident who is prohibited to have contact with a victim by this policy, regardless of whether or not the resident has requested a waiver for contact with a victim; and
 - b. randomly monitor the phone calls of other residents at the facility who are prohibited to have contact by this policy.
10. When a facility law enforcement officer monitors phone calls to determine whether a resident has contacted or attempted to contact any victim with whom they are prohibited to have contact by this policy, the above forms are not

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required, but the officer shall note in CORIS that the monitoring occurred pursuant to this policy and the results of the monitoring. The resident shall not be notified of the reason for the monitoring.

Procedure H: Appeals and Grievances

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, a resident may use the grievance process to grieve a decision related to phone calls.
2. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a resident may appeal the denial as set out in that policy.

VIII. PROFESSIONAL STANDARDS

ACA

4-JCF-3A-01 Juveniles have access to counsel, confidential contact with attorneys, their authorized representatives, the courts, and to legal material. Contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.

4-JCF-3A-16 Reasonably priced public telephone services are accessible to juveniles. There are provisions for transmitting messages. Juveniles with hearing and/or speech disabilities and juveniles who wish to communicate with parties who have such disabilities are afforded access to a telecommunications device for the deaf (TDD), or comparable equipment. Public telephones with volume control are made available to juveniles with hearing impairments.

1. Contracts involving telephone services for juveniles comply with all applicable state and federal regulations
2. Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services.
3. Deviations from ordinary consumer rates reflect actual rates associated with the provision of services in a correctional setting.
4. Telephone services contain the broadest range of calling options to be consistent with the requirements of sound correctional management.

JCRF 5G-05 Written policy, procedure, and practice provide for juvenile access to public telephones. Juveniles with hearing and/or speech disabilities, and juveniles who wish to communicate with parties who have such disabilities, shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control also shall be made available to juveniles with hearing impairments.

JCRF 5G-05-1 Written policy, procedure, and practice ensure that offenders have access to reasonably priced telephone services. Correctional agencies ensure that:

- Contracts involving telephone services for offenders comply with all applicable state and federal regulations.
- Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from

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ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.

- 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.

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