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January 31, 2006

The Honorable Bobby L. Rush
U. S. House of Representatives
2416 Rayburn Office Building
Washington, DC 20515-1301

Dear Representative Rush:

I am writing on behalf of the American Bar Association to commend you for your leadership in introducing The Family Telephone Connection Protection Act, H.R.4466, legislation to amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates. We strongly support H.R.4466 and we urge your colleagues in the House of Representatives to support this legislation so that it may soon become law.

The ABA Section of Criminal Justice Committee on Corrections and Sentencing developed a policy recommendation that was approved by the ABA House of Delegates, our policy making body, in August 2005. The resolution supported enactment of legislation to assure a reasonable opportunity for prison and jail inmates to maintain telephonic communication with the free community, and to assure that telephone services in the correctional setting are offered with an appropriate range of options at the lowest possible rates. We believe that enactment of H.R.4466 would result in significant strides toward reaching these worthy goals.

Leaders in the corrections profession have long recognized the importance of extending telephone privileges to people in their custody as a means of fostering and strengthening ties with their families and their communities. Telephone access can be a critical component of a prisoner's successful transition to a productive, law-abiding life after leaving prison. It can also contribute to safer prisons by reducing the number of disciplinary incidents. At the same time, we recognize that the desire to provide robust communications services to prisoners remains in tension with legitimate penological constraints of the correctional setting.

Although recognizing the importance of providing expansive telephone privileges, many correctional systems engage in practices that make it difficult, if

not impossible, for incarcerated people to use the telephone. First, many correctional facilities only permit prisoners to make collect calls. Second, charges for prisoner-initiated telephone calls are high as compared to rates offered in the residential and business markets and, in some cases, excessive. In some jurisdictions, escalating prices appear to be driven by “commissions” paid by service providers to correctional facilities for exclusive contracts, which hover in the 30% to 40% range, and can be as high as 65%, of total revenue generated from total telephone contracts. Third, many correctional systems require telephone service providers to block calls from prisoners to certain prohibited phone numbers for reasons of public safety and crime prevention. As the billed parties for inmate collect calls, the family and friends of incarcerated people regularly shoulder the high cost of prison telephone services. A call recipient is often confronted with a choice of paying exorbitant rates for a collect call from a jail or prison, or refusing it. Many families cannot afford the inflated rates. One damaging result is that children are frequently unable to maintain contact with parents who are confined. Arbitrarily blocked calls only exacerbate the situation.

Individually and collectively, the foregoing practices also make it more difficult for incarcerated people to communicate with their lawyers. Telephone calls are an efficient means for attorneys to communicate with incarcerated clients, particularly when literacy or English-speaking skills are a factor. It is regularly less burdensome for an attorney to speak with a client over the telephone than to travel to the facility and conduct a meeting or personal interview. The high cost of prisoner phone calls makes it difficult or impossible for many prisoners’ lawyers to accept their calls. The vast majority of incarcerated people are represented by public defenders or court-appointed attorneys who operate with extremely limited budgets. This has serious implications given the constitutional protections surrounding a prisoner’s ability to communicate with counsel. When attorneys are able to accept prisoner calls, the high cost of the calls cuts into the attorneys’ budgets, making it difficult for them to afford other items necessary to their clients’ defense.

Correctional administrators struggle with the perennial problem of stretching limited financial resources to meet institutional needs. The lure of telecommunications contracts that promise a return of as much as 65% of all telephone revenue can appear irresistible in the absence of alternative sources of revenue. But entering into such an arrangement creates an ethical quagmire of both real and perceived conflicts which compromise both the professional integrity of correctional officials and the public’s perception. Given the penological and societal benefits that occur when incarcerated people are able to maintain contact with the outside world, the monetary advantages are not worth the human costs.

H.R.4466 would help to end such ethically troublesome practices by requiring the Federal Communications Commission to set fair rates for interstate telephone calls made from prison. The bill would also require prisons to use both collect-calling and debit-calling systems, which lets inmates use the money accumulated in computer-controlled accounts to place easily monitored calls to a limited group of phone numbers. H.R.4466 would further prohibit providers from paying kickbacks to prison systems, and would require each prison system to allow more than one phone company to enter the market.

The ABA appreciates your strong leadership in introducing this important legislation. We believe passage of H.R.4466 will afford prisoners and their families a reasonable opportunity for telephone communication while maintaining sound correctional practices and we urge members of the House of Representatives to support it.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans". The signature is written in black ink and is positioned below the word "Sincerely,".

Robert D. Evans