

**FCC Commissioner Mignon Clyburn
Big Tent Meeting
September 25, 2015**

“Breaking the Cycle of Prison Poverty One Phone Call at a Time”

-As Prepared for Delivery-

Good morning. Thank you, Christine [Leonard] for that gracious introduction.

It is heartwarming to see such a diverse group of people assembled and united to tackle criminal justice reform. We need every tool at our disposal to break the vicious cycle of incarceration and its reverberating impact on our communities.

During my time today, I want to highlight an issue on which we can work together: reducing the egregiously high cost of calls from jails and prisons — rates so high that it puts connectivity at risk for too many, particularly our impoverished families. If the ability to keep in touch is out of reach for the imprisoned, then fathers, mothers, brothers, sisters, and sons and daughters will return to their communities as strangers, unable to reassimilate — and, for 75% of those released, it no doubt contributes to them being rearrested and sent back to prison within five years, continuing the vicious cycle of incarceration and ensuring that these communities remain impoverished.

But with your help, we can fix this.

The United States has the highest rate of incarceration in the world,¹ and, with recidivism rates of 75%, this trend is likely to continue. We also have the unfortunate distinction of boasting the highest child poverty rate among 35 industrialized countries. Nearly 15 million of our children are living below the poverty level, and according to one study, people who experienced poverty at any point during the childhood were three times more likely to be poor at age 30 compared those who were never poor as children.²

These are related vicious cycles, and the alarming increase of children with incarcerated parents has created a new cycle of poverty where it can be afforded the least. African Americans represent 12.3% of the US population but account for nearly 44% of the prison population. According to one study, if these trends continue, one in every three to four African American males born today can expect to go to prison in his lifetime.

¹ Between 1980-2010, the United States saw a 300% increase in the incarcerated population – with the number of women incarcerated growing by nearly 600% during the same time period.

² *Ending Child Poverty Now*, CHILDREN’S DEFENSE FUND, <http://www.childrensdefense.org/library/PovertyReport/EndingChildPovertyNow.html> (last visited Sept. 25, 2015).

What these statistics do not highlight is the devastating economic impact on our communities and the next generation and the next. According to reputable studies, 54% of all inmates are parents with minor children.³ This translates into approximately 2.7 million of our most valuable resources with at least one parent incarcerated⁴ and nearly 10 million children who have had a parent behind bars.⁵ Approximately half of all children with an incarcerated parent are under 10 years old, and 20% are under the age of four.⁶ That is one in every 28 children, and one in nine African American children with an incarcerated parent.⁷ Twenty-five years ago, that ratio was just one in 125.

Are you surprised to hear that 40% of state prisoners reported growing up in a household that received public assistance? What is more, half of imprisoned parents were the primary wage-earners for their families. With that support gone, child poverty rates rise as well as that cycle of prison and poverty.⁸ And, when the parent is released, their annual earning power plummets by approximately 40 percent.⁹

The magnitude of this impact and cycle of prison and poverty for these children and the generation to follow cannot be overstated.

I submit to you, that if there were any other issue where 2.7 million children were impacted, we would be witnessing a national outrage of gigantic proportions. To put this in perspective, the number of children with an incarcerated parent is more than twice the number of children that have juvenile diabetes (1.25 million children according to the American Diabetes Association)¹⁰ and more than the number of children diagnosed with autism.

Those 2.7 million children face a host of unique challenges. One study found that 23% of children with a father that had been incarcerated had been expelled or suspended from school compared to 4% of children whose fathers were not jailed.¹¹ While the impact on each child is different, it is clear that parental incarceration has a unique combination of trauma, shame, and stigma and is recognized as an adverse childhood experience (ACE). Children with one or more ACE face increased risks of health problems such as depression, suicide attempts, and substance abuse.

³ THE PEW CHARITABLE TRUSTS, COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY (Sept. 28, 2010),

http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2010/collateralcosts1pdf.pdf.

⁴ RUTGERS UNIVERSITY-CAMDEN, CHILDREN AND FAMILIES OF THE INCARCERATED FACT SHEET, <https://nrccfi.camden.rutgers.edu/files/nrccfi-fact-sheet-2014.pdf> (last visited Sept. 25, 2015).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*; see also COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY, *supra* note 3.

⁸ CARI MICHAELS ET AL., UNIV. OF MINN. EXTENSION: CHILDREN, YOUTH & FAMILY CONSORTIUM, CHILDREN WITH INCARCERATED PARENTS – CONSIDERING CHILDREN'S OUTCOMES IN THE CONTEXT OF COMPLEX FAMILY EXPERIENCES 4 (2013) <http://www.extension.umn.edu/family/cyfc/our-programs/ereview/docs/June2013ereview.pdf>.

⁹ COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY, *supra* note 3, at 4.

¹⁰ *Statistics About Diabetes*, AMERICAN DIABETES ASSOCIATION (May 18, 2015), <http://www.diabetes.org/diabetes-basics/statistics/>.

¹¹ COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY, *supra* note 3.

Those 2.7 million children are more likely to be displaced from their remaining parent, living with grandparents, or for too many, entering foster care, particularly when the mothers are the incarcerated.

One study found that the increase in female imprisonment resulted in a 30% increase in foster care caseloads between 1985 and 2000.¹² While the separation is often just as painful as other forms of parental loss, the stigma, ambiguity, and lack of social support and compassion that accompanies prison make it all more difficult.

And while those of us in this room may be unable to tackle all of the dimensions that contribute to this cycle, we can and we must see to it that those children and their families, friends and legal counsel maintain contact through an affordable inmate calling rate regime that may at least ease the pain of this loss. Not surprisingly, children who continue to stay in touch with their parent in prison exhibit fewer disruptive and anxious behaviors. Yet, according to one study, only 38% of inmates reported “at least” monthly phone calls with their children.¹³

No one disputes studies that consistently show that meaningful communication beyond prison walls helps to promote rehabilitation and reduce recidivism. Meanwhile 700,000 inmates are released every year and, sadly, as I mentioned before, the Department of Justice reports that nearly 75% will be back within five years.

We should do all in our power to promote connectivity with the incarcerated, and that begins with you actively challenging the current system of rates that are so high that it actively discourages communication because families and friends cannot afford to keep in touch.

Just how high are these rates? A pro bono attorney paid \$14 a minute to speak to an incarcerated client. Families write explaining how they are making extraordinary sacrifices by paying \$400-\$500 a month to hear their loved one’s voice. The endless array of new and increasing fees can add nearly 40% to costs— fees as high as \$9.50 to open a new account, \$4.75 to add money to an account, and \$2.99 a month for the account maintenance fee. These rates and fees would be difficult for any family to bear, but if you were already struggling to stay afloat, you are now foregoing basic necessities like food and medicine just to make a phone call. No family should be forced to make this choice.

Here we have a clear case of market failure, and our most vulnerable families are being preyed on. Providers have a monopoly in those facilities, and these jails and prisons often share in the company’s profits. Payments as high as 96% of gross revenues are often kicked back to the facility and can be used for anything from blankets and inmate welfare to area roads and general welfare funds.

As Acting Chairwoman, I saw that the agency took its first real step in 2013 with caps on interstate rates (for calls that cross state lines) at 21 cents a minute. This move

¹² Christopher Wildeman & Bruce Western, *Incarceration in Fragile Families*, 20 THE FUTURE OF CHILD. 157, 169 (2003).

¹³ MICHAELS, *supra* note 8, at 9.

finally answered a decade-old petition from a grandmother who wanted to affordably stay in touch with her grandson.

And if you needed more proof that high rates are discouraging connectivity: after we lowered interstate rates, long distance call volumes increasing 70% in some facilities. What is also important is that security protocols have not been compromised.

But 85% of calls from correctional facilities are made *within* a state. While a few states, such as New York, New Jersey and Ohio, have reformed and have rates of four to five cents a minute with advanced security features and without kick-backs, nearly 80% of states have failed to act.

The FCC is poised to enact permanent reforms to reduce all rates and charges in a manner that ensures robust security features but makes rates affordable. Still, I need your help. The FCC has express authority from Congress to reform “intrastate” and “interstate” calls and “ancillary services” for “inmate calling services.” But the *status quo* is good for certain providers and facilities. Reform efforts are being met with powerful resistance, and the quest for just and reasonable rates for these families, friends, and legal representatives will not come easy.

I need your help in getting the word to lawmakers and those who elect them at the federal and state levels about the egregious nature of the cost of phone calls from jails and prisons, how these costs are further bankrupting families and communities, and why they should support the FCC’s efforts to reform this regime. What we are proposing will neither compromise those security protocols that must be in place nor justify the threat of some facilities that promise to eliminate the ability for inmates to make calls all together if we lower rates. I cannot, nor can the FCC, tackle this alone. We need you, we need sheriffs, we need lawmakers, and we need states to enact further reforms to bring truly affordable rates to everyone.

We need to affirm to every citizen how increasing connectivity benefits our society, that affordable rates will ultimately result in less crime and lower recidivism, and that reasonable reforms will give our children and their communities a chance at a brighter future. Let us do our part in reversing the cycle of prison, poverty, and recidivism. Each of us can do so, one phone call at a time.

Thank you.