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## VIA ELECTRONIC SUBMISSION

July 7, 2014

Federal Communications Commission  
Office of Regulations  
445 12th Street SW  
Washington, DC 20554  
Electronic address: [www.fcc.gov](http://www.fcc.gov)

Re: Notice of Proposed Rulemaking by the Federal Communications  
Commission; Inmate Calling Service, WC Docket No. 12-375

Dear Office of Regulations:

I write to you on behalf of MFY Legal Services, Inc. ("MFY") to comment on the Workshop on Inmate Calling Services by Federal Communications Commission ("FCC"), reforms proposing to stem undue high costs to inmates' families.

MFY is a non-profit law firm that provides free civil legal assistance to New York City's poorest communities. MFY's Kinship Caregiver Law Project has received funding from the New York City Council and private foundations to address the civil legal needs of grandparents and other relatives caring for children whose biological parents are unavailable due to incarceration, illness, death or other causes, often referred to as "kinship caregivers." We are the only legal services organization serving the more than 100,000 kinship caregivers in New York City; and we provide advice, counsel, and representation to approximately 700 clients each year. We also chair the New York City Kincare Task Force, a coalition of advocacy groups, government agencies, and community services organizations that work to improve the lives of children and caregivers.

MFY applauds FCC's efforts to set reasonable limits on the high telephone costs for calls from inmates. We submit this public comment to briefly note how the reformed interstate Inmate Calling Service ("ICS") rates and practices may the impact children and caregivers of incarcerated persons.

## **I. Inmates' Relatives Often Serve as Informal "Kinship Caregivers" for Children and Cannot Bear the Expense of Uncapped Collect Calls**

The scope of the population of children in kinship care often goes unnoticed by policymakers. While fewer than 12,000 New York City children are cared for within the formal foster care system, upwards of 100,000 young New Yorkers reside with kinship caregivers on an informal basis. These informal caregivers do not receive monthly foster care payments to cover expenses related to raising additional children. Moreover, in our experience, informal caregivers often encounter significant obstacles when trying to access available public assistance and food stamps to support the children in their homes.

Kinship caregivers of children whose parents are incarcerated or otherwise unavailable are more likely to be "poor, single, older, less educated, and unemployed than families in which at least one parent is present."<sup>1</sup> A recent report by the Pew Research Center found that when compared to children raised by biological parents, most children in kinship care arrangements are likely to experience poverty.<sup>2</sup> Among New York State kinship caregivers, a majority are unemployed.<sup>3</sup>

Taken together, the poverty and lack of social supports that define the kinship caregiver community make unreasonably high telephone bills particularly burdensome. As a consequence, low-income family members may be discouraged from taking in children with incarcerated parents, thus resulting in an increase in the foster care population, or restrict communications between children and their parents in prison.

## **II. Inmates Who Cannot Communicate with their Children or the Children's Caregivers Routinely Lose their Parental Rights**

Under New York Domestic Relations Law § 111(2), a parent who fails to visit or communicate with his or her child or designated caregiver for six months is deemed to have forfeited his or her parental rights. *See In re Annette B.*, 828 N.E.2d 661 (N.Y. 2005). Incarcerated parents are not exempted from this rule and bear the burden of convincing a judge that they were unable to communicate with their children or provide financial assistance while in prison. Furthermore, nothing in the Domestic Relations Law requires foster care agencies to facilitate communications between incarcerated parents and their children. Indeed, many foster care agencies currently do not accept collect calls. Foster parents have discretion to accept collect calls but are not required to incur such expenses as a condition of caregiving.

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<sup>1</sup> MARY BISSELL & JENNIFER MILLER, THE ANNIE E. CASEY FOUNDATION, STEPPING UP FOR KIDS: POLICY REPORT 3 (2012), *available at* <http://www.aecf.org/m/resourcedoc/AECF-SteppingUpForKids-2012.pdf>.

<sup>2</sup> GRETCHEN LIVINGSTON, PEW RESEARCH CENTER, AT GRANDMOTHER'S HOUSE WE STAY 2 (Sep. 4, 2013), *available at* [http://www.pewsocialtrends.org/files/2013/09/grandparents\\_report\\_final\\_2013.pdf](http://www.pewsocialtrends.org/files/2013/09/grandparents_report_final_2013.pdf).

<sup>3</sup> RACHEL DUNIFON & CATHERINE J. TAYLOR, CORNELL UNIVERSITY COOPERATIVE EXTENSION, CHARACTERISTICS OF RELATIVE CAREGIVERS AND CHILDREN IN THEIR CARE IN NEW YORK STATE 1 (2004), *available at* <http://www.human.cornell.edu/pam/outreach/parenting/research/upload/Characteristics-20of-20Relative-20Caregivers-20and-20Children-20in-20Their-20Care.pdf>.

Accordingly, inmates with children in the foster care system and kinship care arrangements risk losing their parental rights if they or their children's caregivers cannot afford to pay for telephone communications. Time and again, New York courts terminate parental rights of currently and recently incarcerated parents because of the parent's failure to communicate within the statutory period set forth in the Domestic Relations Law. In *In re Yamilette M.G.*, 986 N.Y.S.2D 485, 487 (N.Y. App. Div. 2014), for example, the appellate court made clear that a father's "incarceration did not absolve him of the responsibility to provide financial support for the child, according to his means, and to maintain regular contact with the child or the petitioner." It made no inquiry into the father's ability to afford calls while incarcerated, nor did it require proof that the foster care agency helped to facilitate communications between the father and child.

According to the Bureau of Justice Statistics, the number of parents held in state and federal prisons increased by 79% between 1991 and midyear 2007.<sup>4</sup> Currently, some 1.5 million children have parents in prison.<sup>5</sup> The FCC's ICS reforms will likely have a significant impact both inmates' relatives who serve as kinship caregivers and Family Court proceedings involving these children. The reforms will ease the burden on the many low-income grandparents and other relatives who raise the children of incarcerated parents with little financial assistance or other support from the State. The capped costs are ones that foster care agencies, foster parents, and most caregivers can bear, thus removing one communication barrier that prevents many incarcerated parents from maintaining their parental rights.

Sincerely,



Barbara Graves-Poller  
*Supervising Attorney*

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<sup>4</sup> Glaze, L.E. & L.M. Maruschak (2008). Parents in prison and their minor children, Bureau of Justice Statistics Special Report., retrieved July 7, 2014 from <http://www.bjs.gov/content/pub/pdf/pptmc.pdf>.

<sup>5</sup> *Id.*