



November 9, 2015

Dear Sheriff,

Faced with overcrowded jails and shrinking budgets, government officials are tasked with making ends meet. Budget concerns, however, should not lead to policies that harm our communities and keep Ohioans from achieving their full potential. Pay-to-stay jail fees, where a person is charged as part of their incarceration, have been an utter failure and should be abandoned immediately.

Pay-to-stay policies can take a number of different forms, from booking fees to daily charges. At first glance, these fees may seem like an innocuous way to supplement the budgets of struggling jails, but charging prisoners for their incarceration is not the simple solution it may appear to be.

Criminal justice experts estimate that at least 80% of individuals in jail are indigent. Many of those who do not enter jail with low income almost assuredly will leave in financial distress. They will likely no longer have employment, their families will have spent any savings on basic necessities while the person was in jail, and they may also face steep criminal fines imposed by the court.

In 2007, the Buckeye State Sheriffs' Association estimated that 60 counties had implemented pay-to-stay programs. Many counties have turned away from pay-to-stay programs because they have recognized these programs expend far more resources than they could ever hope to collect. Currently, 40 full service jails have pay-to-stay programs.

Enclosed is a copy of the ACLU of Ohio's new report, *In Jail & In Debt: Ohio's Pay-to-Stay Fees*. The report examines the programs at 75 full service jails across the state. The ACLU of Ohio's research uncovered several important findings:

- **Pay-to-stay fees are still prevalent, but falling out of favor with many counties.** 40 of the 75, or 53% of full-service jails in this study charge for incarceration whether it is a booking fee, a daily fee, or both. The range for booking fees span \$10 up to \$100 and daily fees scale between \$1 and \$66.86.
- **Eleven full-service jails have discontinued pay-to-stay jail policies in recent years,** while another 16 have never implemented a policy.
- **Counties are not actively assessing indigence.** Ohio Revised Code says "the daily cost assessed is not to exceed the total amount that the individual is able to pay."¹ Many of our interviewees insisted that they were not assessed for indigence by the jail. If they were found indigent, they might have received free hygiene products during their incarceration, but were still charged the full pay-to-stay fee. Only 20 of the 40 facilities that charge pay-to-stay fees directly indicated that they assess for indigence in some way. We are failing to provide due process to all Ohioans and abide by the law.

¹ ORC § 2929.37 (A)


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- **Pay-to-stay fees have a real, long-lasting, and negative impact.** Many of the individuals we spoke to shared stories of financial struggle, emotional strain, and continued setbacks. These fees often keep formerly incarcerated people at the edges of society by making employment, housing, credit, and community relationships increasingly difficult to maintain. As people encounter hurdles at every turn, some return to crime as a way to make ends meet. This only exacerbates our over-incarceration problem in our jails and prisons. Although pay-to-stay jail fees are supposed to help shore up local budgets, they have the potential to further strain them by leading more people into our jails.
- **The only sensible solution to overpopulated jails and swelling budgets is to incarcerate fewer people.** We must invest in programs that will keep people out of jail, and change rules and practices that give preference to incarceration over rehabilitative services. Pre-trial release programs, instructing law enforcement to ticket, instead of arrest where possible, and reform of draconian local laws that may levy tougher sanctions than state laws. As state officials have begun discussions to reduce the prison population, local officials must partner with elected officials and law enforcement to depopulate jails.

Everyone can agree that we want those leaving jail to reintegrate successfully. Pay-to-stay fees often make it more difficult for those individuals and provide minimal financial benefit to local budgets. While we sympathize with local leaders struggling with severe budget cuts, pay-to-stay fee programs simply do not work effectively and may lead to additional costs of incarceration, families utilizing social services, and loss of tax revenues. The only sensible solution to correcting jail budget problems is to reverse the tide of mass incarceration in our local communities.

Sincerely,



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