

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Recording of Inmate Telephone Calls

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

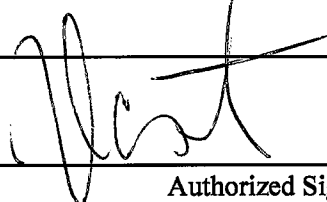
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB4081

SECTION 64-6-3(a), PASSED ON March 11, 2010

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: April 5, 2010



Authorized Signature

TITLE 90  
LEGISLATIVE RULES  
DIVISION OF CORRECTIONS

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SERIES 5  
RECORDING OF INMATE TELEPHONE CALLS

SECRETARY OF STATE

**§90-5-1. General.**

1.1. Scope. -- This legislative rule establishes the policy and delineates guidelines for the monitoring, recording, record keeping and disclosure of inmate telephone calls.

1.2. Authority. -- W. Va. Code §25-1-17.

1.3. Filing Date. -- May 6, 2009

1.4. Effective Date. -- April 5, 2010.

**§90-5-2. Applicability; reports.**

2.1 All telephones for use by inmates shall be connected to a secure, automated, digital recording module which shall be capable of identifying the inmate making the call, the number called and disabling recording of this line during calls to the inmate's attorney. Such system may be similar to those utilized with municipal "911 emergency systems". Except for calls from an inmate to his attorney, all inmate telephone calls may be monitored and will be automatically recorded. Recordings may only be disclosed as set forth herein;

2.2 The computerized telephone system shall generate a report of the telephone usage a minimum of once a month;

**§90-5-3. Procedure.**

3.1 Notification.

3.1.1. Division of Corrections will notify all inmates in writing that their telephone conversations may be recorded and disclosed in accordance with this rule;

3.1.2. Each correctional center shall prominently place a notice on, or immediately near, any telephone on which recording may take place;

3.1.3. All recordings shall be retained for at least three (3) years and disposed of in accordance with Corrections Records Retention Schedule set forth pursuant to a records retention schedule tendered in accordance with W.Va. Code § 5A-8-9.

3.2 Recording Method.

3.2.1. An automated digital recording device, similar in concept and design to those used on "911 emergency systems", shall be installed in a secure, limited access location, and connected to the inmate telephone lines.

3.2.2. All inmate telephone calls, except those made to the inmate's attorney, shall be automatically recorded.

3.2.3. The warden of each correctional center shall designate an individual or individuals to monitor the telephone system and reviewing recorded calls.

3.2.4. The contents of inmates' telephone calls may be disclosed to an appropriate law-enforcement agency pursuant to an order of a court or administrative tribunal when disclosure is necessary for the investigation, prevention or prosecution of a crime or to safeguard the orderly operation of the correctional institution.

3.2.5. Disclosure may be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is: (A) Necessary to safeguard and protect the orderly operation of the correctional institution; or (B) Necessary to protect persons from physical harm or the threat of physical harm;

3.3 Security.

3.3.1. The general public shall, to the

extent possible, be protected from unwanted inmate calls.