

# Reduction or Elimination of Costs and Fees Charged to Inmates in State Correctional Facilities



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October 1, 2022



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EXECUTIVE SUMMARY

BACKGROUND

Senate Bill 441 and House Bill 665 directed the Virginia Department of Corrections (VADOC) to organize a work group to make recommendations regarding the reduction or elimination of fees charged to inmates in state correctional facilities.

Be it enacted by the General Assembly of Virginia:

1. §1. The Department of Corrections (the Department) shall convene a work group to review and make recommendations regarding the reduction or elimination of costs and fees charged to inmates in state correctional facilities to use telephone services, purchase items or services from stores or commissaries, obtain pre-release copies of medical records, utilize electronic visitation systems, and maintain personal trust accounts, and any other costs and fees deemed relevant by the Department. The Department shall include all relevant stakeholders on the work group and shall report its findings and recommendations to the Chairmen of the House Committee on Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2022.

Pursuant to that requirement, this report is the product of engagement and collaboration among work group members who had varying expertise and perspectives on the recommendations. The members included representatives from the Virginia General Assembly, Virginia Department of Corrections, formerly incarcerated individuals, family members of incarcerated individuals, and the following advocacy groups: Assisting Families of Inmates (AFOI), Sistas in Prison Reform, Worth Rises, Justice Forward Virginia, Americans for Prosperity, Social Action Linking Together, ACLU-VA, Nolef Turns Inc., and House of Dreams Outreach & Re-Entry. By name, workgroup membership included:

Table with 4 columns: VADOC Legislative Team, VADOC Operations & Procurement, Legislative Members, and Other Stakeholders. Lists names of group members.

Throughout the report, references are made to statistical analysis and outside (non-VADOC) data. It is important to note that VADOC did not have sufficient time between the provision of the information and the conclusion of the workgroup to review and confirm the information included by non-VADOC stakeholders.



The work group identified three areas of opportunity for this review – **communication fees, commissary fees, and miscellaneous financial fees**. Members of the work group participated in subgroup committees focused on these three key areas.

- Non-VADOC Stakeholders within the Communication subgroup identified two priorities for reducing costs and fees associated with communications in VADOC facilities. These priorities included: (1) Identifying ways to reduce or eliminate costs of communications in an effort to alleviate the financial burdens to incarcerated individuals and their families; and (2) Recommending changes to the current communications structure to strengthen public safety, in ways that also facilitate the orderly operation of VADOC facilities. These priorities resulted in the four recommendations listed below.
  - No cost calls for incarcerated people and their families; 10:1 ratio of wall phones per housing unit; increase allowable call list to 20 phone numbers
  - Eliminate state commissions and costs for secure messaging for incarcerated people and their families
  - Eliminate video calling costs for families
  - Update technology budget allocation to improve communication
- Non-VADOC Stakeholders within the Commissary subgroup identified four priorities for reducing costs and fees associated with commissary in VADOC facilities. Those priorities included: (1) Funding VADOC programs that benefit public safety and welfare using funds drawn from the entire population of the Commonwealth, not only the families of the incarcerated; (2) Reducing incarcerated persons and families' exposure to high cost and low quality items from vendors; (3) Identifying, where necessary, funding requirements for the General Assembly to continue funding important programs and services, instead of relying on commissary commissions and end-user funding for these activities; and (4) Ensuring rough parity between increasing prices for essential items sold within VADOC commissaries and increasing wages for jobs performed by incarcerated people in Virginia. These priorities resulted in the five recommendations listed below.
  - Eliminate state commissions on commissary sales
  - Provide high-quality, low-cost items in both commissary and quarterly package goods
  - Provide basic necessities to all incarcerated people; increase allocations for indigent persons to reduce reliance on commissary for basic needs
  - Provide sufficient high-quality food service to reduce reliance on commissary, increasing per person per day budget allocation
  - Allow individuals to donate personal property to others upon transfer or release from custody
- Non-VADOC Stakeholders within the Finance subgroup identified four priorities for reducing costs and fees associated with (1) Trust deposits; (2) Media deposits; (3) Debit release cards; and (4) Records forwarding. These priorities resulted in the three recommendations listed below.
  - Reduce deposit fees, including phone and media deposits
  - Increase options for trust account disbursements upon release; reduce debit release card fees
  - Provide records upon release from custody



## FISCAL IMPACT OF RECOMMENDATIONS BY NON-VADOC STAKEHOLDERS

The recommendations in the following report have a total estimated fiscal impact between \$27,031,382 and \$28,329,799, or roughly 2% of the VADOC's \$1.4 billion budget.

These service costs are currently funded primarily by families impacted by incarceration – who are disproportionately low-income – and secondarily by their incarcerated loved ones. There are limited jobs available to incarcerated people, and the maximum one can make is \$54 per month.

**TABLE 1. Detailed Breakdown of Fiscal Impact of Recommendations**

	Fiscal Impact	Assumptions
<b>Loss of Revenue</b>	<b>\$4,135,341</b>	
Communications	\$455,341	Commissions on tablets, secure messages, music, games, and news subscriptions
Commissary	\$3,680,000	Commissions from 9% markup on items
<b>Cost of Communication</b>	<b>\$5,359,908 - \$6,658,325</b>	
Phone (Option 1 – Per minute)	\$3,263,117	30 mins per person per day at \$0.0119 per min; projected use based on other free jurisdictions
Phone (Option 2 – Per line)	\$1,964,700	2,183 phones across all facilities at \$75 per line
Video Calls	\$1,861,423	90 mins per person per month at \$0.07 per min, limited by infrastructure
Secure Messages	\$1,078,444	4 stamps per person per day at \$0.03 per stamp; projected use with unlimited access
<b>Cost of Commissary</b>	<b>\$17,536,133</b>	
Food	\$16,716,654*	Increase daily budget by \$1.80 per person from \$2.20 to \$4.00
Standard Clothing Allocation	\$819,479	Increase budget by \$32.50 per person for men and \$46.28 per person for women (includes 2 t-shirts, 2 underwear, 2 bras (women), and 2 socks)
Supply Allocation for Indigent people	Unknown	Unable to determine due to lack of data on how much VADOC spends on each person who qualifies as indigent or how many people would qualify under expanded definition of indigent recommended
<b>Total Fiscal Impact</b>	<b>\$27,031,382 - \$28,329,799</b>	

*Analysis provided by Worth Rises and other work group stakeholders. Estimates based on 2021 data provided by the VADOC and the 2021 ADP of 24,622, which is still consistent with monthly population reports as of August 2022. Fiscal impact is annualized and assumes all recommendations are implemented and does not account for multi-year implementation as suggested in some cases.*

\*Mark Engelke, Food Service Director for the Virginia Department of Corrections, notes that the fiscal impact of increasing the daily meal budget per person would require an additional \$24,052,097.00 in funding.



## POTENTIAL FUNDING SOLUTIONS BY NON-VADOC STAKEHOLDERS

Non-VADOC Stakeholders within this work group recognize that the above recommendations require additional funding for VADOC to ensure no decrease or interruption in the programs and services provided in VADOC facilities. Non-VADOC Stakeholders recommend exploring the following revenue options, among others, to relieve the burden of these regressive taxes on the most marginalized Virginians, incarcerated people and their families:

1. Revenues from a new lease for excess land owned by the VADOC, which should be earmarked for programs, communication, and other services that support the welfare of the incarcerated population
2. The federal State Digital Equity Planning Grant Program (DE), authorized by Section 60304(c) of the Infrastructure Investment and Jobs Act passed in November 2021 allocates funding to expand broadband to underserved populations, including incarcerated people. VADOC could apply for dedicated federal funding to expand its broadband that would enable internet protocol for reliable and cost-effective communication services.



## COMMUNICATION

### *Topic #1: Access to Telephone Calls*

#### **Analysis by Non-VADOC Stakeholders**

**What is the issue?** Given data and research that overwhelmingly shows that increased contact between incarcerated people and their communities creates better outcomes and increases public safety, how can Virginia create a system which catalyzes communication for all incarcerated people, regardless of financial status, in a fiscally sustainable manner?

**What is the history and context?** Voice communication services are provided by Global-Tel Link (GTL) under VADOC contract DOC-05-005. This contract was awarded in 2005 and has been renewed each year since. Originally, GTL charged \$0.25 per minute with a \$1.80 surcharge for collect calls or \$0.33 per minute with no surcharge for prepaid calls. VADOC collected a 41% commission.

On February 1, 2006, the pricing structure was changed and the VADOC commission rate was lowered to 35%. On January 1, 2010, GTL began to pay VADOC a minimum of \$150,000 annually to fund VADOC technology initiatives based upon revenues GTL made from its contract with VADOC. On February 5, 2014, the pricing structure of calls was changed to include more surcharges for prepaid and debit calls with lowered per-minute rates, and the VADOC commission rate was raised to 36%.

On December 1, 2015, call rates were lowered to \$0.0409 per minute with no surcharges for all call types. All VADOC commissions were removed from the contract. And, according to the GTL contract, Mod #10, #11, #13 and #14, VADOC pays an annual software licensing cost of \$250,000 every 90 days until the contract expires. This is the current pricing structure.

There are state and local jurisdictions that are paying far less than \$0.0409 per minute. In the Illinois Department of Corrections, which has a population size similar to VADOC, incarcerated people and their families pay \$0.009 per minute. Moreover, while these systems continue to use a per minute pricing, there are other models that have started to emerge across the country in jurisdictions that have opted to provide free communication. Some of these agencies, like San Francisco, are paying a monthly fee per phone line. Others are moving toward tablets for calls and paying a monthly fee per person, like Connecticut,<sup>1</sup> or exploring fixed fee models.

**What are the benefits of the service?** Communication is critical to rehabilitation for incarcerated people. Staying in touch with family motivates incarcerated people to engage in prosocial behavior and rehabilitation while serving their sentence and is critical to their successful reentry into society upon release. Research has shown that increased contact with family in any format (e.g., visits, video calls, voice calls, or e-messaging) has benefits for incarcerated people, their families, and the public.<sup>2</sup> These benefits include decreases in prison misconduct, good order in facilities, stronger parent-child relationships, reduced recidivism, and increased public safety. These public benefits should be maximized. Rather than thinking of no cost calls as a service, it would more accurately be considered a rehabilitative program. It would likely be the most cost-effective program and one of the few available to all people in custody.

<sup>1</sup> Connecticut is pursuing this model while they undergo their RFP process to implement free communication.

<sup>2</sup> [https://www.prisonpolicy.org/blog/2021/12/21/family\\_contact/](https://www.prisonpolicy.org/blog/2021/12/21/family_contact/)





**What are the limitations of the current model?** Cost is often the limiting factor preventing families from regular contact with their loved ones behind bars.<sup>3</sup> Importantly, it is primarily families who are paying for these costs since incarcerated people have limited sources of income. In fact, even before the pandemic, 1 in 3 families with an incarcerated loved one went into debt trying to stay in touch, and 87% of those carrying that burden were women.<sup>4</sup>

Incarcerated people often come from impoverished socio-economic backgrounds<sup>5</sup> — with families living on a fixed income — and are disproportionately people of color.<sup>6</sup> So, while call rates in Virginia have decreased recently, costs are still prohibitive and prevent contact. Families impacted by incarceration are often faced with a choice between paying for calls with a loved one inside and paying a critical household bill or going into debt.

**Where are we today?** VADOC provides call services in its facilities via wall phones. The current calls rates are \$0.0409 per minute, or \$0.818 for a 20-minute call. This rate applies to all calls (e.g., intralata, interlata, etc.). VADOC does not collect any commission for this service.

Currently, the number of wall phones available is insufficient to facilitate ample access to calls for the incarcerated population, and although VADOC is migrating to a tablet-based phone system, the transition process will be slow. Moreover, wall phones will always be relied upon as a backup phone device.

The existing contract, which has been in place for nearly two decades, mandates a person to phone ratio of 15:1, but VADOC reported in their Impact Statement for SB441 that the current ratio is 10:1. Those who are incarcerated and their loved ones are self-reporting that wall phones continue to be difficult to access, with long waiting periods and person to phone ratios that exceed 10:1 in their housing units.

Each person who is incarcerated is currently allowed to have 15 people at any given time on their call list, not including their attorney. This can further limit contact with family and loved ones.

VADOC also has a contract with JPay to provide tablets with products and services (e.g., books, secure messages, games, music, etc.) under VADOC contract DOC-14-074. VADOC collects commissions for these services. The total revenue generated by these commissions was \$417,396 in FY21, below is the breakdown of that revenue.

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<sup>3</sup> Ibid.

<sup>4</sup> <https://ellabakercenter.org/who-pays-the-true-cost-of-incarceration-on-families/>

<sup>5</sup> <https://www.prisonpolicy.org/origin/va/2020/report.html>

<sup>6</sup> <https://vadoc.virginia.gov/media/1725/vadoc-financial-annual-mis-report-2021.pdf>



**TABLE 2. Detailed Breakdown of Tablet-related Commissions**

Service or product	FY 21 Commissions
Music player	\$33,000
Music	\$282,553
Secure messaging	\$89,592
Games	\$10,196
News subscriptions	\$2,055
<b>Total</b>	<b>\$417,396</b>

VADOC has an active Request for Proposal (RFP 3262-1) for a new contract that will allow incarcerated people to use tablets for multiple services, including calls, secured messaging, learning, e-books, training, legal research, commissary orders, banking, music, and more. Tablets will be used in addition to wall phones and kiosks. The entity awarded the contract via this RFP will take over responsibility for the services provided currently by Global-Tel-Link and JPay. The RFP is open until January 31, 2023. The active RFP has a limited scope that includes calls, secure messaging, and music.

Importantly, the federal State Digital Equity Planning Grant Program (DE), authorized by Section 60304(c) of the Infrastructure Investment and Jobs Act passed in November 2021 allocates funding to expand broadband to underserved populations, including incarcerated people. VADOC could apply for dedicated federal funding to expand its broadband that would enable internet protocol for reliable and cost-effective communication services.

### **Recommendations by Non-VADOC Stakeholders**

Given the public safety benefits associated with regular communication between incarcerated people and their communities, we recommend that, by or before September 2023, the legislature:

1. Provide each incarcerated person with a minimum of 120 minutes per day of call time at no cost to the incarcerated person or the person receiving the call.
2. Ensure 10:1 ratio of people in custody to phones is reflected not just in the overall population but also within each housing unit. VADOC should incorporate a requirement for this 10:1 ratio into all future vendor contracts.
3. Increase the maximum number of approved phone numbers to no less than 20 with a suggestion that VADOC consider allowing more in OP 803.3. This would be in direct alignment with SB441.

### **Implementation**

1. VADOC should negotiate a per line or fixed rate contract for wall phones and a fixed rate contract for tablets, to ensure costs are not based on call volume, so that when tablet-based calls are introduced, daily minute limitations can be increased as much as possible.
2. VADOC should move away from wall phones as the primary device for calling and move toward tablets as the primary device. Tablets provide increased flexibility for incarcerated people (e.g. allows calls during lockdowns, etc.) and can reduce the bottlenecks created by poor wall phone infrastructure (e.g. long lines, fighting over



available phones, etc.). Additionally, tablets offer the same security features as wall phones. Moving to tablets for calling will facilitate increased access for the incarcerated population and contribute to the security and good order of VADOC facilities.

## Analysis by Virginia Department of Corrections

Inmates have and continue to use the communications system to engage in illegal activity, such as the selling, delivery, distribution, and payments involved with drug transactions.

It is noted that the Department has not had sufficient time to determine the impact of 120-minutes of free calls, unlimited secure messaging and video visitation would have on the safety and security of the facilities. Further review is required. With this said, adding just one institutional investigator (starting salary of \$58,093) at each major facility (28) would approximately cost \$1,626,744. Adding just one correctional officer (starting salary of \$45,131) at each major facility (28), Field Unit (7), and Work Center (3) would cost approximately \$1,714,978.

Under the current telephone rate of \$0.0409, inmates across the VADOC have participated in millions of telephone calls per year.

Total number of telephone calls made in 2022: 19,696,549

Total number of telephone calls made in 2021: 12,585,669

Further analysis is required to fully evaluate the impact of these recommendations.

Moving to tablets for voice communication will not necessarily contribute to the security and good order of facilities, and VADOC continually evaluates the relationship between new technology and prison safety.

The active Request for Proposal (RFP) is limited to the following services: tablets, telephones, secure messaging and streaming music.

**No cost calls:** Under the current contract, the VADOC reduced telephone calls to \$0.0409 per minute, which means that a 20-minute call is just under \$0.82. If the inmates were able to participate in phone calls totaling 120 minutes per day, the total cost to the inmate/family/friend would be approximately \$4.90. No commissions are received from inmate telephone calls.

Unlimited calls can impact the inmate's motivation to gain employment, learn a skill/trade while incarcerated, or participate in vital educational and re-entry programming for successful re-entry once the inmate is discharged from the VADOC.

At the current rate of \$0.0409 per minute, many inmates are on the telephone most of the day. To ensure that all inmates are given access to the telephone, some Wardens have had to limit the number of calls inmates can make to ensure each inmate assigned to the housing unit has access to the telephone system to make calls. Other inmates still monopolize the phones or extort/bully other inmates to access to the telephone system.

**10:1 ratio per housing unit:** The VADOC has an active RFP process to establish a new contract to provide tablets, telephone, streaming music, and games using an independent WiFi



network. In this procurement process, the Department is seeking a solution that would allow inmates to make calls from anywhere in their housing units during hours of operation set by the facility administration. If the VADOC transitions to a tablet/WiFi network solution, wall phones will be available to the inmate population should there be WiFi network service interruptions.

The facility administration strives to not limit the number of calls the inmate can make per day. As a result, inmates monopolize the telephone system preventing other inmates from using the telephone; inmates prevent, bully/extort other inmates from using the telephone system. This requires the facility to insert call limits so that all inmates have access to the telephone system.

The request is that inmates be allowed 120 minutes of calls per day. The average number of inmates in a housing unit is eighty (80). Multiply 80 times 120, which equals 9,600 minutes needed to ensure inmates are given 120 minutes of call time per day.

Telephone operation hours are 14 hours per day, times 60 minutes, equals 840 minutes. 840 minutes times 10 wall phones, equals 8,400 minutes per day. This is short 1,200 minutes to allow all inmates in the housing unit to make calls per day.

In addition, GTL reports that it takes approximately 30 seconds per call for the inmate to complete "set up" to allow the call to connect. This will affect total minutes available to make calls on each phone per day.

Average Telephone Operating Hours regardless of security level:

14 hours (telephones are operational) x 60 minutes = 840 minutes x 10 wall phones = 8,400 minutes

9,600 minutes (120 minutes call time x 80 inmates)  
- 8,400 minutes (14 hours telephone operations x 60 minutes x 10 wall phones)  
**1,200 minutes short**

**Increase allowable call list to 20 phone numbers:** The VADOC allows inmates to add up to 15 inmates to their approved call list. The inmate notifies the vendor that a telephone number belongs to an attorney, once verified, the telephone number is not included in the call list total and is further not recorded in the inmate telephone system.

Increasing the number of phone numbers on the inmate's call list will increase the calls made by each inmate further limiting their access to the inmate telephone system per day.

Inmate wages per hour are based on the inmate's level of skill (unskilled, semi-skilled and skilled). The maximum monthly amount an inmate can earn for unskilled work (\$0.27 per hour) is \$43.20, semi-skilled (\$0.35 per hour) is \$56.00 and skilled (\$0.45 per hour) is \$72.00.

The analysis provided by non-VADOC stakeholders (page 7), "*On February 5, 2014 the pricing structure of calls was changed to include more surcharges for prepaid and debit calls with lowered per-minute rates...*" incorrectly indicates that more surcharges were enacted in 2014. In fact, the February 2014 Mod did not address any surcharges; rather, it eliminated the surcharge for interstate calls.



## **Recommendations by Virginia Department of Corrections**

The VADOC will internally review the analysis and recommendations made by the members that participated in this Fee Study. The VADOC has an active Request for Proposal (RFP) process to establish a new contract to provide tablets, telephone, streaming music, and games using an independent WiFi network. A part of the procurement process is to confirm the lowest possible rates to make inmate telephone calls. The Department is committed to seeking the lowest price possible.

The VADOC does not recommend taxpayer funded telephone calls.



## *Topic #2: Access to Video Visitation*

### **Analysis by Non-VADOC Stakeholders**

**What is the issue?** Incarcerated individuals are often held long distances from their home communities and in areas that are difficult to reach by public transport, creating significant barriers to in-person visitation. However, families are charged exorbitant fees to connect via video calls.

**What are the benefits of this service?** Video calls help bridge the distance between incarcerated people and their loved ones, complementing visits. Connecting face-to-face is integral to the success of incarcerated people while they're inside, strengthening family bonds, promoting positive parent-child relationships, and facilitating successful reentry into the community upon release. Like voice calls, video calls contribute to the security and good order of VADOC facilities and public safety of the Commonwealth.

**Where are we today?** Video calls in VADOC are provided by Assisting Families of Inmates (AFOI) under VADOC contract DOC-17-013. The contract has been in place since July 1, 2016. AFOI subcontracts with GTL to provide video calls. As of August 1, 2022, video call rates are for a 20-minute call fell from \$8 to \$4 and for a 50-minute from \$20 to \$10.

Ameelio is non-profit vendors that offers video calling services at cost without a profit margin.

### **Recommendations by Non-VADOC Stakeholders**

Given the public safety benefits associated with regular communication between incarcerated people and their communities, we recommend that the legislature:

1. Provide each incarcerated person with video calls at no cost to the incarcerated person or the person receiving the call.
2. Ensure that video calls cannot replace in-person visits.

### **Implementation**

1. Work with AFOI on a 2-year step down to no cost video calls, ensuring that AFOI has the funding necessary to provide and administer this service in the long-term.
  - a. We encourage VADOC to consider non-profit vendors that offer video calling services at cost without a profit margin. This may be a more cost-effective option for the state.

### **Analysis by Virginia Department of Corrections**

Inmates have and continue to use the communications system to engage in illegal activity, such as endangering children through video visitation calls. To monitor unlimited video visits would require a substantial increase in security staff to screen these visits. At a minimum, four (4) full-time staff members at each facility would be required to escort, supervise, and monitor inmates participating in video visitation. Adding just one correctional officer (starting salary of \$45,131) at each major facility (28), Field Unit (7), and Work Center (3) would cost approximately



\$1,714,978. Therefore, the minimum fiscal impact of appropriate staffing for video visitation would cost an estimated \$6,859,912.

Prior to 2019, the Department offered a limited number of video visits through external visitation centers. AFOI, with assistance from GTL, was able to install the infrastructure to allow inmates, family members, and friends to participate in video visitation from the comfort of their homes. Within approximately 6 months of all facilities offering at-home video visitation, the COVID pandemic hit the Department, and shortly after, in-person visitation was suspended. For 18 months, inmates, family, and friends relied on these video visits to see the faces of their loved ones. The VADOC was one of the lucky correctional settings that entered the pandemic with video visitation in place.

The initial infrastructure investment made by GTL, with no funding from AFOI or VADOC, was approximately \$2 million. Since then, AFOI has worked closely with GTL to further reduce the cost of video visits, and effective August 1, 2022, video visitation rates were reduced by 50%, to \$4 for 20 minutes and \$8 for 50 minutes. Although there is a modest fee for video visitation, it is an affordable option for those that cannot afford to travel. For some, to visit in person, requires traveling long distances and overnight accommodations.

### **Recommendations by Virginia Department of Corrections**

The VADOC will continue to work with AFOI to offer video visitation at the lowest cost possible. In the presentation provided to Department staff, Ameelio provides video visitation when it operates on the Department's network. The Department would require security and investigative features that will affect cost. Ameelio noted that if it was required to provide a separate network for these services, the company would charge a fee for such services.

Upon consultation with Iowa's Department of Corrections, the agency was offering *free calls*; however, in under a 12-month span, agency leadership has confirmed that an evaluation of the "no-cost model" is needed. Results from such evaluation could potentially indicate that the agency should revert to charging inmates and their families.



## *Topic #3: Access to Secure Messaging*

### **Analysis by Non-VADOC Stakeholders**

**What is the issue?** Incarcerated people and families are being charged exorbitant rates to send electronic messages, including additional fees for attachments such as photos, which cannot be received by mail any longer.

**What are the benefits of this services?** As previously explained, increasing communication for incarcerated people is a net positive for incarcerated people, their families, corrections officers, and the public. Secure messaging bolsters communication and its rehabilitative benefits for each incarcerated person in Virginia, regardless of financial background. Like voice and video calls it also contributes to the security and good order of VADOC facilities and public safety of the Commonwealth.

**Where are we today?** Secure messaging in VADOC is provided by J-Pay under VADOC contract DOC-14-074. The current rates charged for secure messaging in VADOC are determined by the cost of “stamps” used for incoming and outgoing messages. Each attachment costs an additional stamp. Stamps are currently priced at \$1.95 for five stamps (\$0.39 per stamp), \$6.95 for twenty stamps (\$0.35 per stamp), and \$9.95 for forty stamps (\$0.25 per stamp). VADOC collects a commission of \$0.05 for each outbound message from this service. In FY21, commissions were \$89,592.

### **Recommendations by Non-VADOC Stakeholders**

Given the public safety benefits associated with regular communication between incarcerated people and their communities, we recommend that the legislature:

1. Eliminate commissions on secure messaging.
2. Provides unlimited secure messages to each incarcerated person at no cost to them.

Given the minimal fiscal impact of \$89,592 annually, we recommend these recommendations take effect July 2023 when the new law and contract currently out for bid goes into place.

### **Analysis by Virginia Department of Corrections**

Unlimited secure messaging will substantially increase the volume of messages correctional staff will need to review. At minimum, reviewing such a large quantity of secure messages would require three (3) additional full-time correctional staff and three (3) full-time investigators per facility. With this said, adding just one institutional investigator (starting salary of \$58,093) at each major facility (28) would approximately cost \$1,626,744. Therefore, three (3) full-time investigators would result in a fiscal impact of approximately \$4,880,232. Additionally, adding one (1) correctional officer (starting salary of \$45,131) at each major facility (28), Field Unit (7), and Work Center (3) would cost approximately \$1,714,978. Therefore, three (3) full-time correctional officers would result in a fiscal impact of approximately \$5,144,934.

It should be noted that inmates have used secure messaging as a means to coordinate plans to obtain illegal substances; such contraband may include drugs and sexually-explicit content prohibited by VADOC procedures. Additionally, secure messaging has been misused as an avenue to contact victims as well as make threats to them and other witnesses.





Although VADOC recognizes the value of communication with those outside the prisons, VADOC does not agree that providing unlimited secure messages to each incarcerated person will necessarily contribute to the good order and operation of its facilities. Unlimited messaging will, for example, require additional safety measures and increased workload for intelligence/investigative staff.

In accordance with Operating Procedure 803.1, Inmate, Probationer/Parolee Correspondence, inmates and probationers/parolees can receive computer printed materials and photographs enclosed in incoming general correspondence. In addition, this operating procedure allows the inmates to obtain photo books and personal photos from a vendor, see below:

- a. Photo Books and Personal Photographs from a Vendor
  - i. Inmates at all security levels and CCAP probationers/parolees may receive original personal photographs and photo books of their family and friends received from a vendor.
  - ii. A third party must purchase all personal photographs and photo books and the vendor must ship these items directly to the inmate and probationer/parolee.
  - iii. Photographs from a vendor are classified as personal and must comply with the criteria established in this operating procedure for personal photographs and pictures to include the prohibition of nude or semi-nude persons.

### **Recommendations by Virginia Department of Corrections**

The VADOC has an active Request for Proposal (RFP) process to establish a new contract to provide tablets, telephone, secure messaging, streaming music, and games using an independent WiFi network. A part of the procurement process is to secure the lowest possible rates to send secure messages taking into consideration the secure and investigative tools required by the VADOC.



## *Topic #4: Technology: Inmate Network*

### **Analysis by Non-VADOC Stakeholders**

**What is the issue?** VADOC has challenging restrictions around network allowances that are not codified restrictions but agency policy. These restrictions make maintaining the IT infrastructure required for communication services for incarcerated people cumbersome and costly. As a result, the IT infrastructure is often out of date, which negatively impacts the quality and cost of these services.

**What are the benefits of this service?** VADOC's IT infrastructure underpins all communication and other technology services provided to incarcerated people. Accordingly, all the benefits associated with these services, explained above, depend on it.

**Where are we now?** VADOC's restrictions require a separate network for internet access for communications services, including wall phones, video calling, tablets, and secure messaging. This restriction results in higher infrastructure installation and maintenance costs that deter regular upkeep, causing infrastructure to quickly become outdated. It also adds to the challenges VADOC faces in trying to reduce or eliminate the high cost of communication services to families and their incarcerated loved ones.

VADOC also has policies that require the retention of voice and video call recordings for various periods from 6 months to 5 years. This data is required to be stored on physical servers, while phone data is stored on cloud-based technology by the vendor. These requirements make it difficult for VADOC to use cloud-based storage, which is common today and would cut costs and time and open the door to more vendors.

### **Recommendations by Non-VADOC Stakeholders**

Given the public safety benefits associated with regular communication between incarcerated people and their communities, we recommend that the legislature:

1. Require VADOC to update all relevant operating procedures to ensure VADOC qualifies for the federal State Digital Equity Planning Grant Program (DE), authorized by Section 60304(c) of the Infrastructure Investment and Jobs Act passed in November 2021 to establish, improve, and expand network and connectivity services for incarcerated people.
2. Require VADOC apply for federal funding, as available, to expand broadband that can support communication and other technology services for incarcerated people.
3. Provide funding as necessary in order to routinely update VADOC IT infrastructure that supports communication and other technology services for incarcerated people.
4. Direct any involved state agencies to work together to update network allowance for VADOC and to expand cloud-based storage for retention of communication data.



## **Analysis by Virginia Department of Corrections**

The Communication subgroup attempted to obtain information about 10 days prior to making its final analysis and recommendations. Unfortunately, there was insufficient time to coordinate and set up a call or meeting, taking into consideration the participants' schedules. Information was provided by the Department's Information Technologies Unit (ITU) and this information was shared during the last committee meeting.

## **Recommendations by Virginia Department of Corrections**

The separation of the employee network from the inmate network is not state agency policy, but rather was intentionally designed due to a high-security risk of co-mingling employee/state data with that of inmate data and network traffic. There are many security issues with inmates utilizing the employee network. Co-mingling the network could also adversely impact employee work productivity due to bandwidth utilization. The notion of cloud storage versus physical storage is not taking into account the additional cost of bandwidth that would be required to push terabytes of data to the cloud. Note: bandwidth limitations exist in remote locations that may limit our ability to push data to the cloud without saturating our network making it unusable.



## COMMISSARY

### *Topic #1: Access to Commissary*

#### **Analysis by Non-VADOC Stakeholders**

**What is the issue?** How do we ensure that the basic human needs of incarcerated people, like food, hygiene, and clothing, are met and still sustainably fund programs in a way that does not rely on funding from a select vulnerable population that creates a benefit for the entire Commonwealth?

**What is commissary?** Commissary in a carceral setting is essentially “a store” within a correctional facility where those who are incarcerated can purchase items from an approved list of items that can include hygiene items, food, beverages, health items, clothing, writing instruments, etc. Availability, access, and quality of commissary items vary greatly depending on the vendor contracted. Currently, VADOC contracts with Keefe Commissary Network for commissary. See more about the vendor and contract under Recommendation #2.

**What drives the use of commissary?** There are a variety of reasons why individuals need to access commissary. VADOC offers 3 meals a day, but the meals vary in quality. VADOC spends just \$2.20 per person per day to provide those 3 allocated meals.

Further, upon entering VADOC, each individual is provided a limited number of clothing items that varies based on facility and includes the following:

- a. Men: 3 pairs of state boxers, 3 state issued t-shirts, 3 pairs of crew socks, 3 pairs of elastic waist jeans, 3 oxford shirts, 1 pair of state boots, 1 jacket in the winter
- b. Women: 3 pairs of underwear, 3 bras, 3 state issued t-shirts, 3 pairs of crew socks, 3 pairs of elastic waist jeans, 3 oxford shirts, 1 pair of state boots, 1 jacket in the winter

Outside of the items provided/offered, the incarcerated population relies on commissary to supplement day-to-day needs including food staples, basic health items, hygiene products, writing materials, and clothing. Access is limited to those who have a wage-earning job or financial support from their family or community. Incarcerated people without either are forced to turn to informal means of generating income or to go without essential items.

While VADOC does provide some support to people deemed to be indigent, the items provided are not sufficient to last for a month and the definition of indigent used by VADOC is overly restricted. If a person qualifies for indigent status, they are eligible for additional monthly “travel sized” items that include: 1 hotel bar (small) of soap, 1 small tube of generic toothpaste, 1 toothbrush without a handle, 1 small deodorant, 1 single blade disposable safety razor, 5 pieces of paper, 2 envelopes, and 1 flexi-pen.

Additionally, incarcerated people, formerly incarcerated people, and families impacted by incarceration are reporting that the quality of food, hygiene, and clothing items provided are poor. This forces incarcerated people to buy additional food, supplementary hygiene products, and replace clothing frequently from commissary to sustain themselves.

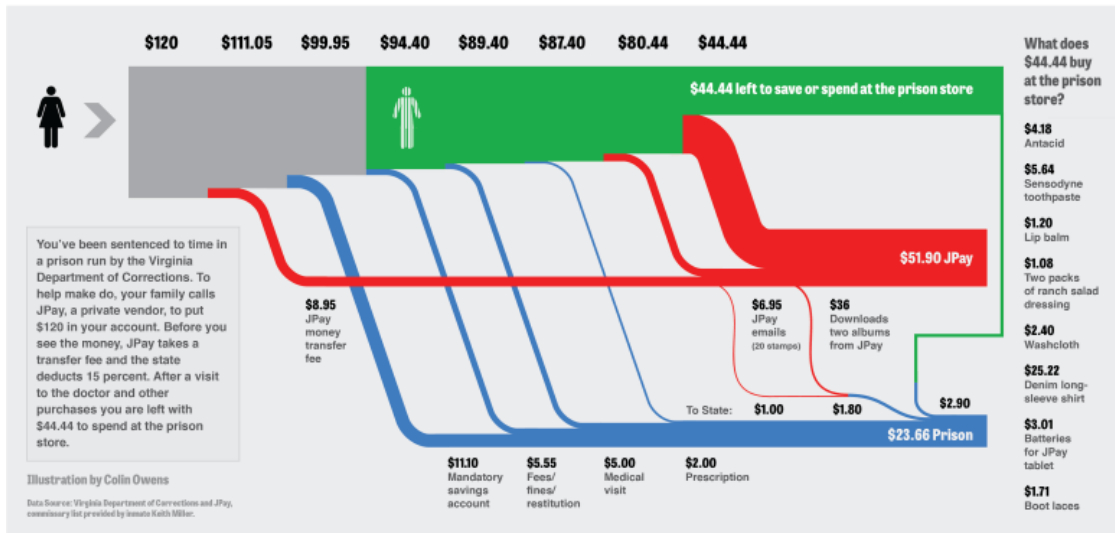
Below is a sample commissary order for an incarcerated person, some specific to women and men. The top paying job in the VADOC \$54 per month, the sample order below totals \$114.22.

Note that while VADOC claims incarcerated people can make \$72 per month at the time hourly wage, they are assuming a 40-hour work week while Operating Procedure 841.2 confirms that incarcerated people can work a maximum 30 hours per week.

**TABLE 3. Examples of Commissary Items and Costs**

3 pack of men's boxers	\$9.87	10 count Stay Free Sanitary Napkins (Note: Feminine hygiene products are provided free of charge)	\$3.94
1 fruit of the loom t-shirt	\$6.46	Chapstick	\$2.23
1 bottle of generic tums	\$4.34	Playtex Bra	\$31.33
2 pack of aspirin	\$0.31	8-inch plastic clear fan	\$29.44
2 oz. of Effergrip (Adhesive for dentures)	\$3.71	3.5 oz. pack of mackerel in oil	\$1.45
8.4 oz. bottle of Oil Olay lotion	\$14.43	4.5 oz. Brushy Creek (Keefe Brand) premium chicken	\$3.70
11 oz. Moose Lodge (Keefe Brand) pretzels	\$2.06	2 oz. peanut butter pack (Note: Small jar of store-bought peanut butter is 16 oz.)	\$0.95

## How far does \$120 go when sent to a Virginia prison inmate?



**What are the commissions and how are they used?** Commissions are a markup on commissary prices that is then pocketed by VADOC. Prior to April 26, 2018, VADOC collected a 10% commission on commissary items. Between April 26, 2018, and August 1, 2022, VADOC collected a 9.5% commission on commissary items. Currently, VADOC takes a 9% commission on commissary items. Commissions on commissary sales bring in an average of \$3.7 million annually. On June 30, 2022, the commissary fund balance was \$5,746,711.



The needs of incarcerated women are being met even less than those of men, forcing women to spend more per person in commissary. This also means that women are disproportionately impacted by commissions. For example, women incarcerated in Fluvanna Correctional Center for Women paid \$191,121, or \$172 per person, in commissions in FY21. In Greenville Correctional Center, a men’s prison, VADOC collected \$378,586, or \$132 per person, in commissions. Accordingly, in FY21, incarcerated women paid 31% more in commissions per person than incarcerated men. These differences predate the pandemic. In FY19, incarcerated women paid 42% more.<sup>7</sup>

VADOC funds multiple programs that promote the rehabilitation of the incarcerated population and benefit the good order of their facilities using commissions generated from commissary sales. These programs generate a public benefit felt by the entire Commonwealth but are funded exclusively by the incarcerated population and their families, which are disproportionately economically impoverished and people of color. VADOC uses commissions to fund the following programs.

**TABLE 4. Examples of Programs Funded by Commissary Commissions**

Program	Budget Allocation (FY23-24)
Chaplaincy services	\$1,325,000
Cable television services	\$780,000
FETCH program (3 facilities)	\$75,000
AFOI Visitation and Family Support Services	\$220,000
Coding pilot program	\$514,000
Other Inmate Expenses (OIE) (e.g., recreation equipment and supplies, barber/beauty shop equipment and supplies, law library equipment and supplies, appliances for inmate and CCAP probationer/parolee use (e.g., washer/dryer, microwave, hotpots), picture services, movies, incentive programs (CCAPs), authorized religious items, bank service charges for the management of the Commissary Fund)	\$2,478,582

The programs funded using commissary commissions sustain the good order of VADOC facilities, maintain family connections important to successful reentry, provide religious support, and run important rehabilitative programs that improve public safety. Incarcerated people and families, many of whom cannot afford to pay these commissions, are currently subsidizing the public safety budget through these regressive taxes on end-users.

Further, the commissary is a government mandated monopoly and is therefore not priced competitively given the lack of free market forces. This compounds the commission problem, since commissions are a percentage of the price. The 9% commission collected by VADOC, in addition to high prices and sales tax, collected to fund these services places an unfair cost on some of the Commonwealth’s poorest families.

<sup>7</sup> Freedom of Information Act Request, January 2022



## Recommendations by Non-VADOC Stakeholders

We recommend that the legislature:

1. Allocate \$4 million annually in the general fund to replace the 9% commission on commissary.
2. Create a tax refund/rebate for families who have financially supported their loved ones to help defray the cost of commissary purchases, starting at \$500 dollar a year.
  - a. VADOC provides monthly statements to an individual who is incarcerated displaying all monies given to them and how they spent that. These statements could be used by the families to show proof of the amounts paid to reflect their eligibility for the tax deduction. Vendors could also be required to provide annual or regular statements to end-users.

## Implementation

1. We recommend a two-year step-down to eliminate commissary commissions to allow for gradual budget allocations and ensure no disruption in programming. The commissary fund can mitigate the impact of this plan by partially funding the step-down period.
  - a. In Year One, by July 1, 2023, reduce commissions from 9% to 4.5%. Use commissary fund balance to fund chaplaincy services, workforce development skills-building programs, law libraries, AFOI family support, male and female barbering/beauty supplies, and laundry/appliances using the current balance of the commissary account.
  - b. In Year Two, by July 1, 2024, eliminate all commissions. Use the remaining commissary fund balance to fund all programming through June 30, 2025.
  - c. In year three, by July 1, 2025, replace funding for all programming previously funded by commissions on commissary sales.

## Analysis by Virginia Department of Corrections

The DOC had a very limited timeframe to review and analyze the non-VADOC stakeholders' analysis, but has provided some information noted below:

**Offering a variety of quality commissary products to the inmate population:** To ensure inmates have a variety of quality products that include food and snack items, personal hygiene items as well as personal radios, personal televisions and personal clothing, the VADOC utilizes a competitive procurement process to secure an experienced vendor that can provide high quality products that are appropriate for a correctional environment to include, but are not limited to, exclusions of certain packaging that contain glass or metal; sharp plastic that can be molded into weapons or packaging that can be used to create body armor such as thick cardboard packaging. The contract allows the VADOC to pre-approve what items will be offered for safety and security of the inmate population while further ensuring that items the inmates are permitted to possess are consistently in stock and available to the inmate population.



**Number of facilities, security levels, within the VADOC:** The VADOC is made up of seven security levels that include 26 major institutions that house low to maximum security inmates. There are eight Field Units that house minimum to medium security inmates and 6 work centers that house minimum security inmates who work outside the facility. Commissary for work centers is provided by an adjoining major institution or field unit. With this said, the VADOC facilities are spread out across the state and pose staffing and logistical challenges that must be overcome to ensure a trusted and reliable commissary service.

**Storage space limitation, impact on ordering commissary and personal property items:** Inmates do not possess an unlimited amount of storage space to secure their personal property (consumable/perishable items, personal hygiene/clothing items, state-issued clothing to include shoes/boots, personal electronics, etc.). Therefore, the vendor must take into consideration the amount/size of the item as well as ensuring there is variety of items that the inmate can possess at one time and still secure their property items in the space provided. If all property items are not securely stored in the space provided, there is a risk of inmates stealing unsecured property from another inmate. Procedure further requires the inmate to store all personal, state-issued property in their designated storage area.

**Packaging restrictions:** In a correctional environment, the vendor must provide items in appropriate packaging that do not include metal, glass or hard plastic that can be used/molded into weapons. In addition, the VADOC further limits any items that are in aerosol containers, ingredients that are flammable or items that can burn someone's face, skin or eyes if thrown by an inmate with the intent to inflict injury.

Packaging must further deter the ability to use the packaging to conceal drugs, weapons, or other contraband. The vendor provides clear packaging so that security can easily inspect items without having to pour the contents out, which raises sanitation concerns. Should the facility administration find a security risk with a specific item, the vendor can immediately stop the sale of the item to then source a new item that is acceptable to the VADOC.

**Limit sales, issue refunds, VADOC oversight:** The vendor is required to limit the sale of items to ensure the inmate does not exceed the inmate's Trust Account balances. The vendor is further responsible for issuing refunds or replacement on out-of-stock items or replacement of damaged goods in a timely manner. The VADOC provides oversight of the vendor to ensure the inmate's purchases are protected and the inmate is promptly refunded for any discrepancies. The inmate may further initiate the grievance procedure when the inmates does not believe the vendor has appropriately addressed a specific issue, which further provides the inmate recourse to resolve any issues that arise. Allowing inmates to purchase from the open market removes this level of protection to the inmate population.

The vendor is required to work with and through the institution's Personal Property Officer for the sale and issuance of designated personal property items, such as clothing, radios, televisions, etc. that must be inventoried and tracked by the Personal Property Officer.

**Internal review of current contract:** Due to space limitations to operate on-site commissary operations, the vendor has been limited to storing 1 to 2 weeks' worth of commissary items taking into consideration the rate of commissary purchases. This contributed to shortages while filling on-site commissary orders. Through the existing contract, the VADOC was able to pilot/transition to a single central warehouse that provides vendor staff warehouse employees filling delivery orders to each facility across the state and distributing commissary orders to the





inmate population once onsite with vendor provided staff. This transition went into effect August 1, 2022, and facilities transitioned throughout the month of August. As of August 30, 2022, all commissary orders are now filled out of the central warehouse.

**Risk of a no-commission model:** The VADOC responsibly uses commissions received from the sale of commissary to support inmate related services that include cable TV, faith-based services, appliances for the inmate population that include washers, dryers, microwaves, recreation equipment, barber and beauty shop equipment and supplies as well as re-entry pilot programs that include Inmate Coding Program and the FETCH program.

Relying on a taxpayer (general funds) model to replace these funds puts these services at risk when there is significant budget cuts but would still require the VADOC to provide uninterrupted services to the inmate population without adequate funding. As the VADOC has experienced in the past, when there is a significant budget shortfall, the VADOC is the first agency required to cut their budget, which has eliminated funding for inmate related programs.

**Open market:** Although there are established vendors such as Walmart and Target that offer ordering and shipping services, these businesses do not possess experience in selling products to inmates in the VADOC to ensure compliance with restrictions on appropriate product packaging, portion size to ensure inmates can store items in their designated storage area, or exclude items based on ingredients that have been identified as a security risk if thrown in the face or on the skin by another inmate with the intent to inflict injury.

The VADOC is further not sufficiently staffed to receive, inspect, search, inventory and deliver items purchased from the open market. Although suggested by the non-VADOC stakeholders, the volume is unknown, and therefore the VADOC cannot fully determine the staffing and fiscal impact of this recommendation, however, it is expected to be significant considering the number of facilities with the VADOC.

*Amazon Challenges:* Amazon creates new challenges in that someone can easily create a business and begin selling products immediately, which includes individuals that currently have family members or loved ones incarcerated. The VADOC has experience with individuals in the general public creating business with the intent to circumvent VADOC security procedures to introduce contraband into the prisons. If inmates were allowed to purchase from the open market, the VADOC staff would have to review and research the vendor that provided the item to ensure there is no personal connection to the inmate that purchased personal property.

*E-vendors such as Carvebox:* Some e-vendors may provide care packages to college students, military service members, and family members, however, the VADOC does not have record of these vendors submitting a proposal to offer care packages to the VADOC inmate population. It is further unaware if these types of vendors could provide products that comply with security-friendly packaging and size limitations, hard plastic limitations, ingredient restrictions, etc. The business must further be registered with the State Corporate Commission to do business in Virginia.



Since the implementation of the single-vendor in 2013, VADOC has no known incidents of contraband entering the prison through the commissary. Having one vendor has reduced the amount of time and resources having to be spent examining property coming into the prisons from external sources.

Beginning in 2017, the Department was approved for \$95,000 in general fund appropriations to cover legal materials previously paid for by commissary funds. The current Purchase Order reveals the cost of these materials has grown to \$121,128, financed by the general fund.

In 2021, the vendor implemented a price increase on commissary items. The menu pricing increased at the Consumer Price Index (CPI) rate of 4.4%. The price increases and changes were necessary to offset increase in manufacturing and packaging costs, while minimally affecting pricing paid by the inmate population. To further assist in accomplishing this, the VADOC reduced its commission rate on commissary and Securepak revenue from 10% to 9.5% (contract modification #9).

### **Vendor responses to the provision of low-quality items at non-competitive costs:**

*“The current commissary vendor provides low-quality items at non-competitive costs. Many of its products are produced in-house but compared to name brands at retail grocery stores. Markups on food and clothing items aren’t transparent to the VADOC or the consumer, and the vendor refuses to provide their item costs, claiming they are proprietary information. Nor will the vendor provide a comparison so the Commonwealth can see the vendor’s pricing in relation to that provided to other states.”*

- Response from Vendor: “Keefe does not produce in house products that are sold in the commissary programs that they operate throughout the nation. However, Keefe does have agreements with major manufacturers that produce products for us in multiple private labeled product lines. We have included in the three letters\* from major retail and well-known manufacturers stating that they produce products for Keefe to sell in a private label. These letters demonstrate that products sold by Keefe are of high quality, and specifically that they are identical in quality to products offered by these manufacturers under their own brand names.”

*“A lack of competition coupled with a captive market that has no purchasing diversity allows the vendor to provide lower quality items for higher costs.”*

- Response from Vendor: “As mentioned above, we have included in the three attachments above, letters from major retail and well know manufacturers that we have produce products for us to sell in our commissary offerings, but in a private label. These letters demonstrate that products sold by Keefe are of high quality. Any items that are sold to the Department are taste tested/examined for quality by Department officials on our commissary product review committee.”

\*Copies of letters have been provided in the Appendix.

### **Recommendations by Virginia Department of Corrections**

The VADOC does not recommend a taxpayer-funded model.



The VADOC will continue to utilize the competitive procurement process to select a vendor to provide commissary operations and care package services to the inmate population.

During the procurement process, the VADOC will consider awarding the commissary operations services separately from the care package services. It is noted that the VADOC included this option in the last 2 RFPs for these services. In 2007, the VADOC awarded care packages to American Commissary Services (ACS).

VADOC will further internally review the possibility of reducing commissions on basic hygiene items as well as undergarment clothing.

The \$5.7 million will be used to continue to pilot and implement educational curriculums, support pre-release and post-release reentry efforts, and mitigate costs during price hikes, inflation, and other unforeseen circumstances.



## *Topic #2: Access to Products/Incentive Packs (Quarterly Secure Packs)*

### **Analysis by Non-VADOC Stakeholders**

**What is the history and context?** The current commissary vendor provides low-quality items at non-competitive costs. Many of its products are produced in-house but compared to name brands at retail grocery stores. Markups on food and clothing items aren't transparent to the VADOC or the consumer, and the vendor refuses to provide their item costs, claiming they are proprietary information. Nor will the vendor provide a comparison so the Commonwealth can see the vendor's pricing in relation to that provided to other states.

A lack of competition coupled with a captive market that has no purchasing diversity allows the vendor to provide lower quality items for higher costs. Fostering a free market model in commissary that provides more options by reexamining exclusivity clauses in contracting could be beneficial to driving down costs and increasing quality.

**Where are we now?** The vendor for the commissary is selected by VADOC through a RFP process, and once contracted, it becomes the sole provider of commissary goods for all VADOC facilities. Currently, VADOC contracts with Keefe Commissary Network (KCN) for these services under contract DOC-17-009, which was awarded in 2017. Keefe is in the process of setting up a central warehouse in Glen Allen, Virginia which was set to be opened by August 1, 2022.

For the purposes of this report, it is notable that the work group requested a sample list of wholesale item costs from KCN and was denied this request. KCN's provided rationale was that "costs for products is proprietary and will not be distributed." The sole proprietor nature of VADOC's contract with KCN has created a government mandated monopoly that lacks transparency.

VADOC is responsible for negotiating prices for commissary items. And while they claim to seek the lowest possible prices, they have a conflict of interest because they receive commission revenue as a percentage of these prices, which they use to fund programs and other operating expenses. Thus, negotiating lower rates would also mean they receive less in commissions, which would be counter to their financial interests.

### **Recommendations by Non-VADOC Stakeholders**

Due to the lack of free market forces in carceral environments, there is an unavoidable risk of inflated prices for goods and services within them. Because of this, we recommend the legislature do the following to ensure fair pricing in commissaries in VADOC facilities:

1. Mandate that prices for items sold in commissary and care packages not be more than 10% higher than the cost of comparable items at e-tailers (e.g., Amazon, Walmart, etc.).
2. Mandate VADOC to offer regular-sized products, in addition to single-servings where possible, as single-servings invariably increase prices.
3. Mandate that vendors make their prices in VADOC, their prices in all other correctional system's they serve, and their wholesale costs publicly available.
4. Survey the entire incarcerated population every year regarding commissary pricing, quality, value, additions, and other issues.



5. Conduct a limited pilot program that promotes competition with e-tailers like Amazon and Walmart or other secure prison commissary providers like Union Supply, Offender-packages, Cravebox, and E-Ford Commissary. VADOC can limit the pilot to 10 personal and/or hygiene items at 3 facilities (including a women's facility) and track orders. We recommend including non-security "essential" items like t-shirts, socks, undergarments, tennis shoes toothpaste, feminine hygiene products, arts and crafts supplies, generic over-the-counter medication (e.g., ibuprofen, ranitidine, etc.). Creating a free market will provide a greater variety, including healthy options and drive down costs. Families can already order packages five times per year, however, only from the vendor that VADOC contracts with and has a profit-sharing agreement with.

### **Analysis by Virginia Department of Corrections**

See analysis under Commissary, Topic #1 for response.

### **Recommendations by Virginia Department of Corrections**

See recommendations under Commissary, Topic #1 under Commissary for response.

## Topic #3: State-Issued Clothing and Indigency Status

### Analysis by Non-VADOC Stakeholders

**What is the issue?** How can we ensure that all incarcerated people have their basic needs met while in custody?

**What is the history and context?** As previously explained under Recommendation #1, incarcerated people in custody are forced to rely on commissary because their basic needs for food, hygiene, and clothing are not being met. With commissary items as expensive as they are and wages as low as they are, incarcerated people often have to rely on families and community support to meet their own basic needs. If they do not have such support, they are forced to go without.

Further, indigency at present only covers about 5% of the VADOC population, given overly restrictive definitions. Those in school or working often still cannot afford necessities, neither can those without family or community support. Indigent people, all incarcerated people, are provided with too little clothing, which are expensive via commissary.

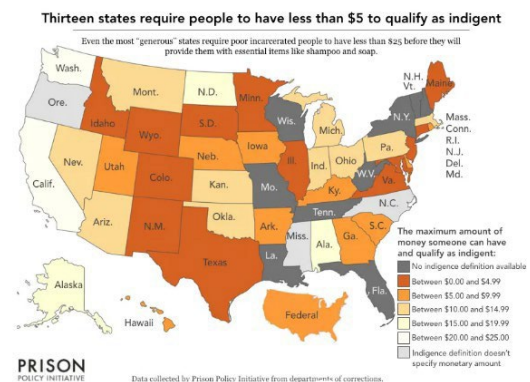
#### *Definition of Indigent Inmate/Probationer/Parolee*

*An inmate or CCAP probationer/parolee with less than \$5.00 in their Trust Account for discretionary spending during the previous month and has no job or other source of income that provided as much as \$5.00 during the previous month or an inmate who is newly received into a facility and does not have available funds nor hygiene items. (added 6/1/22)*

The U.S. poverty rate is 11.4%.<sup>8</sup> Virginia's poverty rate is 10.01%,<sup>9</sup> more specifically 9% for men and 11% for women. The racial breakdown of poverty rates is provided here. As of January 2020, Virginia had a homeless rate of 1.03%,<sup>10</sup> or an estimated 5,957 experiencing homelessness on any given day.<sup>11</sup> Prior to their incarceration, incarcerated people have a median annual income that is on average 41% lower than non-incarcerated people of similar ages. In other words, incarcerated people have a very high rate of poverty and yet very few, only roughly 5%, qualify for indigency.

Nationally, only 13% of states cut off indigency at just \$5.<sup>12</sup> Stringent indigency policies punish

Name ^	Total	In Poverty	Poverty Rate
Asian	561,322	40,507	7.22%
Black	1,546,295	260,033	16.82%
Hispanic	786,973	103,528	13.16%
Islander	5,568	556	9.99%



<sup>8</sup> <https://www.census.gov/newsroom/stories/poverty-awareness-month.html>

<sup>9</sup> <https://worldpopulationreview.com/states/virginia-population>

<sup>10</sup> <https://www.usich.gov/homelessness-statistics/va/>

<sup>11</sup> Continuums of Care to the U.S. Department of Housing and Urban Development (HUD)

<sup>12</sup> <https://www.prisonpolicy.org/blog/2021/11/18/indigency/>

the poorest people in prison by severely limiting the amount of money people can have and still receive free services, dictating how they can spend the little money they do have, and making them wait weeks in extreme poverty before offering help. All incarcerated people deserve, at minimum, access to hygiene items and ways to communicate with loved ones without having to take on even more debt.

**Where are we now?** According to the VADOC, for the period between July 22, 2022 and August 22, 2022, 1,323 people in the incarcerated population qualified for indigent status, which changes on a daily basis as people receive trust deposits or use their available funds. Indigent kits are provided by the VADOC. The kits have not changed since the policy was implemented. Policy available here: <https://vadoc.virginia.gov/media/1109/vadoc-op-802-1.pdf>.

**Items currently provided to Indigent Individuals**

*Needed Hygiene items to include: Bar Soap, Denture Adhesive, Denture Cleaner, Deodorant, Shampoo, Toothpaste or Toothbrush, Comb, Disposable Razor; (except in restorative housing units, see Attachment 1), Approved Razors to Operating Procedure 425.4, Management of Bed and Cell Assignments, Correspondence package that includes paper, pen, envelopes, Legal package that includes paper, pen, manila envelope, Free letter postage; see Operating Procedure 803.1, Offender Correspondence.*



Photo of indigent kit

**Note:** *Photograph of indigent kit not provided by VADOC committee members*

**Recommendations by Non-VADOC Stakeholders**

We recommend that the legislature and/or VDAOC:

1. Provide the full incarcerated population with additional needed items upon admission into VADOC custody to reduce reliance on commissary for clothing, including up to 5 sets of t-shirts, boxers/bras, socks, plus thermal underwear. People should also be able to receive hats, gloves, rain jackets.
  - a. Costs of recommended items from commissary: t-shirts \$5.62-9.02 each; boxers, briefs, and bras: \$2.99-11.79 each, depending on size; socks: \$1.31-\$1.41; thermal underwear: \$6.21-11.99 each, depending on size
2. Expand the qualifications for indigency to include more people and provide the indigent population with additional needed items upon admission and throughout their incarceration:
  - a. Increase the indigency threshold to include anyone with less than \$50 in their trust account. Also consider the individual's socioeconomic condition prior to incarceration and their access to family and community support.
  - b. Provide people with indigent status with bi-monthly indigent kit of full-size hygiene items, plus additional clothing if requested, like tennis shoes.
3. Require recordkeeping of the number of people qualifying for indigent status to better understand the population's needs overtime.



## **Analysis by Virginia Department of Corrections**

The Department has had limited time to analyze the non-VADOC stakeholder findings. The Department will internally review the analysis and recommendations made by the Fee Study members.

## **Recommendations by Virginia Department of Corrections**

The VADOC will internally review the state-issued property to ensure inmates are provided with sufficient state-issued clothing as well as the fiscal impact of increasing state-issued clothing to the inmate population.

The VADOC will further internally review the definition of indigent as well as the quantity and schedule the inmate receives these items as well as any fiscal impact that may occur.

The VADOC will further survey other correctional agencies to evaluate the definition as well as the quantity of items provided.





## Topic #4: Facility Food Service

### Analysis by Non-VADOC Stakeholders

**What is the issue?** Inadequate quality and quantity of facility meals is a key driver of commissary food sales. Many cannot afford to rely on commissary food. How can we provide adequate food to the incarcerated population to ensure everyone's basic nutritious needs are met without forcing them or their families to supplement the provided food?

We can reduce commissary costs for incarcerated people by providing better meals, and at the same time drive better health outcomes and lower health care costs for Virginia taxpayers.

**What is the history and context?** VADOC allocates just \$0.73 cents per meal, which negatively affects both the quality and quantity of food offered. Prison cafeterias often serve small portions of unappealing, nutrient deficient foods. By offering low quality and insufficient food on inconsistent daily schedules, VADOC is forcing those who can least afford it to buy food from commissary to sustain themselves. In fact, most of the money people spend in the commissary goes toward purchasing extra food. Formerly incarcerated people who had little outside financial support report that they experienced constant hunger and a variety of health issues as a result.

It's the state's responsibility to feed people adequately and nutritionally, and that cannot be done for \$0.73 cents per meal. Nor is it ultimately cost-effective, since overreliance on both starchy, nutrient-deficient food service meals and packaged and processed commissary items leads to diet-related diseases that taxpayers pay for eventually in medical costs. Diabetes, hypertension, heart disease, and other diet-related diseases are far more prevalent in incarcerated populations as a result of these factors.

*"People who believe prison should be as punishing as possible may see little reason for facilities to serve much more than bread and water. But there is a practical reason to care about the food served in prisons: people incarcerated in state prisons return to our communities sooner than you might think. As we found in an analysis last year, the median time served in state prison is 16 months and the average is 29 months. That's more than enough time for a poor diet to cause long-term health effects. Research shows just four weeks of eating an unhealthy, high-calorie diet can lead to long-term increases in cholesterol and body fat."*

– Prison Policy Initiative <sup>13</sup>

These medical costs are far more expensive than food. In FY19, VADOC spent \$7,605 per capita on medical costs. With an average daily population of 29,866 that year, this equated to over \$226 million. Assuming that in a post-pandemic future medical costs per capita return to this level, the level of predicted spending based on VADOC's current population would be approximately \$190 million.

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<sup>13</sup> Prison Policy Initiative, Food for Thought, Prison Food is a public health problem, 2017



Improving the quality of food in VADOC facilities will have positive impacts on the health of the incarcerated population and reduce the medical costs. Increasing food budget, as recommended below, would pay for itself quickly since it would be less than 10% of these estimated medical costs.

VADOC is in the process of hiring new registered dietitians to oversee dietary needs for the facilities, including a Director of Nutrition Services and three Nutrition Supervisors.

## **Recommendations by Non-VADOC Stakeholders**

We recommend that the legislature and/or VADOC:

### *1. Spending*

- a. Increase the per-person-per-day food budget from \$2.20 to \$4.00.
- b. Require transparent reporting of VADOC food spending to facilitate optimal allocation of resources for food service.
- c. Track and report spending on diet-related disease medical costs annually.
  - i. Such diseases include, but are not limited to, new or worsening cases of chronic medical conditions like congestive heart failure, coronary artery disease, type II diabetes, tooth decay, high cholesterol, hypertension, gastritis, obesity (BMI greater than or equal to 30), underweight (BMI less than 18.5), and acid reflux. This also includes instances of acute medical events including but not limited to strokes, heart attacks, and foodborne illnesses (e.g., e. coli and salmonella).

### *2. Menu*

- a. Create transparency about the menu and what is served to the incarcerated population to determine the issues at each facility.
  - i. VADOC could do this in a number of ways, including, but not limited to, surveys of the incarcerated population, monthly surprise visits and audits of the facilities, public disclosure of menu and its nutritional value through VADOC website, etc.
- b. Follow guidelines and recommendations provided by Dietary Guidelines for Americans (DGA) and Center for Science in the Public Interest.
  - i. Require independent oversight of food service by the health department or other third party, including unannounced site inspections and review of menus for compliance with the DGA.
- c. Include fresh fruits and vegetables at every meal.
  - i. Permit facilities to serve produce grown in on-site gardens. Many facilities give away garden produce to food pantries, and people in custody can be punished for keeping it.
- d. Offer people in custody a selection of items to choose from at each meal. Currently the norm is limited or no choice.
- e. Adopt staff meals to those provided to incarcerated people. While VADOC maintains that this is the current case, reported experience suggest it is not.



3. Provide at least 20 minutes of seated eating time at each meal. In many facilities, time to eat depends on one's place in the serving line, making eating often rushed and stressful.
4. Prohibit food-related punishments, including alternate, less palatable meals.
5. Implement values-aligned food procurement to support more local, minority-owned businesses and vendors that protect the environment and workers.
6. Offer nutrition education to people in custody through partnerships with extension agencies and community-based organizations.

## **Analysis by Virginia Department of Corrections**

The VADOC provides standardized menus that ensure that inmates and CCAP probationers/parolees in VADOC facilities are served meals that are nutritionally adequate, food costs are maintained within established budgets, and future food supply requirements can be anticipated. Provisions are made for the availability and management of nutritionally adequate therapeutic diets for inmates whose medical condition necessitates alteration from a regular facility diet. Nutritionally adequate meals for staff, inmates, and CCAP probationers/parolees, which take into consideration flavor, texture, temperature, appearance, and palatability, are prepared in accordance with the master menu and in compliance with established safety and sanitation requirements. All facilities must follow appropriate master menu and adhere to the portions indicated on the menu.

Standardized recipes furnished by the VADOC Registered Dietitian must be used for preparing items or substitutions for items on the master menus. Substitutions of menu items are allowed only when certain foods are unavailable, there is a lockdown, an equipment failure, or to take advantage of the availability of seasonal farm products, special purchases and/or donated commodities. All facilities get good, food supplies, and cleaning supplies from the following sources: VADOC Agribusiness, VADOC Dairies, VADOC Farmers Produce Market, VADOC Meat Plant, VADOC facility farms and greenhouses, Virginia Distribution Center (VDC) Virginia Department of General Services, United States Department of Agriculture Food Distribution Program, Spot buys (Virginia Distribution Center and VADOC Agribusiness). The VADOC saves approximately \$30 million per year through the use of its Agribusiness for food and related supplies.

All facilities follow the Virginia Department of Health Food Regulations and are reviewed and inspected every quarter by the Regional Food Directors to ensure compliance with all policy and procedures. Environmental Health Specialists, trained by the Virginia Department of Health, also inspect facilities on a variable basis, at least every 4 months, with frequency determined by the results of the inspections.

Regardless of the meals served, inmates will still purchase items from commissary with little to no nutritional value. Meals served are adequate in calories, protein, fat, and macro and micro nutrients for the average demographic of the adult population at VADOC. VADOC population menus currently provide an average of 53% carbohydrate (per the nutrient analysis). Foods that provide carbohydrate include starches, fruits, and milk. This percentage is in line with nationally recognized, evidenced based guidelines for macronutrient intake. Therapeutic diet menus are adjusted to ensure that diabetic diets are consistent carbohydrate that is spread throughout the day, again based on clinical practice and evidence-based guidelines.



Food service meals consist of both fresh and packaged foods, similar to most American household purchases. Processed foods are mostly limited to desserts which are purchased in a pre-packaged portion. This allows for the offering of a pleasure food with consistency and controlled portions.

Prior to June 2022, VADOC had one statewide dietitian. The Director of Nutrition Service began employment on June 25, 2022. Another dietitian began employment on August 25, 2022 and the third position is awaiting HR (the candidate has been selected). The 3 dietitians will be assigned regionally; however, will be responsible for covering statewide as needed. Their duties will be as follows:

- Provide technical expertise to administrative, medical, and food service staff in the areas of policy development, problem solving, staff education, and food service/nutrition development and training.
- Serve as liaison between food service and health service staff on menu and diet order related questions for assigned facilities.
- Provide nutrition assessment and medical nutrition therapy recommendations for inmates housed in assigned facilities, and serve as members of the multi-disciplinary team. Provide nutrition education to inmates as needed and indicated.
- Visit assigned clinical facilities a minimum of once a month. Complete monthly clinical reports on MNT and populations served. Track measurable outcomes of medical nutrition therapy/ nutrition education (weight, labs, blood pressure, etc.).
- Visit all facilities quarterly and complete menu reviews to ensure management of menus, substitutions, recipes, medical diet orders and dietary needs of inmates.
- Review food production worksheets weekly to ensure proper substitutions and portions, and provide feedback to food service staff.
- Provide training at the Food Service Academy on a rotating basis. All dietitians will teach Recommendations as requested by the Training and Development Coordinator.

The Western Regional Dietitian will be responsible for utilizing the nutrient analysis program to develop master menus annually. Master menus will include the population menu, therapeutic diet menus, gender responsive menus, sealed religious diet (SRD) menu, common fare menu, and religious holiday menus. The Western Regional Dietitian will be the point of contact for master menu substitutions such as special buys, SRD entrees, etc. Menus will be consistent with standards recommended by the Academy of Nutrition and Dietetics Nutrition Care Manual, and the National Academies of Sciences, Food and Nutrition Board.

The Director of Nutrition Services provides central development and management of statewide institutional nutrition programs through the planning, implementing and assessing of VADOC nutrition and related program needs. They also provide guidance to ensure compliance with all policies, procedures, rules, and regulations. They also act as a liaison to agency heads and provide technical expertise to administrative, medical, and food service staff in the areas of policy development, problem solving, staff education, and food service/nutrition development and training. The Director also supervises three Regional Registered Dietitians.



The current menu provides a fruit or vegetable with each meal. Facilities often will provide additional fresh fruit when available in place of the dessert. Fruits and vegetable may be a combination of fresh, frozen, canned, or juice.

The Center for Science in the Public Interest is a consumer advocacy organization. Registered Dietitians are ethically bound to follow evidence-based clinical practice guidelines set forth by the agencies that govern and are reliable sources of clinical and food service information. Menus, nutrition education, and medical nutrition therapy are consistent with standards recommended by the Academy of Nutrition and Dietetics Nutrition Care Manual, the National Academies of Sciences, Food and Nutrition Board (Dietary Reference Intakes and the Dietary Guidelines for Americans 2020-2025), and other organizations and agencies that provide evidence-based clinical guidelines and practice standards.

### **Recommendations by Virginia Department of Corrections**

The menu is currently under review by the Director of Nutrition Services, who is working with the Bureau of Prisons registered dietitian to improve the overall quality, reduce calories and sodium content, and provide gender responsive menus. The VACOC recommends that this process continue with a focus on continued improvement.

The VADOC will continue to monitor the standards recommended by the Academy of Nutrition and Dietetics Nutrition Care Manual and the National Academies of Sciences, Food and Nutrition Board (Dietary Reference Intakes and the Dietary Guidelines for Americans 2020-2025).

Once all three regional Registered Dietitians (RD) are in place and policies are updated, the VADOC RDs will provide nutrition education to inmates. This will include nutrition education based on diagnosis, and overall general healthy eating. Currently, the VADOC RD has developed nutrition education posters for inmates to read while eating or picking up their trays. These are posted in the dining areas and in view of all who enter the area.

Providing and serving food in prisons involves more than nutrition and quality. It also involves security, logistics and complying with constitutional and legal requirements. VADOC has not had sufficient time to analyze the practicability of implementing the recommendations.



## *Topic #5: Request to Donate Personal Property Items upon Discharge*

### **Analysis by Non-VADOC Stakeholders**

**What is the history and context?** Costs to incarcerated people and families can be reduced by allowing people to give away property items they no longer need upon release or when transferring. VADOC could administer this in an orderly way through property offices and property designation forms if it desired. This is an easy way to reduce costs for items already purchased and reduce waste.

**Where are we now?** Currently, according to Operating Procedure 802.F7, incarcerated people are not allowed to give or donate their personal property to each other, not even when transferring or being released. Instead, they are often required to discard personal property they are not taking with them though it may be in good condition or even unopened and useful to another person. This creates significant waste that should be avoided from both a humanitarian and a conservationist standpoint. Though donations to external charities are allowed, this process is cumbersome, delivery is uncertain, and overall unnecessary given the extreme need among the incarcerated population.

### **Recommendations by Non-VADOC Stakeholders**

We recommend that the legislature mandate that VADOC:

1. Allow incarcerated people to give their personal property to other incarcerated people when they are transferred to another facility or released from custody or upgrade an item. This would be a huge relief for those who otherwise cannot afford commissary items. This is allowed and common practice in other state correctional departments.

### **Implementation**

There are obvious and valid concerns about extortion and debt repayments. To resolve these concerns, we recommend the following simple parameters be instituted during implementation.

1. Property may be transferred directly from one incarcerated person to another *only* upon release, transfer to another facility, or purchase of a new like item (e.g., TV upgrade).
2. A person wishing to give away their property shall submit a request form to the property department to initiate transfer. The property department shall remove the items to be given away from the requesting person's property list and add them to the designated recipient's property list, including any associated serial numbers and update engraving on any required items. Property department conducts security screening on items, and facilitate the property transfer.
3. Personal property may also be donated into a general box for people who qualify for indigency status.
4. OP 802.1 should be updated to reflect these changes.



## Analysis by Virginia Department of Corrections

Inmates that are discharging from the VADOC are permitted to donate under current operating procedures, but not to other VADOC incarcerated inmates, see below:

1. OP 802.1, Inmates and CCAP Probationers/Parolees Property, states:
  - a. *Donation to Charity*
    - i. *An inmate or CCAP probationer/parolee may donate personal property to a recognized charity.*
    - ii. *Inmates and CCAP probationers/parolees cannot donate items that are inappropriate for the receiving charity. Under no circumstances will sexually explicit materials be donated.*
    - iii. *The Facility Unit Head or designee should designate appropriate charitable organizations and describe how they will transfer the property to the charity. Staff should obtain a receipt for all donated items.*
  - b. *Destruction*
    - i. *The Personal Property Officer may place inmate and CCAP probationer/parolee personal property designated for destruction in the regular trash removal system used by the facility.*
    - ii. *The Personal Property Officer must not give items designated for destruction to other inmates, CCAP probationers/parolees, or staff, and should not place these items in trash receptacles accessible to inmates or CCAP probationers/parolees.*
2. OP 802.1 Inmates and CCAP Probationers/Parolees Property, states:
  - a. *Inmates and CCAP probationers/parolees are prohibited from loaning, trading selling, and giving away their personal property. Inmates and CCAP probationers/parolees must report their lost or missing personal or state-issue property on a Lost or Missing Property Report 802\_F7.*
  - b. *Note that personal property such as TVs are engraved identifying which inmate it belongs to. Other property items are marked with permanent marker.*
3. OP 802.1, Inmates and CCAP Probationers/Parolees Property, requires:
  - a. *Staff should engrave or mark with a permanent marker all inmate and CCAP probationer/parolee personal property items.*
    - i. *This requirement does not include the authorized media device; the media device is electronically encoded with the inmate's number.*
    - ii. *Inmates and CCAP probationers/parolees must not mark state-issued property except as may be needed for laundry purposes.*



## **Recommendations by Virginia Department of Corrections**

The VADOC will internally review its operating procedures to ensure that inmates are receiving adequate personal hygiene and state-issued clothing regardless of indigent status. It will further survey similar correctional agencies to ensure it is in line with sufficient state issued clothing as well as the amount used to determine indigent status. The VADOC will review the possibility of reducing commissions on certain personal hygiene items and to collect stats on inmates deemed indigent on a quarterly and/or bi-annual basis.

The VADOC will review the request to allow an inmate to donate personal property items to another inmate. It is noted that under current procedures, once personal property items are received, non-perishable personal property items are inventoried and engraved or marked with permanent marker to identify who the property belongs to. This assists security staff with easily identifying the inmate's property items, and with identifying property that has been stolen or extorted from another inmate. Having multiple engravings and permanent markings on property would create sufficient challenges to security and the property officers investigating and tracking property being donated by an inmate to another inmate. The VADOC will review best practices in other states and update current operating procedures as needed.





## FINANCE

### *Topic #1: Deposit Fees, including Phone and Media Deposits*

#### **Analysis by Non-VADOC Stakeholders**

**What is the history and context?** As people in prison are increasingly expected to pay for everyday costs (food, hygiene items, correspondence, etc.), the mechanics of how people send money to incarcerated people assumes heightened importance.

For decades, families mailed certified funds, like a money order, directly to VADOC facilities, and within a day or two, the money would be deposited in the recipient's trust account. In those days, the most common complaint from family members and incarcerated recipients was about delays in processing money orders. Quick to use consumer psychology to turn a buck, a whole industry arose to provide faster—but vastly more expensive—electronic money transfers to incarcerated people.

This “correctional banking” or “lockbox service” industry provides new specialized services like release cards, but at its core the industry makes money off the simple, but highly lucrative business of facilitating transfers from friends and family members to incarcerated recipients. The industry highlights the speed of electronic transfers, while glossing over the high fees that typically accompany these services.

We live in an age of financial technology (known as “fintech”), where people are accustomed to digitally sending or receiving money from friends and family at little or no cost. A service like Venmo allows no-fee personal transfers from bank accounts or debit cards and payments from a credit card are subject to a 3% fee. Other companies providing similar services charge similar fees. In VADOC, rates range from just over 3% to nearly 24% for online transfers.

Both media and phone debit deposits are accompanied by similarly onerous fees for online deposits and again increased fees for operator assisted deposits.

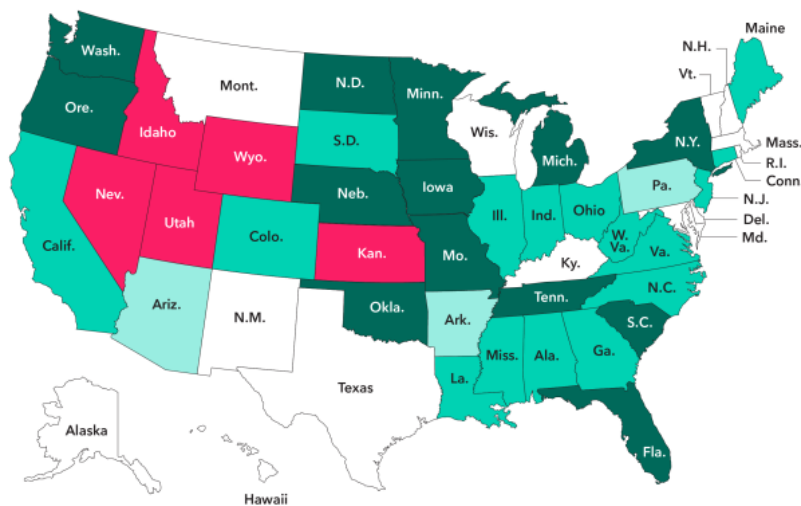
**Where are we now?** In VADOC facilities, the fees for a \$300 online deposit are \$9.95 while a \$25 online deposit will cost \$5.95. Effectively, the people who can afford to send the least get charged the most. Fees for phone payments, which are more likely to appeal to low-income people without internet access, are higher than for online payments. There is no reasonable explanation – no significantly unique security requirements – as to why prison money transfers are so much more expensive than regular “free world” services like Venmo.

VADOC still allows people to mail a money order at no fee to JPay. While there's no fee, senders have to pay for the money order and a stamp, which can come to roughly \$2, but that's still lower than online fees. The issue, of course, is speed. JPay earns their profits from fees charged for payments made online or over the phone. They do not promptly process money orders for which they receive no fee revenue. In fact, according to their terms of service, JPay reserves the right to deliberately delay processing money-order. There are multiple 5-day turnaround clauses in the existing contract that add up to at least two weeks, in the best case. However, reports from people incarcerated in VADOC indicate that the turnaround time is often far longer. Further, it is not uncommon for JPay to return the money order to the sender because the form submitted was printed in the wrong color or sometimes with seemingly no

explanation at all, effectively forcing the sender into utilizing the online or phone deposit system or resending and waiting weeks again with hopes that the deposit is accepted this time around.

### What It Costs to Transfer \$20 to an Inmate in State Prison Systems

No data
  Less than 10%
  10–19.9%
  20–29.9%
  Greater than 30%



Source: Prison Policy Initiative

Bloomberg Law

As indicated in the existing JPay lockbox services contract, prior to Jpay obtaining sole provider rights to deposits, VADOC allowed multiple vendors, some of which were less expensive than Jpay such as AccessCorrections. Further, families could simply send money orders to someone in VADOC custody via U.S. Mail and it was processed by staff dedicated to “Inmate Accounts” that are still in place. Management reports do not indicate any savings to VADOC due to this change. However, significant fiscal impacts have befallen the families and friends of people incarcerated in the VADOC.

Deposits on pre-paid phone accounts are managed by the telecom vendor, GTL. Each deposit is limited to \$50 and costs a flat fee of \$3.

### Recommendations by Non-VADOC Stakeholders

We recommend that the legislature:

1. Direct the VADOC to partner with other state agencies that process a variety of payments (e.g., vehicle registrations, hunting licenses, tuition, etc.) in order to provide a low-cost, in-house solution to money deposits. Payment processing is not complicated and clearly many state agencies have figured it out. VADOC should either partner with another agency, in order to leverage the state’s past IT investments and existing technology, or explore in-housing their own payment processing system similar to other state agencies to process these deposits at no cost. This is the optimal solution.
  - a. Alternatively, apply recommendation 2 to all online and phone deposit services.



2. Limit processing fees to 3% for pre-paid phone account deposits, and for all online and phone, credit and debit card deposits not covered by the in-house solution in Recommendation #1.
  - a. The JPay contract already allows for large deposits at roughly this rate, confirming that vendors can still make a profit at this rate. There is no reason to charge predatory rates to those who can't afford to make large deposits. Codifying this cap will provide VADOC leverage in the procurement process.
3. Require that VADOC once again permit the submission of certified funds (i.e., money order, certified check, cashier's check) through U.S. mail for processing and deposit by the Inmate Accounts staff at each facility as it did for decades. It is reasonable to believe this will be low volume and a minimal administrative burden, especially with the online and phone deposit cap of 3%.

## **Analysis by Virginia Department of Corrections**

1. Fees should be addressed during contract negotiations not as part of legislation. Codifying a cap of 3% for processing fees for online and phone deposits without consideration of other factors may actually be a detriment to the VADOC and thus the individuals we serve. The niche for correctional lockbox services is very slight. In the U.S., only a handful of vendors provide these services. We'd run the very real risk of alienating quality service providers, or deterring all possible providers, whose main purpose for business is to effectively offer lockbox services to correctional facilities considering the specific security needs of the industry.

Currently, our vendor supplies:

- 24-hour customer service
- elaborate online security features
- intricate online investigation tools
- electronic uploads to inmate accounts
- 1-2 day turnaround time for standard deposits
- exportable reports that are used for reconciliations and reviews

If the VADOC had to provide in-house lockbox type services in keeping with the current standards, we would need over \$5 million per year in personnel cost alone. Other financial considerations would be the initial and on-going costs of software, licenses, and infrastructure (IT and non-IT), cost of on-going employee training, cost of banking, cost of financial losses from fraud and human error, cost of materials and supplies, and cost of space for additional staff.

The most significant non-financial considerations center on (1) lapses in security, which could potentially have negative outcomes for senders and recipients of funds, as well as staff, and (2) customer service, namely delayed deposits and untimely responses to family and friends, due to having no in-house infrastructure for the lockbox processes.



2. Receiving funds at each facility would in no way benefit the sender, the recipient, or the VADOC. This action may actually cause a delay in receipt of funds, increase the potential for fraud, and broaden the chance for more complaints and possible litigation against the Commonwealth.

Currently, friends and family of incarcerated individuals are allowed to mail money orders to a vendor-operated lockbox with no associated fees. Money orders are processed, and funds are electronically uploaded to the individuals account within 1-2 business days of receipt. Any issues that may arise with the deposit are handled by the vendor, any associated losses are at the vendor's expense, and any recovery efforts are made by the vendor.

If the VADOC had to provide this service, we would need approximately \$700k per year in personnel cost alone. Other financial considerations would be the initial and on-going costs of software, licenses, and infrastructure (IT and non-IT), cost of on-going employee training, cost of banking, cost of financial losses from fraud and human error, cost of materials and supplies, and cost of space for additional staff.

The most significant non-financial considerations center on (1) lapses in security, which could potentially have negative outcomes for senders and recipients of funds, as well as staff, and (2) customer service, namely delayed deposits and untimely responses to family and friends, due to having no in-house infrastructure for the lockbox processes.

### 3. Media Deposits:

- Through the kiosk, the inmate can request a dollar amount to be added to his media account. If the funds requested are available, the amount requested is added to the account. This request can be done as many times as the inmate requests. There are **no fees** for these requests. Family members and friends can make deposits to the inmate's Trust Account using a money order where **no fees apply**.
- Family members and friends may place funds on the inmate's media account online or by phone, fees apply. These deposits are credited within 24-hours on work days. Deposits made on the weekends or official state holidays will be processed the next business day.

### Phone Deposits:

- Family members and friends may place funds on their Advance Pay account by calling 1-877-650-4249, so long as the inmate is assigned to the VADOC, **no fees apply**.
- If family members and friends place funds on an inmate Debit Account using GTL's website, fees apply.
- The inmate may transfer funds from their Trust Account to the inmate's Phone Debit Account once a month, **no fees apply**.



## Recommendations by Virginia Department of Corrections

### ITEM #1: Capping deposit fees to 3%

1. VADOC shall continue to use the RFP and contract negotiation periods to continue to leverage the best rates for the services provided. Our mission in obtaining any financial services contract for individuals in our custody considers, when applicable, that cost to friends and families.
2. The VADOC will continue to devise and implement internal policies and procedures surrounding the proper oversight and execution of inmate and CCAP probationer/parolee financial contracts (i.e., will conduct a quarterly audit to services).

### ITEM #2: Receiving funds at each facility

1. VADOC shall continue to use the RFP and contract negotiation periods to leverage the best rates for the services provided. Our mission in obtaining any financial services contract for individuals in our custody considers, when applicable, that cost to friends and families.
2. The VADOC will continue to devise and implement internal processes for reviewing best practices related to inmate deposits received via mail.
3. VADOC will continue to devise and implement internal policies and procedures surrounding the proper oversight and execution of inmate and CCAP probationer/parolee financial contracts.

### ITEM #3: Media and phone deposits

1. VADOC will continue to use the RFP and contract negotiation periods to leverage the best rates for the services provided. There is an active RFP in progress and when securing a new contract, the VADOC is committed to obtaining the lowest possible rates possible.



## Topic #2: Access to Inmate Trust Funds upon Release

### Analysis by Non-VADOC Stakeholders

**What is the history and context?** Every year, roughly 12,000 people are released from VADOC custody. Many people have funds on their trust accounts when they are released that need to be returned to them upon release. VADOC controls how these disbursements are made and they're often cumbersome and expensive for those released from custody. For generations, people being released from VADOC custody were provided a check or other paper instrument, without cost, that allowed them to receive their funds by cashing a check or depositing the instrument into a bank account. This has only recently been replaced with the debit release card system.

**Where are we now?** When a person leaves a VADOC facility, they receive their funds — wages earned while behind bars, or support from family members on fee based prepaid debit release cards. These debit release cards are issued by ReleasePay which is operated by Rapid Financial Solutions, one of the large players in the market. There are 6 ways to get money off of a debit release card, but they are expensive, difficult, or both.

1. *Opt out:* The first way someone can get their money off of a release card is by exercising their right to “opt out” and get a refund. While this may sound easy, debit release card vendors make it difficult (or nearly impossible) for recently released people to exercise their opt-out rights and they only have 30 days to do so.
2. *Close the account after the opt-out period has expired:* After the grace period has expired, a cardholder can request that the account be closed and receive a refund via mailed check. Someone with a \$50 balance can use this option, but effectively has to pay a fee of 20% for a very simple transaction.
3. *Transfer the money to a bank account:* Cardholders can transfer their balance to a bank account. Two of the three major debit release card vendors, Numi and Access Corrections, allow cardholders to transfer their funds to a bank account without a fee. However, they do not provide much detail about how to do this, beyond referring consumers to the program manager’s website. While this may be useful for cardholders with bank accounts, most people being released from long terms of incarceration don't have bank accounts, effectively eliminating this option for them.
4. *Use the card to make purchases:* Cardholders can use their balances to make in-store or online purchases. This only works if the business in question accepts Mastercard. While many retailers do, many people and institutions that a consumer may need to pay, like a landlord, do not. But even if a cardholder wants to use the card at a Mastercard-accepting business, simply using the debit release card for purchases can subject them to a whole new series of fees. Some cards charge users for each purchase. For example, seven cards levy such fees, averaging \$0.71 per transaction. VADOC Release Pay cards do not charge a fee per transaction. However, there are monthly fees of \$3.95 per month as well as an inactivity fee of \$3.95, ATM approval or decline fees of \$2.95, \$1.50 for balance inquiries as well as enhanced fees for international usage. Note that vendors are already compensated for the cost of processing transactions through interchange fees paid by merchants. Finally, some debit release



cards have monthly or even weekly maintenance fees, so the longer it takes the consumer to spend down their balance, the more they will pay in maintenance fees.

5. *Get cash at an ATM:* Getting cash from an ATM also presents its own challenges and fees. Very few debit release card vendors have their own network of ATMs where consumers can withdraw their money for free, or a relatively low fee. If a cardholder uses an ATM outside of this network, they're likely to be hit with fees by both the card issuer and the bank that operates the ATM.
6. *Withdraw cash at a bank:* Over-the-counter withdrawals appear to often be fee-free but figuring out how to use this option can be nearly impossible. For example, the cardholder agreement for VADOC debit release cards states that cardholders must perform over-the-counter withdrawals at a "MasterCard principal financial institution," but neither ReleasePay nor MasterCard itself provides information on how to determine which bank branches fall within this category.

## **Recommendations by Non-VADOC Stakeholders**

We recommend the legislature and/or VADOC:

1. Offer people being released from custody the option to receive a check or money order, for a fee not to exceed \$2.00, or a debit release card, making sure to simultaneously provide the card's fee schedule. As detailed above, for decades, VADOC provided a check or money order to people being released from custody with the balance of the trust accounts. Currently, most VADOC facilities allow people in custody to send money home to a family member or loved one by purchasing a money order from the facility.
2. Limit the cumulative monthly account fees for debit release cards to 3% of the average card balance, not to exceed \$15 in any month.
3. Prohibit VADOC from collecting commissions or revenue sharing with the vendor for debit release card services.

## **Analysis by Virginia Department of Corrections**

Facilities are tasked with providing debit release card fee schedules to individuals upon release. At the same time, instructions are provided on how to retrieve funds without incurring fees. The fees associated with debit release cards are not far from the industry standard at \$3.95 per month for maintenance, \$2.95 per transaction for ATM withdrawals and declines, and \$1.50 for ATM inquiries.<sup>1</sup> The industry standards for the same fees are, on average, \$5.44, \$3.14, and \$3.14, respectively. Fees are not incurred. VADOC does not receive commissions from, nor participate in revenue-sharing with, our debit release card vendor.

## **Recommendations by Virginia Department of Corrections**

While our debit release card program has been successful and remains the most efficient way to access funds, the VADOC will examine the possibility of using alternative methods of providing funds to individuals upon release.



## *Topic #3: Access to Records upon Release*

### **Analysis by Non-VADOC Stakeholders**

**What is the history and context?** Code of Virginia section 53.1-28 requires the VADOC to provide a copy of various records to incarcerated people upon their release, including medical, employment, and educational and treatment records “so long as such prisoner requests a copy...” at least 60 days prior to release. This is a little-known piece of code and even the VADOC reentry and records staff polled at two facilitates were unfamiliar with it.

Access to one's records, especially medical records, should not be dependent upon knowledge of an obscure code section that even VADOC staff is unfamiliar with. These records should be routinely provided to people returning home so that they may best engage in work programs, enroll in vocational or post-secondary education, and obtain physical or mental healthcare.

**Where are we now?** Currently, VADOC Operating Procedure 820.2 provides medical, employment, and educational and treatment records in a hard copy format at no cost to the person being released from custody. However, it is required that the individual being released submit an affirmative request at least 60 days prior to release.

This appears to have been a blind spot in VADOC's reentry process. While great strides have been taken in providing DMV visits, obtaining birth certificates and SSA cards, providing these records is a critical step to holistic reentry.

### **Recommendations by Non-VADOC Stakeholders**

We recommend that the legislature

1. Mandate the VADOC to automatically provide a complete and comprehensive copy of all records accessible by people incarcerated in VADOC under VADOC Operating Procedure 050.6 to them upon release. This shall be done in hard copy format unless digital format is requested by the person, such request for digital records shall be fulfilled within 120 days of release. VADOC shall inquire with the person being released how in what format they would like to receive their records no less than 60 days prior to their release and document the manner in which these records were offered and/or provided to the release person.
2. Ensure all copying and distribution of medical records must be associated with a signed request from the individual to ensure protections of the PHI as outlined in federal law. VADOC could consider eliminating the charge for any medical record request received.





## Analysis by Virginia Department of Corrections

Code of Virginia section 53.1-28 states in full, "The director shall provide each prisoner with the following documents upon discharge: (i) verification of the prisoner's work history while in custody; (ii) certification of all educational and treatment programs completed by the prisoner while in custody; and (iii) a copy of his medical records, so long as such prisoner requests a copy of his records at least 60 days prior to the date upon which the prisoner's term would expire." The VADOC currently provides all required documentation in accordance with this section at no cost to the releasing individual.

Specifically, regarding medical records, the current VADOC Operating Procedure 701.3 Health Records allow for any inmate or CCAP probationer/parolee to obtain a free copy of the last three years of their medical record, as well as any other part of their medical record that is older than three years, within 30 days of release. The Code of Virginia does stipulate an inmate or probationer/parolee must request a copy of the records at least 60 days prior to their release date. However, the VADOC operating procedure indicates that all copies of medical records requested at any time prior to the individual's release in preparation for release are not subject to any copying charges and will be provided free.

Copies of medical records are handled by the medical records office at each facility to ensure the copies are complete and appropriately responsive to the request, as well as to ensure protection of the health information contained within. Medical records staff routinely work with releasing inmates to ensure the records necessary for continuity of medical care at the time of release is provided to the inmate prior to releasing from the facility. The facility records offices do not create or provide these copies. If time constraints make it not possible for copies to be made and provided, for example due to quick release decisions, copies are provided to the released individual at the address certified on the request form approving release by the individual. Additionally, all community providers who are assuming continuity of the released individual's medical care are provided free copies of the relevant portion of the released individual's medical records.

Individuals who are no longer active inmates or active probationer/parolee may request copies of their medical records through a release of information form. Copies requested after time of release are subject to a \$0.10 per page copy fee and a \$1.00 postage fee. No labor costs are charged for these requests. In practice, copying fees are only charged for requests indicating complete volumes of medical records for individuals who have released more than 6 months prior. Most requests submitted for medical records after an individual releases back to the community are for disability determinations, local or regional jail requests, or for community specialists requesting focused parts of the medical record. All these requests are filled with no charge assessed to the requestor or inmate.

Currently, all VADOC inmate medical records are recorded on paper. Once an inmate is released, the medical record files are held at the facility for a term of three months to ensure all documentation that may be coming from outside providers is included in the files. After three months, the files are considered complete and are sent for electronic conversion. Request for copies of the medical record can be received and acted upon at any time prior to or after release.



## **Recommendations by Virginia Department of Corrections**

The VADOC already provides inmates with free copies of all required records as outlined in the code. The inmate only needs to submit a request for documents in order to obtain copies of medical records. This request requirement is the same as requesting medical records from any other medical provider in the community. In order to be compliant with the protections and regulations outlined in the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), an individual must document approval for copies of medical records to be created and distributed. This documentation ensures appropriate disclosure of the Protected Health Information (PHI) contained within. It would not be possible to create copies and distribute this information without obtaining an individual's authorization without violation of the federal law.

Further, sending each inmate paper or electronic copies of HIPAA protected health information as a general policy without authorized requests after they are released would create difficulties in ensuring the appropriate place to send the documents or confirming the information was received by the intended recipient. Any measure to ensure receipt would cause additional hardship on the individual (such as requiring them to pick up and show proof of identify) or cost to the state (such as using certified mail with signature).

## **Closing Statement by Virginia Department of Corrections**

*The Virginia Department of Corrections would like to thank all members of the workgroup for their hard work and dedication. While we could not achieve consensus on the recommendations, the Department appreciates the insight and feedback from stakeholders. The Department will continue to work towards the best value for the various services provided.*



## APPENDIX

### PERSONAL TESTIMONIES

*For 33 years, I have had loved ones who were incarcerated at various times in Virginia DOC, including present day. Both of my parents were arrested when I was 10 years old; my father was sentenced to 38 years and completed 19.5 years before being released from Greensville Correctional Center. The burden of losing an adult earner in the household was oftentimes compounded by excessive costs for items that were deemed necessities, like food and hygiene, because what is provided is not sufficient for the health and wellness of our incarcerated loved ones. The fiscal costs of losing income, phone calls, video visits, JPay communications, quarterly care packages, fees, and travel expenses for visitation are one thing - commissary costs are often 2-3 times the cost of what the average household spends day to day for household items and food.*

*Having a loved one who is incarcerated means that the quality of the food, clothing, and hygiene items are not just excessively priced, but most often, poor quality; but not as poor quality as the food that is served through dining services. If you don't know what a "mystery loaf" is, ask those who have been previously housed inside of DOC facilities, especially those sentenced to solitary confinement. Rotten and moldy food, thin clothing, slithers of toothpaste that has to be stretched for weeks, toilet paper being used as a double for menstrual support - those are some of the things that incarcerated individuals are subjected to. The most significant impact has been on healthcare costs, increased insurance premiums because of health issues like diabetes, high blood pressure, PTSD, and many behavioral health issues, which trickle down to the general public through programs like Medicaid and Medicare when a person is released. The cost of prison for a person who has a loved one who is incarcerated is to be taxed twice and to pay the debt to society over and over again.*



August 24, 2022

To Whom it May Concern:

Bud's Best Cookies, Inc., located in Birmingham, Alabama, manufactures cookies under the Bud's Best Cookies, Inc. and Uncle Al's labels. We produce bite-size and standard size cookies in wide array of flavors and packaging configurations.

These cookies are sold to wholesalers, distributors, and in retail chains such as Dollar Tree, Dollar General, Walgreens, and Family Dollar.

Under contract manufacturing arrangements with Keefe Commissary, Bud's Best Cookies manufactures Market Square Bakery, a private label brand of Keefe at the same facilities under the same rigorous quality control.

The Market Square Bakery Items are:

- 14oz MS Strawberry Creme
- 14oz MS Duplex Creme
- 14oz MS Peanut Butter Creme
- 14oz MS Vanilla Creme
- 14oz MS Chocolate Creme
- 14oz MS Lemon Creme
- 6oz MS Chocolate Chip
- 6oz MS Peanut Butter Creme
- 6oz MS Orange Pineapple Creme
- 6oz MS Vanilla Creme
- 6oz MS Duplex Creme
- 10oz MS Iced Shortbread

Al Cason  
President & COO

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[www.budsbestcookies.com](http://www.budsbestcookies.com)



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 mcollins@abimarfoods.com

**To Whomsoever it may concern**

ABIMAR Foods based out of Abilene, TX are the manufacturers of Lil Dutch Maid line of cookies. The items under Lil Dutch Maid brand include

<b>PRODUCT</b>	<b>PACK/</b>
<b><u>DESCRIPTION</u></b>	<b><u>SIZE</u></b>
Vanilla Creme	24/5 oz.
Chocolate Creme	24/5 oz.
Duplex Creme	24/5 oz.
Lemon Creme	24/5 oz.
Peanut Butter Creme	24/5 oz.
Strawberry Creme	24/5 oz.
Iced Oatmeal	12/10.5 oz.
Lemon Creme	12/11.8 oz.
Strawberry Creme	12/11.8 oz.
Peanut Butter Crème	12/11.8 oz.
Mint Crème	12/11.8 oz.
Vanilla Crème	12/16 oz.
Peanut Butter Crème	12/16 oz.
Chocolate Crème	12/16 oz.

These cookies are sold in the retail channels like Dollar General, Dollar Tree, etc. across the mainland USA.

Under contract manufacturing arrangements with Keefe Commissary, ABIMAR Foods manufactures Market Square Bakery, a private label brand of Keefe at the same facilities under the same rigorous quality control.

The Market Square Bakery items are:

<b>PRODUCT</b>	<b>PACK/</b>
<b><u>DESCRIPTION</u></b>	<b><u>SIZE</u></b>
Vanilla Creme	24/6 oz.
Duplex Creme	24/6 oz.
Peanut Butter Creme	24/6 oz.
Vanilla Creme	12/14 oz.
Duplex Creme	12/14 oz.
Chocolate Crème	12/14 oz.
Strawberry Creme	12/14 oz.
Lemon Crème	12/14 oz.
Peanut Butter Creme	12/14 oz.

Max Collins  
 Director of Sales  
 AbiMar Foods, Inc.



August 29, 2022

## To Whom It May Concern

Carolina Foods, LLC. certifies that the methods used in, and the facilities and controls used for, the manufacturing, processing, packaging, and holding of the food product are in conformity with Current Good Manufacturing Practices according to Part 117 of Title 21 of the Code of Federal Regulations.

Regardless of private label brand the product is packaged for, standard Operating Procedures are followed in the manufacturing, processing, and handling of products to assure that all lots conform to the approved specification.

We, at Carolina Foods, manufacture for numerous private labels such as Little Debbie and Bimbo bakeries along with Keefe Commissary. Under contract manufacturing arrangements with Keefe Commissary, Carolina Foods, LLC. manufactures for Market Square Bakery, a private label brand of Keefe, at the same facility under the same rigorous quality control procedures and using same formulations and ingredients as for other private labels.

The Market Square Bakery items are honey buns, cinnamon rolls, and donuts.

Please contact me if additional information is needed.

Sonya Yalla  
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Carolina Foods, LLC.  
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