



Captive Concerns: Incarcerated People Face Obstacles to Reporting Consumer Abuses

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Consumer protection laws apply to incarcerated people. But because of incarcerated people's limited and highly regulated contact with the outside world, they struggle to report consumer problems such as identity theft and fraud, as well as abusive practices perpetrated by the private companies that they must rely on for essential services and goods within correctional facilities. Barriers to reporting these problems can render consumer protections toothless for this vulnerable population. Government agencies and correctional facilities can take a meaningful first step towards alleviating these consumer harms by ensuring incarcerated people can easily submit complaints without having to rely on loved ones and advocates who are not incarcerated.

Incarcerated people experience multiple, significant consumer issues

Incarcerated people generally are [exceptionally vulnerable to consumer harms](#), including because they have [limited financial resources](#), [low formal education levels](#), and [high mental illness rates](#). The conditions imposed by incarceration itself—including the limited and highly regulated contact with the outside world—compound these vulnerabilities and make incarcerated people prime targets for financial exploitation. For instance, [without access to the open internet](#), incarcerated people can't closely monitor their checking and savings accounts for fraudulent charges¹ or easily [review and dispute errors in their credit reports](#); and they [cannot receive calls](#) from financial institutions to [notify them of identity theft](#).

Being largely cut off from the outside world can also force incarcerated people into circumstances that heighten the risk of certain consumer abuses. For example, to manage pre-existing debts, many incarcerated people ["identity share,"](#) or provide sensitive personal information to someone outside of the correctional facility. This practice can lead to fraud, if the arrangement becomes abusive. And incarceration itself puts people at risk; correctional facility employees have abused their access to confidential records [to steal incarcerated people's identities](#).

In addition, private companies operating in correctional facilities frequently exploit their ["captive consumer"](#) base. These companies often hold multi-year, [exclusive contracts](#), meaning that they are the only service provider available at a particular facility. As a result, incarcerated consumers *must* rely on that specific company for communications, commissary, or money-transfer services. These companies typically offer subpar services at [staggering costs](#), tack on abusive [junk fees](#),² and may [fail to notify consumers about data breaches](#).

Involvement with the criminal justice system [permanently damages people's lives, as well as the lives of their loved ones](#). One way the system inflicts damage is by undermining people's ability to achieve financial stability, including by imposing [unaffordable and unjust fines and fees](#) and barriers to [jobs](#) and [housing](#). Additional consumer abuses that remain unchecked because of the conditions imposed by incarceration can destroy credit scores and deplete bank accounts, saddling justice-involved people and their families with additional, crushing debt and imposing more barriers to successful reentry. Preventing incarcerated people from easily submitting

complaints on their own can mean that they must [rely on loved ones](#) on the outside. That, in turn, adds to the [financial burden and labor](#) that families—and, in particular, [women of color](#)—must shoulder.

Incarcerated people face obstacles to reporting consumer abuses to the appropriate government agencies

Federal and state consumer laws can help protect and provide relief to incarcerated people. But incarcerated people often struggle to report violations of these laws because they cannot easily access information and reporting methods.

Agencies, such as the Federal Trade Commission (FTC), Consumer Financial Protection Bureau (CFPB), and Federal Communications Commission (FCC), encourage consumers to report violations of the laws they enforce online. But most incarcerated consumers [lack access to the open internet](#). Those who do have internet access typically can only visit a [small number of whitelisted webpages](#), which do not necessarily include these agencies' sites, preventing incarcerated people from submitting a fillable form online.

Some agencies also provide phone numbers for complaints. But jails and prisons limit and restrict phone access by imposing time limits on calls and designated calling hours, prohibiting incoming calls, and requiring pre-approval of contacts and numbers. Correctional facilities also [generally block toll-free numbers](#). These [calls also can be prohibitively expensive](#),³ especially because incarcerated people are disproportionately [low-income](#) and—if they are paid at all for their work—make abysmal wages ([often “pennies per hour”](#)).

Given the extensive limits on the internet and phone calls, incarcerated people often have only one option to submit a complaint without help from an outside advocate or loved one: snail mail. Some agencies do not make it clear, or fail to state in a prominent, easily findable place, that consumers can mail in their complaints.⁴ Even when consumers do send written complaints, agency action may not result. Incarcerated consumers attempting to submit a complaint themselves lack the guidance available to consumers through the online portal or a phone call. As a result, they may write letters that lack required information or, for example, improperly name more than one company to which they want to direct their complaint. Agencies may not treat such letters as complaints that trigger agency action. Moreover, incarcerated people may struggle to correspond by mail, including because [stamps can be prohibitively expensive](#) and mailing addresses change as people [move facilities](#).

Without complaints from incarcerated people, agencies cannot adequately redress specific harms or tackle systemic consumer issues affecting this vulnerable group

Alerting a government agency about consumer harm can be the first step to remedying it. For instance, after reviewing a complaint, the [CFPB can require the respective company to review and respond to the specific issues raised](#). The FCC can open an investigation, [compel the production of information and testimony through administrative subpoenas](#), and [impose penalties](#). The FTC can [investigate the consumer harm](#), and [initiate an enforcement action](#). In addition, some agencies provide consumers with particularized help: The FTC [provides identity theft victims with a tailored recovery plan](#), and the CFPB [emails consumers updates about their](#)

issue and solicits feedback from consumers about a company's response. But these remedies are largely unavailable to consumers who do not submit complaints.

Additionally, agencies use complaints in aggregate to inform educational efforts, monitor consumer markets, and identify harmful practices and repeat bad actors that warrant new regulations, investigations, or enforcement actions. Agencies share complaint information with other agencies, including to facilitate supervision and enforcement activities, and with policymakers and advocates through publicly available reports.

Without reports from incarcerated people, agency data is skewed. Nearly two million Americans, disproportionately low-income people of color, are incarcerated. But the consumer harms they experience can be invisible or undercounted because of how data is collected. The lack of data, in turn, can impede agency efforts to protect these consumers.

Recommendations

Government agencies and correctional facilities should work together to reduce barriers incarcerated people face to reporting consumer abuses.

Federal government agencies, including the CFPB, FTC, and FCC, should:

- Increase mail-in complaint accessibility, including by:
 - Prominently publishing a physical address for complaints on their respective websites.
 - Creating and distributing written complaint forms that prompt consumers to answer specific questions.
- Apply a *pro se* standard to complaints that incarcerated people submit, in recognition of the steep barriers that exist for them to report. If an incarcerated consumer nonetheless submits an inadequate complaint, the agency should send it back with (1) a self-addressed envelope and (2) information about how to correct it.
- Urge the federal Bureau of Prisons (BOP) and state correctional facilities to allow incarcerated people to call designated government agency phone numbers, including the complaint lines for the CFPB, FTC, and FCC. Allowing people to call such numbers is possible and not unprecedented. For example, correctional facilities must allow incarcerated people to call the [Prison Rape Elimination Act hotline](#), a toll-free number. Additionally, the Department of Education [recently urged facilities](#) to approve calls to the Federal Student Aid Information Center and student loan servicers. Sources have indicated that correctional facilities across the United States have now added a toll-free number for Federal Student Aid to their list of approved numbers.⁵
- Urge the BOP and state correctional facilities to allow incarcerated people to access government agency websites and submit consumer complaints through their online portals.
- Increase outreach and education efforts to ensure that incarcerated people know consumer laws apply to them, how to exercise their rights, and how they can contact the relevant agency and file a complaint. These outreach efforts should include providing information to incarcerated people about what information is necessary for mailed letters to be considered complaints that trigger agency action.

The BOP and state correctional facilities should ensure that incarcerated people can easily submit consumer complaints to government agencies without having to rely on third parties or engage in risky identity-sharing. To do so, facilities should:

- Allow incarcerated people to submit consumer complaints to governmental agencies, including the CFPB, FTC, and FCC, over the phone. To do this, facilities should add agency phone numbers for complaints to their lists of approved numbers. Additionally, to ensure that all incarcerated people can easily access this reporting mechanism in practice, facilities should:
 - Make calls free for incarcerated people (also known as “agency-sponsored calling”).
 - Lift restrictions on calling time and calling hours so that consumers have ample time to submit their complaint.
- Allow incarcerated people to submit consumer complaints online to government agencies, including the CFPB, FTC, and FCC, by expanding access to the internet and whitelisting government websites.

For more information, contact National Consumer Law Center attorney Ariel Nelson (anelson@nclc.org).⁶

Endnotes

¹ Some states further restrict incarcerated people’s access to outside bank accounts, further limiting their capacity to monitor and control their own finances. See, e.g., N.Y. Dep’t. Corr. & Comm’y Supervision, Directive 2798, Inmate Accounts (Nov. 29, 2017) (prohibiting incarcerated people from opening outside accounts, requiring that they close or transfer control of existing checking accounts, and restricting access to other outside accounts already in existence).

² In the context of phone and video calls, the FCC finalized a rule in July 2024 that bars providers of incarcerated people’s communications services from imposing fees (also known as “ancillary service charges”) separate from the rate. Press Release, Fed. Commc’ns Comm’n, FCC Caps Exorbitant Phone & Video Call Rates for Incarcerated Persons & Their Families (July 18, 2024), <https://docs.fcc.gov/public/attachments/DOC-404087A1.pdf>.

³ Although the cost of phone and video calls remains prohibitively expensive for many, calls are becoming more affordable nationwide, thanks to passage of the Martha Wright-Reed Just and Reasonable Communications Act in 2023 and FCC rulemaking. *Id.* (adopting per-minute rate caps for phone calls, setting interim per-minute rate caps for video communications, prohibiting site commissions, and barring fees separate from the rate); see also Kate Gibson, *It may soon cost a buck instead of \$12 to make a call from prison, FCC says*, CBS News (June 26, 2024), <https://www.cbsnews.com/news/fcc-prison-phone-calls-rates/>. Some states and local governments have also made phone calls free. Alex Burness, *Massachusetts Is Making Communications Free for Incarcerated People*, Bolts (Aug. 4, 2023), <https://boltsmag.org/massachusetts-prison-jail-phone-calls/>.

⁴ One exception to this is the FCC, which, in its consumer guide on Incarcerated People’s Communications Services, states that people can file complaints by mail and provides a mailing address. *Incarcerated People’s Communications Services*, Fed. Commc’ns Comm’n, https://www.fcc.gov/incarcerated-peoples_communications_services (last visited July 19, 2024). In contrast, the main CFPB webpage that explains how to submit complaints guides consumers to an online form and notes that, “If you can’t submit online . . . , you can submit over the phone.” *Submit a complaint about a financial product or service*, Consumer Fin. Protection Bureau, <https://www.consumerfinance.gov/complaint/> (last visited July 19, 2024). It does not list mail as an option or provide an address. *Id.* However, if click on “Contact Us” at the very bottom of the main CFPB website (consumerfinance.gov), or if you search “mail complaint,” you can find a page that provides a mailing address for complaints. *Have questions? Start here.*, Consumer Fin. Protection Bureau, <https://www.consumerfinance.gov/about-us/contact-us/> (last visited July 19, 2024).

⁵ Further information is on file with the author.

⁶ Thanks to NCLC summer intern Nora Van Horn for work in drafting this issue brief.