

BLOOD FROM A ROCK

UNAUTHORIZED 350% TO 500% PHONE TAX COLLECTED FROM MICHIGAN PRISONERS

As a Michigan Department of Corrections (MDOC) prisoner, who found it difficult enough to stay in touch with family and friends at the old phone rates, I was disappointed, but not surprised, when the MDOC entered into a five year contract with Public Communications Services (PCS) that has increased our phone rates, nearly doubling them, from \$0.10 to \$0.18 a minute for prepaid debit local/intrastate calls, and from \$0.12 to \$0.20 a minute for collect local/intrastate calls. Interstate and international calls cost more.

This new contract will allow PCS to collect a "special equipment fund" surcharge actually a tax, of \$0.1532 to \$0.2430 a minute for intrastate and interstate calls, on top of the charged rates of \$0.0343 and \$0.0393 per minute for debit and collect calls, respectively. An approximately 350 to 500 percent increase, depending on the type of call and payment used, and a windfall estimated to total \$11 million a year. PCS will keep \$3 million to "manage" the funds, with \$8 million going into the MDOC's unauthorized "special equipment" fund. (Jeff Gerritt, "Prison phone disconnect," Detroit Free Press, Aug. 27, 2011).

Not only is this tax of highly questionable legality and contrary to the MDOC's expressed purpose of rehabilitation, it's an unfair burden on prisoners' families and friends, who are, more often than not, the working poor, if not the unemployed poor. It is an attempt to get blood out of a rock. An attempt that is already failing, as indicated by the precipitous drop in prisoner phone calls in what amounts to a de facto boycott, albeit due to necessity.

Incredibly, the MDOC initially claimed the surcharge was necessary to pay for equipment to detect unauthorized cell phones, claiming at least 20 were found in Michigan prisons last year, but is now planning to use this tax windfall for security-related equipment, including radios, video cameras and "personal protection devices" (i.e., clubs, pepper spray, etc.). (Gerritt, *ibid.*).

Surprisingly, given the greedy, rapacious nature of those who control the state, there is no legal authorization for a surcharge or a tax for any "special equipment" unrelated to prisoner telephone services. Public Act 245 of 2008 clearly states:

Sec. 219. Any contract for prisoner telephone services entered into after the effective date of this act shall include a condition that fee schedules for prisoner telephone calls, including rates and any surcharges other than those necessary to meet special equipment costs, be the same as fee schedules for calls placed from outside of correctional facilities. [Emphasis supplied]

The words "special equipment costs" are relative to prisoner telephone services and nothing else. The canon of legal construction noscitur a sociis applies here meaning an unclear word or phrase should be determined by the words immediately surrounding it. Those would be "prisoner telephone services" and "prisoner telephone calls." (Black's Law Dictionary, abridged 7th ed., p867).

For example, the problem of unauthorized cell phones has nothing to do with the telephone services provided prisoners. There are essentially only two ways unauthorized cell phones could get into a prison. One, they come in during contact visits, getting by the guards' search of visitors and strip search of prisoners. Two, MDOC staff bring them in. Unless one were to construe MDOC guards are so incompetent they cannot find cell phones during two searches, Ockham's razor requires the choice to be number two - staff bring them in. Every cell phone bust I've heard of in these prisons has had a guard or other staff member resigning to avoid getting fired. Consequently, if anyone is to be taxed for special equipment to detect unauthorized cell phones, it should be MDOC staff.

Moreover, up until its Nov. 10, 2010 purchase by Global Tel*Link (GTL), the MDOC's current phone service provider, Public Communications Services (PCS), was known for providing some of the lowest prison phone rates in the country. Unwilling to compete fairly, GTL simply began consolidating the market. GTL acquired AT&T's National Public Markets and Verizon's MCI WorldCom's correctional phone services. Along with PCS, GTL also purchased competitor DSI-ITI, LLC. But that is not all. GTL is owned by Veritas Capital and GS Direct, LLC (owned by Goldman Sachs). (John E. Dannenberg, "Nationwide PLN Survey Examines Prison Phone Contracts, Kickbacks," Prison Legal News, April 2011).

It comes as no surprise that Goldman Sachs owns GS Direct and expects to collect its cut of the \$3 million in blood money taken from Michigan's poorest and most helpless citizens - prisoners and their families and friends. No more of a surprise than finding blood sucking leeches in a swamp. After all, Goldman Sachs is the corporation most responsible for the failure of AIG and the collapse of American financial markets through its legally questionable speculation in credit default swaps that resulted in a massive taxpayer bailout of approximately \$7 trillion. The very same corporation now reaping vast profits from taxpayers via the banking industry's collection of full payment for mortgages on foreclosed homes from Fannie Mae and Freddie Mac and which paid its executives hundreds of millions in bonuses last year. Goldman Sachs calls the shots in Washington, DC, and now, apparently, in the telephone services provided to Michigan prisoners.

The MDOC must be desperate for cash to get into bed with these corporate parasites, but it may have felt it had little choice, after years of Michigan's "tough on crime" legislation and its current fiscal crisis created by Governor Snyder's tax giveaways to corporations. There is, however, a much better way to raise money than an unauthorized tax on prisoners, and their families and friends. It is called practicing good money management.

The Michigan Auditor General has issued reports indicating the MDOC wastes millions of dollars in overtime spending and on an inefficient transport system. In 2007, the MDOC had 16,260 employees with a payroll of \$1.41 billion, including \$95.3 million in overtime costs. (Michigan Office of the Auditor General, "Performance Audit of Selected Personnel and Other Administrative Costs, Department of Corrections," Oct. 2008). In the fiscal year 2005-07, the MDOC spent \$23.6 million on transportation, which included staff salaries, 102,000 overtime hours, and 4,601,300 vehicle miles. (Michigan Office of the Auditor General, "Performance Audit of Prisoner Transportation," Dec. 2008).

I can't begin to count the times I've seen guards working overtime and I've personally been "transported" to six different prisons in six years without any change in my custody level and, apparently, for no other reason than to keep someone busy driving me around the state. My case is far from atypical, so imagine the savings in gas alone, besides wages, vehicles and paperwork, if prisoners were not constantly transported hither and yon based on the whims and caprices of various MDOC prison administrators.

The Auditor General reports are clear. The MDOC could save at least a \$100 million a year by eliminating excessive overtime and transportation. A far cry from the \$2 million they hope to get and likely won't from an unauthorized telephone tax on prisoners. After all, you can't get blood out of a rock!

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