



Out of Sight: The Growth of Jails in Rural America



Jacob Kang-Brown and Ram Subramanian

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From the Director

America's 3,283 local jails are the “front door” to mass incarceration. But for too long, county jail systems have operated and grown outside of public view. Vera developed the *Incarceration Trends* data tool so that Americans could have access to information showing just how large their jails have grown, and who is held inside. Our latest analysis of this data reveals an unexpected and—for many—an unintuitive finding: there has been a dramatic shift in the geography of incarceration.

During the past decade, the use of jails has *declined* sharply in urban areas while it has *grown* ever-higher in rural areas. Mass incarceration affects cities and towns of every size—and the most outsized jails are now in the least populous areas. It is not surprising this phenomenon has gone undetected; scholarship, advocacy, and media tend to focus on big cities.

Rural counties have been out of sight and out of mind in much of America. We saw this plainly in the last election. Their burgeoning jails are a window into the pain in those places, and a symptom of the challenges many of them confront—such as shrinking economies, deteriorating public health, negligible services and pervasive addiction. In fact, the 2,623 primarily small and rural counties that chose Donald Trump in the 2016 election have more people in their jails and a higher jail incarceration rate than the 489 counties that preferred Hillary Clinton. As this report shows, these rural places are playing a growing and outsized role in driving incarceration.

The new rurality of jails is also changing the face of who is in America's jails. During the past decade, the rising number of women in jail has been fueled by

small counties, rather than urban counties—where the number of jailed women has declined. And the rising rate of white incarceration in America's jails has also been driven by these small counties. The white and black jail populations have both declined in urban counties.

The rise of jails in small counties has profound consequences for criminal justice reform. While it may not seem like a matter of national significance when a single jail expands from, say, 100 beds to 200, these numbers add up quickly when multiplied over thousands of counties. Consequently, it is mathematically impossible to end mass incarceration if the jail populations in small towns do not take the same downward trajectory as big cities. And our collective blind spot to the causes of rural incarceration has profound implications for any endeavor that aims to end mass incarceration.

I hope that this report—released by Vera and the John D. and Catherine T. MacArthur Foundation's Safety and Justice Challenge—sheds further light on the growth of jails in the places where it is probably least expected; and, in doing so, sparks a new dialogue on how to best address the particular needs of rural counties seeking to reduce the number of people they incarcerate.



Christian Henrichson
Research Director,
Center on Sentencing and Corrections
Vera Institute of Justice

About this report

This report is one of a series that the Vera Institute of Justice (Vera) is releasing with the Safety and Justice Challenge—the John D. and Catherine T. MacArthur Foundation’s initiative to reduce over-incarceration by changing the way America thinks about and uses jails. The initiative is supporting a network of competitively selected local jurisdictions committed to finding ways to safely reduce jail incarceration. Other publications in the series to date include *Incarceration’s Front Door: The Misuse of Jails in America*, *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration*, and *Overlooked: Women and Jails in an Era of Reform*, as well as a multimedia storytelling project, *The Human Toll of Jail*.

Through the Safety and Justice Challenge, our own office in New Orleans, and direct partnerships with jurisdictions nationwide, Vera is providing expert information and technical assistance to support local efforts to stem the flow of people into jail, including using alternatives to arrest and prosecution for minor offenses, recalibrating the use of bail, and addressing fines and fees that also trap people in jail. For more information about Vera’s work to reduce the use of jails, contact Nancy Fishman, project director at Vera’s Center on Sentencing and Corrections, at nfishman@vera.org. For more information about the Safety and Justice Challenge, visit www.safetyandjusticechallenge.org.

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Introduction

As concern in the United States has grown over the number of people behind bars, policymakers and the public are turning their attention to addressing the decades-long growth in the number of people held in the country's more than 3,000 locally run jails—county or municipal detention facilities that primarily house people who have been charged but not yet convicted of a crime (known as the “pretrial” population), and those sentenced to a short term of incarceration, usually under a year.¹ With local jail populations swelling from 157,000 on any given day in 1970 to over 700,000 people in 2015, there are now an astronomical number of jail admissions annually—nearly 11 million—prompting many to question whether local jails have grown too large, and at too high a cost for the communities they serve.² This has in turn focused efforts among policymakers and the public to better understand and reform the size, scope, and distribution of local incarceration.³

In contribution to this effort, the Vera Institute of Justice (Vera) developed the Incarceration Trends data tool in 2015 to better understand how jails have grown in every U.S. county. (See “The *Incarceration Trends* data tool sources and units of analysis” on page 8.) In an initial analysis, Vera researchers found that small counties, defined as counties with fewer than 250,000 people, have driven overall jail growth since 1970, despite the conventional perception that this has been exclusively a phenomenon of large cities.⁴ In fact, jails have actually grown the least in large counties (the approximately 40 counties with more than one million residents).⁵ To further understand the contours of jail growth, Vera researchers turned once again to its data tool to study the newly released 2013 Census of Jails from the Bureau of Justice Statistics and conducted an updated historical analysis of jail population trends to examine two specific drivers of local incarceration: 1) changes in the number of people held in pretrial detention; and 2) changes in the number of people who are held for another authority. Vera researchers also looked at the degree to which these trends are different along the urban-rural axis, as well as between U.S. regions—the Northeast, Midwest, South, and West.

As this report will enumerate, it is not simply small counties that have increasingly been the locus of rising local incarceration rates, but rural areas—nonmetropolitan areas defined by low population and distance from major population centers. This is despite rural counties' substantially lower crime rates in comparison to urban areas.⁶ There appear to be two underlying trends. First, as overall rates of pretrial detention have risen nationally, the highest rates now feature most prominently in rural counties across all regions of the country—increasing 436 percent between 1970 and 2013. Second, an escalating number of rural jails—mainly in the South and West—are renting out jail beds to hold people for federal, state, and other local governments. In some cases, jails are even building new capacity unrelated to crime levels in their own jurisdictions to meet jail-bed demands of other agencies.⁷ Although the reasons for these two trends are likely numerous, this report explores one possible root: few resources in rural areas. Given that the distribution of scarce state and county resources is likely uneven—favoring those areas with more people—access to critical criminal justice and community services may be spread thin the further away a place is from the various population clusters in a state or county. This means there may be fewer judges to quickly hear cases, less robust pretrial services, and fewer diversion programs available to decrease jail use.

Given growing efforts across the country to reduce jail incarceration, these findings highlight a need to include smaller counties, especially rural areas—which constitute two-thirds of all U.S. counties—in jail reduction efforts.⁸ While this report explores some of the factors that may explain the growing rurality of jail incarceration, further empirical investigations are needed to fully understand, and thus remedy, this trend. Since there is likely much variation in jail population drivers, and thus variety in local incarceration trends even among small and rural counties, parsing out distinctions among them will be vital in helping smaller jurisdictions formulate solutions that can be appropriately tailored to their specific circumstances.

The Incarceration Trends data tool sources and units of analysis

The *Incarceration Trends* data tool—available at trends.vera.org—collates and visualizes publicly available, but disparately located, data about jail incarceration so that it can be used to explore how each county’s jail is being used and how it compares with others over time.

Jail population data

The tool collates jail population data from the Bureau of Justice Statistics Annual Survey of Jails (SOJ) and Census of Jails (COJ). The SOJ has been fielded 25 times between 1985 and 2014 and captures data for a sample of a few hundred jails; in 2014, the sample was approximately 800 counties, which included the 250 largest jails, and a stratified sample of the remaining counties. The COJ captures data for nearly all counties and has been fielded 10 times: in 1970, 1972, 1978, 1983, 1988, 1993, 1999, 2005, 2006, and in 2013.^a

Note that comparisons across jurisdictions are complicated by the fact that jails are used differently from place to place. For example, some jails only hold pretrial detainees, while others hold a large proportion of sentenced individuals as a result of differences in state sentencing laws and local practice. Jails also hold a smaller number of other people, including: people held for state or federal authorities, people who have violated their terms of supervision in the community while awaiting a hearing, and state prisoners transferred to local jurisdictions for court hearings. Consequently, an “apples to apples” comparison of jail populations may only be possible by examining the number of people in the jail that are held pretrial—the population that all jails hold.

Incarceration rate

The tool calculates incarceration rates using the county population collected by the U.S. Census Bureau. To get a more accurate picture of incarceration rates, people under the age of 15 and over 64 were removed from the general population since these groups are at very low risk of jail incarceration. Also, because the proportion of these groups varies greatly by county—less than 50 percent in some counties to over 75 percent in others—keeping them in would skew rates and make comparisons between counties difficult. Note that this method differs from most other calculations of statewide and national incarceration rates, which use either the total resident population or the population aged 18 and older.

Urban-rural classification

Vera’s analysis of the urban-rural continuum collapses the six categories defined by the National Center for Health Statistics (NCHS) *Urban-Rural Classification Scheme for Counties* to four, by combining medium with small metropolitan areas, and micropolitan (an urban area with a population of at least 10,000 but less than 50,000) with noncore areas (all other areas not considered metropolitan or micropolitan).^b Vera counts the latter as “rural.” A county is labeled “urban” if it is one of the core counties of a metropolitan area with a million or more people, and a county is labeled “suburban” if it is within that surrounding metropolitan area. Rural areas are the most numerous category, with more than 1,900 counties.

Population and jail statistics for urban-rural counties (2013)

		# of counties	Millions of residents	% of population	People in jail	% of jail population
Large metro (Urban)		62	95	31%	203,143	27%
Large metro (Suburban)		361	77	25%	148,674	20%
Medium and small metro		715	91	29%	242,184	33%
Rural areas		1,936	45	15%	145,341	20%
Total		3,074	308	100%	739,342	100%

Note: Excludes county data for six states (Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont) that do not have local jails because there is a “unified” state prison-jail corrections system.

^a For more details on sources, see Jacob Kang-Brown, *Incarceration Trends: Data and Methods for Historical Jail Populations in U.S. Counties, 1970-2014* (New York: Vera Institute of Justice, 2015).

^b See D.D. Ingram and S.J. Franco, “2013 NCHS Urban-Rural Classification Scheme for Counties,” *Vital Health Statistics 2*, no.166 (Hyattsville, MD: U.S. Department of Health and Human Services, 2014), 14 and Table 2, <https://perma.cc/J434-9NJ4>.

The growing rurality of jail incarceration: A snapshot of findings

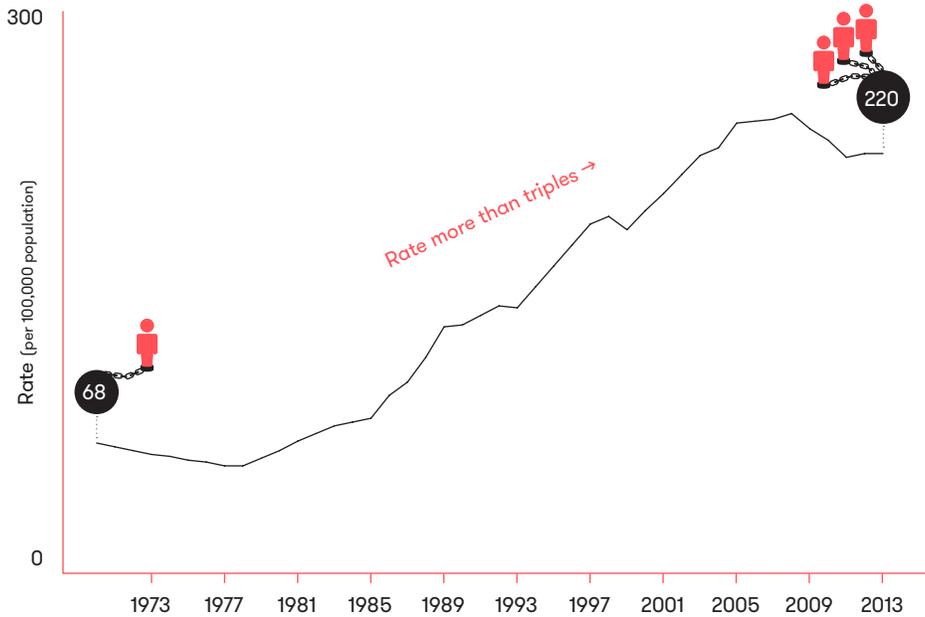
Stories abound about the harms perpetrated by jail incarceration.⁹ Increasingly, there are also encouraging ones about places that are beginning to reduce their use of jails.¹⁰ But many of these stories focus on larger counties and big population centers—which might suggest that the issues surrounding jail growth are exclusively urban in phenomenon.¹¹ This is not surprising, given that jail systems in many large cities—such as Houston, Los Angeles, and New York—hold populations that rival the size of many state prison systems.¹² But the data shows that the jail incarceration rate in large cities is now actually *lower* than in most other counties, often because of deliberate efforts by big cities in every region of the country to reduce the size of their jails.¹³ On the other hand, data indicates that many smaller jurisdictions—from the most rural, to small towns and cities—have been moving in the opposite direction.¹⁴ This section digs into this finding further, looking at how the pretrial and non-local jail populations have specifically changed in rural areas.

Mounting use of pretrial detention

Since 1970, the number of people held pretrial nationally grew more than five-fold—from 82,900 people in 1970 to 462,000 in 2013—more than tripling the nationwide pretrial detention rate from 68 per 100,000 people to 220 per 100,000.¹⁵ (See Figure 1.) (Note that the incarceration rates throughout this report are per 100,000 county residents ages 15 to 64; see “The *Incarceration Trends* data tool sources and units of analysis” on page 8 for more detail.) Although prior to 1993, people held pretrial comprised approximately half of people detained in jail, they now make up nearly two-thirds of the jail population. (See Figure 2.) What may be surprising—given the high visibility of prisons in common

Figure 1

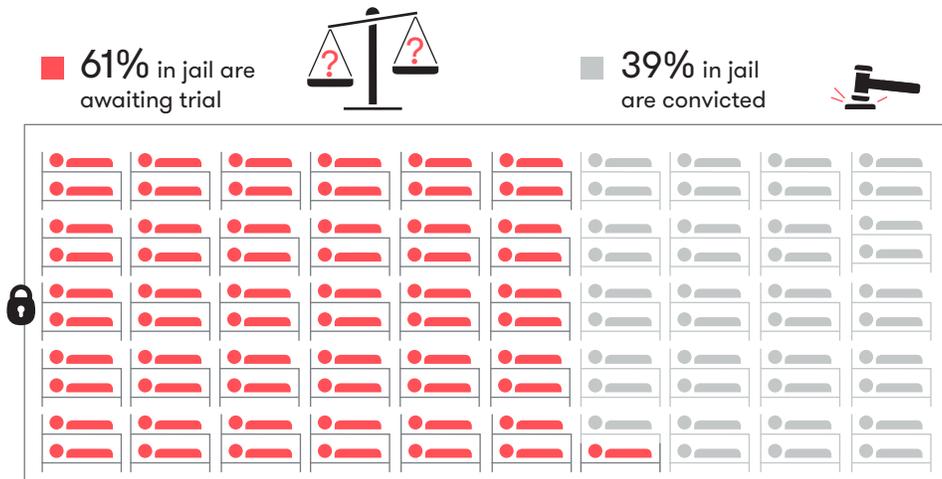
National pretrial incarceration rate



understandings about mass incarceration—is that this increase in the number of people held pretrial in county jails has far outpaced that of the number held in prisons, with the pretrial population registering a 470 percent increase over the last four decades, compared to a 370 percent

Figure 2

Jail populations are mostly pretrial



increase in the number of people held in state and federal prisons. Pretrial incarceration rates in jails have continued to rise over the past 10 years, while state prison populations have been on the decline in the wake of changes to sentencing and release practices and other reforms.¹⁶

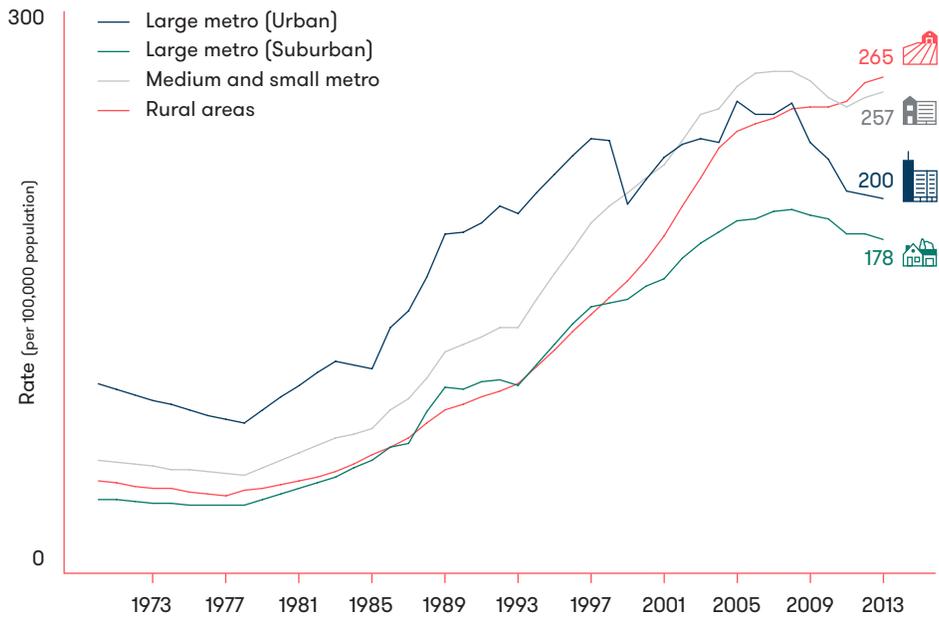
*Pretrial incarceration rates grew the most
in America's 1,936 rural counties.*

Although the overall story is one of growth, this trend is neither uniform across time nor across different geographic areas. Despite the misperception that the growth in pretrial detention—like that of overall jail population growth—is the domain of cities, Vera's analysis found that while this had long been true, urban pretrial populations began to level off in the new millennium (as in Oakland and San Francisco) or decline (as in Atlanta and New York City). These changes drove recent national declines in overall jail population. Since 2008, urban pretrial detention rates declined even further, reaching levels of their suburban neighbors—places that have historically been known for their lower crime and incarceration rates.¹⁷ For example, the pretrial incarceration rate is now nearly the same in New York City (144 per 100,000) as in Westchester County (140 per 100,000); Los Angeles (148 per 100,000) as in Orange County (188 per 100,000), and San Francisco (136 per 100,000) as in Marin County (144 per 100,000).

In contrast, between 1970 and 2013, the proportion of pretrial detainees outside of major metropolitan areas grew from 37 to 51 percent. For example, pretrial detention continued to climb in many medium and small municipalities (such as Iberia Parish, Louisiana, with under 75,000 people) and rural counties (such as Cherokee County, Alabama, and Rowan County, Kentucky, both with populations under 27,000). In fact, pretrial

Figure 3

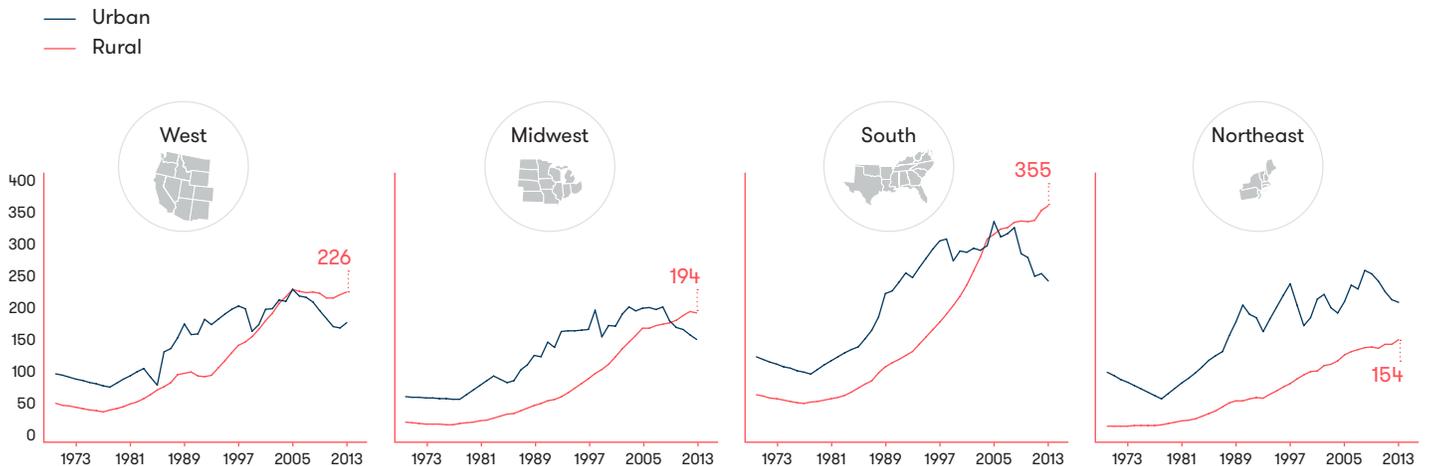
Pretrial incarceration by urban-rural counties



incarceration rates grew the most in America's 1,936 rural counties, from 49 per 100,000 people in 1970, to 265 per 100,000 people in 2013—a 436 percent increase. Currently, as demonstrated in Figure 3, the nationwide rural rate for pretrial detention is higher than that of urban and suburban areas (200 per 100,000 and 178 per 100,000, respectively).

Figure 4

Pretrial incarceration rate by region



Looking at differences between regions, Vera's analysis found that the South and West register the overall highest pretrial detention rates (at 281 and 198 per 100,000, respectively) compared to the Northeast and Midwest (at 177 and 170 per 100,000, respectively). These differences in rates are most acute in rural areas of the South and West, which record the highest pretrial incarceration rates at 335 and 226 per 100,000, respectively. Even so, rural areas in *all regions* experienced steep growth between 1970 and 2013—even those in states with historically low use of pretrial detention. Rural pretrial rates in both the Northeast and Midwest grew more than fivefold, from 24 to 154 per 100,000, and from 30 to 194 per 100,000, respectively. (See Figure 4.)

The expanding jail-bed market

At the same time as this growth in pretrial populations, the number of people held in local jails for federal, state, and other local law enforcement and corrections agencies also increased. In the 1970s, most jails held only people arrested by local law enforcement or sentenced on local charges—with more than half of U.S. counties in 1978 reporting that they held no people for other authorities. However, Vera's analysis reveals that the opposite holds true today. By 2013, nearly eight out of 10 jails—84

Race, gender, and the changing geography of jail incarceration

The composition of the aggregate U.S. jail population is changing, in part due to the different trajectories of jail incarceration between smaller counties and urban areas.

Smaller counties, including rural ones, have been the locus of the rising local incarceration of women: between 2004 and 2014, the number of women in jail increased 43 percent in rural counties and 29 percent in small and medium metropolitan counties, while it declined 6 percent in urban counties.^a

At the same time, the number of white people in jail grew the steepest in rural counties. Between 2004 and 2014, the number of white people in jail increased 19 percent in rural

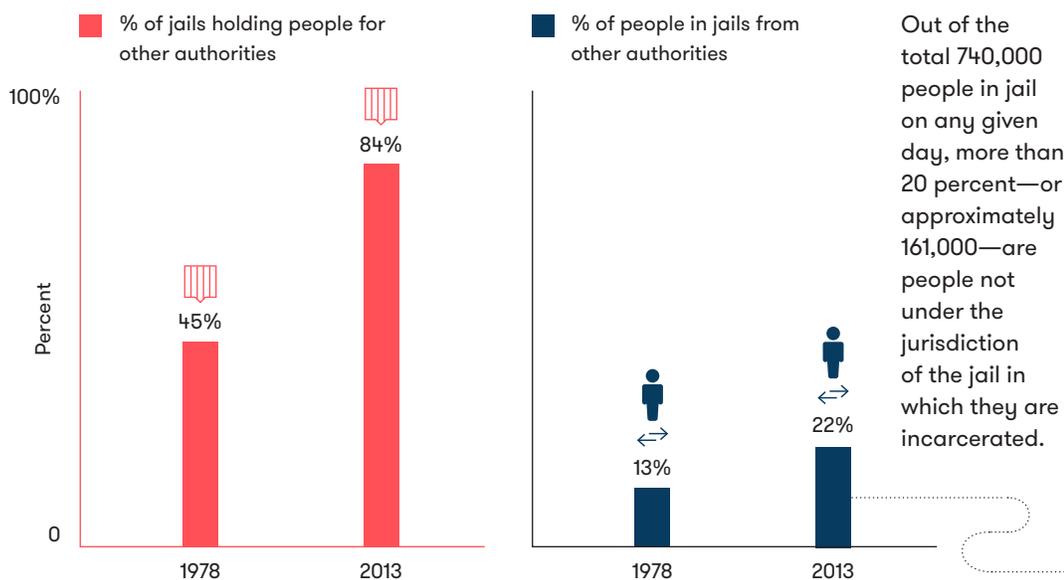
counties and 15 percent in small and medium metros, while it *declined* 15 percent in urban counties. Meanwhile, although the number of black people in rural jails also increased, it did so at a slower rate than the number of white people—7 percent—and only increased by 1 percent in small and medium metros. Significantly, the black jail population declined 26 percent in urban counties, driving an overall decline in the aggregate jail incarceration rate of black people, from 1138 to 899 per 100,000.^b

^a Vera analysis of Bureau of Justice Statistics jail data.

^b *Ibid.* Vera will be releasing a full analysis of race data for jails in a forthcoming report.

Figure 5

The expanding local jail market



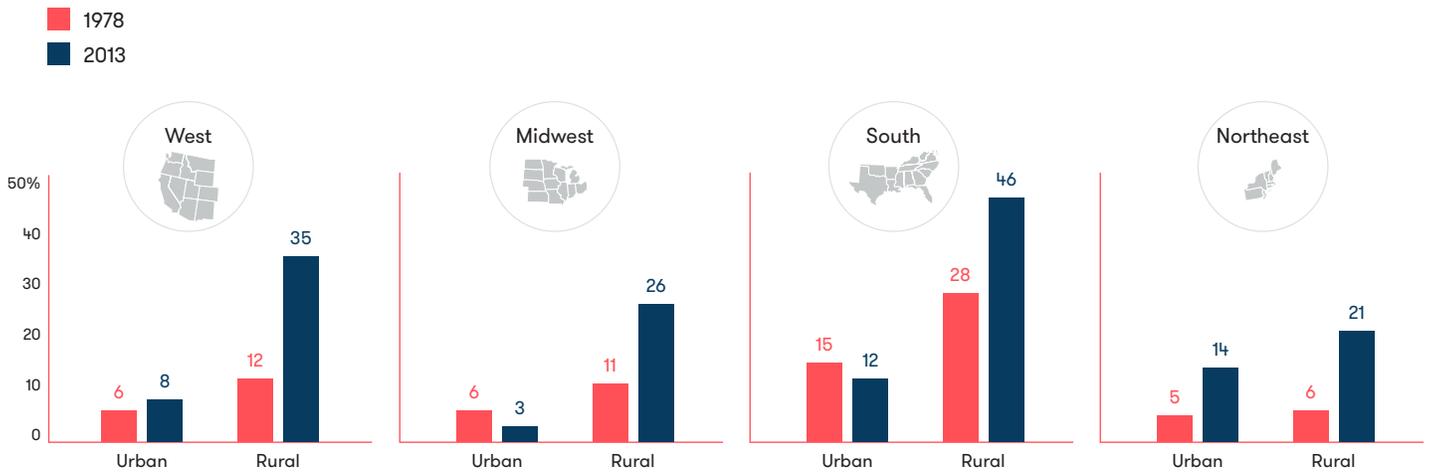
percent—held some people, either pretrial or sentenced, for other county jails, state prisons, or federal authorities like the Federal Marshals, the Bureau of Prisons, or Immigration and Customs Enforcement (ICE). (See Figure 5.) All told, out of the total 740,000 people in jail on any given day, more than 20 percent—or approximately 161,000—are people not under the jurisdiction of the jail in which they are incarcerated. About half of these people being held under a different jurisdiction are under the authority of a state prison system.

The degree to which this population grew varied across the urban-rural divide and between U.S. regions. Although rates went up everywhere, it was steepest in rural areas across all regions, which collectively saw the rates at which jails held people for other authorities increase 888 percent, from 20 to 196 per 100,000. For comparison, rates in urban areas increased 134 percent. Rates in suburban areas increased 409 percent while small and medium metros increased 486 percent.

Once again, although the Northeast and Midwest have historically had, and continue to have, the lowest overall rates, they also saw the biggest percent increases in the number of people held for other authorities—both increasing sevenfold—a growth trend that was most acute among the regions’ rural jails. However, jails in the South and West still hold more people for other law enforcement or correctional agencies, again with rural areas registering the highest such rates, at 325 and 148 per 100,000,

Figure 6

Percent share of jail held for other authorities



respectively. (See Figure 6.) In 2014, more than 30 percent of people in the jails of 10 states within these regions—Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Montana, New Mexico, Utah, Washington, and West Virginia—were held for other authorities. This trend is largely driven by states using county jails to remediate overcrowding in their respective state prison systems.¹⁸ (See Table 1.) In contrast, growth in the number of people in the Midwest held in rural jails for other authorities has largely been driven by increases in the number of people these jails hold for the federal government and for other county jails. (See Table 2.)

Table 1

Share of 2014 jail population held for other authorities in the South and West



Kentucky		57%	West Virginia		45%
Louisiana		55%	Arkansas		41%
Montana		55%	Idaho		41%
Mississippi		50%	Washington		40%
New Mexico		48%	Utah		37%

Table 2

Number of people held by rural county jails for other authorities

Region		% of total jail population held for all other authorities	Held for the federal government	Held for other local jails	Held for state prisons
Midwest		33%	29%	40%	31%
Northeast		25%	26%	30%	44%
South		57%	18%	21%	61%
West		41%	23%	22%	55%
		Column 1	Share of column 1	Share of column 1	Share of column 1

Understanding rural growth

What explains the growth in rural jail incarceration? There is scant research to draw on to help answer this question. Few researchers have specifically studied issues surrounding rural crime and justice, and fewer still have studied the issues facing rural jails.¹⁹ This is surprising, since rural America encompasses much of the U.S. landmass and holds the greatest number of jail facilities.²⁰ Instead, the vast majority of criminological scholarship (both theoretical and empirical) focuses on urban areas, the findings of which are sometimes mistakenly generalized to rural areas.²¹ This may lead to an assumption that criminal justice policies, programs, and responses studied and developed for urban constituencies will also work everywhere else.²²

In addition, while there is a temptation to look to increasing crime to explain rural jail growth, these trends do not, in fact, track a rise in overall crime rates. Between 2005 and 2014, all areas, including rural areas, saw

significant declines in victimization.²³ Nationwide, crime rates are down in all offense categories—and are low by historical standards—which has resulted in concomitant declines in criminal arrests.²⁴ Moreover, crime rates are substantially lower in rural versus urban counties. Rural counties have property crime rates that are three-quarters, and violent crime rates that are two-thirds, that of urban areas.²⁵

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Rather, as is the case with their urban counterparts, there is likely no single, simple answer that can explain rural jail growth. Jail population growth is a result of many decisions made by multiple system actors, including

- > law enforcement who choose to arrest, release, or book people into jail;
- > prosecutors who determine whether and how to charge, or whether to divert people from prosecution;
- > judges, magistrates, or bail commissioners who decide to detain or release people pretrial, and under what conditions; and
- > jail administrators or county politicians who decide to enter contracts with other authorities to board in people from outside their jurisdiction (or board out people to other jurisdictions).²⁶

Moreover, the complex interface among these actors—and the overlapping sets of discretionary decisions for which they are responsible—will invariably be county-specific, meaning that rural jail use will vary substantially even between rural counties within the same state, despite the fact that the same criminal statutes and court rules of procedure apply.

Given that rural jails—and the jurisdictions that they serve—are systematically understudied, further research will be required to examine how practices at each phase of the criminal justice process—arrest, charge, bail and pretrial release, case processing, or sentencing and disposition—drive rural jail growth in a particular locality, state, or region. However, there is an existing, if small, body of research that reinforces two persistent and interrelated planks that may begin to explain rural jail growth: 1) systemically fewer resources that discourage the use of detention alternatives; and 2) increasing financial incentives that, conversely, encourage expanded jail capacity.

Fewer resources, fewer alternatives

In part because of their limited tax base, rural counties often struggle to provide many services—such as education or healthcare—as well as fund and deliver justice, including recruiting key justice personnel and providing even the most basic criminal justice services necessary to process criminal cases through the system.²⁷ Compounding this problem are spatially dispersed populations that can make justice delivery difficult—which includes everything from the court machinery that keeps the judicial process running, to the availability of civil and criminal legal representation, to the investigative work of the police and prosecution. In addition, sparse populations can make it challenging to achieve economies of scale, which can improve the quality of, or access to, these critical justice services.²⁸ Fewer justice system resources can result in many challenges, some of which are discussed below.

Too few criminal justice personnel

Many rural counties lack skilled practitioners—judges, prosecutors, investigators, public defenders, and court administrators—to run or

oversee the basic functions of a local criminal justice system, posing serious operational challenges.²⁹ Some rural counties, for example, may only hold court hearings during business hours, while others—such as certain nonmetropolitan counties in Georgia, Montana, Oklahoma, Nevada, and Utah—rely on circuit judges who cover multiple districts and sometimes can only convene district court a few times per month or per year in any one area.³⁰ In contrast, Manhattan’s arraignment courts, for example, are open for sessions from early morning until 1:00 am, every day of the week.³¹ Unsurprisingly, limited court days can result in fewer opportunities to hold court proceedings, such as initial appearances and bail hearings, arraignments, evidentiary hearings, bail reviews, trials, plea colloquies, or sentencing hearings.³² The distances that the few available personnel are often required to travel further frustrate case flow and efficient court operations, extending case processing times, despite comparatively lower overall caseload numbers.³³ In combination, these factors can inadvertently increase the jail population: Fewer bail hearings, for example, can mean less-than-timely bail determination, and longer times in custody between arrest and initial court appearance. Even in those places, such as Montana, that attempt to fill vacancies on lower courts by elected non-lawyer judges to ensure swifter local justice for its sparsely populated, less traveled areas, the risk of jail incarceration is heightened.³⁴ Non-lawyer judges with minimal legal training may not fully understand complex rules of criminal procedure.

Few pretrial services programs

Although many jurisdictions have pretrial services programs that assist in making individualized assessments to determine whether someone is likely to stay out of trouble and show up to court if released, resource-scarce counties may not readily have a risk assessment tool or staff trained to administer it.³⁵ Of those small jurisdictions that do have a risk assessment tool, it is unlikely that its accuracy has been specifically validated to ensure its utility through testing on rural populations—or indeed, the specific population of the rural county using the tool—since to do so would require a significant investment of time and money.³⁶ Alternatively, some rural counties may use an abbreviated tool that assesses only “static” factors—such as age or criminal history—because such tools can be

administered quickly and inexpensively, but do not account for the full spectrum of pretrial risk or needs (which may include things such as mental illness or substance use issues).³⁷ Either way, using such tools can result in weak or imprecise assessments that could inadvertently favor detention over release.³⁸ This may be especially so in cases where pretrial supervision is required—a release option in which a court monitors defendants' whereabouts, reminds them of their court dates and, where deemed appropriate, supervises their participation in treatment or other types of programming. The county or counties served by a pretrial supervision program may span a large geographical area, which could make it difficult for people to report for regular supervision appointments or make court appearances. This inability to report as required could increase the likelihood that people may violate their supervision conditions, landing them back in jail and adding to jail growth.³⁹

Lack of diversion programs

Although diversion is a widely accepted mechanism to screen certain people out of the criminal justice system—especially those who are deemed to pose minimal risk or those with special needs, such as mental illness—many small jurisdictions lack the infrastructure or means to support formal diversion programs. This may simply be due to the absence of policy or lack of appropriate training.⁴⁰ It may also be attributed to a lack (or the inaccessibility) of vital referral services in the community—and particularly trained specialists—that can address needs among people who come into contact with the criminal justice system, including those with mental illness or substance use issues or people who are homeless or unemployed.⁴¹ This leaves courts with fewer community-based services with which to partner when localities attempt to design a detention alternative or fashion appropriate conditions of release. Sometimes, this results in rural jails acting as a default response mechanism in the absence of appropriate local placements.⁴² Although some rural areas may have adopted certain types of diversion programs—for example, special dockets that target veterans or people with substance use issues—a lack of resources may still result in limited treatment modalities.⁴³ Where partnerships do exist, the distance often required to access community programs may make participation prohibitive.⁴⁴

Financial incentives to grow jails

Meanwhile, some smaller jurisdictions—and in particular rural ones—have increasingly become intertwined in a growing market for jail beds, in part to help alleviate local financial pressures or fill budget gaps.⁴⁵ Demands from other systems—overcrowded federal and state prison systems, neighboring county jails, and the federal immigration detention system—have propelled an ever-expanding need for jail beds, providing counties with additional income streams through per-diem payments for each person they board in from other systems.⁴⁶ Such payments—which can run anywhere from \$25 to \$169 per person—are negotiated between the agencies buying and selling jail beds, and can add up to substantial revenue for cash-strapped rural jurisdictions, because many out-of-county boarders often stay for long periods of time. This is especially true for people who are serving multi-year state sentences, or undocumented immigrants who are fighting deportation orders and awaiting formal adjudication in an overworked and underresourced immigration court system.⁴⁷

In order to maximize this opportunity for revenue, some rural jails have built out capacity far in excess of what they need locally, understanding that the more non-local people housed, the more it and its locality earn.⁴⁸ This has prompted some small jurisdictions, dependent on this source of income, to actively create new beds—expanding facilities or building new ones to meet the needs of other systems.⁴⁹ Some counties, such as those in Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee, have come to rely on a consistent flow of state prisoners or detained undocumented immigrants—and thus money from the state or federal government—to sustain basic system operations, from staff salaries, to patrol cars, to equipment.⁵⁰ Consequently, cooperative agreements with other agencies will likely hold some appeal for jurisdictions of limited resources since per-diem payments can help to keep local jails solvent, particularly when financial help from the state is not consistent or forthcoming.⁵¹

State and federal agencies may also have reason to seek out these agreements. For states that have too many people to fit in their own prison systems, housing people in county jails can sometimes offer a

cheaper alternative to holding them in their own facilities—especially if doing so would require major investments in human capital or on capital improvements, such as building expanded or new facilities, or upgrading a prison’s operational system or its technology.⁵² Likewise, for the federal government, outsourcing the detention of undocumented immigrants to other systems—whether public or private—averts the need for significant financial outlay to better meet its own actual bed-space needs.

Some rural jails have built out capacity far in excess of what they need locally in order to maximize this opportunity for revenue, understanding that the more non-local people housed, the more a locality and its jail earns.

It may seem like boarding inmates for other authorities only has the upside of revenue and jobs for the county. But this practice, in fact, presents two major risks. First, jail expansion injects a glut of capacity that invites the more expansive use of pretrial detention. Second, local taxpayers are on the hook for the cost of an outsized jail should the other agencies that rent jail beds curtail their use of the jail, and thus their payments as well. For example, in Grant County, Kentucky, both of these risks have become a reality. In the late 1990s, the county expanded its jail from 28 to 300 beds. As soon as the jail expanded, the use of pretrial detention quadrupled, from a population of less than 20 to more than 80. Prior to expanding the jail, the pretrial incarceration rate in Grant County

was 23 percent below the state average; by 2011, it was 78 percent above the state average. More recently, in the wake of a finding from the U.S. Department of Justice that the constitutional rights of incarcerated people were violated because guards failed to adequately protect them from assaults, the Kentucky state prison system moved the hundreds of people they had boarded in Grant County, leaving local taxpayers with the bill to pay the construction debt on a facility that is far larger than is necessary.⁵³

The need for additional contracted bed space is unlikely to dissipate since the pace of immigration enforcement has increased under the Trump administration—especially as it encourages more localities to participate in a number of federal programs, initiatives, and cooperative agreements designed to affirmatively maximize the immigration-enforcement potential of local justice systems.⁵⁴

Conclusion

Although most rural jails are very small, jail growth multiplied across nearly 2,000 rural counties adds up, making rural jail growth an integral component to understanding mass incarceration.⁵⁵ Yet the issue of jail growth in rural areas has received scant attention. Despite observed growth in rural jail populations, relatively little is known about the inner workings of rural criminal justice systems and, specifically, how rural jails operate—their characteristics, the challenges they face, and the opportunities that exist for reform. Indeed, no robust body of well-crafted jail reduction reforms and practices that are tailored for rural areas exists, simply because cities continue to be the focal point of both academic inquiry and policymaking. As a result, rural jails remain hidden in the vast penumbra beyond a state's population core, their perspectives and needs left largely uncharted.

While rural counties may face jail population drivers similar to those of their larger counterparts—for example, inconsistent or inappropriate use of pretrial risk assessment tools, insufficient provision of indigent

defense services, or the need to fill surplus beds to counteract financial distress—these problems are likely aggravated by rural uniqueness and associated disadvantages that give rise to very real differences in degree of development, types of investments, and opportunities for change.⁵⁶ Moreover, of the 250 poorest counties, 213 of them are rural, representing locations with the most acute needs across the board.⁵⁷ Put together, these factors can result in important distinctions in criminal justice delivery between urban and rural systems. As this report discusses, rural

Jail growth multiplied across nearly 2,000 rural counties adds up, making rural jail growth an integral component to understanding mass incarceration.

economies face human capital and broader economic challenges that likely impact the development of justice system services—like pretrial services to better assess risk and needs, diversion to substance use treatment programs, or other alternatives to incarceration. Also, geographic isolation and rural spatiality loom large, and can hamper a rural county's ability to deliver justice efficiently—from the remote location of courts and their limited hours of operation, to the limited availability of public defender services. All of this can work to produce increased levels of detention and incarceration in rural jails.

If rural counties are to safely reduce their jail populations, then deliberate data-driven research of, and policy development for, rural jails is critical. And as rural areas identify more jail reduction policies and practices that are better designed to meet their needs, there will likely be an urgent need to further assist these areas—by generating improved and consistent

support for training, equipment, and services, as well as better connecting rural counties with other local, state, or federal criminal justice systems, networks, and resources. Equipped with such evidence-based models and a network of support, rural counties can begin to craft solutions to the issue of jail growth and address their role in mass incarceration.

ENDNOTES

- 1 For example, see MacArthur Foundation, “20 Diverse Communities Receive MacArthur Support to Reduce Jail Populations, Improve Local Systems, and Model Reforms for the Nation,” press release (Chicago: MacArthur Foundation, April 12, 2016).
- 2 The 1970 jail population data is derived from a Vera Institute of Justice analysis of the Bureau of Justice Statistics *Census of Jails and Annual Survey of Jails*. For 2015 jail population data, see Todd D. Minton and Zhen Zeng, *Jail Inmates in 2015* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2016), 3. For jail admissions data, see *ibid.* at 8.
- 3 For example, see Marie VanNostrand, *New Jersey Jail Population Analysis: Identifying Opportunities to Safely and Responsibly Reduce Jail Population* (Trenton, NJ: Drug Policy Alliance, 2013); and Rod Miller and Becky Ney, *Technical Assistance Report for the Maine Board of Corrections* (Washington, DC: National Institute of Corrections, 2012), <https://perma.cc/P554-E2AT>; also see note 1.
- 4 Ram Subramanian, Christian Henrichson, and Jacob Kang-Brown, *In Our Own Backyard: Confronting Growth and Disparities in American Jails* (New York: Vera Institute of Justice, 2015), 8.
- 5 *Ibid.*
- 6 For the decline in crime rates, see Matthew Friedman, Ames Grawert, and James Cullen, *Crime Trends: 1990-2016*, (New York: Brennan Center for Justice, 2017), 2-3, <https://perma.cc/Y4EJ-EZR7>. For the decline in arrest rates, see Howard N. Snyder, *Arrest in the United States, 1990-2010* (Washington, DC: Bureau of Justice Statistics, 2012), <https://perma.cc/44A6-VYPU> (arrests declined in all major crime areas except drug possession and use).
- 7 Rick Ruddell and G. Larry Mays, “Trouble in the Heartland: Challenges Confronting Rural Jails,” *International Journal of Rural Criminology* 1, no. 1 (2011) 120; Rick Ruddell and G. Larry Mays, “Expand or Expire: Jails in Rural America,” *Corrections Compendium* 31, no. 6 (2006) 6-7; Ralph A. Weisheit, L. Edward Wells, and David N. Falcone, “Crime and Policing in Rural and Small-Town America: An Overview of the Issues,” (Washington, DC: National Institute of Justice, 1995), <https://perma.cc/D5N7-NA3F>.
- 8 For information about those efforts, see note 1.
- 9 For example there is a large body of work devoted to documenting the harms of life on Rikers Island—New York City’s main jail complex. These include a 2014 essay in *The New Yorker* that tells the story of one young man, Kalief Browder, who spent three years in jail, insisting on his innocence, before the Bronx district attorney dismissed the charges against him. See Jennifer Gonnerman, “Before the Law: A boy was accused of taking a backpack. The courts took the next three years of his life,” *The New Yorker*, October 6, 2014, <https://perma.cc/AMJ3-57QR>. Also see Dana Goldstein, Simone Weichselbaum, Christie Thompson, Eli Hager, Beth Schwartzapfel, Maurice Chammah, Alysia Santo, and Nick Tabor, “Inside Riker’s Island, Through the Eyes of the People Who Live and Work There,” *New York Magazine*, June 28, 2015, <https://perma.cc/9MGS-9VDK>; Michael Winerip and Michael Schwartz, “For Mentally Ill Inmates at Rikers Island, A Cycle of Jail and Hospitals,” *The New York Times*, April 10, 2015, <https://www.nytimes.com/2015/04/12/nyregion/for-mentally-ill-inmates-at-rikers-a-cycle-of-jail-and-hospitals.html>; and Michael Winerip and Michael Schwartz, “Even as Many Eyes Watch, Brutality at Rikers Island Persists,” *The New York Times*, February, 21, 2015, <https://www.nytimes.com/2015/02/22/nyregion/even-as-many-eyes-watch-brutality-at-rikers-island-persists.html>.
- 10 For example, see Michaelangelo Conte, “Here’s How Much the Hudson County Jail Population Has Dropped Since Bail Reform Law,” *The Jersey Journal*, April 7, 2017, <https://perma.cc/9WDX-RTCM>. Also see Abby Sewell, “Sentence Reduction Law Sparks Sharp Drop in L.A. County Jail Crowding,” *Los Angeles Times*, January 7, 2015, <https://perma.cc/U3CF-TYBX>; and Soyoung Kim, “Albuquerque’s Jail Population Drops to Lowest Levels Since It Was Built,” *KRQE News 13*, February 24, 2017, <http://krqe.com/2017/02/24/albuquerque-jail-population-drops-to-lowest-levels-since-it-was-built/>.
- 11 See note 9.
- 12 For example, on any given day, the Los Angeles County jail system holds approximately 17,900 people. See Jim McDonnell, “Custody Division – Year End Review 2015” (Los Angeles: Los Angeles County Sheriff’s Department, 2016), 2. New York City’s jail system has an average daily population of 9,589. See *NYC Department of Correction At A Glance: Information through first nine months of FY 2017*, <https://perma.cc/W42J-5545>. Harris County (Houston) has an average daily population of 8,592. See *Harris County - Jail Population: November 2015 Report* (Houston: Harris County Office of Criminal Justice Coordination, 2015), <https://perma.cc/NGX6-Q4HX>. Compare this with 16 states—Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming—that have state prison populations under 8,500 people. Iowa, Kansas, Massachusetts, and Minnesota have prison populations between 8,500 and 11,000, while Arkansas, Connecticut, Mississippi, Nevada, Oregon, and Washington all have prison populations that fall between 11,000 and 18,800. See E. Ann Carson and Elizabeth Anderson, *Prisoners in 2015* (Washington, DC: Bureau of Justice Statistics, 2016), 5.
- 13 For data regarding declines in big cities, see each county’s profile using the *Incarceration Trends* data tool, at trends.vera.org. For the reasons for these declines, see note 10.
- 14 For the finding that jail populations in smaller jurisdictions are growing, see Subramanian, Henrichson, and Kang-Brown, 2015, 8.

- 15 This estimate comes from federal and state sources. The Bureau of Justice Statistics estimates that 453,200 people were unconvicted in local jails in midyear 2013. See Todd D. Minton and Zhen Zeng, *Jail Inmates in 2015* (2016), Table 3. Because Minton and Zeng's analysis is of local jails, it does not include people who are held pretrial in the six states with combined prison-jail systems (Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont). Vera includes the roughly "unsentenced" 9,000 people in these state's facilities to estimate the nationwide pretrial population of 462,000. See the *Incarceration Trends* data tool for each county's data, at trends.vera.org.
- 16 See E. Ann Carson and Elizabeth Anderson, *Prisoners in 2015* (2016), 3.
- 17 Elizabeth Kneebone and Steven Raphael, *City and Suburban Crime Trends in Metropolitan America* (Washington, DC: The Brookings Institute, 2011), 4-6, <https://perma.cc/YN6A-H2HB>.
- 18 Outside of the South and West, 37 percent of Iowa's and South Dakota's, and 45 percent of North Dakota's, jail population were people under the jurisdiction of other authorities.
- 19 Some of the extant research on small or rural jails includes Brandon K. Applegate and Alicia H. Sitren, "The Jail and the Community: Comparing Jails in Rural and Urban Contexts," *The Prison Journal*, 88, no. 2 (2008): 252-269; Ken Kerle, "The Rural Jail: Its People, Problems and Solutions," in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds., *Criminal Justice in Rural America* (Washington, DC: National Institute of Justice, 1982), 189; Dennis Kimme et al., *The Nature of New Small Jails: Report and Analysis* (Washington, DC: National Institute of Corrections, 1985); G. Larry Mays and Joel A. Thompson, "Mayberry Revisited: The Characteristics and Operations of America's Small Jails," *Justice Quarterly* 5, no. 3 (1988): 421-440; Natalie R. Ortiz, *County Jails at a Crossroads: An Examination of the Jail Population and Pretrial Release* (Washington, DC: National Association of Counties, 2015), <https://perma.cc/B8H8-E88R>; Andrew J. Pragacz, "Is this What Decarceration Looks Like? Rising Jail Incarceration in Upstate New York," in William Martin and Joshua Price, eds., *After Prisons? Freedom, Decarceration and Justice Disinvestment* (Lanham, MD: Lexington Books, 2016), 99; Melanie M. Race, Anush Yousefian, David Lambert, and David Hartley, *Mental Health Services in Rural Jails* (Portland, ME: Cutler Institute for Health and Social Policy, University of Southern Maine, 2010); Rick Ruddell and G. Larry Mays, "Expand or Expire: Jails in Rural America," *Corrections Compendium* 31, no. 6 (2006): 1-27; Rick Ruddell and G. Larry Mays, "Trouble in the Heartland: Challenges Confronting Rural Jails" (2011): 105-131; Ram Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman, and Peggy McGarry, *Incarceration's Front Door: The Misuse of Jails in America* (New York: Vera Institute of Justice, 2015), <https://perma.cc/NZJ3-5U4D>; Kyle C. Ward and Alida V. Merlo, "Rural Jail Reentry and Mental Health: Identifying Challenges for Offenders and Professionals," *The Prison Journal* 96, no.1 (2016): 27-52; Gary Zajac and Lindsay Kowalski, *An Examination of Pennsylvania Rural County Jails* (Harrisburg, PA: Center for Rural Pennsylvania, 2012), <https://perma.cc/Z5SG-84UB>. Also see Christian Henrichson, Joshua Rinaldi, and Ruth Delaney, *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration* (New York: Vera Institute of Justice, 2015), <https://perma.cc/B357-HAZN>.
- 20 The U.S. Census Bureau (USCB) and the Office of Management and Budget (OMB) define "rural" differently and thus calculate the landmass proportion of rural areas differently. Using the Census definition, 21 percent of the population and 95 percent of the land area is rural. Using the OMB definition, this becomes 17 percent of the population and 73 percent of the land area. For calculations based on the 2010 Census, see Housing Assistance Council, "Rurality in the United States," *Rural Research Brief*, November 2011, <https://perma.cc/NCQ3-LGAB>. For calculations based on the OMB, see Housing Assistance Council, "OMB Reclassification Reduces Outside Metropolitan Area Population By 1.5%," *Rural Policy Note*, May 2013, <https://perma.cc/RD9X-P9D5>. For proportion of counties that are "rural," see "2013 NCHS Urban-Rural Classification Scheme for Counties," 8 and Table 2; Kenneth M. Johnson, "Unpredictable Directions of Rural Population Growth and Migration," in David L. Brown and Louis E. Swanson, eds., *Challenges for Rural America in The Twenty-First Century* (University Park, PA: Penn State University Press, 2003). Rural counties contain approximately 55 percent of jails in the country; Vera Institute of Justice analysis of the 2013 *Census of Jails* (Bureau of Justice Statistics).
- 21 Stephen C. Deller and Melissa A. Deller, "Rural Crime and Social Capital," *Growth and Change* 41, no.1 (2010): 221-275, at 222; Rick Ruddell and G. Larry Mays, "Trouble in the Heartland: Challenges Confronting Rural Jails" (2011), 107-8. Also see Ralph A. Weisheit, L. Edward Wells, and David N. Falcone, "Crime and Policing in Rural and Small-Town America: An Overview of the Issues," (Washington, DC: National Institute of Justice, 1995) <https://perma.cc/D9KZ-2G6A>.
- 22 For a general discussion about urban biases in culture, programs and standards, see Debra Lyn Bassett, "Ruralism," *Iowa Law Review* 88 (2003): 273-342, 292. Bassett notes, for example, that free-standing community mental health centers based on a population catchment area have been applied to rural counties, even though this type of service delivery model works best for urban settings. *Ibid.* at 321-2.
- 23 For the trends in criminal victimization in urban, suburban, and rural areas, see Jennifer Truman and Lynn Langton, *Criminal Victimization, 2014* (Washington, DC: Bureau of Justice Statistics, 2015), 10 and Table 10, <https://perma.cc/4NS6-5MFX>.
- 24 See note 6.
- 25 For a comparison between the FBI Uniform Crime report and the National Crime Victimization Survey, see "Urban and Rural Crime," *National Crime Victims' Rights Week Resource Guide, 2015* (Washington, DC: Office for Victims of Crime), <https://perma.cc/2RD7-EXJ2> (combining data from the FBI's Uniform Crime

Reporting Program and the Bureau of Justice Statistics' National Crime Victimization Survey).

- 26 Robin King Davis, Brandon K. Applegate, Charles W. Otto, Ray Surette, and Bernard J. McCarthy, "Roles and Responsibilities: Analyzing Local Leaders' Views on Jail Crowding from a Systems Perspective," *Crime & Delinquency* 50, no. 3 (2004): 458-482, at 460-1 and 473-4.
- 27 Rural households have lower median taxable household income compared to urban ones, meaning lower public coffers raised through taxes for local rural governments. See U.S. Census Bureau, "A Comparison of Rural and Urban America: Household Income and Poverty," December 8, 2016, <https://perma.cc/MBC9-BPBF> (median household income for rural households is approximately 4 percent lower than for urban households). Also see Ann M. Eisenberg, "Addressing Rural Blight: Lessons from West Virginia and WV LEAP," *Journal of Affordable Housing & Community Development Law* 24, no. 3 (2016): 513-546, at 519-520 (noting that rural residents generally have lower incomes and experience higher rates of poverty than their urban counterparts); and Bruce A. Weber, "Rural Poverty: Why Should States Care and What Can State Policy Do?" *The Journal of Regional Analysis & Policy* 37, no. 1 (2007): 48-52. Also see Lisa R. Pruitt and Beth A. Colgan, "Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense," *Arizona Law Review* 52, no. 2 (2010): 219, at 227-8 (noting that rural areas face challenges in delivering services stemming from a relative absence of development, limited labor markets and low per-capita income). As to how this limits rural counties' ability to recruit justice personnel or provide criminal justice services, see notes 28 and 29, below.
- 28 Ralph A. Weisheit, L. Edward Wells, and David N. Falcone, "Crime and Policing in Rural and Small-Town America" (1995); Rick Ruddell and G. Larry Mays, "Expand or Expire: Jails in Rural America" (2006), 1-2. Also see James Eisenstein, "Research on Rural Criminal Justice: A Summary," in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds. *Criminal Justice in Rural America* (1982), 111-112; and Theodore Fetter, "In Search of Models for Court Operations in Rural Areas," in *ibid.*, 148-9. For example, in a 2017 speech, the Chief Justice of Nevada's Supreme Court, Mr. Justice M. Cherry, noted, "In our urban counties, a defendant can count on a public defender to provide prompt representation or a contract attorney. However, in the rural parts of our state, indigent defendants may sit in jail for an extended period of time waiting to speak to an attorney." See Chief Justice Michael Cherry, *2017 State of the Judiciary Message* (speech delivered March 8, 2017), <https://perma.cc/Z2KQ-WFEB>.
- 29 For more information about lack of rural access to legal services, see Ethan Bronner, "No Lawyer for Miles, So One Rural State Offers Pay" *The New York Times*, April 8, 2013, <http://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html>; also see Lisa R. Pruitt and Bradley Showman, "Law Stretched Thin: Access to Justice in Rural America," *South Dakota Law Review* 59, no. 3 (2014): 466-528, Brian Lynch, "Access to Legal Services in Rural Areas of the Northern Rockies: A Recommendation for Town Legal Centers," *Indiana Law Journal* 90, no. 4 (2015): 1683-1705, at 1687-92; and Lisa R. Pruitt, J. Cliff McKinney II, and Bart Calhoun, "Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It," *University of Arkansas* 37, no. 4 (2015): 573-719. For the difficulties rural counties face in recruiting key personnel more generally, also see James Eisenstein in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds., *Criminal Justice in Rural America* (1982), 113-114.
- 30 Generally, see Robin Runge, "Addressing the Access to Justice Crisis in Rural America," *Human Rights Magazine* 40, no. 3 (2014), at <https://perma.cc/Q6YS-GAXX>. In Georgia, for example, some rural counties hold arraignments just once a month for misdemeanor cases and, in felony cases, grand juries may only convene once every other month—both of which can extend the time someone may be detained pretrial. In addition, in counties with a policy of only appointing counsel after indictment, defendants remain detained from three to six months (sometimes longer) before counsel is appointed. See The Spangenberg Group, *Status of Indigent Defense in Georgia: A Study for the Chief Justice's Commission on Indigent Defense, Part I* (2003), 69-70, <https://perma.cc/5PFT-6Q8E>. For Montana, see "Justice Without Lawyers?" *Legal Ruralism* (blog), February 11, 2017 (nine rural judges in Montana serve seven judicial districts spanning 75,858 miles), <https://perma.cc/2FE7-Y93U>; John C. McKeon and David G. Rice "Administering Justice in Montana's Rural Courts," *Montana Law Review* 70, no. 2 (2009): 201-220, <http://scholarship.law.umt.edu/cgi/viewcontent.cgi?article=2030&context=mlr>. For Nevada, see Supreme Court of Nevada, Administrative Office of the Courts, *Rural District Court Judicial Travel in Nevada, Fiscal Years 2011-16* (Carson City, NV: Supreme Court of Nevada, 2017); "Do Rural Nevadans Have Less Access to Justice than their Urban Counterparts?" *Legal Ruralism* (blog), November 18, 2011, <https://perma.cc/8XW5-JTVX>; and John Glionna, "On Nevada's Lonely Rural Roads, a Judge Still Rides the Circuit Blazed by Forbears," *Los Angeles Times*, January 8, 2013, <https://perma.cc/6JA2-MLRA>. For Utah, see Committee on Pretrial Release and Supervision Practices, *Report to the Utah Judicial Council on Pretrial Release and Supervision Practices* (Salt Lake City, UT: Utah State Courts, 2015), 28, <https://perma.cc/M2NM-EU6F>; also see Theodore Fetter in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds. *Criminal Justice in Rural America* (1982), 148-149; and *Pretrial Justice in America: A Survey of County Pretrial Release Policies, Practices and Outcomes* (Rockville, MD: Pretrial Justice Institute, 2010), 4, <https://perma.cc/LX7H-P4SC>. Also, in a separate research project, Vera staff found that district felony court only takes place twice per month (or once a month if there is a jury trial) in Rogers County, Oklahoma. See Rebecca Silber and Chris Mai, "Preliminary Findings and Recommendations in Addressing Jail Population Growth in Rogers County," Memorandum from the Vera Institute of Justice to the Rogers County Jail Overcrowding Committee, March 31, 2017 (on file with authors).

- 31 New York City Criminal Court, Court Information by County, <https://perma.cc/4PZX-VCCQ>.
- 32 G. Larry Mays and Joel A. Thompson, "Mayberry Revisited" (1988), 431.
- 33 See note 29.
- 34 See Matt Ford, "When Your Judge Isn't A Lawyer," *The Atlantic*, February 5, 2017, <https://perma.cc/927J-UTHW>.
- 35 For a recommendation of a broad pretrial risk assessment policy in Texas, see Nathan Fennell and Meridith Prescott, *Risk, Not Resources: Improving the Pretrial Release Process in Texas* (Austin, TX: LBJ School of Public Affairs, University of Texas, Austin, 2016), 8, <https://perma.cc/RZD5-ZSA5>; also see Stephanie Vetter and John Clark, *The Delivery of Pretrial Justice in Rural Areas* (Washington, DC: Pretrial Justice Institute and National Association of Counties, 2013), 7.
- 36 Stephanie Vetter and John Clark, *The Delivery of Pretrial Justice in Rural Areas* (2013), 7. To be effective, pretrial risk assessment tools must be validated through rigorous testing on the particular population they are serving in order to ensure that they are predictive and reliable for that jurisdiction. See Cynthia A. Mamalian, *State of the Science of Pretrial Risk Assessment* (Washington, DC: Pretrial Justice Institute, 2011), 19 and n.46.
- 37 *Ibid.*
- 38 Christopher Lowenkamp, Richard Lemke, and Edward Latessa, "The Development and Validation of a Pretrial Screening Tool," *Federal Probation* 72, no. 3 (2008): 2-9 (indicating that to maximize their predictive ability about the population being served, risk assessment tools should be piloted and validated within the jurisdiction where the tool is being implemented).
- 39 Stephanie Vetter and John Clark, *The Delivery of Pretrial Justice in Rural Areas* (2013), 7.
- 40 On the lack of staff training in mental health issues, see Melanie M. Race, et al., *Mental Health Services in Rural Jails* (2010), 8-9.
- 41 Rick Ruddell and G. Larry Mays, "Trouble in the Heartland" (2011), 119; Rick Ruddell and G. Larry Mays, "Expand or Expire: Jails in Rural America" (2006), 1-2; also see John McKeon and David Rice "Administering Justice in Montana's Rural Courts" (2009), 211-13; and Eric Wodahl, "The Challenges of Prisoner Reentry from a Rural Perspective," *Western Criminology Review* 7, no. 2 (2006): 32-47. In relation to the lack of access to substance use treatment, see Jennifer D. Lenardson and John A. Gale, *Distribution of Substance Abuse Treatment Facilities Across the Rural - Urban Continuum* (Portland, ME: Muskie School of Public Service, University of Southern Maine, 2007), 1, <https://perma.cc/M2QB-TA8P>; Karen Van Gundy, *Substance Abuse in Rural and Small Town America* (Durham, NH: Carsey Institute, 2006), 26, <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1006&context=carsey>, and Lisa Pruitt, "The Forgotten Fifth: Rural Youth and Substance Abuse," *Stanford Law & Policy Review*, 20, no. 2 (2009) 359, 388-90, <https://perma.cc/4HEP-84WZ>.
- 42 Melanie M. Race, et al., *Mental Health Services in Rural Jails* (2010), 5; Elaine Nugent-Borakove, Barry Mahoney, and Debra Whitcomb, *Future Trends in State Courts 2011: Special Focus on Access to Justice* (Williamsburg, VA: National Center for State Courts, 2011), 67, <https://perma.cc/PU9E-7PEK>.
- 43 See, for example, Martha A. Troxell and Erika Frenzel, *Specialty Courts in Rural Pennsylvania: Establishment, Practice and Effectiveness* (Harrisburg, PA: The Center for Rural Pennsylvania, 2011), <https://perma.cc/3V46-MRM7> (exploring adult drug courts, juvenile drug courts, family drug courts, mental health courts, and DUI courts). Also see note 41.
- 44 Melanie M. Race, et al., *Mental Health Services in Rural Jails* (2010), 9. Regarding access to substance use treatment in rural areas, see Karen Van Gundy, *Substance Abuse in Rural and Small Town America* (2006), 26, and Lisa Pruitt, "The Forgotten Fifth: Rural Youth and Substance Abuse" (2009), 390-2.
- 45 See note 7.
- 46 For the example of rural counties in New York, see Andrew J. Pragaczin in William Martin and Joshua Price, eds., *After Prisons? Freedom, Decarceration and Justice Disinvestment* (2016) 113-4. The need for immigration beds is acute. In FY2016, Immigration and Customs Enforcement (ICE) was mandated to maintain a minimum of 34,000 detention beds at any given time, but the agency does not itself have that capacity. For the number of mandated beds, see *Consolidated Appropriations Act of 2016*, Pub. L. No. 114-113, 129 Stat. 2242, Division F; for ICE-owned bed capacity, see General Accounting Office, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards* (Washington, DC: U.S. Government Accountability Office, 2014), 7, <https://perma.cc/LV2R-HMDY>. To fill the gap in beds, ICE regularly enters into Intergovernmental Service Agreements (IGSAs) and private contracts with local jails and privately owned prison facilities. Regarding local jails housing state prisoners or immigration detainees, see generally, Brian Albert, *State Prisoners in County Jails* (Washington, DC: National Association of Counties, 2010), <https://perma.cc/32VL-D226>; Lori Pilger, "State Is Paying \$5 Million To House Inmates In County Jails," *Lincoln Journal Star*, October 21, 2014, <https://perma.cc/X2AY-KSXX>; Cindy Chang, "Louisiana Is The World's Prison Capital," *The Times Picayune*, May 13, 2012, http://www.nola.com/crime/index.ssf/2012/05/louisiana_is_the_worlds_prison.html; Andrew Hazzard, "Grand Forks Jail Eyes Expansion," *Grand Forks Herald*, January 27, 2017, <https://perma.cc/C2ZR-V2GP>; "Department of Corrections Balancing Kentucky Prison Population Through County Jails," *WDRB.com*, February 9, 2015, <http://www.wdrb.com/story/28063419/department-of-corrections>

- balancing-kentucky-prison-population-through-county-jails; and Matthew Clarke, "Southern California Jails Addicted to ICE Money," *Prison Legal News*, October 15, 2009, <https://perma.cc/XN74-XK5V>.
- 47 The per diem rates paid by ICE to local facilities in FY 2015 varied between \$30 per bed for a short stay (under 72 hours) to \$168.84. TRACImmigration, "New Data on 637 Detention Facilities used by ICE in FY 2015," <https://perma.cc/WV5N-SKRV>; and TRACImmigration, "Detention Facility Reports," <https://perma.cc/SAT9-WJKN> (listing per diem rates by facility where figures released by ICE). In its own budget request for FY 2017, the agency asked for a per diem rate of \$126.46 per adult bed and \$161.36 per family bed. Department of Homeland Security, *Congressional Budget Justification FY 2017 - Volume II: U.S. Immigration & Customs Enforcement, Transportation Security Administration, U.S. Coast Guard* (Washington, DC: Department of Homeland Security, 2016), 5-6, <https://perma.cc/9JFX-WZ7A>. On the status and treatment of immigrants detained by ICE, see U.S. Commission on Civil Rights, *With Liberty and Justice for All: The State of Civil Rights at Immigrant Detention Facilities* (Washington, DC: U.S. Commission on Civil Rights, 2015), <https://perma.cc/SA98-AUHU>. For statistics on the length of detention on case processing times, see Sharita Gruberg, "Infographic: How Long Are People in Detention," *Center for American Progress*, May 9, 2014, <https://perma.cc/TJ38-EL7B>. Also see Sara Ramey, "Immigration Court Delays Make Mockery of U.S. Justice," *The Hill*, August 1, 2016, <http://thehill.com/blogs/congress-blog/judicial/289875-immigration-court-delays-make-a-mockery-of-us-justice>, and Kate Brumback, "Immigration Courts: Record Number of Cases, Many Problems," *Star Tribune*, March 4, 2017.
- 48 See Alice Speri, "Local Jails Profit From Warehousing State Prisoners," June 9, 2016, <https://perma.cc/V6V8-LNP3>; Cindy Chang, "North Louisiana Family Is A Major Force In The State's Vast Prison Industry," *The Times Picayune*, May 14, 2012, http://www.nola.com/crime/index.ssf/2012/05/jonesboro_family_is_a_major_fo.html; Susan Tebben, "Jails: The New Revenue For Counties?" *WOUB Digital*, April 19, 2017, <https://woub.org/2017/04/19/jails-the-new-revenue-for-counties/>.
- 49 Lori Pilger, "State is Paying \$5 Million to House Inmates in County Jails."
- 50 Alice Speri, "Local Jails Profit From Warehousing State Prisoners"; Ryan Grim, "Mississippi Jails Are Losing Inmates, And Local Officials Are 'Devastated' By The Loss Of Revenue," *Huffington Post*, April 18, 2016, <https://perma.cc/6NDY-BYBB>; Peter Wagner, "Some Private Prisons are, Um, Public," *Prison Policy Initiative*, June 9, 2016, <https://perma.cc/YE7Y-2FN4>; Amanda Albright and Jordyn Holman, "A Kentucky County is an Economic Prisoner of its Own Jail," *Bloomberg*, March 8, 2017, <https://perma.cc/J84F-KCP4>; Alex Cameron, "Overcrowded Prisons: Oklahoma's Criminal Crisis," *News 9*, May 11, 2015, <http://www.news9.com/story/29037299/overcrowded-prisons-oklahomas-criminal-crisis>; Cindy Chang, "In World Of Prisons, Some Rural Parishes' Economies Hinge On Keeping Their Jails Full," *The Times Picayune*, May 14, 2012, http://www.nola.com/crime/index.ssf/2012/05/in_world_of_prisons_some_rural.html.
- 51 Alice Speri, "Local Jails Profit From Warehousing State Prisoners"; Ryan Grim, "Mississippi Jails Are Losing Inmates"; Peter Wagner, "Some Private Prisons are, Um, Public"; Amanda Albright and Jordyn Holman, "A Kentucky County is an Economic Prisoner of its Own Jail"; Alex Cameron, "Overcrowded Prisons: Oklahoma's Criminal Crisis."
- 52 Alex Cameron, "Overcrowded Prisons: Oklahoma's Criminal Crisis."
- 53 Amanda Albright & Jordyn Holman, "A Kentucky County is an Economic Prisoner of its Own Jail"; Scott Wartman, "Grant County Jail to Stay Open," *Cincinnati.com*, September 29, 2016, <https://perma.cc/MS8C-PUHB>.
- 54 Caitlyn Dickerson, "Trump Plan Would Curtail Protections for Detained Immigrants," *The New York Times*, April 13, 2017, <https://www.nytimes.com/2017/04/13/us/detained-immigrants-may-face-harsher-conditions-under-trump.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news&r=0>; Bryan Schatz, "Trump's Deportation Plan Will Turn Cops Into Immigration Agents," *Mother Jones*, February 28, 2017, <https://perma.cc/R99Y-EGRN>.
- 55 Eighty-eight percent of rural jails have less than 150 people; 78 percent have less than 100 people; and 56 percent have less than 50 people. Vera analysis of the Bureau of Justice Statistics *Census of Jails and Annual Survey of Jails*.
- 56 Lisa R. Pruitt and Beth A. Colgan, "Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense," (2010): 219, at 226-9 (discussing how spatial inequality is closely associated with place-to-place variations in degree and type of development, pointing out how location can dictate employment and other market-related opportunities, including access to government services.)
- 57 Vera analysis of U.S. Census data. See U.S. Census Bureau, "Small Area Income and Poverty Estimates, 2014" at <https://perma.cc/C84J-LP89>.

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For more information about this report, contact Ram Subramanian, editorial director, at rsubramanian@vera.org. For more information about Vera's work to reduce the use of jails, contact Nancy Fishman, project director at Vera's Center on Sentencing and Corrections, at nfishman@vera.org.

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Vera Institute of Justice
233 Broadway, 12th Floor
New York, NY 10279
T 212 334 1300
F 212 941 9407

Washington DC Office
1111 14th St., NW, Ste 920
Washington, DC 20002
T 202 465 8900
F 202 408 1972

New Orleans Office
546 Carondelet St.
New Orleans, LA 70130
T 504 593 0937

Los Angeles Office
707 Wilshire Blvd., Ste 3850
Los Angeles, CA 90017
T 213 223 2442
F 213 955 9250