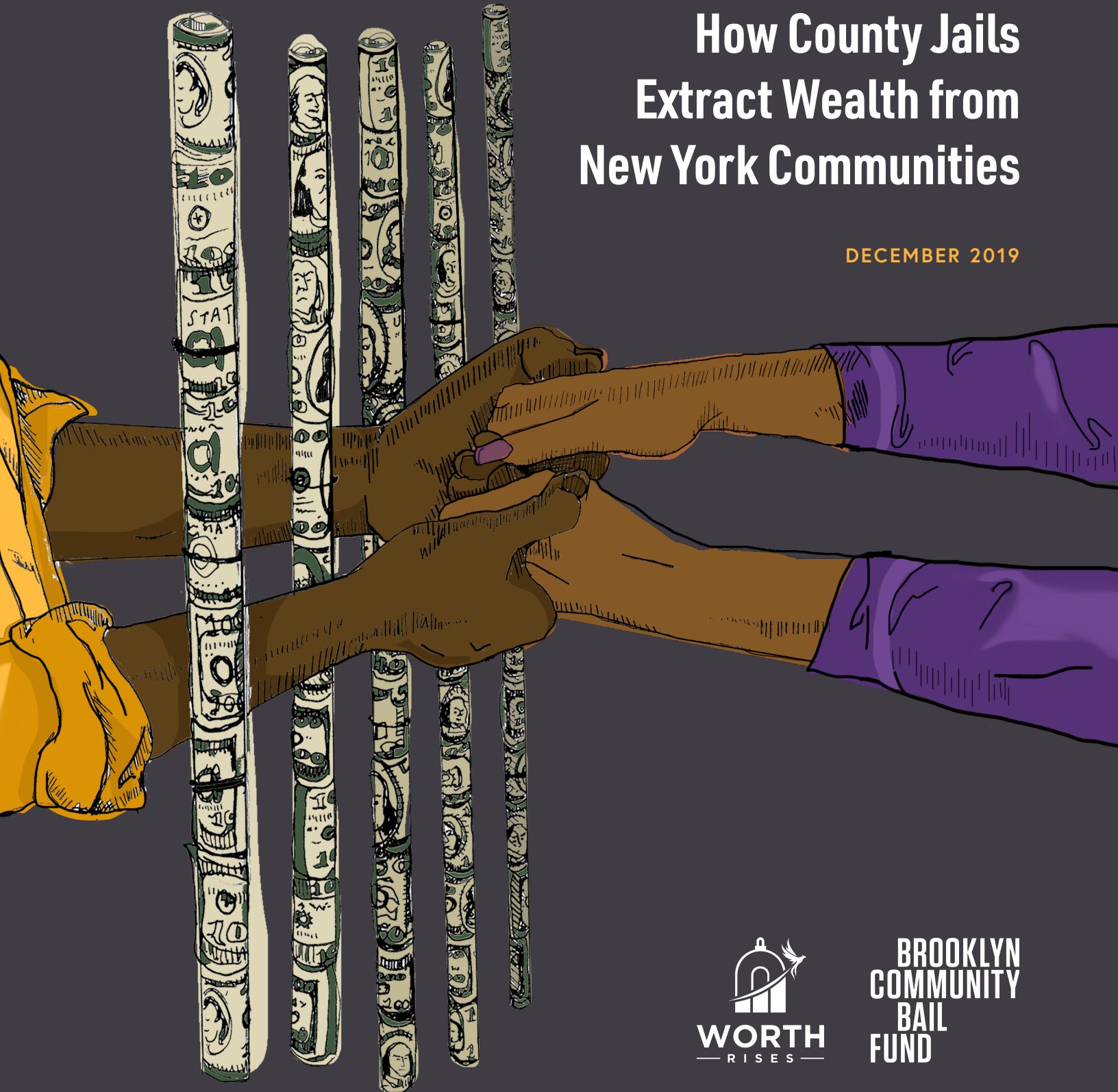


# PAYING FOR JAIL

How County Jails  
Extract Wealth from  
New York Communities

DECEMBER 2019



## CO-PUBLISHED BY:

### WORTH RISES

Worth Rises is a non-profit organization dedicated to dismantling the prison industrial complex and ending the exploitation of those it touches. We work to expose the commercialization of the criminal legal system and advocate and organize to protect and return the economic resources extracted from affected communities. Through our work, we strive to pave the road toward a safe and just world free of police and prisons.



### BROOKLYN COMMUNITY BAIL FUND

The Brooklyn Community Bail Fund (BCBF) is dedicated to challenging the racism and injustices of a criminal legal system and immigration deportation regime that disproportionately target low-income communities of color, drive mass incarceration and perpetuate inequality. From 2015 through 2019, BCBF operated the country's largest community bail fund, freeing 5,000 people from pretrial detention. BCBF began paying immigration bond in late 2018, and has freed over 350 people to date. Ours is a radical intervention that combines harm reduction—freeing people from jail and immigration detention—with systems change.



### AUTHORED BY

Katie Schaffer, Bianca Tylek, Robert Callahan

### SUGGESTED CITATION

Katie Schaffer, Bianca Tylek, Robert Callahan. *Paying for Jail: How County Jails Extract Wealth from New York Communities*. New York, NY: Worth Rises, Brooklyn Community Bail Fund, 2019.

# TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>5</b>
Overview	5
Purpose	6
Scope	6
Methodology	7
Findings	8
<b>COSTS TO FAMILIES</b>	<b>9</b>
Phone Calls	10
Commissary	12
Disciplinary Tickets	14
<b>COSTS TO FAMILIES: IN CONTEXT</b>	<b>15</b>
<b>PROFITEERING</b>	<b>16</b>
Predatory Monopolies	16
Corporate Revenue, County Kickbacks	16
<b>RECOMMENDATIONS</b>	<b>18</b>
Overview	18
End Money Bail and Pretrial Detention	18
Connect Families	18
Ensure Access to Basic Necessities and End Commissary Mark-ups	19
Eliminate Disciplinary Fines	19
Ensure Real Wages for All New Yorkers	19
End Criminal Legal System Fines and Fees	20
Protect the Right to Vote	20
Ensure Transparency and Accountability	20
<b>ACKNOWLEDGEMENTS</b>	<b>21</b>
<b>ENDNOTES</b>	<b>21</b>
<b>APPENDIX</b>	<b>23</b>
FOIL Request Template	23
Jail Phone Call Rates	25



*Having your loved ones in jail, not convicted of anything, has an emotional and financial impact, particularly on a fixed income. You know the quality of the 'food' served to 'residents,' it's not edible. So you have to take food from your own house, money from your own needs to put money on the commissary, so that they can pay for overpriced items at Armarrck or whatever that company is called. There's also the cost of the phones. Communication is vital. It can help save their life. In addition to the food, you then have to put money on the phone. That eats up your pocket. One call is \$2. If you do this on a regular basis, you're looking at \$200-300 on the phone alone, \$50-75 for the food each month. Then you want to get up to see them as much as you can. So if you work, you've got to take the day off from work.*

*Then there's the emotional and mental strain and stress of not having them at home and not knowing what's going on with them. It's affected my health. Stress will make you sick. A broken heart will make you sick. When they say you do time with the person, you really do. This is the impact we face as family.*

— REV. EMMA LOFTIN-WOODS —



# INTRODUCTION

## OVERVIEW

Each night in 2019, over 22,000 New Yorkers languished in local jails. Over the course of the year, more than a quarter of a million New Yorkers — 267,000 people — were booked into jails across the state.<sup>1</sup> Many suffered behind bars for weeks, months, or years.<sup>2</sup> And the vast majority were incarcerated pretrial, not convicted, but behind bars because they could not afford bail.<sup>3</sup>

By themselves, these numbers are alarming. But they do not begin to account for the scale of mass criminalization in New York. As Reverend Emma Loftin-Woods explains, incarceration does not just impact individuals, it devastates families and communities. From emotional strain to lost wages, families suffer when their loved ones are disappeared behind bars.<sup>4</sup>

The costs are extreme. Time in jail is psychologically and physically traumatizing. It is also economically destabilizing for individuals and families. Even a single night in jail can lead to the loss of a job and a cascading series of consequences. For families, an incarcerated loved one means lost wages and lost support, from child care to elder care. Additionally, families have a new range of costs to pay in order to support and stay connected to their incarcerated loved one, including the cost of phone calls, transportation for visits, and commissary. And because the vast majority of people in New York's jails are incarcerated pretrial due to an inability to afford bail, these costs are borne overwhelmingly by working-class and poor people. Each layer of our criminal legal system — from policing that targets low-income communities and communities of color to a pretrial system that determines freedom on the basis of wealth to a jail system rife with profiteering — drains money from those least able to afford it and further entrenches economic inequity.

But impacted families and advocates have fought back. National movements to end money bail and pretrial detention, eliminate court system fines and fees, and confront prison and jail profiteering have created a critical focus on how the legal system criminalizes poverty, extracts wealth from families, and exacerbates financial precarity, particularly in communities of color. In New York, important — though incomplete — victories have been achieved, but financial exploitation through the criminal legal system continues.

In this report, we publish data exposing the scale of three direct costs levied against families of people incarcerated in New York's jails: phone calls, commissary, and disciplinary tickets. While families often struggle to bear these costs quietly and individually, the injustice is systemic and endemic. Exorbitantly priced phone calls disconnect New Yorkers from their loved ones, interfere with access to legal counsel for those in jail pretrial, and make reentry even more challenging. Through

*Time in jail is psychologically and physically traumatizing. It is also economically destabilizing for individuals and families.*

jail commissaries, local governments transfer the costs of basic necessities — including food and hygiene products — onto incarcerated people and their families. And disciplinary ticket fines are often used to exploit, demean, and further punish those already incarcerated.

These forms of wealth extraction comprise only a fraction of the larger costs and consequences of the carceral system, but they illustrate the systemic exploitation of economically disenfranchised people. Although New York has no private prisons or jails, for-profit corporations reap millions of dollars through jail service contracts and repay their government partners with kickbacks. Through these profit-sharing agreements, local governments collude with prison profiteers in the exploitation of communities across New York.

## PURPOSE

We write this report to make public three examples of wealth extraction from incarcerated people and their families. We also write this as organizers and advocates with the explicit goal of motivating policy change in New York. The most direct route to addressing the harms of incarceration is to dramatically reduce the number of people incarcerated with the long-term goal of abolishing jails and prisons. Through the passage of legislation in April 2019 that limits money bail and pretrial detention, New York has taken a step in that direction.

However, there is far more work to do. To fully decarcerate New York's jails, we seek legislation that ends money bail and pretrial detention for all people. We also call on New York to eliminate the cost of phone calls from jails and prisons, provide for basic necessities and end the markup of commissary items, recognize and compensate all labor, and end profiteering in the criminal legal system. For a full list of the policy recommendations contained in this report, refer to p. 18.

## SCOPE

Currently, New York has 80 local jails in 62 counties. In this report, we focus specifically on the counties outside of New York City because they account for the majority of New Yorkers in jail, but receive far less attention and scrutiny. In 2018, over 14,500 people were incarcerated each night in Long Island, Westchester, the Hudson Valley, the Southern Tier, the Capital District, and regions across New York outside of New York City's five boroughs.

While it is often assumed that jail incarceration is solely a New York City issue, non-New York City jails account for over 63% of the total jail population while they compose only 57% of the total population in the state.<sup>5</sup> Moreover, while New York City's jail population has fallen by more than half since 2014, jail populations in many parts of the state have grown and represent far higher rates of incarceration.<sup>6</sup> For example, in Broome County, the rate of jail incarceration is more than twice the rate in New York City.<sup>7</sup> Despite this jail crisis, there is far less data available in counties outside of New York City, so the cost and consequences of local incarceration are often hidden from view.

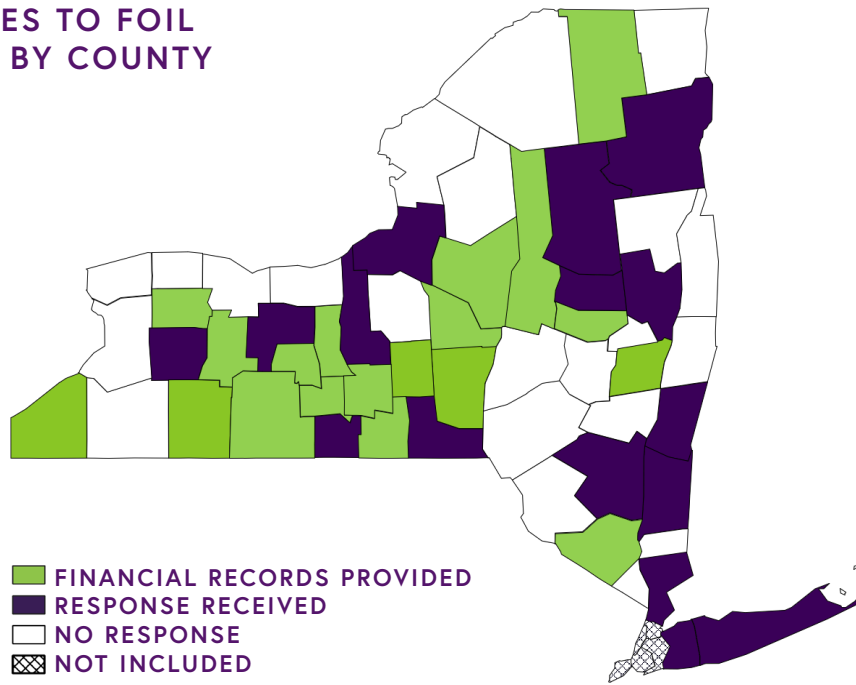
## METHODOLOGY

In late 2018, Worth Rises (then known as the Corrections Accountability Project) sent Freedom of Information Law (FOIL) requests to all 57 non-New York City counties for 2017 data on phone calls, commissary, and disciplinary fines. We focused on these three costs because they represent the most substantial, extractive, and quantifiable costs placed on incarcerated people and their families. Additionally, they illustrate how publicly-operated jails are privatized and serve as both profit-makers for corporations and revenue sources for counties.

Out of the 57 counties to which we sent record requests, 35 replied and 19 provided financial records. While we do not have records for every county, we believe that the sample of respondents is generally representative of counties in the state. As evident in the map below, the counties for which we have data are geographically distributed throughout the state. We note, however, that on average they are slightly smaller than the average county. While the median population of non-New York City counties is about 77,000 (as of the 2010 census), the median population for counties responding to our FOIL requests is 62,000.

Using the data on phone call costs we received from nearly one-third of the 57 counties, we were able to extrapolate to non-responding counties with a high-level of confidence. Given the lower response rates for commissary and disciplinary tickets, our projections are less conclusive but we include them to provide a sense of statewide scale. In all cases, our analysis accounted for variations between border and interior counties and counties of varying sizes.

## RESPONSES TO FOIL REQUEST BY COUNTY



## FINDINGS

In response to our FOIL requests, 18 counties provided phone data, 12 counties provided commissary data, and 9 counties provided disciplinary ticket data. In those counties alone in 2017, we found that families paid:

- \$4.8 million for jail phone calls
- \$1.7 million for commissary
- \$41,000 for disciplinary fines

In the 9 counties that provided complete data, families spent an average of \$152 each month on jail phone calls, commissary, and disciplinary tickets, equivalent to 6% of the average monthly income<sup>8</sup> and 20% of the average rent for a 1-bedroom apartment.

Extrapolating from the counties from which we have data, we estimate that in 2017 the 57 counties outside of New York City extracted over \$25.1 million for phone calls, \$14.1 million for commissary, and \$0.2 million for disciplinary tickets. Altogether, in 2017, county governments and their corporate partners raked in \$39 million from incarcerated people and their families on these services. Adding on deposit fees and taxes brings the total to approximately \$50 million. This amounts to an average cost of \$175 per month for the families of incarcerated people, or \$2,100 annually.

By contracting with predatory corporations, counties are at best complicit and at worst active participants in this financial exploitation of New York families. In 2017, the 14 counties that provided complete information regarding phone call revenues and commissions allowed their telecom vendors to collect nearly \$2.0 million on jail phone calls and received \$1.7 million in return through profit-sharing agreements. Extrapolated statewide, for the approximately \$25.1 million that corporations collect in jail call charges each year, we estimate that counties receive \$11.8 million in corporate kickbacks.

The unresponsiveness of many counties to open records requests is also an important finding of this report.<sup>9</sup> Contrary to law and basic democratic principles, 39% of counties did not respond at all to our request and only 33% provided financial records. Of the 10 largest counties surveyed, only 2 provided data, a response rate of 20%. The information we sought relates to significant wealth extraction by the criminal legal system, a practice that has devastating consequences for individuals, families, and communities. This lack of transparency allows abuse to go unchecked and creates obstacles to accountability and change. It is also illegal. Under FOIL, county governments are required to turn over the requested information. It is impossible to know if counties failed to respond out of defiance — and a desire to conceal the requested information — or out of bureaucratic inability. Regardless, this lack of transparency is disturbing and must be addressed.

*County governments and their corporate partners raked in **\$50 million** from incarcerated people and their families in 2017.*



## COSTS TO FAMILIES

The financial costs to families with an incarcerated loved one are staggering. They include the cost of phone calls, commissary, packages, visiting, and lawyer and court fees. They also include less explicit costs like the loss of income or the loss of child or elder care and unquantifiable costs like the childhood trauma of parental incarceration.

Due to structural injustices — including discriminatory policing, bail practices, and sentencing — incarcerated people are disproportionately working-class or poor. Using Bureau of Justice data, the Prison Policy Initiative found that in 2014 dollars, incarcerated people had a median annual income of \$19,185 prior to their incarceration — 41% less than non-incarcerated people of similar ages.<sup>10</sup> Imposing these excessive costs on families that can least afford it exacerbates poverty and economic marginalization. In fact, a 2015 study by the Ella Baker Center, Forward Together, and Research Action Design found that cost is the top barrier for families trying to stay in touch with an incarcerated loved one and nearly one in three families going into debt trying to do so. And importantly, 87% of family members responsible for phone and visit costs are women — primarily women of color.<sup>11</sup>

Incarcerated New Yorkers and their families are charged astronomical rates to stay connected with their loved ones, lawyers, and other service providers, even more so than other parts of the country. On average, phone calls from New York jails (\$8.83) are 50% more expensive than the national jail average (\$5.86), and run as high as \$9.95 for a 15-minute local call.<sup>12</sup> These prices are the result of lucrative agreements between correctional telecom providers, whose standalone practices are steeped in predation, and county governments looking for their share of the pie.

*A 15-minute phone call can cost as much as **\$9.95.***

Though a major expense, phone calls are just the beginning. Other sources of financial exploitation are jail and prison commissaries where incarcerated people can purchase food, clothes, and other items.

Not only do jail administrators compel incarcerated people and their families to cover basic necessities, but with the help of private commissary vendors, they sell these and other products at severely marked-up costs. This model gives rise to remarkably perverse incentives: by failing to provide sufficient food and hygiene products or serve edible food, sheriffs coerce commissary purchases from incarcerated people. In the worst cases, the jail's food service provider is also their commissary vendor, ensuring that costs cut in the kitchen produce doubly at the jail store.

While disciplinary fines account for a much smaller amount of money, they further drain resources from incarcerated people and their families, using financial exploitation as an additional means of punishment.

While much of the public's ire is directed at private prisons, our government-run jails are rife with exploitation and profiteering. In New York, where we do not have any privately-operated jails, our county governments outsource nearly every function in jails — including phone service, commissary, laundry, and maintenance, among others — to private, for-profit corporations at great cost to New York families and communities.

### PHONE CALLS

Phone calls are a critical way for families to stay connected to their incarcerated loved ones. Given the remoteness of jails, lack of public transportation, and limited visiting hours, in-person visits can be logistically challenging. Phone calls thus offer the only regular means by which many children with incarcerated parents, parents with incarcerated children, and spouses with incarcerated partners can maintain family ties that are important not just to combat the everyday hopelessness jails produce, but also to support successful reentry upon release. Access to phone calls is also critical for people incarcerated pretrial who may need to make immediate contingency plans — like arrangements for who will pick up their child at school — and to speak with their legal counsel or others who may assist in their case.

*Each month, families with an incarcerated loved one spend **\$103** on jail phone calls alone.*

However, predatory telecom corporations and their government partners charge incarcerated people and their families egregious rates for phone calls. In New York, a 15-minute phone call from a state prison costs \$0.65, more than six times the minimum hourly wage in prison. But the problem is even more dire in county jails. From a New York county jail, a 15-minute phone call can cost as much as \$9.95.<sup>13</sup> More than 75% of the state's county jails outside of New York City charge this rate because of the near monopoly held by a single telecom provider.<sup>14</sup>

Given the incredibly limited resources and earning ability of incarcerated people, their families—many of whom also have limited means—typically bear the cost of communication. Across only 18 responding counties, families paid over \$4.8 million for phone calls in just 2017, or on average, \$103 per month on phone calls alone. Of these counties, the average family spent the most in Orange and Yates County where families with incarcerated loved ones spent over \$250 for the average jail stay of 45 and 46 days, respectively, just to be in touch.

*Incarcerated people and their families are charged more than **2.5 times** as much for phone calls as non-incarcerated people.*

Notably, the annual phone costs for incarcerated people are far greater than the cost of phone communication for non-incarcerated people. For example, an unlimited talk and text plan with a major carrier runs just \$40 per month,<sup>15</sup> meaning that, on average, incarcerated people and their families are charged more than 2.5 times as much as non-incarcerated people for highly limited phone use.

**TABLE 1: MONTHLY PHONE COSTS FOR INCARCERATED PEOPLE IN 18 COUNTIES (2017)**

COUNTY	Daily Jail Census	Phone Spending	Average Per Person Monthly Phone Costs	Average Number of Days in Jail Per Admission*	Average Cost Per Person Per Admission*
ALBANY	576	\$843,953	\$122	38	\$153
ALLEGANY	111	\$162,857	\$122	52	\$209
CHAUTAUQUA	282	\$351,408	\$104	31	\$106
CHENANGO	93	\$97,336	\$87	58	\$166
CORTLAND	93	\$82,512	\$74	32	\$78
FRANKLIN	93	\$102,459	\$92	51	\$154
GENESEE	97	\$81,454	\$70	21	\$48
HERKIMER	70	\$35,316	\$42	13	\$18
LIVINGSTON	128	\$196,425	\$128	49	\$206
MADISON	82	\$99,412	\$101	48	\$159
ONEIDA	491	\$276,712	\$47	45	\$69
ORANGE	681	\$1,775,975	\$217	35	\$250
SCHUYLER	21	\$10,258	\$41	40	\$54
SENECA	79	\$105,203	\$111	45	\$164
STEBEN	208	\$325,423	\$130	43	\$184
TIOGA	79	\$104,454	\$110	38	\$138
TOMPKINS	76	\$81,459	\$89	44	\$129
YATES	44	\$90,928	\$172	46	\$260
<b>TOTAL</b>	<b>3,304</b>	<b>\$4,823,544</b>	<b>--</b>	<b>--</b>	<b>--</b>
<b>AVERAGE</b>	<b>--</b>	<b>--</b>	<b>\$103</b>	<b>41</b>	<b>\$141</b>

\*2015 average daily stay data

And still, given the economic position of most incarcerated people and their families, many would be eligible for federal subsidy programs that ease access to communications service, but do not cover prison calls.

In the end, these costs amount to a tremendous amount of wealth extraction from communities with truly limited resources. Using the data provided and accounting for variations in calling trends between border and interior counties, and counties of varying sizes, we estimate that the fifty-seven counties outside of New York City extract over \$25.1 million through jail phone calls each year. With deposit fees and taxes layered on,<sup>16</sup> the cost to New York's families grows to an estimated \$32.4 million.

*The fifty-seven counties outside of New York City extract over **\$25.1 million** through jail phone calls each year. With deposit fees and taxes layered on, the cost to New York's families grows to an estimated **\$32.4 million**.*

### COMMISSARY

County governments and jail administrators transfer the cost of basic necessities onto incarcerated people and their families through jail and prison commissaries.

Often, jail administrators contract the same private vendor for food service and commissary, creating a perverse incentive for the corporation to serve poor quality food that drives people to purchase their food products at commissary. It is a practice that counties also benefit from as they pay for food service but can earn a portion back through commissary sales. The corporations that comprise this \$1.6 billion national industry serve food delivered with labels that read "Low Grade but Edible" and then sell marginally better, processed products at prison and jail commissaries to "consumers" who have no choice but to pay unconscionable prices multiples higher than the mainstream market.

And it is not just food that incarcerated people purchase at commissaries. Instead of receiving shampoo, lotion, deodorant, or menstrual products free of charge, incarcerated people with the support of their families are forced to buy these products for significantly marked-up prices as well. Thus, sheriffs do not merely provide "additional" items at commissaries, but instead use them to shift the cost of basic necessities onto incarcerated people.

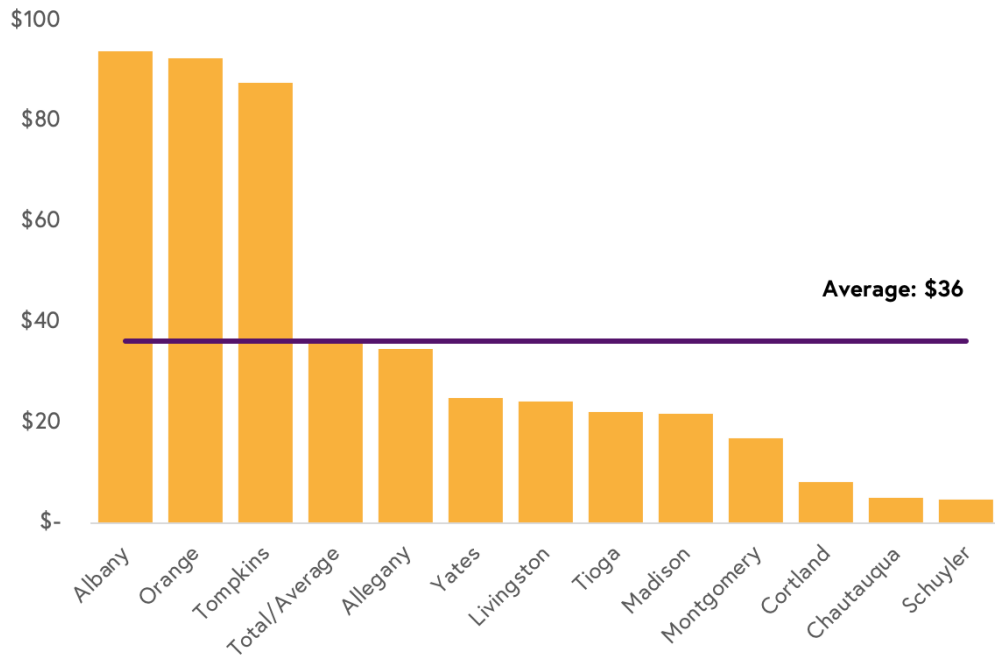
*New York counties outside of New York City extracted an estimated **\$14 million** from families through commissary.*

The 12 counties that provided commissary data extract \$1.7 million in commissary purchases annually. Incarcerated people in the largest jails spent the most monthly on commissary, \$94 in

Albany County and \$92 in Orange County; more than \$1,100 annually. While it is much harder to extrapolate the statewide jail commissary revenue from the data collected, we believe that it could easily top \$14 million.

There is a large discrepancy between the per person commissary costs in the largest counties and smaller counties. The difference does not appear to be attributable to anomalously high markups or to a difference in vendors. It is possible that these jails have especially unpleasant or inedible meals, make transferring and spending commissary funds slightly easier, or that families have marginally more income to spare in larger cities. Without access to more economic data on affected families, it is difficult to determine cause with any degree of confidence.

**CHART 1: MONTHLY COST OF COMMISSARY PER INCARCERATED PERSON (2017)**



**TABLE 2: MONTHLY COMMISSARY COSTS FOR INCARCERATED PEOPLE IN 12 COUNTIES (2017)**

COUNTY	Daily Jail Census	Commissary Spending	Average Per Person Monthly Commissary Costs	Average Number of Days in Jail Per Admission*	Average Cost Per Person Per Admission*
ALBANY	576	\$648,614	\$94	38	\$117
ALLEGANY	111	\$46,240	\$35	52	\$59
CHAUTAUQUA	282	\$16,943	\$5	31	\$5
CORTLAND	93	\$9,074	\$8	32	\$9
LIVINGSTON	128	\$36,949	\$24	49	\$39
MADISON	82	\$21,151	\$21	48	\$34
MONTGOMERY	96	\$19,183	\$17	44	\$24
ORANGE	681	\$755,769	\$92	35	\$106
SCHUYLER	21	\$1,120	\$4	40	\$6
TIOGA	79	\$20,819	\$22	38	\$27
TOMPKINS	76	\$79,883	\$88	44	\$127
YATES	44	\$13,126	\$25	46	\$38
<b>TOTAL</b>	<b>2,269</b>	<b>\$1,668,871</b>	--	--	--
<b>AVERAGE</b>	--	--	<b>\$36</b>	<b>41</b>	<b>\$49</b>



*Whatever an officer tells you to do, even if it is dehumanizing to you, you have to do it. For example, if an officer throws a pen on the floor and orders you to pick it up and you don't, you get a ticket for disobeying a direct order.*

— ROGER CLARK —



### DISCIPLINARY TICKETS

Jail staff can issue disciplinary tickets for any "misbehavior report" at their own discretion. Making matters worse, the fines assessed in association with disciplinary tickets create financial incentives for correctional officers to issue tickets to generate revenue for the county. In this way, disciplinary tickets are used as a means of punishment as well as wealth extraction.

To collect disciplinary fines, jail administrators will often place a lien on commissary accounts. If family members deposit money into an incarcerated person's account for their loved one to purchase food, hygiene supplies, or other products, this support is garnished to pay disciplinary fines first. This limits incarcerated people's ability to purchase basic necessities and further drains resources from their families, all while padding county budgets. Across the nine counties that provided data on the fines levied for disciplinary tickets, the total revenue from disciplinary tickets was over \$41,000.

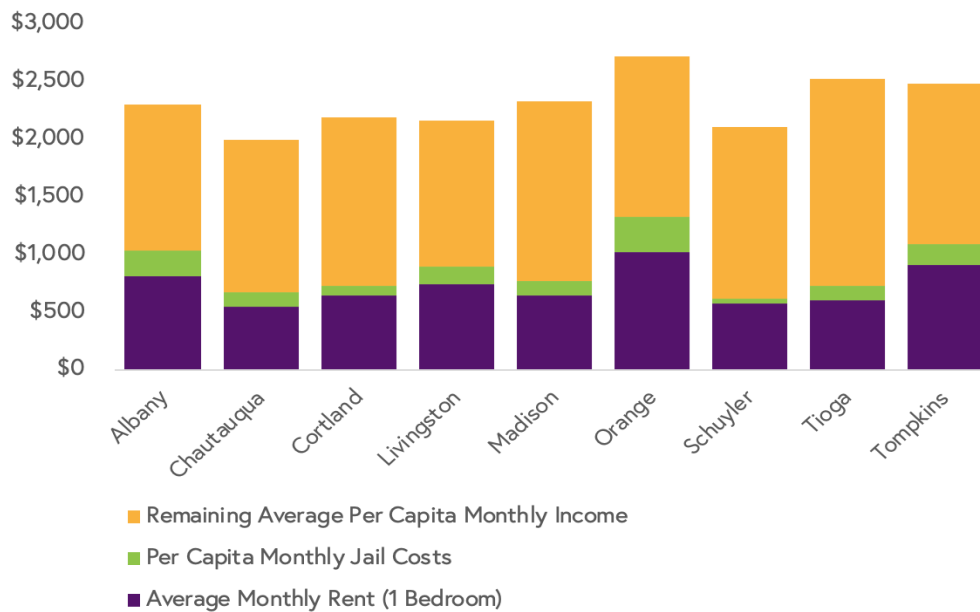
**TABLE 3: DISCIPLINARY COSTS FOR INCARCERATED PEOPLE IN 9 COUNTIES (2017)**

COUNTY	Daily Jail Census	Total Disciplinary Fines	Number of Disciplinary Charges	Average Disciplinary Fine
ALBANY	576	\$1,770	Did not report	N/A
CHAUTAUQUA	282	\$20,000	900	\$22
CHENANGO	93	\$5,200	450	\$12
CORTLAND	93	\$3,250	87	\$37
GENESEE	97	\$1,121	89	\$13
LIVINGSTON	128	\$2,325	93	\$25
MADISON	82	\$5,354	271	\$20
TIOGA	79	\$1,550	Did not report	N/A
TOMPKINS	76	\$575	Did not report	N/A
<b>TOTAL</b>	<b>1,506</b>	<b>\$41,145</b>	<b>1,890</b>	<b>--</b>
<b>AVERAGE</b>	<b>--</b>	<b>--</b>	<b>--</b>	<b>\$22</b>

## COSTS TO FAMILIES: IN CONTEXT

To understand the significance of these costs, it is important to consider them within the context of per capita income and other expenses borne by families. In the counties that provided complete data, the families of incarcerated New Yorkers pay roughly \$152 per month for phone calls, commissary, and disciplinary tickets, equivalent to 6% of their average monthly income<sup>17</sup> and 20% of the average rent for a 1-bedroom apartment in these counties.<sup>18</sup>

**CHART 2: AVERAGE JAIL AND HOUSING COSTS COMPARED TO TOTAL INCOME (2017)**



**TABLE 4: JAIL COSTS V. INCOME AND HOUSING, BY COUNTY (2017)**

COUNTY	Per Capita Monthly Jail Costs	Per Capita Monthly Income	% of Monthly Income	Average 1-Bed Rent	% of Monthly Rent
ALBANY	\$216	\$2,303	9%	\$817	26%
CHAUTAUQUA	\$115	\$1,997	6%	\$551	21%
CORTLAND	\$85	\$2,189	4%	\$639	13%
LIVINGSTON	\$153	\$2,157	7%	\$737	21%
MADISON	\$128	\$2,334	5%	\$647	20%
ORANGE	\$310	\$2,718	11%	\$1,021	30%
SCHUYLER	\$47	\$2,107	2%	\$568	8%
TIOGA	\$134	\$2,521	5%	\$597	22%
TOMPKINS	\$178	\$2,480	7%	\$911	19%
<b>AVERAGE</b>	<b>\$152</b>	<b>\$2,263</b>	<b>6%</b>	<b>\$721</b>	<b>20%</b>

## PROFITEERING

Profiteering and wealth extraction is rife throughout the criminal legal system. This is true even of jurisdictions — like New York — that do not have for-profit jails or prisons. Basic necessities — like keeping in touch with family through phone calls and basic food and hygiene items — should be provided free of charge to all people. Instead, New York has increasingly privatized these services and allowed a few large predatory corporations to profit off of the families of incarcerated people.

## PREDATORY MONOPOLIES

Global Tel\*Link (GTL) has a near monopoly on phone services in New York jails. Of the state's 57 non-New York City counties, 48 — or 85% — contract with GTL. The remaining counties contract with Securus (GTL's largest national competitor, to which it lost the state prison contract in 2017) and ICSolutions. The type of regional monopoly held by GTL enables predatory charging. Not only does GTL charge more than any other provider in the state, but it charges more than it does in other regions where it is subject to stronger competition. Nationally, GTL owns roughly 40% of the correctional telecom market and charges an average of \$3.94 for a 15-minute local phone call. But in New York, it charges an average of \$9.56 for that same call.<sup>19</sup>

GTL's influence over contracts is also evident in the similarity of rate structures. Forty-four New York counties charge \$4.35 for the first minute and \$0.40 for every additional minute of a local call. For context, the Federal Communications Commission capped the cost of interstate calls at \$0.21 per minute.<sup>20</sup> In other words, it is more than three times as expensive for a person incarcerated in a New York county jail to call their mother down the street than it is for them to call a relative across the country.

There appears to be a similar level of vendor concentration in commissary. Ten of the 11 counties that provided commissary data contract with the Swanson Services Corporation, also known as Trinity Services Group, a corporation that provides both food service and commissary and is part of the larger correctional conglomerate TKC.

## CORPORATE REVENUE, COUNTY KICKBACKS

Through these predatory contracts, corporations and their government partners extract an exorbitant amount of money from communities in New York. While large corporations are the masterminds behind these predatory pricing schemes and the majority of profits line their pockets, local governments benefit from profit-sharing agreements. These commissions — or more aptly named corporate kickbacks — allow counties to collect revenue from the economic exploitation of incarcerated



people and their families. In this way, counties are not just customers for these vendors, they are partners in the extraction of resources from working-class and poor New Yorkers.

In 2017, the 14 counties that provided complete information regarding phone call revenues and commissions allowed their telecom vendors to rake in nearly \$2.0 million on jail phone calls and received \$1.7 million in corporate kickbacks.

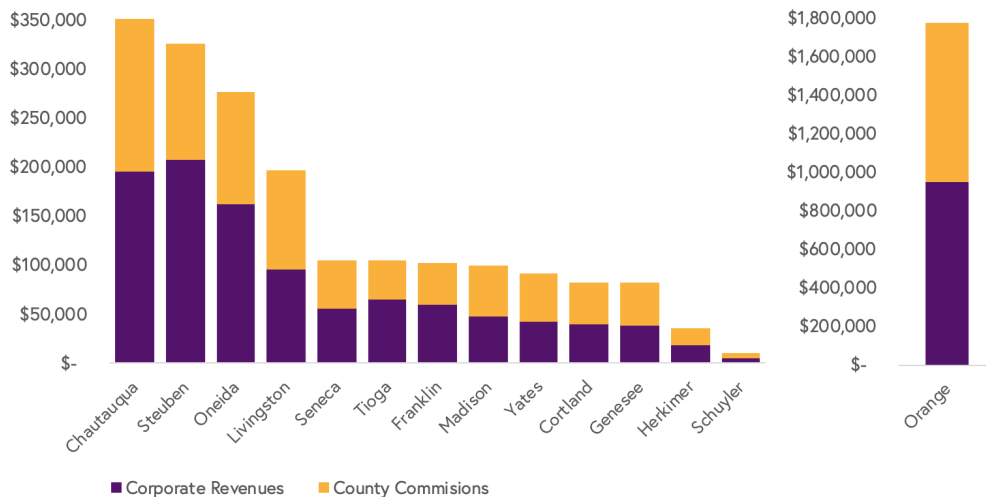
*For the approximately \$25.1 million that corporations collect in jail phone charges each year, we estimate that counties receive **\$11.8 million in corporate kickbacks.***

In Orange County alone, families paid GTL nearly \$1.8 million to connect with their incarcerated loved ones, and GTL, in turn, paid the county nearly \$1 million that year. On average, New York counties collect an effective commission rate of 47% on call charges.<sup>21</sup>

For the approximately \$25.1 million that corporations collect in call charges annually, we estimate that counties receive \$11.8 million in corporate kickbacks.

The revenues that corporations earn from commissary and the profit-sharing arrangements they strike with counties are far more opaque. In many cases, counties outsource the operation of commissary and are paid some form of a corporate kickback. In others, they run their own commissary, merely buying products wholesale from private commissary vendors and reselling them at a markup. While we believe that incarcerated people and their families spend roughly \$14 million annually on commissary, the corporate versus county breakdown is unclear.

**CHART 3: PHONE CALL REVENUE AND COMMISSIONS (2017)**



## RECOMMENDATIONS

### OVERVIEW

Mass criminalization does tremendous harm. Pretrial jailing and other forms of incarceration separate families, create new emotional and financial burdens, and subject people to constitutional and human rights violations. To address the jail crisis, New York must dramatically decarcerate, but while people remain behind bars, we must ensure that the costs of this system are not transferred onto incarcerated people and their families. This practice is incompatible with any effort to build a just and equitable society.

Below are a list of legislative and policy recommendations to decarcerate jails and end jail-based wealth extraction from New York's communities.

### 1 | END MONEY BAIL AND PRETRIAL DETENTION

The bail reform legislation passed in April 2019 — and set for implementation in January 2020 — will greatly reduce the number of people subject to money bail and pretrial detention. The new statute also takes critical steps towards protecting against profiteering in the pretrial system by prohibiting for-profit pretrial services and barring any shifting of costs for pretrial conditions onto impacted people.

However, the new statute fails to eliminate money bail or the exploitative commercial bail bonds industry.<sup>22</sup> This means that access to wealth will still determine access to justice for some presumptively innocent New Yorkers. As we organize to maximize the decarceral impact of the new pretrial reforms, we call on legislators to recommit to the full and complete end of money bail, due process for all people, and the ultimate elimination of pretrial detention.

### 2 | CONNECT FAMILIES

Alongside efforts to decarcerate jails and prisons, New York must also pass legislation to connect families by providing telecom services at no cost to incarcerated people or their loved ones. In New York's county jails, where 66% of people are incarcerated pretrial, expensive phone calls interfere with New Yorkers' abilities to prepare for their own defense and to stay in communication with their families. In New York State prisons, where people are often caged hundreds of miles from home, phone calls are a vital source of connection and critical to successful reintegration post-release.

In the end, charging exorbitant fees for communicating with family creates not just financial burdens, but also emotional, familial, and social ones. The rates people are forced to pay limits their contact, which is inhumane and makes reentry far more challenging. Penalizing and extracting wealth from families supporting their

incarcerated loved ones is cruel. Doing so for the financial benefit of a corporation or the county government is unconscionable.

To counteract this wrong, there is increasing momentum to provide communication services in jails and prisons at no cost. In 2018, New York City was the first major city in the nation to pass such legislation, and San Francisco announced a similar commitment in 2019. Today, several states have introduced bills that would end wealth extraction through jail and prison phone calls, New York among them. It is time New York pass legislation to connect families.

### 3 | ENSURE ACCESS TO BASIC NECESSITIES AND END COMMISSARY MARK-UPS

It is unethical for jail administrators and county governments to not provide incarcerated people decent food and hygiene products and then to markup these basic necessities at commissary to exorbitant prices. To ensure access and eliminate profiteering through commissaries, New York must eliminate commissary markups on products purchased for resale, prohibit correctional agencies from collecting commissions on commissary sales, bar correctional agencies from contracting with the same vendors for food and commissary service within a facility, and remove prohibitions on care packages that inhibit loved ones from sending food, hygiene products and books, among other necessities.

### 4 | ELIMINATE DISCIPLINARY FINES

Disciplinary fines are ripe for abuse and create additional incentives to unnecessarily punish incarcerated people. They are also costs borne by incarcerated people's families who often struggle to meet the accumulating financial burden of the criminal legal system. Without a way to pay these fines, incarcerated people often have them levied as liens on their commissary accounts, which are satisfied by garnishing the financial support families send. For these reasons, New York must eliminate disciplinary fines in local jails and state prisons.

### 5 | ENSURE REAL WAGES FOR ALL NEW YORKERS

In New York state prisons, incarcerated people are required to work under threat of additional punishment and are paid an average hourly wage as low as \$0.10.<sup>23</sup> While the exact wages differ for county jails, they are similarly low. Not only is forced, undercompensated labor abusive and rooted in our nation's history of slavery, but these meager wages make it impossible for incarcerated people to cover jail costs, imposing them instead on families, further disrupting their economic stability. To rectify this, New York must ban forced labor in all forms and, recognizing that all labor is labor, require that incarcerated workers be covered by the state's minimum wage laws.

## 6 | END CRIMINAL LEGAL SYSTEM FINES AND FEES

To address the criminalization of poverty, New York must eliminate criminal legal system fees, including mandatory court surcharges and parole and probation supervision fees. When people are diverted from jail or prison or returning home, it is unreasonable and cruel to compel them to pay parole and probation fees. Support and reintegration should include access to services and jobs, not additional debt. New York must also end driver's license suspensions for unpaid fines and fees as this practice criminalizes poverty and exacerbates cycles of debt.<sup>24</sup>

## 7 | PROTECT THE RIGHT TO VOTE

The disenfranchisement of incarcerated people is rooted in racist policies designed to deny Black people the right to vote. New York must undo this ongoing legacy and the systemic disenfranchisement of Black and brown New Yorkers by guaranteeing voting rights to all, including those who are incarcerated or on parole. For necessary, transformative change, individuals and communities subject to the devastation of mass incarceration must have a political voice.

## 8 | ENSURE TRANSPARENCY AND ACCOUNTABILITY

Remarkably little data is collected or reported on jail incarceration across New York. While the Department of Criminal Justice Services reports on arrests along with monthly and yearly jail populations, there is no state-level reporting on jail admissions, average length of incarceration, costs related to incarceration, or other critical data. Transparency is necessary for accountability. New York must pass legislation to collect and make public the information needed for New Yorkers to see the full scope and consequences of the jail system.

## ACKNOWLEDGEMENTS

Thank you to Julia Watson for the graphic design, Genevieve Sachs for the cover illustration, and Grace Li for organizing the FOIL requests. Thank you also to the following volunteers from SURJ-NYC who spent hours entering data: Ryan Acquattro, Kiri Haggans, Scott Limbacher, Valerie Kaufmann, Maggie McKenna, and Josh Wessler.

## ENDNOTES

- 1 New York City Division of Criminal Justice Services (2019). *New York State Jail Population: 10 Year Trends: 2009 – 2018*. Retrieved from [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_pop\\_y.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf)
- 2 Bertram, W. & Jones, A. (2019, September 19). "How Many People in Your State Go To Local Jails Every Year?" Prison Policy Initiative. Retrieved from <https://www.prisonpolicy.org/blog/2019/09/18/state-jail-bookings/>
- 3 New York City Division of Criminal Justice Services (2019). *New York State Jail Population: 10 Year Trends: 2009 – 2018*. Retrieved from [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_pop\\_y.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf)
- 4 For a national accounting of apparent and hidden costs on families with incarcerated loved ones, refer to the 2015 report *Who Pays? The True Cost of Incarceration on Families* (deVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A (2015). *Who Pays? The True Cost of Incarceration on Families*. Ella Baker Center, Forward Together and Research Action Design.)
- 5 New York City Division of Criminal Justice Services (2019). *New York State Jail Population: 10 Year Trends: 2009 – 2018*. Retrieved from [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_pop\\_y.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf)
- 6 Vera Institute of Justice (2019). *Empire State of Incarceration*. Retrieved from <https://www.vera.org/state-of-incarceration>
- 7 In Broome County, 290.9 people are incarcerated per every 100,000 adults. In New York City, the rate of incarceration is 123.3 per 100,000. Vera Institute of Justice (2019). "Incarceration Trends." Retrieved from <http://trends.vera.org/incarceration-rates?data=pretrial&fromProfile=true>
- 8 U.S. Census Bureau (n.d.). "QuickFacts." Retrieved from <https://www.census.gov/quickfacts/>
- 9 A few counties that responded without data requested payment in exchange for the information.
- 10 While this statistic is for people in state prison, we can assume a similar dynamic for people in county jails. Kopf, D. & Rabuy, B. (2015, July 9). *Prisons of Poverty: Uncovering the Pre-incarceration Incomes of the Imprisoned*. Prison Policy Initiative. Retrieved from <https://www.prisonpolicy.org/reports/income.html>.

- 11 deVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who Pays? The True Cost of Incarceration on Families*. Ella Baker Center, Forward Together, Research Action Design. Retrieved from <https://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>
- 12 Jones, A. & Wagner, P. (2019). *State of Phone Justice*. Prison Policy Initiative. Retrieved from [https://www.prisonpolicy.org/phones/state\\_of\\_phone\\_justice.html](https://www.prisonpolicy.org/phones/state_of_phone_justice.html)
- 13 Data as of December 12, 2019. Global Tel\*Link Connect Network (n.d.). Retrieved from <https://web.connectnetwork.com/>. Securus Technologies (n.d.). Retrieved from <https://securustech.net/>. ICSolutions (n.d.). Retrieved from <https://www.icsolutions.com/>
- 14 The most recent length of stay data is from 2015.
- 15 Other Plans From Sprint. (n.d.). Retrieved from <https://www.sprint.com/en/shop/plans.html?INTNAV=TopNav:Shop:AllPlans>
- 16 Deposit fees were estimated based on an average deposit amount of \$12, or \$15 with the \$3 fee, based on information provided by the industry.
- 17 U.S. Census Bureau (n.d.). "QuickFacts: New York." Retrieved from <https://www.census.gov/quickfacts/>.
- 18 RentData (2019). "New York Fair Market Rent for 2019 Accurate Rental Price Data." Retrieved from <https://www.rentdata.org/states/new-york/2019>.
- 19 Data as of December 12, 2019. Global Tel\*Link Connect Network (n.d.). Retrieved from <https://web.connectnetwork.com/>.
- 20 Federal Communications Commission (2016). "Consumer Guide Inmate Telephone Service." Retrieved from [https://www.fcc.gov/sites/default/files/inmate\\_telephone\\_service.pdf](https://www.fcc.gov/sites/default/files/inmate_telephone_service.pdf)
- 21 The effective commission rate was calculated by dividing the commission revenue by the total collected in call charges. It will differ from the average contractual commission of 51% due to the FCC regulations that bar corporations from paying commissions on interstate calls. Counties are also cut out of revenues generated on deposit and other fees.
- 22 Office of the New York City Comptroller Scott M. Singer (2018). *The Public Cost of Private Bail: A Proposal to Ban Bail Bonds in NYC*. Retrieved from <https://comptroller.nyc.gov/newsroom/in-new-report-comptroller-stringer-calls-for-commercial-bail-bonds-to-be-banned-in-new-york-city-as-part-of-larger-overhaul-of-bail-system/>  
Brooklyn Community Bail Fund (2017). *License & Registration, Please...* Retrieved from [https://static1.squarespace.com/static/5824a5aa579fb35e65295211/t/594c39758419c243fdb27cad/1498167672801/NYCBailBondReport\\_ExecSummary.pdf](https://static1.squarespace.com/static/5824a5aa579fb35e65295211/t/594c39758419c243fdb27cad/1498167672801/NYCBailBondReport_ExecSummary.pdf)
- 23 Prison Policy Initiative (2017, April 10). "State and Federal Prison Wage Policies and Sourcing Information." Retrieved from [https://www.prisonpolicy.org/reports/wage\\_policies.html](https://www.prisonpolicy.org/reports/wage_policies.html).
- 24 For more information on these efforts, visit <https://www.drivenbyjustice.org/>
- 25 According to the Bureau of Justice Statistics, in 2017, the estimated average time in jail was 26 days. Zeng, Z. (2019). "Jail Inmates in 2017." Bureau of Justice Statistics. Retrieved from <https://www.bjs.gov/content/pub/pdf/ji17.pdf>

## APPENDIX

### FOIL REQUEST TEMPLATE

As a resource to other advocates who may be interested in obtaining data from their local counties and jails, we have included the Freedom of Information Letter (FOIL) we sent to the 57 counties in New York State.

---

Dear [County] County FOIL Officer:

We request the following regarding the operation of any and all County correctional facilities under New York Public Officers Law Article 6 §84 - 90, Freedom of Information Law. Please provide all information, data, regular and one-off reports, contracts, internal or external correspondence, or any other records responsive to this request.

1. Relating to inmate telephone or calling services, please provide documentation of any contracts with private vendors to provide these services, including third party vendors and subcontractors. Specifically, we request:
  1. Names of any and all entities contracted to provide these telecommunications services, the date of the initial engagement, the duration of the contract, and the value of the contract to both the contractor (e.g. revenues from the County, revenues from callers, etc.) and the County (e.g. commission rate, commission prepayment, signing bonus, etc.).
  2. Data regarding calendar year 2017 calls originating from inmates in the County jail facility. More specifically, the date and duration of each call with a unique identifier for the calling inmate, at a minimum. Also, for the same period, a summary that covers:
    1. The number of inmate calls made per day from the County jail,
    2. The average length of an inmate call, and
    3. Percentage of calls that are in-state versus inter-state (and governed by FCC rate caps).
  3. A copy of the up-to-date rate structure for inmate phone calls, for both the caller and recipient, including variances for different types of accounts and phone numbers as well as all related fees (e.g. voicemail, video calling, etc.)
2. Relating to the operation of the facility commissary or equivalent entity offering goods for purchase by inmates, please provide an itemized description of the available goods with a price list, as well as revenue generated for the County or contracting service provider. Specifically, we request:

1. If said commissary is operated by a single-source private contractor:
  1. A copy of the current service contract, including all currently governing amendments.
  2. A copy of the most recent menu of goods available for purchase by inmates in the jail commissary and the price list.
  3. Purchase records documenting the wholesale price list for goods sold in the jail commissary purchased by the agency.
  4. Any financial accounting records, including topline revenue and expenses generated from the sale of goods to inmates for calendar year 2017.
    1. Statistics on per inmate revenue and expenditures, based on average daily population for calendar year 2017.
3. Relating to disciplinary tickets for inmates, please provide an incident-level report of calendar year 2017 monetary penalties assessed in connection such tickets.

For each request, please specify whether (1) all relevant records have been provided; (2) records exist but have been withheld; or (3) records are non-existent.

In the event that your agency believes any information contained in the above records is not subject to public disclosure, please redact only the specific information that is subject to confidentiality and provide the remainder of the document(s). Please provide the specific statutory authority that you believe justifies the redaction.

In the event that you withhold any records in their entirety, please include a description of the documents withheld and the specific statutory authority that you believe justifies the non-disclosure. Please also inform me of my rights to appeal under law.

If your agency does not maintain certain requested public records, please inform me who does and include the proper custodian's name and address.

If my request is too broad or does not reasonably describe the records, please contact me via email so that I may clarify my request, and when appropriate inform me of the manner in which records are filed, retrieved, or generated. If all of the requested records cannot be emailed to me, please inform me by email of the portions that can be emailed and advise me of the cost for reproducing the remainder of the records requested. We ask to receive all responses and records electronically to [recipient agency].

As required by New York's Freedom of Information Law, I expect to receive a response within 5 business days. If you believe any part of this request justifies an extension, I ask that you provide the specific reason that an extension is necessary and date I can expect the requested records, and that you provide all of the other records that do not require an extension within the 5 business day window.

Thank you,

[Your Name]



JAIL PHONE CALL RATES

APPENDIX TABLE 1: NEW YORK JAIL PHONE CALL RATES, BY COUNTY (2019)

COUNTY	Provider	First Minute (in-state)	Additional Minutes (in-state)	15 Minute Call (in-state)
ALBANY	Securus	\$0.50	\$0.50	\$7.50
ALLEGANY	GTL	\$4.35	\$0.40	\$9.95
BROOME	GTL	\$4.35	\$0.40	\$9.95
CATTARAUGUS	GTL	\$4.35	\$0.40	\$9.95
CAYUGA	GTL	\$4.35	\$0.40	\$9.95
CHAUTAUQUA	GTL	\$4.35	\$0.40	\$9.95
CHEMUNG	GTL	\$2.90	\$0.40	\$8.50
CHENANGO	GTL	\$4.35	\$0.40	\$9.95
CLINTON	GTL	\$4.35	\$0.40	\$9.95
COLUMBIA	GTL	\$4.35	\$0.40	\$9.95
CORTLAND	GTL	\$4.35	\$0.40	\$9.95
DELAWARE	GTL	\$4.35	\$0.40	\$9.95
DUTCHESS	GTL	\$4.35	\$0.40	\$9.95
ERIE	ICSolutions	\$0.21	\$0.21	\$3.15
ESSEX	GTL	\$4.35	\$0.40	\$9.95
FRANKLIN	GTL	\$4.35	\$0.40	\$9.95
FULTON	GTL	\$4.35	\$0.40	\$9.95
GENESEE	Securus	\$0.50	\$0.50	\$7.50
GREENE	GTL	\$4.35	\$0.40	\$9.95
HAMILTON	N/A	\$0.00	\$0.00	\$0.00
HERKIMER	GTL	\$4.35	\$0.40	\$9.95
JEFFERSON	GTL	\$4.35	\$0.40	\$9.95

# PAYING FOR JAIL

LEWIS	GTL	\$4.35	\$0.40	\$9.95
LIVINGSTON	GTL	\$4.35	\$0.40	\$9.95
MADISON	GTL	\$4.35	\$0.40	\$9.95
MONROE	GTL	\$4.35	\$0.40	\$9.95
MONTGOMERY	GTL	\$4.35	\$0.40	\$9.95
NASSAU	GTL	\$1.95	\$0.20	\$4.75
NEW YORK CITY	Securus	\$0.00	\$0.00	\$0.00
NIAGARA	GTL	\$4.35	\$0.40	\$9.95
ONEIDA	GTL	\$4.35	\$0.40	\$9.95
ONONDAGA	GTL	\$4.35	\$0.40	\$9.95
ONTARIO	Securus	\$0.21	\$0.21	\$3.15
ORANGE	GTL	\$4.35	\$0.40	\$9.95
ORLEANS	ICSolutions	\$0.21	\$0.21	\$3.15
OSWEGO	GTL	\$4.35	\$0.40	\$9.95
OTSEGO	GTL	\$4.35	\$0.40	\$9.95
PUTNAM	GTL	\$1.85	\$0.10	\$3.25
RENSSELAER	GTL	\$4.35	\$0.40	\$9.95
ROCKLAND	GTL	\$4.35	\$0.40	\$9.95
SARATOGA	GTL	\$4.35	\$0.40	\$9.95
SCHENECTADY	GTL	\$4.35	\$0.40	\$9.95
SCHOHARIE	N/A	N/A	N/A	N/A
SCHUYLER	GTL	\$4.35	\$0.40	\$9.95
SENECA	GTL	\$4.35	\$0.40	\$9.95
ST. LAWRENCE	GTL	\$4.35	\$0.40	\$9.95
STEUBEN	GTL	\$4.35	\$0.40	\$9.95

SUFFOLK	Securus	\$0.50	\$0.50	\$7.50
SULLIVAN	GTL	\$4.35	\$0.40	\$9.95
TIOGA	GTL	\$4.35	\$0.40	\$9.95
TOMPKINS	GTL	\$4.35	\$0.40	\$9.95
ULSTER	ICSolutions	\$0.22	\$0.22	\$3.30
WARREN	GTL	\$4.35	\$0.40	\$9.95
WASHINGTON	GTL	\$4.35	\$0.40	\$9.95
WAYNE	GTL	\$4.35	\$0.40	\$9.95
WESTCHESTER	GTL	\$1.95	\$0.20	\$4.75
WYOMING	GTL	\$4.35	\$0.40	\$9.95
YATES	GTL	\$4.35	\$0.40	\$9.95
<b>AVERAGE</b>	--	<b>\$3.55</b>	<b>\$0.37</b>	<b>\$8.67</b>