



Local Policy Guides: Reforming the Predatory Costs of Goods and Services in Local Jails

FFJC Process Guidance on Making Jail Communications Free and Ending Commissary Markups, Kickbacks, and Commissions

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About Us

The [Fines and Fees Justice Center](#) (FFJC) is catalyzing a movement to eliminate the fines and fees that distort justice. Our goal is to create a justice system that treats individuals fairly, ensures public safety and community prosperity, and is funded equitably. We work together with affected communities and justice system stakeholders to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices.

Introduction

Local jails, and the private companies they contract with, often charge incarcerated people and their families exorbitant fees and mark-ups for basic goods and services used in the jails. These individuals and their families have no choice but to pay for communications and basic necessities from the vendor that supplies goods and services to the jail — which is either the government itself or a single private vendor selected by the government. Government profits from incarcerated people by charging high costs for these goods and services, generating revenue that goes to the contractor, who in turn shares their profits with the government. The government then uses this revenue — from the incarcerated population — to fund its jail operations. The result is a system rife with perverse incentives that lead to predatory pricing in order to maximize profit.

There are a litany of predatory costs incarcerated people must pay including fees for telephone calls, voice mails, email and video calls; co-pays for medical and dental services and prescriptions; money transfer fees¹ (fees to deposit money in an incarcerated person's phone or commissary account and even fees to pay fines and fees that a person owes); and exorbitant mark ups on commissary items such as toilet paper, food, clothing, and hygiene products.² Incarcerated people and their families — many of whom are living in or close to poverty — often forgo communications with their loved ones, medical care, food, and other goods and services that would help them successfully return to their communities.³ In many cases, those in local jails are being held pre-trial and have not been convicted. Even though their cases may be dismissed, there are no refunds. They still have to pay the predatory price of being in jail.

Family members bear the burden of these high costs. San Francisco estimated that 80% of jail phone call costs were paid for by family and support networks (and that the burden is felt particularly by women of color).⁴ It is estimated that families spend \$2.9 billion each year for commissary items and phone calls, much of which translates to profit for private vendors.⁵ The high cost of maintaining contact with incarcerated family members has led one in three families into debt; half of which already struggle to pay for basic housing and food needs. Families and communities that are already economically disadvantaged fall further into financial distress.

¹ In [Washington, DC](#), for example, sending money to incarcerated family members includes a fee of at least \$5.95 per deposit.

² Tablet use is another cost often charged to incarcerated people. Tablets serve a number of purposes within jails, including for video calls, and as educational and recreational resources. While the costs of tablet use for these services can be complex, at a minimum, free video calls should be offered as an option to make communication as accessible as possible (it should *not* replace in-person visits). With regards to pricing for other tablet services, government should not be profiting.

³ [Research roundup: The positive impacts of family contact for incarcerated people and their families](#) (Prison Policy Institute, 2021).

⁴ [Justice is Calling: How San Francisco Made Jail Phone Calls Free, Ended Commissary Markups, and Stopped Generating Revenue From Incarcerated People and Their Families](#) (San Francisco Financial Justice Project, 2021); [Who Pays? The True Cost of Incarceration on Families](#) (Ella Baker Center for Women's Rights, 2015).

⁵ [The Hidden Cost of Incarceration](#) (By Beatrix Lockwood and Nicole Lewis, 2019).

Policy Recommendation

Communicating with loved ones is both a basic human right and one of the most important factors in a successful re-entry.⁶ Local leaders should implement the following policy reforms:

- Make phone calls, emails, and other forms of direct communication free.
- Make essential goods and services, like hygiene products, free.
- Government should never profit from incarcerated people; if the government provides goods and services that are truly not essential, they should be sold at the lowest possible cost, and in no event, higher than comparable local retail prices.

Cost of Jail Phone Calls

Phone calls are the primary form of contact between individuals in custody and their families. Allowing incarcerated individuals to stay connected with their families should be free, especially considering that research consistently shows that regular contact with family during incarceration reduces recidivism. Research also shows that those who maintain their support networks while incarcerated have more stable housing and better employment outcomes upon reentry.⁷

Even beyond the costs of operating these services, many counties and private companies profit off of providing communication services. The \$1.4 billion telecom industry in jails and prisons is dominated by three corporations: GTL, Securus, and ICSolutions. While contracts can be structured in a number of ways (including contracts that bundle multiple services together), they generally are designed to generate revenue for both jails and the private companies. Companies offer some of their revenue to the jails in the form of percentage-based commissions or kickbacks in order to make their contracts more appealing. In turn, in order to keep their own profits high, they add additional consumer fees, and bundle other unrelated services into single contracts. This system both drives up and transfers the costs to the incarcerated population and families, and provides no incentive to keep rates low for users.⁸

It is well within the authority of jails and the local governments that operate them to negotiate better deals with providers to make phone calls free to users and to eliminate all commissions and kickbacks (including revenue sourced by administrative fees, signing bonuses, or other forms of payment). Government should not profit off the incarcerated population.

⁶ [Research roundup: The positive impacts of family contact for incarcerated people and their families](#) (Prison Policy Institute, 2021).

⁷ [The Family and Recidivism](#) (Ryan Shanahan and Sandra Villalobos Agudelo, 2012).

⁸ [On Kickbacks and Commissions in the Prison and Jail Phone Market](#) (Peter Wagner and Alexi Jones, 2019).

Cost of Commissary

The costs of basic necessities purchased through commissary for those incarcerated also drain millions of dollars from low-income communities (also disproportionately women of color). These items are often marked up above comparable retail prices — forcing those in jail (and their families) to pay far more for the same items than they would outside of jail. Due to these markups, the cost of basic necessities to those incarcerated can include the cost of the item sold, the profit margin for the private provider, as well as the kickbacks to the municipality. The cost of commissary items varies across the country, but a bar of soap can cost up to \$2.25 and a small tube of toothpaste may cost up to \$3.60, with government profit rates sometimes as high as 50%.⁹

Government should never profit off incarcerated individuals and their families for the provision of basic goods and services. Using jail services as a revenue-raising mechanism makes basic necessities inaccessible. If the government itself runs the jail commissary, markups must be eliminated, and governments should not receive any commission, bonus, or revenue from these sales. If a private contractor runs the commissary, government must ensure that prices at the commissary are comparable to prices in the community. Further, incarcerated people and their families should never have to sacrifice items necessary for health and hygiene, such as soap, deodorant, feminine products and hand sanitizer due to an inability to pay. These essential items should be free.

Cost of Medical Co-Pays

At least 35 states also require individuals to pay co-pays for medical and dental services while incarcerated. When individuals are required to pay for mental and physical healthcare, such as physician visits, medications, and dental treatment, they may decide not to seek necessary treatment because they cannot afford it (and/or do not want their family members footing the bill). According to a Prison Policy Institute study, in a Michigan prison, it would take over a week to earn enough for a single co-pay; while a doctor's visit in a West Virginia prison would cost nearly an entire month's pay.¹⁰

Considering the high rates of at-risk¹¹ incarcerated individuals, deterring those in need of medical attention from seeking care, can be especially harmful and put the larger jail population at risk.

⁹ [How much do California jails charge incarcerated people for toothpaste, soap, and coffee?](#) (San Francisco Financial Justice Project, 2020)

¹⁰ The Steep Cost of Medical Co-pays in Prison Puts Health at Risk (Prison Policy Institute, 2017)

¹¹ [Medical Problems of State and Federal Prisoners and Jail Inmates, 2011–12](#) (Laura M. Maruschak, and Marcus Berzofsky, 2016).

Overview of Local Reform Pathways

When local jails operate as revenue-raising mechanisms, basic necessities and services become inaccessible. Localities seeking to eliminate these perverse incentives and ensure that incarcerated individuals can maintain contact with their support networks and access basic goods may pursue the reform pathways outlined below:

Pathway: Renegotiate, amend, or rebid contracts with providers

Renegotiate or rebid existing contracts to provide free phone calls to all incarcerated individuals and to eliminate kickbacks or commissions from commissary items. Cities/Counties can also put out new RFPs when contracts expire with new rate structures to ensure that they are not profiting off their incarcerated population.

Localities where this reform pathway has been implemented:

San Francisco, CA's Sheriff's Office issued a Request for Proposals for a fixed-rate contract, to provide free phone and video calls to incarcerated people. In this first-in-the-nation fixed rate contract, the City pays the vendor a fixed monthly rate per device rather than per call minute as families previously did. The contract makes all calls free to incarcerated people and their families. Incarcerated people are now spending 81% more time in communication with their support networks and are saving \$1.1 million annually. The new contract is also a good deal for the City and County of San Francisco. The City and its taxpayers will pay less for communications services, and the cost burden will be widely shared and not just shouldered by incarcerated people and their loved ones.

Denton County, TX signed a contract with a new partner to provide video visits for their incarcerated population -- only billing for the minutes used, at 10 cents/minute (from previously charging \$5.99 for a 30-minute video visit). Denton County chose to receive zero commission from the video visits in order to obtain these lower rates. They also offer free onsite visitation and one free remote visit per week.

Dallas TX's County Commissioners Court approved a contract that reduces the cost of jail phone calls to 1 cent per minute, forgoing all profits to the County. As the Department of Corrections covers more of the cost of the more than 25,000 calls that are made from jails, commissioners noted that making phone calls more accessible will reduce recidivism, which ultimately lowers County's jail costs.

Pathway: Budget process

Use the budget process to account for potential lost revenue while increasing free communication and eliminating commissary markups. In the short term, if commissions have already been collected, this funding can be used as a stopgap measure to cover costs.

Localities where this reform pathway has been implemented:

Philadelphia, PA's Mayor Kennedy proposed a spending plan that would [eliminate a \\$1 surcharge](#) for commissary items (and increase the amount of free communication from 70 minutes per week to 165 minutes per week, and add video conferencing). City Council gave its final approval to the FY22 Operating Budget in June 2021.

Pathway: Local legislation

Counties should enact ordinances that end commissions and markups on commissary services, reduce rates and fees associated with telecommunications and, and ensure that contracts are given to providers who offer the lowest cost to incarcerated people.

Localities where this reform pathway has been implemented:

San Diego, CA's Board of Supervisors unanimously voted to enact a [policy](#) prohibiting county jails and juvenile detention centers from charging for phone calls and video visits in 2021. As of July 2021, all incarcerated individuals can make [unlimited free phone calls](#) and video calls (each phone call is limited to 15 minutes and video calls to 30 minutes). Previously, costs ranged from 21 cents per minute to 33 cents per minute, \$2.50 for a 20-minute video visits (down from a pre-pandemic rate of \$5), and \$2 for voicemails, along with additional fees for adding money to a phone account. With the new policy, the County is prohibited from generating revenue from phone calls, and \$7.7 million was allocated for fiscal years 2021-2023 to cover the lost revenue.

New York City, NY Council passed an [ordinance](#) in 2018 eliminating fees for jail phone calls. The bill required the city to provide free phone service to those in custody and prevented the City from collecting revenue from providing phone services.

San Francisco, CA's Board of Supervisors passed the [Profits Over People ordinance](#) in 2020, which makes permanent the reforms on free jail phone calls and the elimination of commissary markups and ensures that San Francisco will never again generate revenue from incarcerated people and their families. . Prior to the legislation, Commissary items generated \$650,000 in revenue for the Sheriff's Department.

Ramsey County, MN County Board [eliminated 11 fees](#) in 2020, eliminating about \$675,000 charged to those in custody each year. Among the fees eliminated included a \$3 fee for diabetic supplies and a 25 cent fee per pill for over-the-counter medication.

Pathway: Debt Relief

Jails should discharge existing incarceration-related debt that may prevent individuals from contacting support networks, seeking medical care (for fear of incurring more debt) or obtaining basic necessities. Money deposited into accounts should not be put towards debt or garnished.

Washtenaw County, MI [eliminated debt](#) from all jail accounts in 2020. The Corrections staff found that over 31,000 individuals had a total of over \$509,000 in debt, from fees such as booking fees, standard medical care, and intake kits. Individuals could not access money in their jail accounts to pay for commissary, and deposited funds (from family members, for example), first went toward existing debt. This debt forgiveness was paired with a re-evaluation and reduction of several incarceration costs to ease the burden of individuals, especially during COVID.

Dane County, WI [erased nearly \\$150,000](#) in outstanding fees and fines accrued by people incarcerated in the county jail. In 2021, fueled by the efforts of the Dane County Sheriff's Office, the county also eliminated outstanding fees and fines accrued in the Dane County Jail. Eliminated fees include bookkeeper fees, electronic monitoring fees, and medical copays.

How to Use These Guides

These guides provides local leaders with a recommended process for making jail communications free and ending commissary markups, kickbacks, and commissions using the following reform pathways:

- Renegotiate, amend, or rebid contracts with providers
- Local legislation
- Budget process

Each guide includes: key data points to collect and track, questions to help you assess stakeholder buy-in and lead community engagement, and guidelines for developing an effective campaign and implementation strategy. Localities seeking to make the most impact should consider using more than one of the reform pathways above.

Recommended Reform Process

01

IDENTIFY KEY
STAKEHOLDERS

02

COLLECT DATA
ON THE ISSUE

03

ENGAGE
COMMUNITY

04

DEVELOP
LANGUAGE &
STRATEGY

05

ADOPT POLICY &
TRACK IMPACT

Have Questions?

Contact Policy and Program Associate, Joni Hirsch, at jhirsch@ffjc.us. Want to learn more about our work to end unjust fines and fees? Visit ffjc.us

Local Reform Guide: Free Jail Phone Calls

Localities can use this guide when seeking to provide free phone calls for all incarcerated individuals and eliminate kickbacks and commissions to jail or local government. In most places, providing free jail phone calls will primarily involve County stakeholders.

Mechanism for Reform

- Amend or Rebid Existing Contracts
- Local Ordinance
- Budget Process

Step 1: Assess Stakeholders and Build Your Team

Key Questions:

- Which government stakeholders have already shown interest or engagement in this reform? (In most places, this will be a County issue.)
- What third party contractors are involved? What is the status of existing contracts with communications providers? When will they expire? Who has the authority to amend the contract?
- Which community partners should be engaged? What additional outreach is needed to reach the populations that should be engaged?
 - Engaging community partners and impacted individuals early is particularly important with this reform in understanding exactly how current policies impact incarcerated people and their families.
- Which local advocacy groups are engaged in this issue?
- Which agencies or departments are necessary to gather and analyze data?
- How will budget officers need to be engaged with designing or implementing potential reform? Do they support this reform?

STAKEHOLDER	SUPPORT	OPPOSE	EXPECT SUPPORT	EXPECT OPPOSITION	NOT RELATED TO REFORM
Dept. of Corrections					
Sheriff's Office					
Communications Providers					
County Commissioners					
City Council					
Budget Office					
Community Orgs					
Formerly/ currently incarcerated people					
Families of incarcerated people					

Step 2: Collect All Relevant Data and Conduct Fiscal Analysis

Determine costs to families and support networks of incarcerated individuals:

- How much is currently charged to incarcerated individuals? What specific services are offered for these charges? (Is the charge per call minute or per call? Do rates increase after a certain number of minutes?)
- Are there additional fees or service charges (ex. flat charge per call)?
- What is the full picture of the cost to families to stay connected (calls, transportation, fees to put money into an incarcerated persons account, forgoing commissary etc.)?
- What is your daily average incarcerated population?
- How many calls/minutes to and from incarcerated people are made per day?
- What is the average length of a call for an incarcerated individual?
- How many calls are terminated for lack of funds?

- How much does a typical incarcerated individual earn working while incarcerated?¹²
- What is the average amount a family pays monthly for telephone communications, including fees?
- What is the average length of stay?

Determine the costs to the County:

- What are the dates, duration, parties, and value of the existing contract?
- What is the County’s commission rate? What is the commission prepayment?
- What is the total revenue received by all contracted third-parties and by the County?
- What is the cost of comparable phone systems in other government agencies?
- Do any City or County entities receive revenue from phone calls? If so, where does the revenue from phone calls flow? How is that revenue spent?
- If revenue goes to an Inmate Welfare Fund, what programs and services are funded by the Inmate Welfare Fund?

Step 3: Engage Community

Guidelines:

- Consider who is most impacted by this reform and what forms of outreach will most effectively reach those impacted
- Determine what strategies will best accomplish your engagement goals and ensure you are centering the experiences of those most impacted in the design and implementation of your reform
 - Surveys, listening sessions, understanding people’s experiences, roundtable discussions, relationship-building with advocates
- Identify additional key community partners to engage
- Decide how will you document, synthesize, and share what you learn

¹² See, [How Much do Incarcerated People Earn in Each State](#) (Prison Policy Institute) for prison wages.

Step 4: Develop Policy and Implementation Plan

Policy Language Examples:

Telephone communication services shall be provided free of charge for persons in custody. The County shall not receive revenue for the provision of telecommunication services.

The cost to provide 1 hour per day of free telephone service to every person incarcerated in the County jail shall be paid for by the County.

RFP Language Examples:

“Incarcerated persons and end-users shall not be charged for any communications.”¹³

Rate Structure for Contracts Examples:

- Fixed monthly rate per phone device or line (rather than per minute)
- Fixed number of free minutes per day and reasonable per minute charge for additional minutes
- Eliminate all kickbacks to the County

Key questions:

- What is your goal with this reform?
 - How many minutes of free phone calls per day will each incarcerated person receive?
- What will the budget implications of free phone calls be? Does the current contract list all rates, fees and charges?

¹³ From San Francisco's 2019 [RFP](#).

- Fiscal analysis should include savings to family and cost to County¹⁴ (see necessary data for full fiscal analysis)
 - How much is the current cost to individuals and their families to make phone calls?
 - How much is the County retaining? Where does this money go?
 - What services or programs are currently funded by commissions, and would that funding need to be replaced?
 - How much is the vendor profiting?
 - What is the actual cost of providing service (installation of phones, etc.)?
- What can you support now in terms of infrastructure (minutes of calls per person)? What additional infrastructure would you need in order to support in order to guarantee access to phone use?
- Is the current contract bundled with other services (such as tablets, video calls or money transfers)?
 - Bundling phone contracts with other services makes it much more difficult to understand whether individual costs are reasonable, and whether the provider can steer individuals to more expensive methods for communication).
- Will you amend or rebid your contracts (can the current contract be amended before its expiration)?
- Will there be legislation to ensure contract changes are made permanent?
- Will you seek legislation to permanently eliminate government profit from jail phone calls? If so, who are potential sponsors, coalitions, or partners who would be friendly to, or are already working on these issues?

Step 5: Implement Policy and Measure Impact

Implementation Questions:

- Would this reform have a greater impact if combined with other reforms, including other costs to those in custody (such as tablet use and commissary costs)?
- Is there already local momentum for reform related to reducing the cost of incarceration?
- What is your timeline?
- What metrics will you track?

¹⁴ Costs to the County includes the commission it would lose and a reasonable rate for phones/calls to pay the provider.

Example Metrics:

- What is the total savings to families?
- How does phone usage change?
- What is the cost to Counties?

Examples of Local Reforms:

- [San Francisco, CA](#)
- [New York, NY](#)
- [San Diego, CA,](#)
- [Los Angeles, CA](#)
- [Philadelphia, PA](#)
- [Dallas County, TX](#)

Local Reform Guide: Eliminate Commissary Markups, Kickbacks, and Commissions

Localities can use this guide when seeking to eliminate markups, kickbacks, and commissions on commissary items (while also ensuring that essential necessities are provided to those in custody for free). In most places, reforms will primarily involve County stakeholders.

Mechanism for Reform

- Amend or Rebid Existing Contracts
- Local Ordinance
- Budget Process

Step 1: Assess Stakeholders and Build Your Team

Key Questions:

- Which government stakeholders have already shown interest or engagement in this reform?
- Does a third party contractor operate your commissary system? If so, what is the status of existing contracts with providers? When will they expire? If not, who in your Department of Corrections needs to be engaged in this reform?
- Which local advocacy groups and community partners should be engaged? What additional outreach is needed to reach the populations that should be engaged?
- Which agencies or departments are necessary to gather and analyze data?
- How will budget officers need to be engaged with designing or implementing potential reform? Do they support this reform?

STAKEHOLDER	SUPPORT	OPPOSE	EXPECT SUPPORT	EXPECT OPPOSITION	NOT RELATED TO REFORM
Dept. of Corrections					
Sheriff's Office					
Commissary Contractors					
County Commissioners					
City Council					
Budget Office					
Community Orgs					
Formerly/ currently incarcerated people					
Families of incarcerated people					

Step 2: Collect All Relevant Data and Conduct Fiscal Analysis

Determine the costs to families and support networks of Incarcerated Individuals:

- Do you have a full inventory of commissary items and costs?
- What basic necessities are provided for free (ex. Extra soap, toothpaste, over-the-counter medications)? For each item:
 - How many additional items are purchased monthly at the commissary?
 - How much is spent each month?
- What are the top 5 categories of items people are buying (food, beverages, hygiene, clothing, electronics, mail/stationery etc.)?
- For each category, what are the top 5 items purchased?
- How much do each of these items cost at the commissary?

- What is the average retail price for each of these items in the community?
- What is the average amount spent per person per category in a month?
- What is the average total amount incarcerated people pay for commissary items in a month?
- How much does a typical incarcerated individual earn working while incarcerated?
- What is your annual average incarcerated population?

Determine the costs to the County:

- Is your commissary privatized or run by your Department of Corrections?
- If private, is it the same company that provides food for the jail?
- If contracted, what are the dates, duration, parties, and value of existing contracts?
- If contracted, are there any provisions governing the price of the items charged?
- How are these items marked up? (What is the price of these items for those purchasing outside of jail?) Is there a maximum markup?
- Is there a set surcharge?
- What commission does the County receive?
- If profits go to an Inmate Welfare Fund, what programs and services are funded by the Inmate Welfare Fund?
- If run by your Department of Corrections, what does it cost to run commissary? How has its funding changed over the past several years?
- What is the average annual revenue to the Sheriff's Office, County, or other government entities from commissary sales?

Step 3: Engage Community

- Consider who is most impacted by this reform and what forms of outreach will most effectively reach those impacted
- Determine what strategies will best accomplish your engagement goals and ensure you are centering the experiences of those most impacted in the design and implementation of your reform
 - Surveys, listening sessions, understanding narratives, roundtable discussions, relationship-building with advocates
- Identify additional key community partners to engage
- Decide how will you document, synthesize, and share what you learn

Step 4: Develop Policy and Implementation Plan

Policy Language Example:

Ordinance prohibiting the County from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the County to collect some or all of the revenue paid for those goods or services.

Eliminate commissary commissions to the City or County and any added fees to access commissary items. Provide necessary foods and services for free and guarantee cost for remaining items at the fair market value in the community.

Key Questions:

- What is your goal with this reform?
- What essential items that currently cost money should be *free* (ex. bars of soap, eye drops, extra toilet paper)?
- What nonessential items are more expensive to those incarcerated than they are outside of incarceration?
- What will the budget implications be?
 - Fiscal analysis should include savings to families and cost to County
 - What is the County or jail retaining? Where does the money go?
 - What is the vendor retaining?
 - Considering what is currently funded by these profits, how will these costs be absorbed?

Step 5: Implement Policy and Measure Impact

Implementation Questions:

- If you contract commissary out, is the current contract bundled with other services?
- When do current contracts expire? Will you amend or rebid your contracts? What are steps and timeline to amending or rebidding your contract?
- If the commissary is DOC-operated, what are the steps for eliminating markups on nonessential items, and ensuring basic necessities are provided for free?
- Would this reform have a greater impact if combined with other reforms, including other costs for those in custody (such as free phone calls)?
- Will you seek legislation to permanently eliminate government profit from commissary items?
- Is there already local momentum for reform related to reducing the cost of incarceration?
- What is your plan for addressing opposition?
- What metrics will you track?

Example Metrics:

- What is the total savings (\$) to families?
- How much do costs decrease (%) when markups are eliminated?
- What is the cost to the County?

Examples of Local Reform:

- [San Francisco, CA](#)
- [Philadelphia, PA](#)
- [Los Angeles, CA](#)