

Australian Capital Territory

Corrections Management (Detainee Telephone) Policy 2016

Notifiable instrument NI2016-448

made under the

Corrections Management Act 2007, s 14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Detainee Telephone) Policy 2016*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

I make the Detainee Telephone Policy, attached to this instrument, to facilitate the effective and efficient management of correctional services.

4. Revocation

This instrument revokes the *Corrections Management (Prisoner Telephone) Policy 2011* [NI2011-49].

Don Taylor
A/g Executive Director
ACT Corrective Services
12 August 2016



ACT
Government

Justice and Community Safety



DETAINEE TELEPHONE POLICY

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Purpose

To outline a detainee's entitlement to personal and professional telephone communication while in custody at an ACT correctional centre.

Detainees are able to maintain contact with family members, friends, professionals and services relevant to their imprisonment by telephone. This contact will be facilitated in an environment that maintains the good order and security of the correctional centre and the safety of detainees, members of the community and staff.

Decisions relating to the refusal or restriction of a detainees' telephone contact are subject to review in accordance with the *Detainee Complaints and Grievances Policy* and the *Detainee Complaints and Grievances Procedure*.

The impact of this Policy on a detainee's human rights has been considered consistent with the *Human Rights Act 2004*. A detainees' human rights are limited only to the extent that it is reasonably and demonstrably justifiable.

This Policy considers the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC).

Authority

Corrections Management Act 2007, sections 12, 14, 46, 47, 50, 51 and 103.

Objective

ACT Corrective Services (ACTCS) will facilitate detainees' telephone contact with family members, friends, professionals and services relevant to their imprisonment.

ACTCS promotes the importance of family connection for detainees during periods of imprisonment for successful reintegration upon release. Telephone contact facilitates the maintenance of family ties and friendships to detainees, continue their links to the community and also provides for contact with legal representatives and other accredited persons.

Decisions by the General Manager, Custodial Operations (General Manager) (or delegate) are at all times made in the best interests of the security and good order of the correctional centre; in the interests of safety of detainees, their friends and family.

Staff will:

- assist and encourage detainees to maintain positive and supportive relationships with their families and the general community;
- as far as practicable maintain the security of the correctional centre, detainee and call recipient when allowing detainees to communicate with family, friends, and relevant professionals;
- process and facilitate telephone contact with approved person(s) in a timely manner;
- only facilitate telephone contact when it is clear the telephone call recipient is in favour of the call taking place;
- as far as practicable ensure detainees do not make telephone contact with a person(s) where there is a court sanctioned order (or equivalent) in place;
- treat all telephone contact between approved person(s) and detainees with courtesy and due regard to their privacy and dignity;
- respect the right to confidentiality during these communications; and
- collect, maintain, use and disclose information in strict compliance with information privacy legislation.

Information dissemination

The General Manager (or delegate) will ensure that detainees are informed of the nature and conditions of telephone calls upon reception, in the Detainee Handbook, through the detainee information channel and in accommodation areas.

The General Manager (or delegate) will ensure that family members and friends of detainees are advised of the conditions of telephone calls in the Visitors Handbook and on ACTCS' website.

All telephone calls made by detainees on the Prisoner Telephone System (PTS) include a message indicating that the call is being made by a person inside an ACT correctional centre and that the call may be recorded.

A copy of this Policy will be available on the ACT Legislation Register, available for inspection at a correctional centre on request, and may be viewed by ACTCS staff on the ACTCS Intranet.

1. Operating Procedure

1.1 General

The PTS is a restricted pay telephone system in operation at the Alexander Maconochie Centre. PTS limits outgoing telephone calls made by detainees to approved numbers and prohibits incoming calls, and also provides for security monitoring and recording.

PTS phones are located in detainee areas of the Alexander Maconochie Centre. Detainees will have access to the PTS during let out times as operational requirements permit.

Incoming telephone calls

The general telephone line to an ACT correctional centre is answered by a Corrections Officer. The Corrections Officer must inform, when appropriate, the Area Manager or above of all incoming calls to detainees.

Where a person makes an incoming call to a detainee, the Corrections Officer makes an assessment of the purpose of the call. In instances such as an emergency, the message will be referred to the Area Manager, who must then facilitate the message on to the detainee. The Area Manager may also notify relevant staff of an incoming call to a detainee, including the detainee's Case Manager, Chaplain or Intelligence Unit.

Non-emergency related messages will not be accepted or relayed to detainees.

1.2 Detainee telephone contact entitlement

Unless the grounds to refuse a telephone call are satisfied in accordance with section 1.4 of this Policy, a detainee may make:

- a) at least one telephone call on admission to an ACT correctional centre (the telephone call may be provided at the Court Transport Unit, or at the

- Admissions building to an ACT correctional centre) to an approved telephone number, at ACTCS' expense;
- b) a telephone call to any telephone number on the common dial list, at ACTCS' expense;
 - c) at a minimum, at least one telephone call each week to an approved telephone number of a family member, at the detainee's own expense; and
 - d) an emergency, welfare call or monetary advance to an approved telephone number when deemed appropriate by the Area Manager or above, in accordance with section 1.9 or 1.10 of this Policy, at either the detainee or ACTCS' expense (as determined by the Area Manager or above).

Approved telephone numbers include family members, friends and a detainee's legal representative, or other professionals relevant to their imprisonment, added to a detainee's telephone contact list in accordance with section 1.3 of this Policy.

A family member includes:

- spouse or domestic partner;
- children (including foster children, grandchildren and step-children);
- parents (including foster parents, grandparents and step-parents);
- siblings (including step-siblings);
- guardian or carer; and
- persons with whom, in the opinion of the General Manager (or delegate), the detainee has a close familial bond; or
- those considered family for people of Aboriginal and Torres Strait Islander background, and/or other cultural ethnicities.

1.3 Establishment of a Detainee Telephone Account

Detainees wishing to establish a telephone account must complete a Detainee Request for a Telephone Account form and submit it to the Corrections Officer on duty in their accommodation area.

1.4 Adding telephone numbers to a Detainee Telephone Account

Detainees may have up to ten approved telephone numbers listed on their telephone account. Unless authorised by the Area Manager or above, a detainee is unable to make a telephone call unless the telephone number is approved and listed on their telephone account.

Detainees are required to submit a Request to Alter Telephone Numbers form to the Corrections Officer on duty in their accommodation area to add/delete or change telephone numbers of family members, friends, their legal representative, diplomatic or consular staff at an Embassy or Consulate relevant to the detainee, or other relevant contacts approved and listed on their telephone account.

The Corrections Officer will cross reference the detainee and proposed receiver details against the list of court sanction orders in place. If no order is in place, the Corrections Officer will contact the proposed receiver of the telephone call to gain

consent for their telephone number to be added to the detainee's telephone account.

If it has been identified that the requested family member is a child (under 18 years of age), consent for the telephone number to be added to the detainee's telephone account must be given by the child's parent or guardian. If the child is between 16 years and 18 years of age, and is no longer under the care of an adult, the General Manager (or delegate) may approve the number to be added without a parent or guardian's consent. If the child is under the age of 16 years of age, consent of the parent or guardian must be obtained.

It must be made clear to the proposed receiver of a telephone call that once a number is approved and added to a detainee's telephone account, the detainee has access to the telephone number and ACTCS has limited control over the use of this telephone number, unless the person requests for the telephone number to be removed from the detainee's telephone account in the future.

The recipient must also be advised that for security purposes the phone call may be monitored or recorded.

This process includes a request by a detainee to add an international telephone number to their approved telephone contact list. Where the Corrections Officer is unable to confirm the identity and/or consent of the proposed receiver of an international telephone number, the Corrections Officer must refer the request to the General Manager (or delegate) before the telephone number is refused or approved to be added to the detainee's telephone account.

When a Corrections Officer adds an approved contact telephone number to a detainee's telephone account the call type will be allocated a prefix. The prefix will categorise the telephone call (for example, legal or personal), establish the length of time permitted for the telephone call being made, and distinguish whether the telephone call may be recorded.

Unless approved by the General Manager (or delegate), under no circumstances will a number be added to a detainee's telephone account without the proposed receiver agreeing to accept calls from the detainee.

In order to access the PTS each detainee is issued a 4 digit PIN. It is the detainee's responsibility to ensure their PIN remains confidential.

1.5 Refusal or limitation of telephone contact

The Area Manager or above must deny a request to add a telephone number if there is:

- a court sanctioned Domestic Violence Order (or equivalent) in place which restricts telephone contact between the detainee and the receiver of the telephone call;

- a court sanctioned Personal Protection Order (or equivalent) in place which restricts telephone contact between the detainee and the receiver of the telephone call;
- a court sanctioned Prohibition Order (or equivalent) in place which restricts telephone contact between the detainee and the receiver of the telephone call; or
- a court sanctioned Non-Association Order (or equivalent) in place which restricts telephone contact between the detainee and the receiver of the telephone call.

The Area Manager or above may deny or limit a request to add a telephone number or make contact with an accredited person, if they suspect on reasonable grounds that the call may:

- undermine the security and good order of the correctional centre;
- be used to circumvent a process for investigating or reviewing a complaint under the *Corrections Management Act 2007*;
- re-victimise a victim;
- be used to threaten, coerce or intimidate a detainee or member of the community;
- have the purpose of causing community distress;
- be used to plan or commit an offence;
- pose a risk to the lives or sexual safety of children;
- negatively impact the detainee's rehabilitation and denying the telephone contact does not unreasonably interfere with the detainee's ability to maintain contact with their family, friends or associates; or
- in circumstances deemed inappropriate by the General Manager (or delegate).

An approved receiver of a telephone call from a detainee may request their telephone number be removed from the detainee's approved telephone contact list at anytime by calling the Visits booking telephone number. Upon receiving a request for removal, the Corrections Officer will check the number against the telephone number listed on the detainee's approved telephone contact list and call back on the telephone number listed ensuring they speak to the owner to confirm removal.

The detainee may also request a telephone number be removed from their approved telephone contact list at anytime by submitting a Request to Alter Telephone Numbers form.

The Area Manager or above will provide the detainee with reasons for a decision to refuse or remove a telephone number to their approved telephone contact list as soon as practicable, unless doing so may compromise the safety of the receiver. In this instance, the detainee is to only be informed that the number will not be added to the detainee's approved telephone contact list.

1.6 Telephone calls between detainees in custody

The General Manager (or delegate) may approve telephone calls between detainees at a correctional centre/s in extenuating circumstances.

A request for an interstate correctional centre telephone call, must be approved by the Deputy General Manager, Custodial Operations (Deputy General Manager). In addition, the relevant approval processes must be applied from the other correctional centre.

Any Inter-Centre or Intra-Centre Telephone Call Request Form is to be provided to the Intelligence Unit for consideration. The Intelligence Unit will consider the reason for the request, ensure the detainee at the ACT correctional centre consents to the request and either recommend or not recommend the request. A detailed explanation must be provided of the reasons for the recommendation, taking into consideration 1.4 of this Policy. If the request is recommended by the Intelligence Unit, the request must then be provided to the General Manager (or delegate) for approval before the telephone call is facilitated.

1.7 Telephone contact with children under orders

In the instance where any legal arrangements (for example, legal order or care plan) are in place with Child and Protection Services (CPS), for a detainee to have telephone contact with their child, an agreement must be reached in writing between ACTCS and CPS about how the telephone contact is facilitated before any telephone contact can take place. A copy of this agreement must be placed on the detainee's JOIST and hardcopy file.

There are three options that can be considered for the telephone contact to be facilitated:

Option 1

1. CPS and ACTCS agree to the date and time the calls will take place
2. CPS provide ACTCS with a telephone contact number
3. A Corrections Officer or Corrections Case Manager will dial the telephone number from the Admissions area of the correctional centre
4. After the receiver of the call has agreed to the call, the telephone handset is then passed to the detainee

Option 2

1. CPS and ACTCS agree to the date and time the calls will take place
2. ACTCS provide CPS with a non-PTS telephone number
3. The incoming call is answered by a Corrections Officer or Case Manager, who then passes the telephone handset to the detainee

Option 3

1. CPS and the detainee agree to the date and time the calls will take place
2. The caregiver agree to their telephone contact number being added to the detainee's approved contact list

3. The telephone number is added to the detainee's approved telephone contact list in accordance with section 1.5 of this Policy
4. The detainee makes telephone contact as agreed

Unless agreed under Option 3, any number CPS provide to ACTCS must be kept confidential at all times, and under no circumstances may it be given to a detainee.

If option 2 is used, CPS must ensure that the number dialling into the non-PTS telephone is blocked, and consent to the call not being recorded. It is the incoming callers' responsibility to end the call when the time limit for the call has expired in accordance with the Care Plan.

1.8 Payment for the cost of telephone calls

Unless provided under section 1.9, 1.10 or 1.11 of this Policy, a detainee is to pay for all local, mobile and interstate and international telephone calls at the current service provider rate and for any associated fees.

Detainees must have adequate funds in their telephone account prior to making a telephone call.

Updates to the charge rates applied in the PTS will be reviewed at anytime. Any changes to the rate will reflect the service provider and associated fees. Detainees must be notified in advance to any change or increase to this rate.

Detainees can transfer money from their Trust Account to their telephone account through a request to ACTCS finance. ACTCS finance officers will update the PTS with the nominated amount and deduct the transaction from the detainee's trust account balance.

1.9 Common list of telephone numbers at ACTCS' expense

ACTCS provides a common dial list of telephone numbers that detainees may call from PTS phones at ACTCS' expense.

This list includes oversight agencies and their staff, including the Ombudsman, the ACT Human Rights and Discrimination Commissioner, the ACT Health Services Commissioner, the ACT Auditor General, the Public Advocate, the Official Visitors and other relevant agencies. This list is provided at every PTS phone.

1.10 No funds available on admission to a correctional centre

ACTCS is obliged to ensure detainees are able to access legal representation or an accredited person relevant to their imprisonment, and will ensure detainees are able to make reasonable contact with their family upon admission to a correctional centre.

A monetary advance for a detainee on reception to an ACT correctional centre may be approved by the Area Manager or above, if the detainee has no funds available to

make a telephone call. This is to facilitate contact with a detainee's family, legal representative, or other accredited person relevant to their imprisonment.

These funds will be in addition to a detainee's initial admissions telephone call, which is made at ACTCS' expense.

Any monetary advance must be documented on a Monetary Advance Form.

At the time of approving this monetary advance, an agreement may be put in place with the detainee to facilitate the repayment of funds at a future point in time (for example, a portion may be taken from their future unemployment benefit payment from ACTCS).

Any funds provided as a monetary advance may also be recovered by ACTCS on discharge of the detainee from custody, if:

- there are funds available in the detainee's account; and
- the General Manager (or delegate) believes on reasonable grounds that the detainee is able to repay the funds; and
- the General Manager (or delegate) believes on reasonable grounds that recovering the funds from the detainee is appropriate.

The detainee must be informed of monetary advance repayment options and/or recovery ability by ACTCS from their detainee account, prior to receiving the funds and making the telephone call.

1.11 Emergency or welfare calls at ACTCS' expense

In extenuating circumstances, the Area Manager or above may approve a compassionate telephone call at ACTCS' expense, where it is in the detainee's best interest, or to retain the safety or good order of the correctional centre.

The Area Manager will facilitate the telephone call as appropriate to the circumstances of the event.

1.12 Frequency and length of telephone calls

Telephone calls to a family member or friend will be of a maximum duration of 10 minutes. To ensure equitable use of the PTS by all detainees, there will be at least 10 minutes between telephone calls made by a detainee.

Within reason, there will be no time limit placed on telephone contact between a detainee and their registered legal representative or other accredited persons.

1.13 Restrictions on the use of telephones

Unless specified in this Policy or granted an exemption by the Deputy General Manager (or delegate), detainees must not access or use a non PTS telephone.

The Area Manager or above may restrict a telephone call, if the detainee is limited telephone contact as part of a:

- segregation or separate confinement order; or
- sanction resulting from a proven disciplinary breach.

Detainees who have had their telephone access restricted are still entitled to one telephone call per week to a family member, as well as telephone contact with their registered legal representative, other accredited persons relevant to their imprisonment or telephone numbers on the common dial list.

In addition, the General Manager (or delegate) may cancel or suspend all detainee telephone calls for a period of time due to operational requirements. In this instance detainees will be notified.

1.14 Unauthorised telephone numbers

Unless specifically authorised or available on the common dial list, detainees are not permitted to contact the following services, people, media and businesses:

- the Director General, Department of Justice and Community Safety;
- the Executive Director, ACT Corrective Services;
- the General Manager, Custodial Operations, ACT Corrective Services;
- any gambling service or organisation (not including anti-gambling support services);
- operator assisted calls;
- reverse charge services;
- 1300, 1800 or 1900 telephone numbers;
- any media organisation;
- pager numbers;
- exchange lines;
- SKYPE or systems using voice over internet protocol (VOIP).

1.15 Misuse of the PTS

A detainee will be deemed to have misused the PTS if they:

- damage or tamper with the telephone;
- use another detainee's PIN;
- allow another detainee to use their PIN;
- use a Corrections Officer's or general corrective services access PIN;
- use the telephone in connection with an illegal purpose;
- use the telephone in connection with any act which contravenes the Commonwealth *Telecommunications (Interception and Access) Act 1979*, *Telecommunications Act 1997*, or any other legislation; or
- knowingly allows his/her call to be redirected to another telephone number.

Detainees who misuse the PTS may be subject to disciplinary action in accordance with the *Detainee Discipline Policy*, *Detainee Discipline Procedure*, *Schedule of Penalties Policy* and *Hierarchy of Privileges Policy*.

1.16 Monitoring and recording telephone calls

With the exception of legal calls, calls made on the PTS may be recorded on the system's dedicated recording facility.

A recorded message is transmitted at the commencement of each call made on the PTS informing the detainee and call recipient that the communication may be recorded and monitored.

Detainees will be notified that all private calls are subject to monitoring and recording, and that the use of the telephone constitutes consent to the monitoring and recording, including as a notice displayed at each handset.

Telephone calls between a detainee and their legal representative or accredited persons will not be monitored or recorded.

2. Forms and Templates

Detainee Request for a Telephone Account
Inter-Centre or Intra-Centre Telephone Call Request Form
Monetary Advance Form
Request to Alter Telephone Numbers

3. Related Policies and Operating Procedures

Detainee Complaints and Grievances Policy
Detainee Complaints and Grievances Procedure
Detainee Discipline Policy
Detainee Discipline Procedure
Hierarchy of Privileges Policy
Schedule of Penalties Policy

4. Relevant Documents

Common dial list of telephone numbers for detainees
Detainee Handbook
Visitors Handbook

5. Relevant Memorandums of Understanding

Nil.

6. Legislation Requirements

Corrections Management Act 2007
Crimes (Sentencing) Act 2005, Part 3.4
Crimes (Child Sex Offenders) Act 2005, Chapter 5A
Domestic Violence and Protection Orders Act 2008
Human Rights Act 2004
Information Privacy Act 2014
Telecommunications (Interception and Access) Act 1979

7. Document Properties

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