



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-150300 Access to Telephones, Telephone Monitoring, Attorney Phone Calls	Issued: 09/30/92 Effective: 09/30/92	Reviewed: 06/28/22 Revised: 06/09/16
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. NMSA 1978, Sections 30-12-1, 33-2-10, 33-2-15, and 33-2-49, as amended.
- B. Policy *CD-010100*.
- C. PREA Standard § 115.53.

REFERENCE:

- A. ACA Standard 2-CO-3C-01 and 2-CO-5D-01, *Standards for the Administration of Correctional Agencies*, 2nd Edition.
- B. ACA Expected Practices 5-ACI-4A-25, 5-3D-4275 5-ACI-4A-26, and 5-ACI-7D-11, 5-ACI-7D-12, 5-ACI-7D-13 *Performance Based Standards and Expected Practices for Adult Correctional Institutions*, 5th Edition.

PURPOSE:

To provide for the safety and security of New Mexico Corrections Department (NMCD) facilities by monitoring and recording all telephone calls, except attorney telephone calls, by inmates and to provide access for inmates to make attorney telephone calls on phones that are not subject to monitoring.

APPLICABILITY:

All inmates incarcerated in NMCD facilities and all staff involved in administering this policy including contract facilities and staff.

FORMS:

Privileged/Attorney Telephone Call Request form (*CD-150301.1*)

ATTACHMENTS:

Privileged/Attorney Telephone Call Log Attachment (*CD-150301.A*)

DEFINITIONS:

- A. Attorney or Counsel: An attorney-at-law:
 - 1. Licensed to practice law in any state or federal jurisdiction.
 - 2. Has been retained by the inmate or has been appointed to represent the inmate, as evidenced by a court record, court order or by the inmate's written authorization.
 - 3. Shall not include anyone who is on the inmate's general visiting list.
- B. Attorney Telephone Calls: Outgoing telephone calls to an attorney or an agent of the

attorneyon telephones that are not monitored electronically or by person. (Telephone calls to attorneys in an attempt to retain their services are not considered attorney telephone calls.)

POLICY: [2-CO-5D-01]

NMCD will provide inmates reasonable access to telephones as follows:

- A. Inmates in Level I, Level II, Level III and Level IV will be provided access to public telephones. **[5-ACI-7D-11]**
- B. Inmates in Special Management and Restrictive Housing will be provided reasonable access to telephones. **[5-ACI-4A-25]**
- C. Inmates in disciplinary segregation will be allowed limited telephone privileges provided the Warden or designee has authorized the usage. Attorney telephone calls shall not be unreasonably limited. **[5-ACI-4A-26]**
- D. Each facility shall make provisions for inmates to have access to telephones that are not subject to monitoring for the purpose of making attorney calls to ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives. The time allotted for attorney calls shall not arbitrarily or unreasonably be limited to 15 minutes. **[5-ACI-30-02] [2-CO-3C-01]**
- E. Inmates shall not be allowed to make any privileged or confidential, (i.e. unmonitored telephone calls) with the exception of attorney telephone calls and calls to a local rape crisis center with whom the facility has a memorandum of understanding. Inmates shall be allowed limited privileged correspondence with certain classes of persons who are not attorneys consistent with policy *(CD-151200) Correspondence Regulations. [§115.53]*
- F. Inmates with documented hearing and/or communication challenges, and inmates who wish to communicate with parties who have such disabilities, access to assistive technology. The technology provided to an inmate with hearing or speech disabilities shall be determined based on an individual assessment of the needs of the inmate. Public telephones with volume control are also made available to inmates with hearing impairment. Inmates shall not be denied access to assistive technology, except when the warden or deputy warden can present clear and convincing evidence that access will jeopardize the safety and security of the institution or the visitors. **[5-ACI-7D-13]**
- G. Inmates shall have access to reasonably priced telephone services. The NMCD shall ensure: **[5-ACI-7D-12]**
 - Contracts involving telephone services for inmates shall comply with all applicable state and federal regulations.
 - Contracts shall be based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.
 - Contracts for inmate 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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AUTHORITY:

Policy *CD-150300*

PROCEDURES: [2-CO-5D-01]

A. General:

1. Inmates shall have access to reasonably priced telephone services. The NMCD shall ensure: **[5-ACI-7D-12]**
 - Contracts involving telephone services for inmates shall comply with all applicable state and federal regulations.
 - Contracts shall be based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumerrates reflects actual costs associated with the provision of services in a correctional setting.
 - Contracts for inmate telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.
2. Inmates at a Level I, Level II, Level III, and Level IV facility shall have access to public telephones. **[5-ACI-7D-11]**
3. Inmates in Special Management and Restrictive Housing will be provided reasonable access to telephones. Appointments for telephone calls or telephone logs may be used by both security staff and classification staff to keep track of telephone usage. **[5-ACI-4A-25]**
4. Inmates in disciplinary segregation will be allowed limited telephone privileges provided the Warden or designee has authorized the usage. Attorney telephone calls shall not be unreasonably limited. Appointments for telephone calls or telephone logs may be used by both security staff and classification staff to keep track of telephone usage. **[5-ACI-4A-26]**
5. Each facility shall make provisions for inmates to have access to telephones that are not subject to monitoring for the purpose of making attorney telephone calls to ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives. The time allotted for attorney telephone callsshall not arbitrarily or unreasonably be limited to 15 minutes. **[5-ACI-30-02] [2-CO-3C-01]**

6. Inmates with hearing and/or speech disabilities shall have access to a telecommunication device for the deaf or comparable equipment. Public telephones with volume control are also made available to inmates with hearing impairment. [5-ACI-7D-11]

B. Notification to Inmates:

1. Notification will be provided to inmates upon receipt at Reception and Diagnostic Center (RDC) and during orientation at all facilities that non-attorney telephone calls will be randomly monitored and taped. The notice will also inform inmates that unmonitored telephones may be requested for attorney calls and the steps necessary to request such telephone calls.
2. A notice that all telephone calls from telephones that are subject to monitoring and recording at any time without further notice will be conspicuously posted in Spanish and English so as to be visible by persons using any telephone capable of being monitored.
3. The Warden of each facility with a telephone monitoring system will promulgate a program to implement the notification provisions of this section which includes specific instructions to inmates as to how they may access telephones for attorney telephone calls.

C. Inmate Responsibilities:

1. Any inmate found to have damaged or defaced telephone equipment shall be subject to disciplinary action and/or referred to the appropriate authority for criminal prosecution.
2. Any inmate who uses telephone equipment for the purpose of committing any unlawful act or violation of NMCD and facility policies shall be subject to disciplinary action and/or referred to the appropriate authority for criminal prosecution.
3. Inmates who request and are granted an unmonitored telephone call through an appropriate staff member will be charged \$.20 a minute. Inmates will complete an inmate debit memorandum for payment of these telephone calls.

D. Attorney Phone Calls: [2-CO-3C-01]

1. Facilities will provide access to unmonitored telephones for attorney telephone calls.
2. Attorney telephone calls must be requested in writing using the **Attorney Telephone Call Request** form (CD-150302.1) and tracked by completing an **Attorney Telephone Call Log** Attachment (CD-150301.A).
3. Every effort should be made to allow access as soon as practicable, especially in the event of an emergency or urgent need. However, the facility will provide access to unmonitored telephones for attorney telephone calls within two working days of receipt of an approved written request.
4. Telephone calls will be placed by a facility staff member who will verify the identity of the receiving party. The telephone call between the inmate and the attorney or attorney's representative will take place in a location that assures the confidentiality of the

conversation. This provision does not preclude NMCD staff from carrying out a visual observation of the inmate during a telephone call.

5. Attorney telephone calls will be made collect if long-distance charges are applicable to the extent possible. In instances when a collect telephone call is not possible, the inmate will be informed in writing, prior to the telephone call being placed, that the cost of the telephone call will be \$.20 a minute deducted from the inmate's account and the inmate will sign a debit memo. After termination of the call, the staff member will post the time the telephone call started and ended and the cost of the telephone call to the debit memo and forward to inmate accounts for processing. The debit will be carried on the inmate's account until such time as there are funds to cover it.
6. The Classification Officer is responsible for documenting the date and time any attorney telephone call takes place on both the **Attorney Telephone Call Request** form (CD-150302.1) and the **Attorney Telephone Call Log** Attachment (CD-150301.A).
7. The Warden of each facility will designate an individual or office responsible for collection, review and retention of all documentation relating to attorney telephone calls.
8. The Classification Officer shall submit all Attorney Telephone Call Logs and all corresponding Attorney Telephone Call Requests to the designated person or office on a monthly basis.
9. The designated person or office shall sort and file all Attorney Telephone Call Logs and all corresponding Attorney Telephone Call Requests by month.

NEW MEXICO CORRECTIONS DEPARTMENT
Attorney Telephone Call Request

Inmate Name: _____ NMCD #: _____ HU/Cell/Bunk #: _____ Date of Request: _____

Attorney to be called: _____

Attorney telephone #: (____) _____

I understand that if the attorney listed above does not accept collect calls, I will be charged \$0.20 per minute (long distance only), to be deducted from my inmate account through a Debit Memo authorized by my signature. _____

Inmate Initials

Inmate's Signature: _____

Classification Officer: _____ / _____
(Print) (Sign) Date

Call was: **APPROVED** () **DENIED** ()

Full explanation if denied: _____

(A copy of all denied attorney calls shall be forwarded to the Deputy Warden for review.)

If call was approved but not placed or accepted by the attorney, please explain in detail: _____

Call placed: _____
Date Start Time - End Time Location

Staff member placing call: _____ / _____
(Print) (Sign)

STAFF MEMBERS, CUSTODY AND NON-CUSTODY, MAY NOT REMAIN IN THE OFFICE AREA WHEN AN ATTORNEY PHONE CALL IS PLACED. THIS DOES NOT PRECLUDE VISUAL OBSERVATION BY DEPARTMENT STAFF MEMBERS DURING THE TELEPHONE CALL. ATTORNEY PHONE CALLS SHALL NOT ARBITRARILY OR UNREASONABLY BE LIMITED TO 15 MINUTES UNLESS JUSTIFIED.

Attorney call was approximately _____ minutes, due to _____.
(If limited to 15 minutes or less, state the reason)

I verify that my Attorney phone call was handled as documented above:

Inmate Signature: _____ Date: _____ Time: _____

