



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: ED-03.32 (rev. 3)

DATE: October 31, 2019

PAGES: 1 of 9

SUPERSEDES: ED-03.32 (rev. 2)
June 5, 2014

EXECUTIVE DIRECTIVE

SUBJECT: OFFENDER ACCESS TO TELEPHONES

AUTHORITY: Tex. Code Crim. Proc. arts. 7A.07; Tex. Gov't Code §§ 493.001, 493.006(b), 494.001, 494.002(a), 495.027, 2170.009; Tex. Penal Code § 38.111; Tex. R. Evid. 503; BP-02.08, "Statement of Internal Controls"

APPLICABILITY: Texas Department of Criminal Justice (TDCJ); excludes privately operated intermediate sanction facilities, pre-parole transfer facilities, and leased beds

POLICY:

The TDCJ establishes guidelines for offender access to outgoing telephone calls. Telephone calls between offenders and attorneys are confidential and are addressed in BP-03.81, "Rules Governing Offender Access to the Courts, Counsel, and Public Officials."

DEFINITIONS:

The following terms are defined for the purpose of this policy and are not intended to be applicable to other policies or procedures.

"Approved Calling List" is a list of names, phone numbers, and addresses of adults, ages 18 and older, who have successfully registered to receive phone calls from an eligible offender.

"Call Schedule" is each unit's established time intervals, within operational hours, during which an eligible offender may have access to the Offender Telephone System (OTS).

"Deaf Offender" is an offender who relies on visual methods to communicate due to a severe hearing impairment. Tex. Hum. Res. Code § 81.001(2).

"Hard of Hearing Offender" is an offender with a hearing impairment that results in a loss of hearing function and causes the offender to rely on hearing aids or visual methods to communicate. Tex. Hum. Res. Code § 81.001(3).

“Offender Telephone System” (OTS) is the telephone system installed and maintained by a telecommunications contractor that has been awarded the service contract with the TDCJ.

“Personal Biometric Identifier” (PBI) is a method of identification based on the use of biological properties, such as fingerprints, retina scans, and voice recognition, to identify a specific individual.

“Program Telephone Calls” are supervised, facilitated telephone calls placed or received by rehabilitative program participants.

PROCEDURES:

- I. Four methods, based on eligibility criteria, are available for an offender to place outgoing telephone calls:
 - A. A call placed through the OTS. Eligible deaf and hard of hearing offenders, as identified and diagnosed by medical staff, shall be permitted to place outgoing calls through the OTS video call system;
 - B. A collect call placed from a TDCJ-owned telephone;
 - C. Telephone calls placed in accordance with BP-03.81, “Rules Governing Offender Access to the Courts, Counsel, and Public Officials”; or
 - D. Program telephone calls placed or received in accordance with the policies and procedures of the applicable program.

- II. Guidelines for Offender Telephone Calls
 - A. Offenders shall conduct telephone conversations in an acceptable manner. Loud, boisterous conversations shall not be permitted. Offenders are prohibited from speaking in code, passing gang related information, planning criminal activity, or using the telephone in furtherance of any criminal conduct. Threats, obscenities, and other types of abusive language may result in immediate termination of the telephone call, suspension of future telephone privileges, and disciplinary action.
 - B. Unauthorized contact with a victim or a member of a victim’s family by an offender is prohibited in accordance with AD-04.82, “Forfeiture of Good Conduct Time for Unauthorized or Prohibited Contact with a Victim.”
 - C. Offenders are prohibited from dialing or answering any telephone calls on TDCJ-owned telephones. In limited circumstances, the warden may designate work locations where telephones are available to receive calls from or call directly to the central control picket. When answering a telephone, the offender shall clearly state, “Offender (*name*), (*department name or location*).”

- D. When an offender has sole access to a TDCJ-owned telephone, the telephone shall be disabled to prohibit outgoing telephone calls. Any offender tampering with, manipulating, or destroying telephone equipment will be subject to disciplinary action.
- E. An offender shall not be required to reenroll in the OTS when transferred to a new unit of assignment.

III. Procedures for the Offender Telephone System

A. Eligibility Criteria

Offender access to the OTS shall be validated and initiated by the telecommunications contractor based on the following eligibility requirements:

1. Offenders classified as general population Levels 1, 2, 3, or 4, or protective safekeeping shall be authorized to access the OTS.
2. Offenders in a psychiatric inpatient program or Developmental Disabilities Program shall be allowed access to the OTS in accordance with the offender's treatment plan.
3. Eligible offenders in the infirmary shall have access to the OTS.

B. Ineligible Criteria

1. Security detention offenders shall be prohibited from accessing the OTS.
2. Offenders in transient status, prehearing detention, cell restriction, or special cell restriction shall not be permitted access to the OTS, regardless of custody designation.
3. An offender's access to the OTS may be suspended if the offender is found guilty of a major disciplinary violation in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*.

C. All outgoing calls through the OTS shall be placed using one of the following methods:

1. Debit Calls

To complete a call through the OTS using the debit option, funds must be available in the offender's telephone account. The funds located in the offender's telephone account may be transferred from the offender's Inmate Trust Fund (ITF) account by the offender or deposited directly into the offender's telephone account by the offender's friends and family. An

individual does not have to be on an offender's Approved Calling List to deposit money in an offender's telephone account. Once funds are placed in the account, the funds become the property of the offender. An offender may request a refund of the account balance from the telecommunications contractor after the offender's release from the TDCJ.

2. Collect Calls

Collect calls may be placed through the OTS and billed directly to the party called. Pre-paid accounts are available to friends and family members by contacting the telecommunications contractor.

- D. An offender's telephone account is separate from the offender's ITF account. Funds in an indigent offender's telephone account do not affect the offender's indigent status, and the TDCJ shall not seize funds in an offender's telephone account as the result of a disciplinary action.
- E. Each telephone call shall be automatically terminated after the TDCJ approved time has been exhausted. The TDCJ may shorten the length of each telephone call or limit the number of calls to ensure all eligible offenders have an opportunity to access the OTS.
- F. Each eligible offender shall have a PBI which shall be used to access the OTS and a unique Personal Identification Number to verify the PBI. An exception is an eligible offender identified by medical as having a hearing impairment, who would need the voice biometric requirement removed.
- G. Eligible offenders may only call adults listed on the offender's Approved Calling List once the person has successfully registered to receive calls from the offender. Offenders shall not be allowed to speak to any adult not listed on the offender's Approved Calling List.
- H. Offenders shall be permitted to call only registered telephone and cell phone numbers within the continental United States, Alaska, and Hawaii.
- I. The OTS shall be located within the dayrooms or living areas of the cellblock or dormitory, and other locations as designated by the TDCJ.
- J. The OTS shall be operational between the hours of 7:00 a.m. and 10:00 p.m., seven days per week, with the exception of count time or any time dayroom privileges are suspended due to a unit emergency or lockdown. If the warden needs to limit access within the operational time of the OTS, written approval to modify the unit's Call Schedule shall be received from the appropriate regional director and forwarded to the OTS Coordination Office.

- K. Eligible offenders shall be permitted to place calls to their attorney(s) of record once the attorney has successfully registered to receive calls from the offender.
- L. All telephone calls placed using the OTS shall be subject to monitoring and recording, except calls to the offender's attorney(s) of record.

An attorney listed on the offender's Approved Calling List who has not successfully registered through the attorney registration process will not be considered the offender's attorney(s) of record. This type of call has no expectation of privacy during a telephone conversation placed using the OTS, and these calls shall be subject to monitoring and recording.

- M. All offender complaints and concerns regarding the OTS, other than eligibility criteria, shall be addressed by submitting an Offender Assistance Request Form to the telecommunications contractor. Forms will be provided by the telecommunications contractor to all facilities where the OTS is available.
- N. The following types of calls and conversations will not be permitted:
 - 1. Calls to unregistered pre-paid cell phones;
 - 2. Calls to businesses;
 - 3. International calls;
 - 4. Forwarded calls;
 - 5. Three-way calls;
 - 6. Calls to victims or individuals with whom the court has ordered no contact;
 - 7. Calls to victims or individuals with whom state law prohibits unauthorized contact;
 - 8. Conversations with any adult not on the Approved Calling List; and
 - 9. Calls from an offender placed on speakerphone.

Offenders found having or soliciting these types of calls or conversations shall be subject to disciplinary action in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*.

Friends or family members discovered facilitating these types of calls or conversations may be blocked or removed from the offender's Approved Calling

List. Friends or family members may be blocked by the warden from receiving calls from the offender for a period of time not to exceed 45 days.

O. Friends or Family Members Removed from an Approved Calling List

1. The warden or designee shall send a written notice to the friend or family member being removed, to include the reason for removal, except in those instances when disclosure of the reason to the individual would create an immediate and serious threat to the physical safety or security of staff, the offender, or other offenders, or jeopardize an ongoing criminal investigation. In such cases, the reason may be stated as “For the security and safety of staff, offenders, and the institution or to protect the integrity of an investigation.”
2. The warden may request approval from the regional director to remove the friend or family member’s name from the offender’s Approved Calling List.
3. The decision to approve the removal shall be sent to the OTS Coordination Office in order to update the status of the friend or family member.
4. An individual removed from an offender’s Approved Calling List may appeal the decision by submitting a written appeal to the Director’s Review Committee within 14 days from the date on the written notice. If the appeal is denied, the individual may submit another appeal in six months.

IV. Calls Placed on TDCJ-Owned Telephone Equipment

A. Eligibility Criteria

1. Offenders who are not eligible for the OTS due to custody designation shall be authorized access to TDCJ-owned telephones designated by the warden.
2. Offenders who are eligible for the OTS shall not be authorized access to TDCJ-owned telephones to contact friends and family members, except in extraordinary circumstances and at the discretion of the warden.
3. In order to be eligible to place a call using a TDCJ-owned telephone, offenders shall be free of any major disciplinary convictions within the last 90 days, or 30 days for state jail and substance abuse felony punishment (SAFP) offenders. Offenders whose medical condition precludes work and who meet all other requirements shall be eligible to place a call using a TDCJ-owned telephone.

- B. Request and Approval Procedures
1. To request a phone call using a TDCJ-owned telephone, offenders shall submit an Inmate Request to an Official (I-60) for approval by the warden. The approval process for program telephone calls shall be in accordance with the guidelines set forth in the policies and procedures for the applicable program.
 2. If no security concerns exist, offenders in Level I security detention may request and receive authorization for a telephone call at the warden's discretion.
 3. Calls placed to an offender's attorney of record or the General Consulate shall be requested and approved in accordance with BP-03.81, "Rules Governing Offender Access to the Courts, Counsel, and Public Officials."
- C. Collect calls are permitted for outgoing telephone calls, unless the call is a local number.
- D. Offenders shall be limited to one telephone call every 90 days, or 30 days for state jail and SAFP offenders.
- E. Calls placed on TDCJ-owned telephones shall be limited to five minutes in duration. Should the offender not reach the desired party, the offender may try one additional number. Calls may be further restricted during high traffic periods, such as Christmas holidays, when a three-minute limit would allow more calls to be made.
- F. Offenders shall be allowed to call only those persons who appear on the offender's Visitors List. Requests for an exception submitted on an I-60 shall be reviewed and approved at the discretion of the warden or designee.
- G. Offenders shall be permitted to call only telephone numbers within the continental United States, Alaska, and Hawaii.
- H. Calls placed on TDCJ-owned telephones shall be dialed and monitored by authorized security staff appointed by the warden or designee. An interpreter shall be available to monitor calls for those offenders who speak only Spanish or for those offenders who are bilingual but whose family members are not. An interpreter may monitor calls for those offenders who speak foreign languages other than Spanish or those offenders who are bilingual but whose family members are not.
- I. Calls placed on TDCJ-owned telephones, including those made through the chaplain, shall be logged on the Telephone Log for Approved Offender Calls (Attachment A), which shall be located in an area designated by the warden.

- J. Wardens shall establish unit specific procedures for offender access to TDCJ-owned telephones, which shall be reviewed by the appropriate regional director. The procedures shall indicate the location of the phones available for offender use and the times telephone calls are permitted.

- V. All requests from law enforcement agencies for records or recordings from the OTS shall be forwarded to and processed by the OIG. All subpoenas received by the TDCJ regarding copies of OTS records shall be forwarded to and processed by the OTS Coordination Office, in coordination with the OGC.

- VI. Any information regarding criminal activity that is acquired via any telephone shall be forwarded to the OIG by the warden or designee. If there is an immediate threat to public safety, notification shall take place as soon as practical and shall be reported as appropriate.

Bryan Collier*
Executive Director

* Signature on file

TELEPHONE LOG FOR APPROVED OFFENDER CALLS

UNIT: _____ MONTH: _____ YEAR: _____

DATE <i>MM/DD/YY</i>	TIME <i>AM/PM</i>	OFFICER PLACING CALL <i>(Print First and Last Name)</i>	APPROVED BY <i>(Print Name and Title)</i>	COMMENTS
CALL ACCEPTED / REJECTED		OFFENDER NAME AND TDCJ NUMBER	CALL PLACED TO <i>(Print Name and Relationship to Offender)</i>	TELEPHONE NUMBER DIALED <i>(Area Code) ###-####</i>
DATE <i>MM/DD/YY</i>	TIME <i>AM/PM</i>	OFFICER PLACING CALL <i>(Print First and Last Name)</i>	APPROVED BY <i>(Print Name and Title)</i>	COMMENTS
CALL ACCEPTED / REJECTED		OFFENDER NAME AND TDCJ NUMBER	CALL PLACED TO <i>(Print Name and Relationship to Offender)</i>	TELEPHONE NUMBER DIALED <i>(Area Code) ###-####</i>
DATE <i>MM/DD/YY</i>	TIME <i>AM/PM</i>	OFFICER PLACING CALL <i>(Print First and Last Name)</i>	APPROVED BY <i>(Print Name and Title)</i>	COMMENTS
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DATE <i>MM/DD/YY</i>	TIME <i>AM/PM</i>	OFFICER PLACING CALL <i>(Print First and Last Name)</i>	APPROVED BY <i>(Print Name and Title)</i>	COMMENTS
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DATE <i>MM/DD/YY</i>	TIME <i>AM/PM</i>	OFFICER PLACING CALL <i>(Print First and Last Name)</i>	APPROVED BY <i>(Print Name and Title)</i>	COMMENTS
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CALL ACCEPTED / REJECTED		OFFENDER NAME AND TDCJ NUMBER	CALL PLACED TO <i>(Print Name and Relationship to Offender)</i>	TELEPHONE NUMBER DIALED <i>(Area Code) ###-####</i>