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January 10, 2015

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

RE: Second Further Notice of Proposed Rulemaking (FNPRM) WC Docket No. 12-375

Dear Secretary Dortch,

The New York University School of Law Immigrant Rights Clinic (IRC) and New Jersey Advocates for Immigrant Detainees (NJAID) file a joint comment in the above-referenced proceeding.¹ IRC is a leading institution in both local and national struggles for immigrant rights, representing immigrants and immigrant rights organizations in their cases and campaigns. NJAID is a coalition of civic and religious organizations whose goals include bringing attention to the plight of immigrant detainees in New Jersey correctional facilities and working to improve the conditions in those institutions.

The U.S. government detained over 440,000 immigrants in 2013 while their deportation proceedings were pending, and is on course to do the same this year, despite President Obama's recent executive actions.² Detainees face significant barriers in defending their deportation cases due to lack of access to legal support and evidence. For those detainees who do succeed in their cases, their reintegration is made more difficult by the months or years of separation immigrant detainees experience from their families during their detention. Both of these concerns make access to reasonably-priced phone calls a necessity. Although immigration detention is not meant to be punitive, detainees are held in jails and prisons and are subjected to the same phone rates as other people in prison and jails, while lacking the right to counsel. Contact with family and community is all the more important because they depend on them for evidence and testimony in order to fight their cases.

The Commission's 2013 Order capping interstate ICS rates led to significant progress both in New Jersey and around the country. Yet for intrastate and international calls, immigrant

detainees and others housed in New Jersey's county jails still pay far above the interstate hard caps. Therefore, NJAID and IRC urge the Commission to continue its policy of facilitating communication between people in correctional facilities and their loved ones by adopting comprehensive ICS reform.

SUMMARY OF COMMENTS

After receiving numerous complaints from immigrant detainees and their families regarding the high telephone rates in New Jersey county jails, IRC and NJAID have engaged local community leaders about the issue and investigated the current phone plans. Through these conversations and investigations, we have learned a great deal about existing phone rates, how facilities contract with private for-profit companies for service in New Jersey, and how immigrants in particular are adversely affected by the exorbitant phone rates. These comments are a result of those findings.

The comments below are divided into three parts. The first part traces recent developments in New Jersey's ICS market and gathers data on current rates and commissions. It shows that:

- Elimination of commissions has led to a reduction in all rates from State Department of Corrections facilities. New Jersey state prison rates nonetheless remain higher than rates from Pennsylvania and New York state prisons.
- All New Jersey county jails continue to receive commissions for intrastate calls and, for nearly all intrastate calls, charge above even the Commission's hard caps for interstate calls.
- International ICS service is not available in most cases in New Jersey, and the county jails that do offer international calls charge outrageous rates of \$18 to \$45 for a fifteen-minute call.

In the second part of our comment, we emphasize the importance of intrastate and international telephone service to immigrant detainees. Immigrant detainees are particularly vulnerable to high phone rates due the scope and duration of immigration detention, immigrants' need to stay in touch with family and community at home and abroad, and the importance of phone calls to immigration proceedings. We are certain that the FCC's regulation of intrastate and international rates will benefit the hundreds of thousands of immigrants detained each year, as well as their families and communities.

Finally, in the third part of our comment we state our positions on various proposals in the Second FNPRM. We support the following reforms by the Commission:

- Eliminate ICS commissions to correctional facilities, effective within 90 days of its Order;
- Cap all ICS rates; and
- Ban mandatory ancillary fees.

COMMENTS

This comment summarizes the current per-minute rates for phone calls from correctional facilities in New Jersey, which reflect the uneven and inadequate reform in the state's ICS market since the Commission's 2013 Order and highlight the need for the comprehensive reform the Commission now proposes (Second FNPRM ¶ 6). It then traces the unique ways that exorbitant ICS rates are especially detrimental for immigrant detainees, both in New Jersey and around the country. Finally, it urges the Commission to eliminate all site commissions within a limited time period (¶¶ 21, 130), cap both inter- and intrastate rates (¶ 47), and eliminate mandatory ancillary charges (¶ 88).

I. UNEVEN ICS REFORM IN NEW JERSEY HAS LED TO ARBITRARY AND UNREASONABLE RATES IN COUNTY CORRECTIONAL FACILITIES

1. Changes to New Jersey Telephone Rates and Commissions

All state facilities and many county jails in New Jersey utilize Global Tel*Link (GTL) to provide phone services, either through New Jersey State Contract No. 61618 or independently.³ The state contract sets the phone rates for state facilities and offers six options for phone rates and commission payments for counties to select.⁴ The next section contains the data we have gathered through the Open Public Records Act from the State of New Jersey and all twenty-one counties, as well as through a separate request to a private detention facility.

As the Second FNPRM noted, the New Jersey State Department of Corrections lowered state facility rates significantly after the 2013 Order (¶ 18). On the Order's February 11, 2014 effective date, the state decreased rates for interstate and intrastate calls to \$0.19 per minute and eliminated commissions.⁵ On March 4, 2014 it further decreased rates to \$0.17 per minute, and then on September 4, 2014 to \$0.15 per minute.⁶ The positive changes made by the state for state-run facilities, however, have not affected rates from the seventeen county jails that contract through the state. Instead, the county price matrix leaves the pre-order intrastate rates and commissions intact, setting interstate rates at the hard caps of \$0.21 and \$0.25.⁷ The four counties that contract directly with either GTL or Securus, rather than participating in the state contract, still maintain higher rates and commissions for intrastate calls, while adopting the 2013 Order's hard caps for interstate rates alone. As described in detail in the next section, this means that the cost for an interstate call in county jails exceeds the cost for an intrastate or interstate call of the same length in state prisons. This also means that within a county jail, the cost for nearly all intrastate calls exceeds the cost for interstate call of the same length. Moreover, even the

lower \$0.15 rate provided in state prisons exceeds the rates provided in state prisons in neighboring New York (\$0.048) and Pennsylvania (\$0.059).⁸

On April 30, 2014 NJAID and IRC, along with other affected organizations and individuals in New Jersey, filed a petition with the state Board of Public Utilities (BPU) seeking regulation of intrastate rates.⁹ However, the BPU has not yet made a decision on the petition. Moreover, the BPU has not to date signed a nondisclosure agreement with any ICS provider or instituted the kind of mandatory data reporting requirement the Commission now has in place (Second FNPRM ¶ 49). Therefore the BPU does not currently have the benefit of the significant data that can inform the Commission's comprehensive national reforms.

2. New Jersey Intrastate Overcharges

The following chart shows the results of the uneven reforms described above. It shows that New Jersey families with loved ones who are detained in county jails pay far more than either out-of-state families or families of people in state prisons. Elimination of commissions has allowed the State Department of Corrections to reduce the cost of a fifteen-minute intrastate call to \$2.25, while the same intrastate call can cost up to \$8.50 from some county jails. Aside from the most local calls, intrastate calls from county jails exceed the cost of the capped interstate calls, sometimes by as much as double the cost. International calls, meanwhile, reach the staggering cost of \$18 to \$45 for a fifteen-minute call from Bergen, Essex, and Hudson County jails, which collectively can house nearly 1,500 immigrant detainees.

The anomalous cost of intrastate calls from county jails reflects the continued payment of commissions to those facilities, even as commissions on interstate calls have been eliminated. Every county jail receives commission on intrastate calls, and the amounts of the commissions range from 50% to 70.1%. The fact that intrastate calls are far more expensive than interstate calls from every county jail in New Jersey demonstrates the need for the Commission to enact comprehensive reform that would eliminate this arbitrary and unfair result.

NJ Prison or County Jail Operator¹⁰	Commission	Distance	Current Cost of 15 Minute Call¹¹
<i>Cape May</i>	70.1%	Intrastate	\$4.25
	None	Interstate	\$3.15 (debit) \$3.75 (collect)
<i>Bergen</i>	60.5%	Intra LATA (in area code)	\$4.80 \$4.95
		Inter LATA (out of area code)	\$7.30 \$7.50
	None	Interstate	\$3.15 \$3.75
<i>Atlantic, Burlington, Hunterdon, Mercer, Ocean, Union, & Warren</i>	56%	Intra LATA	\$5.50
		Inter LATA	\$8.50
	None	Interstate	\$3.15 \$3.75
<i>Camden, Cumberland, Middlesex, Monmouth, Morris & Somerset</i>	55%	Intra LATA	\$4.75
		Inter LATA	\$7.75
	None	Interstate	\$3.15 \$3.75
<i>Essex & Sussex</i>	54%	Intra LATA	\$4.00 \$4.20
		Inter LATA	\$5.50 \$5.70
	None	Interstate	\$3.15 \$3.75
<i>Gloucester, Hudson¹²</i>	53%	Intrastate	\$4.50
	None	Interstate	\$3.15 \$3.75
<i>Passaic & Salem</i>	Passaic: 53% Salem: 50%	Intrastate	\$4.25
	None	Interstate	\$3.15 \$3.75
<i>Delaney Hall (private facility - contracted through Essex County)¹³</i>	37%	Intra- and Interstate	\$1.60 (debit) \$2.40 (pre-paid and collect)
<i>State of NJ</i>	None	Intra- and Interstate	\$2.25
<i>Elizabeth Detention Center (private facility – contracted through Immigration and Customs Enforcement)¹⁴</i>	None	Intra- and Interstate	\$1.50

3. International Rates at New Jersey Facilities

Any person held in a New Jersey facility may have family members overseas and thus rely on international calls to maintain those ties. The population NJAID specifically serves is from countries around the world that need to contact family and friends, as well as institutions and experts, in other countries in order to provide documentation that might be used to prove hardship, past persecution, and country conditions in immigration proceedings that could lead to their deportation. Detainees may also have to call internationally to raise money for legal assistance or even prepare for placement in another country after deportation.

The New Jersey Department of Corrections does not permit international calling from its facilities, nor does it provide for the option of international service for counties that opt in to the state contract.¹⁵ Some counties do contract separately for international ICS, but the rates, shown below, are exorbitant. Moreover, detainees housed in Bergen County report that although the jail advertising international calling service, it never works. For example, Mr. F was detained for two and a half years until Spring 2014 in immigration custody at Bergen County jail and was never able to place an international call.

NJ Prison or County Jail Operator	Current Cost of a 15 Minute International Call
<i>Bergen</i> Capacity for 195 detainees in ICE custody	\$19.80
<i>Essex</i> Capacity for 800 detainees in ICE custody	\$17.85
<i>Hudson¹⁶</i> Capacity for 450 detainees in ICE custody	\$45.00
<i>Delaney Hall (private facility contracted with Essex County)</i> Capacity for 450 detainees in ICE custody	\$4.00
<i>Elizabeth Detention Center (private facility contracted with ICE)</i> Capacity for 300 detainees in ICE custody	\$2.25 (to landlines) \$5.25 (to mobile phones)

While it is to be expected that international calls are more expensive than intrastate and interstate calls, Delaney Hall, which contracts for its phone service with GTL, provides international calls for \$4.00 for fifteen minutes, and Elizabeth Detention Center, which contracts with Talton,

provides those calls for as low as \$2.25. The fact that calls to international landlines cost twenty times more from Hudson County Jail than they do from Elizabeth Detention Center illustrates the perverse incentives in the ICS market, which the Commission can address through comprehensive reform.

II. REGULATION OF INTRASTATE AND INTERNATIONAL RATES WILL FURTHER BENEFIT IMMIGRANT DETAINEES

In New Jersey, most detainees are held in county jails, with the remainder housed in private facilities.¹⁷ Therefore, immigrant detainees continue to feel the impact of the high intrastate and international rates outlined above. The hardships they suffer underscore the need for comprehensive national reform of phone rates for all distances and from all facilities.

1. Scope and Duration of Immigration Detention in New Jersey

The scope of immigration detention in New Jersey reflects the expansion of ICE detention nationwide. Congress's recent Continuing Resolution, which became law on December 16, 2014, keeps the requirement for 2015 that ICE maintain 34,000 immigrant detention beds each day.¹⁸ New Jersey is home to approximately 2,200 beds for immigrant detainees in private and county correctional facilities.¹⁹ In addition to hosting immigrant detainees from out-of-state, New Jersey county correctional facilities hold many immigrant detainees whose family and loved ones are within the state. For example, Essex County Correctional Facility contracts with ICE to make 800 beds available for immigrant detainees in Newark ICE custody.²⁰ Private facilities in New Jersey have 750 additional beds for detainees facing immigration proceedings in New Jersey.²¹ These immigrants are likely to be New Jersey residents with local ties who suffer from high intrastate rates.

These detainees often spend months, if not years, in these facilities. In November and December 2012, detainees in New Jersey spent an average of 62 days in detention.²² Among states with at least 250 individuals leaving ICE custody (because they are either released or deported), detainees in New Jersey had spent the fifth longest average number of days in detention.²³ Seven percent of detainees were detained for over 180 days.²⁴ During these extended periods of detention, high intrastate rates limit immigrants' ability to remain connected to their families and pursue immigration relief during extended detention.

2. Importance of Telephone Access for Legal Proceedings

Since immigrants in deportation proceedings do not have a right to government-appointed counsel,²⁵ many immigrant detainees represent themselves *pro se*. Seventy-nine percent of detained noncitizens lack representation, compared to twenty-eight percent of noncitizens who

were initially detained but released and twenty-three percent of noncitizens who were never detained.²⁶ In the Newark, NJ immigration court between 2005 and 2010, 78% of detained immigrants were unrepresented.²⁷ Nonetheless, immigration proceedings are highly fact-specific and require respondents to use the phone to gather evidence necessary for their cases. For example, both lawful permanent residents and undocumented immigrants may face removal but may be eligible for cancellation of removal, a discretionary form of relief from deportation that requires the immigration judge to determine the immigrant's good moral character and the hardship her deportation would cause to her family.²⁸ To support this type of application, a detainee would need access to reasonable intrastate phone rates in order to contact family, friends, employers, and schools within the state. This contact allows a detainee to gather documentation of the positive equities of his case to present to the immigration judge. The currently prohibitive intrastate phone rates—for example, \$7.30 or \$7.50 for a fifteen-minute call from Bergen County Jail to some parts of New Jersey—prevent detainees from meaningful access to their records and evidence.²⁹

International rates may also pose a problem for legal proceedings. Immigrants such as those described above may need to provide evidence of hardship as part of the discretionary applications for relief from deportation, and thus will need to contact family members abroad to obtain country conditions information. For some, this access to evidence is life or death. Asylum applicants, for example, must show a well-founded fear of persecution in their home countries, which often involves expert testimony and evidence from overseas.³⁰ Therefore, they rely on international phone calls to gather critical information that could prevent them from having to return to a dangerous situation in their home country. The unreasonably high international phone rates and the inconsistent or nonexistent international service constitute serious obstacles for detained asylum applicants and other immigrant detainees.

High intrastate and international phone rates contribute to the impact of detention on immigrants' legal proceedings: in a recent study of New Yorkers placed in removal proceedings (many of whom were detained in New Jersey facilities), 74% of immigrants facing deportation who were not detained obtained relief and were able to remain in the United States, while only 3% of detained immigrants in deportation proceedings achieved such relief.³¹ High ICS rates clearly impact the legal rights of immigrant detainees in New Jersey and elsewhere.

3. Impact of Phone Rates on Family and Community Contacts

Immigrant detainees are particularly vulnerable to the high cost of prison phone rates. The problem of high phone rates from correctional facilities came to NJAID's attention because of outcry from immigrant detainees in New Jersey who suffered their devastating impact. We are aware of two past petitions on this issue made by incarcerated persons in Essex County Correctional Facility (ECCF) and the Hudson County Correctional Center (HCCC). The 2010

Hudson petition, which was signed by over 180 detainees, included as a primary grievance the 800% increase in phone costs that immigrant detainees experienced when transferred to that facility from a facility in New York that had closed. This and the accompanying hunger strike brought this issue to our attention. The 2012 Essex petition, signed by 274 detainees, cited intermittent access to phone calls and exorbitant rates as the second and third most important issues after sanitary bathrooms. These petitions demonstrate the grave impact of high phone rates on immigrant detainees.

Unlike people who are held on criminal charges, people facing immigration charges are considered “civil” detainees,³² may be held without bail,³³ and can be incarcerated with no clear endpoint to their detention.³⁴ Given the uncertain and prolonged nature of their detention in county jails, it is particularly important for immigrant detainees to keep in touch with their families and the outside world. High intrastate phone rates from county jails can make this impossible. For example, Mr. M was detained in immigration custody for three years before winning relief from deportation under the Convention Against Torture. During that time he was held in various facilities around the country. Even before the caps on interstate rates went into effect, it was cheaper for him to contact his family in New Jersey from a jail in Alabama than it was to call them from within his home state. Ultimately, the high costs forced him to stop calling his sister altogether.

High international rates also impact immigrant detainees, who by virtue of having immigrated are likely to have family in other countries. If they do get deported, they must contact friends or family to arrange a living situation, even transportation, when they arrive, often after many years in the United States. More than one former detainee who was deported to Jamaica was dropped off by immigration officials in a city far from where their families lived and struggled to make arrangements to reach their homes after their arrivals.

III. RESPONSE TO PROPOSALS

1. Elimination of Commissions

As the Second FNRPM acknowledges, commissions to correctional facilities create perverse incentives akin to “reverse competition,” where facilities seek out companies that will charge higher rates in order to share a greater portion of their profit with the state or local government (§ 22). In New Jersey, the price matrix offered to counties through the state contract gives them the opportunity to offer rates as low as \$2.50 for fifteen-minute intrastate calls, while receiving a 15% commission. Yet no county has chosen that option. Instead, every county opts to charge at least \$4.25 and up to \$8.50 for a fifteen-minute non-local intrastate call, far above both the hard cap and safe harbor rates set by the Commission in 2013 for interstate calls. The counties choose

to impose these unreasonable rates on New Jersey families because they receive commissions ranging from 53% to 70.1%.

At the same time, the State Department of Corrections, which eliminated all commissions upon implementation of the FCC Order, has been able to consistently lower its rates, as described above. Commissions are clearly at the root of the unfair and unreasonable intrastate and international ICS rates that currently impact people detained in New Jersey county jails. Therefore, NJAID and IRC wholeheartedly support the Commission's proposal to eliminate commissions for all ICS services (§ 27).

NJAID and IRC believe that a two-year transition period for the elimination of commissions is unnecessary, and that a ninety-day implementation period would be sufficient (§ 131). In New Jersey and around the country, states and localities were able to implement the 2013 Order within ninety days. Moreover, these governments have been on notice since the issuance of the First FNPRM in 2013, and increasingly after the Second FNPRM, that commissions that rely on the exploitation of vulnerable families by phone companies will no longer be an available source of income. Many people have been forced to limit their communication with their loved ones for years while waiting for legislative action or new regulations. Further delay would be unjust and unnecessary.

2. Rate Caps

Despite the importance of eliminating commissions, permanent rate caps are still necessary (§ 47). Even after removing commissions for interstate calls, both GTL and Securus have done the minimum to comply with the 2013 Order in county jails by negotiating rates at the hard caps of \$0.21 and \$0.25. Additionally, despite incremental improvement, the State Department of Corrections rates remain at \$0.15 per minute after the elimination of commissions. Meanwhile, calls from state prisons in New Jersey's neighboring states of New York and Pennsylvania now cost \$0.048 and \$0.059 per minute, respectively.³⁵ The inconsistency of rates across facilities and states, even after elimination of commissions, highlights the need for caps to ensure that rates are fair and reasonable. NJAID and IRC align with the Wright petitioners and support a low nationwide cap on all phone rates from correctional facilities. Based on the evidence from New York and Pennsylvania, our current petition to the New Jersey Board of Public Utilities seeks a cap of \$0.05 per minute in New Jersey.

3. Ancillary Fees

As the Second FNPRM notes, ancillary fees allow phone companies to circumvent rate caps by charging consumers for basic requirements for accessing ICS (§ 87). Ms. M, who lives in Northern New Jersey while her boyfriend is incarcerated in Southern State Correctional Facility,

noted that ancillary fees have dampened the positive impact of lower rates from New Jersey state prisons. GTL still takes a surcharge of 19% every time she adds money to her account. This surcharge significantly increases the financial burden to calls from her loved one. Similarly, Securus's contracts with several New Jersey counties provide for a variety of ancillary fees, including fees of \$4.00 to \$10.00 for adding money to an account by any means,³⁶ a regulatory recovery fee of up to \$3.95 per month,³⁷ and a bill statement fee of up to \$3.49.³⁸ NJAID and IRC support the elimination of all such mandatory ancillary fees (§ 89).

CONCLUSION

NJAID and IRC applaud the reforms, in New Jersey and around the country, that have resulted from the Commission's 2013 Order. However, these reforms have been implemented unevenly and inadequately, leading to high rates overall and particularly for county jails. As a result, immigrant detainees, among others, face severe limitations in their ability to contact family members and gather evidence for their cases if their loved ones live in New Jersey rather than out of state. This arbitrary and unfair situation highlights the need for comprehensive reform federal reform. Therefore, we encourage the FCC to exercise its authority under Sections 201 and 276 of the Communications Act to eliminate all ICS commissions, cap rates, and eliminate mandatory ancillary fees.

¹ The views expressed herein represent the views of the Immigrant Rights Clinic and not necessarily those of New York University or its affiliates. This comment was written by Rebecca Hufstader '15 under the supervision of Alina Das, Associate Professor of Clinical Law, for IRC and NJAID. Coalition Members include American Friends Service Committee (AFSC) Immigrant Rights Program; Casa de Esperanza; the Episcopal Immigration Network; Lutheran Office of Governmental Ministry in NJ; NJ Association on Correction; NJ Forum for Human Rights; Pax Christi NJ; Middlesex County Coalition for Immigrant Rights; Monmouth County Coalition for Immigrant Rights; People's Organization for Progress- Bergen County Branch; the Reformed Church of Highland Park; Sisters of St. Joseph of Chestnut Hill ESL; Unitarian Universalist Congregation at Montclair; IRATE & First Friends NY & NJ.

² JOHN F. SIMANSKI, IMMIGRATION ENFORCEMENT ACTIONS: 2013, at 1 (2014), *available at* http://www.dhs.gov/sites/default/files/publications/ois_enforcement_ar_2013.pdf.

³ N.J. Dep't of Treasury, Notice of Award, Term Contract(s) I-1934 Inmate/Resident Telephone Control Service, *available at* http://www.state.nj.us/treasury/purchase/nea/contracts/t1934_05-x-32533.shtml.

⁴ See N.J. Dep't of Treasury, N.J. Dept. of Corr. Renewal Addendum, Contract 61618, Exhibit A: County Rate/Commission Matrix Options (Feb. 11, 2014) [hereinafter County Price Matrix], *available at* http://www.state.nj.us/treasury/purchase/nea/contracts/t1934_05-x-32533.shtml.

⁵ N.J. Dep't of Treasury, Amendment #10, Contract #A61618 (Feb. 19, 2014), *available at* http://www.state.nj.us/treasury/purchase/nea/contracts/t1934_05-x-32533.shtml.

⁶ N.J. Dep't of Treasury, Amendment #11, Contract #A61618 (Mar. 4, 2014), *available at* http://www.state.nj.us/treasury/purchase/nea/contracts/t1934_05-x-32533.shtml; N.J. Dep't of Treasury, Amendment #12, Contract #A61618 (Sept. 2, 2014), *available at* http://www.state.nj.us/treasury/purchase/nea/contracts/t1934_05-x-32533.shtml.

⁷ See County Price Matrix, *supra* note 4.

⁸ Megan Harris, *Prison Phone Cost to Drop 70% in Pa.*, TRIBLIVE NEWS (Nov. 26, 2014, 10:01 PM) *Notice to Friends and Families of New York State Inmates*, VALUE-ADDED COMMUNICATIONS, <http://www.myvconnect.com/NY.aspx> (last visited Dec. 16, 2014); Penn. Dep't of Corrs., Notice to Proceed, Agreement # AGR-14-210, Exhibit B (Sept. 23, 2014) (on file with author).

⁹ See *Petition Filed with the Board of Public Utilities*, NEW JERSEY PHONE JUSTICE (Apr. 30, 2014), <http://www.njphonejustice.org/petition-filed-with-the-board-of-public-utilities/>.

¹⁰ The information in this table was obtained through public records requests and his on file with the author of this comment.

¹¹ Two prices in a single row indicate, first, the debit price, and second, the collect call price.

¹² In these county jails, all intrastate calls cost \$4.50. Hudson County Jail also sells phone cards with domestic rates of \$0.50 per minute.

¹³ Delaney Hall is a private correctional facility operated by Community Education Centers, Inc. that subcontracts with Essex County to house detainees in immigration custody, among others. *See Delaney Hall*, CMTY. EDUCATION CENTERS, http://www.cecintl.com/facilities_rr_nj_006.html (last visited Dec. 15, 2014). As a private facility, Delaney Hall's contract with Global Tel*Link is not accessible under OPRA laws, but Community Education Centers voluntarily provided NJAID with a copy of the current contract.

¹⁴ Elizabeth Detention Center is a private facility operated by the Corrections Corporation of America that contracts with Immigration and Customs Enforcement (ICE) to house immigrant detainees. *See Elizabeth Detention Center*, CORRS. CORP. OF AMERICA, <https://www.cca.com/facilities/elizabeth-detention-center> (last visited January 7, 2015). Kevin Landy provided the rates for this and other ICE facilities at the Commission's July workshop. Federal Communications Commission, Transcript of Workshop on Further Reform of Inmate Calling Services 192 (July 9, 2014).

¹⁵ Letter from Gary M. Lanigan, Commissioner, N.J. Dep't of Corrs., to Alix Nguetack, N.J. Advocates for Immigrant Detainees (Dec. 8, 2014) (on file with author).

¹⁶ Hudson County provides international phone service through phone cards sold by GTL. Some detainees have reported lower rates for calls to certain countries.

¹⁷ *See also* NATIONAL IMMIGRATION FORUM, THE MATH OF IMMIGRATION DETENTION 4 (2013), *available at* <http://immigrationforum.org/wp-content/uploads/2014/10/Math-of-Immigration-Detention-August-2013-FINAL.pdf> (noting that nearly 70% of immigrant detainees are housed in county jails).

¹⁸ Consolidated and Further Continuing Appropriations Act of 2015, Pub. L. No. 113-235, Division L §101; Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, Division F Title II, 128 Stat. 5, 251.

¹⁹ SEMUTEH FREEMAN & LAUREN MAJOR, NYU LAW IMMIGRANT RIGHTS CLINIC, IMMIGRATION INCARCERATION 11 (2012), *available at*

<http://www.afsc.org/sites/afsc.civicactions.net/files/documents/ImmigrationIncarceration2012.pdf> (describing Essex County's contract with ICE to provide 800 beds at Essex County Correctional Facility and to subcontract for 450 additional beds in privately-run Delaney Hall); LINDSAY CURCIO ET. AL., DETENTION WATCH NETWORK, EXPOSE & CLOSE: HUDSON COUNTY JAIL, NEW JERSEY 2 (2012) (identifying Hudson County Jail as having up to 450 beds available for immigrant detainees), *available at*

<http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/ExposeClose/Expose-Hudson11-13.pdf>; Immigration and Customs Enforcement and Corr. Corp. of America, Contract for Comprehensive Secure Detention Services, Elizabeth, NJ (March 3, 2010) [hereinafter Elizabeth Contract] (on file with NYU Immigrant Rights Clinic) (contracting for 300 ICE beds at Elizabeth detention center); Monsy Alvarado, *More Immigrant Detainees To Be Housed in Bergen Lockup*, THE BERGEN RECORD (May 4, 2013), http://www.northjersey.com/news/206069191_More_immigrant_detainees_to_be_housed_in_Bergen_lockup.html (noting the increase in immigration detention beds in Bergen County Jail to 194).

²⁰ FREEMAN & MAJOR, *supra* note 19, at 17.

²¹ *Id.*; *see* Elizabeth Contract, *supra* note 19; Richard Khavkine, *Essex County Freeholders Approve 5-Year Deal for Immigration Detention*, THE STAR-LEDGER (Sept. 8, 2011),

http://www.nj.com/news/index.ssf/2011/09/essex_county_freeholders_appro.html.

²² TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, SYRACUSE UNIV., LEGAL NONCITIZENS RECEIVE LONGEST ICE DETENTION (2013), *available at* <http://trac.syr.edu/immigration/reports/321/>.

²³ *Id.*

²⁴ *Id.*

²⁵ 8 U.S.C. § 1229a(b)(4)(A).

²⁶ *See* U.S. Dep't of Justice, Executive Office of Immigration Review, Separate Representation for Custody and Bond Proceedings, 79 Fed. Reg. 55659-62 (Sept. 17, 2014), *available at* <https://www.federalregister.gov/articles/2014/09/17/2014-21679/separate-representation-for-custody-and-bond-proceedings>.

²⁷ STUDY GRP. ON IMMIGRANT REPRESENTATION, ACCESSING JUSTICE 11 (2011), *available at* http://www.cardozolawreview.com/content/denovo/NYIRS_Report.pdf.

²⁸ 8 U.S.C. § 1229b.

²⁹ *See supra* Part I.2.

³⁰ The REAL ID Act heightened the evidentiary standards asylum applicants must meet. Pub. L. No. 109-13, § 101(a)(3), 119 Stat. 231, 302; *see also* 8 U.S.C. § 1158(b)(allowing immigration judges to require asylum applicants to provide evidence to corroborate their testimony under specified circumstances).

³¹ STUDY GRP. ON IMMIGRANT REPRESENTATION, *supra* note 27, at 3.

³² *See* 8 U.S.C. § 1226(a) (providing authority to detain potentially any noncitizen).

³³ *See id.* § 1226(c)(2).

³⁴ *See Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring) (holding that detention of noncitizens may be continued for an indeterminate length of time so long as it is not “unreasonable” or “unjustified”).

³⁵ *Notice to Friends and Families of New York State Inmates*, VALUE-ADDED COMMUNICATIONS, <http://www.myvconnect.com/NY.aspx> (last visited Dec. 16, 2014); Megan Harris, *Prison Phone Cost to Drop 70% in Pa.*, TRIBLIVE NEWS (Nov. 26, 2014, 10:01 PM).

³⁶ Salem Cnty. and Securus Techs., Contract for Master Services Agreement, A004213, at ¶ II.D (Nov. 16, 2011) (on file with author).

³⁷ Cape May Cnty. and Securus Techs., Agreement, CC # 58-13 (Mar. 26, 2013) (on file with author).

³⁸ *Id.*