

## A sledgehammer instead of a scalpel: New rules proposed by the Biden Administration on money earned by or sent to people in federal prison are the wrong way to go

*Federal prison officials are proposing to garnish 75% of any deposits made into incarcerated people's personal accounts if those people have court-related debts. It's an extremely harmful policy that will keep incarcerated people from buying basic needs.*

by Mike Wessler, March 13, 2023

The Biden Administration's Federal Bureau of Prisons (BOP) recently proposed new, draconian rules on how and when the government will seize money earned by or sent to people in federal prisons. We signed on to a [37-page letter](#) written by the [National Consumer Law Center](#) and former Prison Policy Initiative staff member and volunteer Stephen Raher opposing this proposal.

These proposed rules are complex, legally dubious, and far-reaching, so we wanted to explain what they would do and their devastating consequences. This proposal is the latest in a [trend that we've followed closely for years](#): prisons and jails, which already lock up some of the most financially vulnerable people in the country, making their lives even more difficult. Our research on this topic offers important insights into why these policies harm not just people behind bars but also our communities and the nation as a whole.

### What do the proposed rules do?

The proposed rules, which apply to people who owe outstanding court debts and participate in the Inmate Financial Responsibility Program (IFRP), would allow the government to take a huge portion of the small amount of money that people incarcerated in federal prisons earn or have sent to them by loved ones on the outside. On paper, the IFRP is a voluntary program. But while people in federal prison may not be forced to take part in it, there are consequences if a person doesn't participate. Most notably, if an incarcerated person doesn't participate, they likely won't receive their "release gratuity" — the small bit of money the prison gives to an incarcerated person upon their release; essentially saying, "Give us the money you're trying to save for your release, or else we won't provide you with a little bit of money when you're released." In this situation, people in federal prison are damned if they do participate and damned if they don't.

The proposal is a response to recent and sensational stories about ultra-wealthy people in federal prisons who have amassed unusually large amounts of money in their prison trust accounts while failing to pay legal fees and restitution. These examples are the

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exception, not the rule; most incarcerated people are poor before prison and even poorer once they get there. Rather than crafting rules that target these outliers, the BOP has written them in a way that will make it harder for people in prisons to survive today and more difficult to establish a life after they're released. They've effectively taken a sledgehammer to a problem that requires a scalpel.

As prisons across the country increasingly force incarcerated people to purchase many of their daily basic needs, money plays a more important role in helping them obtain essentials like hygiene products, over-the-counter medication, and food, not to mention covering the costs of phone calls with loved ones on the outside. This proposal would take four steps that would make it harder for incarcerated people to access and save the little money they have:

1. **Confiscate at least 75% of money sent to incarcerated people from their loved ones on the outside.** One of the main ways incarcerated people get money is through money transfers from their loved ones on the outside. Under this change, if a person wanted their incarcerated loved one to have \$25 to make phone calls to their child, they would actually have to send that person \$100 — four times more than they actually will get.
2. **Seize roughly 25-50% of wages earned from work.** Prison wages — including federal prisons, where wages are regularly as low as 12-23¢ an hour — are notoriously bad. Under these proposed rules, a quarter or half (depending on what type of job they had) of the money earned by an incarcerated person would be seized, making these already abysmal wages even worse.
3. **Eliminates protections that ensure incarcerated people have the money to call loved ones.** Currently, the first \$75 that a person in federal prison earns or receives every month is exempted from being taken to pay for legal financial obligations, so this money can instead be used on phone calls between the person in prison and their loved ones on the outside. These proposed rules would eliminate this exemption completely, making it much more challenging to maintain these social connections, which are critical for incarcerated people's mental health and success after prison.
4. **Pressures incarcerated people to make a one-time payment to pay off obligations,** with the threat of notifying the U.S. Attorney's Office if they don't. Under the proposal, if a person has enough money in their trust account to pay off their financial obligations completely, they will be encouraged to pay off the entire balance in one lump sum payment, even if that leaves them with essentially no money for other essentials. While people would not be required to make the lump sum payments, the U.S. Attorney's Office would be notified if they don't, an implied threat that is significant enough to be considered coercive.

### **These rules are a bad idea**

For many people, there is a self-evident, moral reason that these rules don't make sense: They make the lives of tens of thousands of people in federal prisons — some of the most disadvantaged people in our country — even worse, in order to punish a handful of wealthy people in prison skirting their responsibilities. However, for those not convinced by this moral argument, there are other important reasons President Biden and the BOP should trash these rules.

## They exacerbate existing inequalities

On the first day of his presidency, President Biden ordered all executive branch agencies — including the BOP — to work to redress inequities in their own policies and programs, including ensuring fair and just treatment of “Black, Latino, ... and persons otherwise adversely affected by persistent poverty or inequality.” Rather than addressing these inequities, these proposed rules would make them worse, particularly for women of color. Rather than targeting the assets of a few ultra-wealthy individuals, they will impact all people in federal prisons — people who are disproportionately Black and Hispanic. However, the pain doesn’t end there. If the proposed rules were adopted, family members of incarcerated people would lose at least 75% of the funds that they send to their incarcerated loved ones. This change would dramatically increase the burden borne predominantly by women — disproportionately women of color — on the outside trying to provide for their families.

## They undermine successful reentry

A person’s successful transition from incarceration is something we all have a stake in. However, this punitive proposal would work against this goal in two ways.

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- Research has consistently shown that one of the strongest predictors of whether someone will end up back behind bars after their release is whether they have strong family and social connections on the outside. These rules would make it much more difficult and costly to maintain these connections by making it harder for people to secure the money needed to make phone calls and send letters to loved ones on the outside.
- Additionally, when a person is released, they need money almost immediately to secure housing, buy food, purchase clothing for job interviews, and secure transportation to those interviews and other appointments. These rules would make it harder for people in federal prisons to earn and save money to help them upon their release. Poverty is one of the greatest indicators of a person’s likelihood of taking part in criminalized behavior and ending up behind bars. This proposal would almost certainly condemn tens of thousands of people in federal prisons to poverty, even after their release.

These misguided rules would harm nearly all people in federal prisons to address a handful of extreme cases. They’re not just cruel, though; they also undermine the Administration’s stated goal of addressing racial and economic disparities while making it harder for a person to reenter society after their release. President Biden and the BOP should abandon this deeply flawed proposal.

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### 3 responses:



1. *Cindy K* says:

March 17, 2023 at 6:38 am

Our son has been incarcerated in a state since January of 2019. The new rules are ridiculous. Can they take 1 more thing away from these guys and gals , they have squat to begin with not to mention lack of good food, water ,medical and dental care. For the 60+grand they get for each inmate they get nothing and I mean nothing but be treated like less than . Shame on the system. You teach them how to be better criminals , that's all .



1. Mike Wessler says:

March 17, 2023 at 8:57 am

Cindy, I'm sorry to hear what you and your son are going through. It sounds truly terrible. We'll keep doing our work to expose these harms. However, if there are new things you see happening that you think we should research, please do let us know through our contact form. While we can't offer legal assistance in individual cases, we can help to put a spotlight on injustices that happen behind bars.



2. Pamela says:

April 8, 2023 at 6:57 pm

Medical care is a big joke ! The prisons are in horrible conditions. Mold , no effective air conditioning, rusted out rotten ice machines . No washers and dryers for inmates as they must wash their clothes out my hand . Struggle to dry . Sex offenders are out casted . No tv certain areas they are allowed . When parents have okayed for their child to pose as a adult on dating apps . When the U.S. allow children to lie . It is the American way . No it is not right . Bully threaten a person with intellectual disabilities to take a plea bargain on lies to serve 4 yrs. Then ends up with 13 yrs .