

**MEMORANDUM OF UNDERSTANDING BETWEEN THE WISCONSIN  
DEPARTMENT OF CORRECTIONS AND THE WISCONSIN STATEWIDE  
INTELLIGENCE CENTER (WSIC) REGARDING TEMPORARY USE OF WSIC  
STAFF TO PERFORM TELEPHONE RECORDING AND MONITORING DUTIES  
NORMALLY PERFORMED BY CORRECTIONAL OFFICERS OR SUPERVISORS**

**BACKGROUND AND PURPOSE:**

The purpose of this Memorandum of Understanding is to provide for the use of Wisconsin Statewide Intelligence Center (WSIC) staff to perform some of the duties of Department of Corrections (DOC) correctional officers, specifically the recording and/or live-time monitoring of inmate telephone calls.

**PROCEDURE:**

1. When the Wisconsin Statewide Intelligence Center deems it necessary to a criminal investigation, the WSIC Special Agent in Charge or the WSIC Criminal Analyst Supervisor (or his/her designee) will submit a written request to DOC's Division of Adult Institutions (DAI) Security Chief who will review the request and make such inquiries as he or she determines is necessary. The final approval will be granted by the DAI Security Chief. Any access to live-time monitoring will be granted on a limited-term basis, the specific length of which will be determined based upon the needs of the particular investigation. Any access to live-time monitoring will be granted only for specific inmates identified by WSIC as being under criminal investigation or having information necessary for a criminal investigation. Any needed extension for the use of the DOC's telephone monitoring system must be resubmitted to the Security Chief.
2. When the DOC deems it necessary or beneficial to enlist the assistance of WSIC for purposes of recording and/or live-time monitoring of inmate telephone calls, the DAI Security Chief will contact the WSIC Special Agent in Charge or the WSIC Criminal Analyst Supervisor (or his/her designee) to request such assistance. Any such assistance will be provided as is mutually agreed upon.

**RATIONALE AND LEGAL JUSTIFICATION:** This MOU is mutually beneficial to both the DOC and WSIC. Wisconsin Admin. Code § DOC 309.39(6) allows for correctional officers or supervisors to monitor inmate calls, record inmate calls, and provide the contents of those calls to law enforcement officers. State and local agents who participate in WSIC efforts are law enforcement officers. All inmate non-attorney telephone calls are prefaced with a recording informing the participants that the calls may be monitored or recorded. Under Wis. Stat. § 968.31(2)(b), any person acting under color of law may intercept a wire, electronic, or oral communication where one of the parties to the communication has given prior consent to the interception, and the use of knowingly monitored and recorded inmate telephone calls in law enforcement activities is allowed in Wisconsin pursuant to *State v. Riley*, 2005 WI App. 203. At times, WSIC Staff, in the course of investigating criminal activity, need access to inmate telephone calls. Allowing WSIC staff to perform the limited duties of correctional officers set forth in Wis. Admin. Code § DOC 309.39(6) will free up DOC Correctional Officer time to perform other duties.

Wisconsin Stat. § 301.35 allows state and local law enforcement agents to access DOC records, which would include telephone records. Wisconsin Stat. § 301.07 permits the DOC department to cooperate with the federal government in carrying out federal acts concerning adult corrections. PUBLIC LAW 100-690—NOV. 18, 1988, the Anti-Drug Abuse Act of 1988, permits and requires state and federal cooperation.

IN WITNESS WHEREOF, the parties have executed this MOU as of the date set forth below.

DocuSigned by:  
*Cathy A. Jess*  
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Cathy Jess, Deputy Secretary  
Wisconsin Department of Corrections

*Brian O'Keefe*  
Brian O'Keefe  
Administrator, Division of Criminal  
Investigation

11/16/2017  
Date

11/16/2017  
Date