

CORRECTIONS

THE COMMISSIONER

Inmate Telephone Calls

Adopted Amendments: N.J.A.C. 10A:18-8.1 and 8.2

Proposed: April 16, 2018, at 50 N.J.R. 1145(a).

Adopted: August 24, 2018, by Marcus O. Hicks, Esq., Acting Commissioner, Department of Corrections.

Filed: August 29, 2018, as R.2018 d.177, **without change**.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: October 1, 2018.

Expiration Date: October 27, 2022.

Summary of Public Comment and Agency Response:

A summary of the timely submitted comments and the Department of Correction's (Department) responses follows. The number in parentheses after each comment identifies the commenter(s) listed below.

Comments were received from the following:

1. Anonymous
2. Thomas Vega
3. Justin Phillip M. Reid
4. Daniel Grass
5. Howard Lopez, Southwoods State Prison
6. William Liepe, New Jersey State Prison
7. Jason Woltjen, Southern State Prison

8. James A. Yurchak, Southwoods State Prison
9. Michael Darby, New Jersey State Prison
10. Philip A. Dixon, New Jersey State Prison
11. Shamsiddin Abdur-Raheem, New Jersey State Prison

1. COMMENT: The commenter objects to the rule action, noting that prior to the State allowing only home phone numbers on the inmate call lists victims' families received tormenting calls from the prisoners. The commenter states this change isn't fair when victims and/or their families are trying to move on from the trauma caused by an inmate. (1)

RESPONSE: The Department acknowledges the emotional impact such calls must have on a grieving family and notes that the ability to refuse and/or block calls received from correctional facilities exists. The telephone service vendor for New Jersey State correctional facilities provides the name of the inmate calling and the name of the correctional facility calls originate from prior to connecting inmate-initiated calls. The called party is given the opportunity of declining the call by hanging up or to block all future calls. During the announcement information regarding procedures for complaints and assistance is also offered. Should unwanted calls from inmates become an issue, the commenter is encouraged to contact the Department as indicated on the announcement played prior to connecting inmate phone calls.

2. COMMENT: The commenter is "completely against the accommodation of criminals serving time in a maximum-security prison such as NJ State Prison" and feels the change is careless on the part of the Department and will present a danger to society. The commenter states that allowing cell phone numbers on the call lists of inmates in minimum security could be

considered but allowing cell phone numbers on the call lists of inmates in maximum security is a mistake. (2)

RESPONSE: The Department acknowledges that unwanted calls from inmates can potentially occur even with safeguards to protect the public and has in place some measures to minimize the impact as noted in the Response to Comment 1. The Department strives for a balanced approach considering the safety and security of the public, Department employees, facilities, and rehabilitation of the inmate population. Telephone calls are one method of maintaining inmate contact with friends and relatives that can potentially have a positive impact on inmate rehabilitation and much of the general public utilizes cell phone service as their only means of telecommunications. Should unwanted calls from inmates become an issue, the commenter is encouraged to contact the Department as indicated on the announcement played prior to connecting inmate phone calls.

3. COMMENT: Several commenters supported the amendment permitting inmates to place calls to cell phones. Some commenters noted that the only means of communications with family members that may be away at school is via the student's cell phone and welcomes the change and opportunity to stay in touch with friends and family. (3, 4, and 5)

RESPONSE: The Department appreciates the support offered for the rule change.

4. COMMENT: One commenter appreciates the rule change permitting cell phone numbers on inmate call lists and requests that the Department should also allow "reasonable inmates" to own and possess cell phones and laptops. (6)

RESPONSE: The Department appreciates the support offered for the rule change but will not address the added requests as they are not part of this rulemaking.

5. COMMENT: One commenter thanked the Department for proposing the rule change and noted it will assist with staying in touch with the world, which can help with inmate reintegrate. (7)

RESPONSE: The Department appreciates the support offered for the rule change.

6. COMMENT: The commenter notes that he plans to put his friends' business cell phone numbers on his list and hopes that isn't problematic and also hopes that the quantity of numbers on the list will be increased. (8)

RESPONSE: Inclusion of additional numbers on call lists and calls to business numbers is not a part of this rulemaking and will not be addressed. The commenter is referred to the language in the rule action in N.J.A.C. 10A:18 and in the inmate handbook.

7. COMMENT: The commenter offered remarks about the manner in which the court handled the case of *Edward Grimes v. New Jersey Department of Corrections*, 452 N.J. Super 396 (2017). (9)

RESPONSE: These comments do not address the rule action and will not be addressed here.

8. COMMENT: The commenter suggests the language in the rule action at N.J.A.C. 10A:18-8.2(a) is "impermissibly vague" and should be expanded to include additional telecommunications technologies such as Voice Over the Internet Protocol (VOIP) and cable

phone service. The commenter also suggests that N.J.A.C. 10A:18-8.2(f) should include an exception for hotline numbers, such as the New Jersey Department of Corrections Ombudsman and A.I.D.S hotline. (10)

RESPONSE: The Department refers the commenter to the language contained in N.J.A.C. 10A:18-8.2(a) as proposed. Inclusion of additional telecommunications technologies is not a part of this rule action and will not be addressed here. The language that was proposed at N.J.A.C. 10A:18-8.2(f) stated that inmate calls are not permitted to toll-free numbers or information service numbers and cited specific examples of both. Inmates currently are permitted to call certain inmate services, such as the New Jersey Department of Corrections Ombudsman and A.I.D.S hotline but do not dial toll-free numbers. The telecommunications service vendor utilized by the Department routes the calls to the inmate service provider(s) for the inmates and is expected to continue to do so. Inmates in need of these or similar services should consult the inmate handbook or other related literature provided by the Department.

9. COMMENT: The commenter expressed concerns with the language in N.J.A.C. 10A:18-8.1(a), in particular the requirement that phone numbers on inmate call lists be at a verifiable address. The commenter is of the belief that the only verification requirement should be that the phone numbers should be associated with a certain individual and verification should be of the party's name and identity. The commenter provided several examples of instances in which the address of the called party may not be known and suggests the only criteria should be verification of the called party's name or identity. (11)

RESPONSE: Provision of addresses for the inmate call list (IPIN list) and even visitor list is not a new requirement and will not be addressed further in this rulemaking. It has been, and will

continue to be, required as stated in the inmate handbook. That pre-existing requirement is now codified in the Department's rules.

Federal Standards Statement

The adopted amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The adopted amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Full text of the adoption follows:

TEXT