

Date: February 26, 2019  
To: Interested Parties  
Subject: Kentucky jail expansion  
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In 2015, Kentucky had the eighth highest rate of pretrial incarceration in the United States and the second highest rate of jail admissions.<sup>1</sup> The state's outsized use of jails makes it an outlier in an era when many places are reducing their use of incarceration. But the changing geography of jail incarceration in Kentucky is echoed in states nationwide; **small counties have been driving Kentucky's jail growth since 2000.**<sup>2</sup>

Kentucky is also among only a handful of states that rely heavily on local jails to hold people who have been sentenced to prison. The use of jails for both pretrial detention *and* to accommodate high and rising prison admissions has implications for how counties, and small counties in particular, invest in the infrastructure of incarceration. The cost of building and operating local jails can consume a substantial portion of county budget general funds, and adding additional beds in order to jail people in state custody is often a strategy to offset facility costs. However, jail construction and expansion also require a substantial investment of resources that could otherwise be used to support community-based programming and services for mental health and substance use, reinvestments that stand to help reduce incarceration.

This memorandum provides detail on the state's increasing use of pretrial detention, jail overcrowding, prison admissions, and the implications of using local jails to confine people sentenced to the state prison system. The analysis draws on data collected by the U.S. Bureau of Justice Statistics and Kentucky Department of Corrections. See Vera's dashboard ([tinyurl.com/Kentucky-Jails](http://tinyurl.com/Kentucky-Jails)) for complete county-level detail.

## Pretrial Jail Population

The growth of pretrial detention has been the most pronounced in Kentucky's smallest counties. Since 2000, the pretrial population in small counties (fewer than 30,000 residents) increased 92 percent, compared to a 35 percent increase in mid-sized counties (30,000 to 75,000 residents), and a 15 percent increase in large counties (those with more than 75,000 residents) (See Table 1, on page 2.). **Jails in small counties account for 59 percent of the growth of the state's pretrial jail population since 2000.**<sup>3</sup>

As a result, the ten largest Kentucky counties are home to 45 percent of the state's residents but only 38 percent of the state's pretrial jail population. All other counties are home to 55 percent of the state's residents, but 62 percent of the pretrial jail population.

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<sup>1</sup> Jacob Kang-Brown, Oliver Hinds, Jasmine Heiss, and Olive Lu. *The New Dynamics of Mass Incarceration*. New York: Vera Institute of Justice, 2018. Page 36.

<sup>2</sup> For a discussion of national trends, see Jacob Kang-Brown and Ram Subramanian. *Out of Sight: The Growth of Jails in Rural America*. New York: Vera Institute of Justice, 2017. Page 11-13.

<sup>3</sup> The pretrial population increased 1,583 in small counties and 2,674 in all counties ( $1,583 \div 2,674 = 59\%$ ).

**Table 1. Pretrial Jail Population, 2000 and 2015**

| County size (# counties) <sup>4</sup> | County Residents | Pretrial Population (2000) | Pretrial Population (2015) | Change       | Percentage Change |
|---------------------------------------|------------------|----------------------------|----------------------------|--------------|-------------------|
| Large (10)                            | 75,000+          | 2,962                      | 3,429                      | 466          | 15%               |
| Mid-sized (23)                        | 30,000-75,000    | 1,756                      | 2,381                      | 625          | 35%               |
| Small (47)                            | < 30,000         | 1,711                      | 3,294                      | 1,583        | 92%               |
| <b>Total (80)</b>                     |                  | <b>6,430</b>               | <b>9,104</b>               | <b>2,674</b> | <b>42%</b>        |

Source: U.S. Department of Justice. Bureau of Justice Statistics. See [trends.vera.org/about](https://trends.vera.org/about) for detail.

Between 2000 and 2015, pretrial detention in Kentucky grew at nearly twice the rate of the U.S. (42 percent versus 24 percent).<sup>5</sup> Kentucky's pretrial population grew the fastest in the smallest counties; six small counties (Meade, Trigg, Muhlenberg, Todd, Grayson, and Breckinridge) were the places with the highest rates of growth in the state.

**Table 2. Fastest Growing Pretrial Jail Populations (2000-2015)**

| County          | County Residents | Pretrial Population (2000) | Pretrial Population (2015) | Change | Percentage Change |
|-----------------|------------------|----------------------------|----------------------------|--------|-------------------|
| 1. Meade        | 29,102           | 3                          | 45                         | 42     | 1,400%            |
| 2. Trigg        | 14,136           | 4                          | 49                         | 45     | 1,128%            |
| 3. Muhlenberg   | 31,307           | 6                          | 47                         | 41     | 712%              |
| 4. Todd         | 12,409           | 3                          | 25                         | 22     | 623%              |
| 5. Grayson      | 26,065           | 81                         | 480                        | 399    | 496%              |
| 6. Breckinridge | 19,878           | 8                          | 44                         | 36     | 460%              |

Source: U.S. Department of Justice. Bureau of Justice Statistics. See [trends.vera.org/about](https://trends.vera.org/about) for detail.

<sup>4</sup> 80 of Kentucky's 120 counties operate a jail. All of the ten largest counties have a jail. Twenty-three of the 24 mid-sized counties have a jail. 47 of the 86 small counties have a jail; counties without a jail utilize a regional jail or rent space from another county's jail.

<sup>5</sup> The U.S. pretrial population was 349,000 in 2000 and 432,600 in 2015. See U.S. Department of Justice. Bureau of Justice Statistics. [Jail Inmates in 2016](#). Page 9.

## Total Jail Population

The growth of the total jail population, which includes people sentenced to jail terms *and* people sentenced to prison terms who are serving their sentences in jails with state contracts, has also been the most pronounced in the smallest counties. Since 2000, the jail population in counties with fewer than 30,000 residents has increased 103 percent, while it increased by 45 percent in mid-sized counties, and 78 percent in large counties (see Table 3.)

**Table 3. Total Jail Population**

| County size (# counties) | County Residents | Jail Population (2000) | Jail Population (2015) | Change       | Percent Change |
|--------------------------|------------------|------------------------|------------------------|--------------|----------------|
| Large (10)               | 75,000+          | 4,344                  | 7,753                  | 3,409        | 78%            |
| Mid-sized (23)           | 30,000-75,000    | 3,811                  | 5,527                  | 1,716        | 45%            |
| Small (47)               | < 30,000         | 3,845                  | 7,787                  | 3,942        | 103%           |
| <b>Total (80)</b>        |                  | <b>12,000</b>          | <b>21,066</b>          | <b>9,066</b> | <b>76%</b>     |

Source: U.S. Department of Justice. Bureau of Justice Statistics. See [trends.vera.org/about](https://trends.vera.org/about) for detail.

Factors such as money bail, fines and fees, and heightened drug enforcement have been driving up pretrial incarceration rates in rural places across the country.<sup>6</sup> But it's only in Kentucky, and a few other states, that the promise of revenue for holding state prisoners has provided an additional incentive for small counties to invest in jails that are outsized for their communities.

## People Held in Jails for State Department of Corrections

Kentucky is one of only a few states that relies heavily on contracts with local jails to confine people sentenced to a state prison term. The Kentucky Department of Corrections operates 13 prisons that confine more than 12,000 people, but more than 11,000 people--or nearly half the total "prison population"--are held in **76 county jail facilities**.<sup>7</sup>

Nationwide, the use of local jails to hold a very small portion of the state prison population is not uncommon. 34 states use local jails to hold approximately 82,000 state prisoners (6 percent of the prison population in these 34 states).<sup>8</sup> However, the *extent* of Kentucky's use of local jails for

<sup>6</sup> For a further discussion, see Jacob Kang-Brown and Ram Subramanian. *Out of Sight: The Growth of Jails in Rural America*. New York: Vera Institute of Justice, 2017.

<sup>7</sup> The August 2, 2018 Kentucky DOC [Weekly Jail Population Report](#) provides detailed information for 76 counties that have jail facilities holding people serving state sentences. (The week of August 2, 2018 is the most recent period that Vera analyzed.)

<sup>8</sup> The remaining 16 states do not use local jails at all to hold people in the jurisdiction of a state correctional authority. U.S. Department of Justice. Bureau of Justice Statistics. *Prisoners in 2016*. Page 22.



this purpose is very unusual (See Table 4). Only Louisiana’s prison system relies on jails more heavily.

**Table 4. State prisoners held in the custody of local jails (2016)**

| State            | State Prisoners Held in Jails | Percent of State Prison Population |
|------------------|-------------------------------|------------------------------------|
| 1. Louisiana     | 20,626                        | 58%                                |
| 2. Kentucky      | 11,151                        | 48%                                |
| 3. Mississippi   | 5,040                         | 26%                                |
| 4. Utah          | 1,618                         | 26%                                |
| 5. Tennessee     | 6,725                         | 24%                                |
| 6. Virginia      | 7,931                         | 21%                                |
| 7. West Virginia | 1,263                         | 18%                                |
| 8. Montana       | 589                           | 15%                                |
| 9-50. All others | 27,907                        | 3%                                 |
| <b>Total</b>     | <b>82,847</b>                 | <b>6%</b>                          |

Source: U.S. Department of Justice. Bureau of Justice Statistics. [Prisoners in 2016](#). Page 22.

## Kentucky Jails that Function as Prisons

In 35 Kentucky counties, more than half of the people in the jail are held for the state DOC, meaning that these jails principally function as “private prisons.”<sup>9</sup> **There are 13 counties where more than 70 percent of the jail is occupied by people held for the state DOC** (See Table 5, on the following page). In 2018, the counties with the largest proportion of the jail population held for the state DOC were Fulton (94 percent), Simpson (88 percent), Webster (86 percent), Larue (82 percent), Todd (80 percent), and Casey (80 percent).

Although holding state prisoners is often assumed to be solely a revenue boon to the county, using local jails as prisons invites two major risks.

1. The accelerated growth of pretrial detention when a glut of capacity eliminates a physical limit on pretrial jail beds.
2. Local taxpayers left on the hook for the cost of an outsized jail, should the agencies that rent jail beds curtail their use of the jail, and thus their payments.<sup>10</sup>

<sup>9</sup> Vera analysis of Kentucky Department of Corrections [Weekly Jail Population Reports](#). January 2018 - July 2018.

<sup>10</sup> Jacob Kang-Brown and Ram Subramanian. [Out of Sight: The Growth of Jails in Rural America](#). New York: Vera Institute of Justice, 2017. Page 22.

For example, when the Breckinridge County jail expanded in the early 2000s to hold people for the state corrections department, the pretrial population increased 450 percent, from only 8 (in 2000) to 44 (in 2015).<sup>11</sup> Similarly, Grant County massively expanded its jail by more than 300 beds around the same time. As soon as the jail expanded, the use of pretrial detention in the county increased 340 percent, from a population of 19 (in 1999) to 84 (in 2010).<sup>12</sup> In Grant County, both the pretrial growth and fiscal risks have become a reality. The use of pretrial detention has quadrupled since 2000 and now, after years of litigation for mismanagement, the jail will close and leave the local taxpayers with the financial responsibility for an empty facility.<sup>13</sup>

**Table 5. Counties where Greatest Proportion of People in Jail are Held for the State DOC (2018)**

| County       | People in Jail Held for State | Share of Jail Held for State |
|--------------|-------------------------------|------------------------------|
| Fulton       | 412                           | 94%                          |
| Simpson      | 267                           | 88%                          |
| Webster      | 247                           | 86%                          |
| Larue        | 122                           | 82%                          |
| Todd         | 118                           | 80%                          |
| Casey        | 235                           | 80%                          |
| Union        | 46                            | 79%                          |
| Grant        | 292                           | 78%                          |
| Meade        | 191                           | 78%                          |
| Muhlenberg   | 205                           | 78%                          |
| Breckinridge | 149                           | 76%                          |
| Powell       | 180                           | 74%                          |
| Marion       | 213                           | 71%                          |

Source: KY DOC [Weekly Jail Population Reports](#). January 2018 - July 2018 weekly average.

<sup>11</sup> Vera analysis of Bureau of Justice Statistics data. See <http://trends.vera.org/rates/breckinridge-county-ky>

<sup>12</sup> Vera analysis of Bureau of Justice Statistics data. See <http://trends.vera.org/rates/grant-county-ky>

<sup>13</sup> Lexington Herald Leader. Editorials. *Investigate deaths, reform county jails*. <https://www.kentucky.com/opinion/editorials/article92731762.html>

## Overcrowding in Kentucky Jails

In Kentucky, approximately 90 percent of jails are operating above their capacity, and eighteen are extremely overcrowded and operating at more than 150 percent of their capacity (See Table 6). A February 2006 State Auditor's report on Kentucky Jails found that the practice of housing people in state custody in local jails caused or exacerbated overcrowding in more than 70 percent of the jails certified to hold people for the Department of Corrections, warning that federal litigation and court decisions had created severe penalties for overcrowding.<sup>14</sup>

This problem seems only to have deepened, however, with consequences for incarcerated people that are both unconstitutional and inhumane and can affect facility safety, medical care, food service, recreation and exercise, sanitation, access to programming, libraries, and visitation space with defense counsel. While the Kentucky Department of Corrections has established minimum standards for the health and safety conditions of jails that house people in state custody, these standards have not been adequate to prevent overcrowding or attendant litigation.

**Table 6. Most Overcrowded Kentucky Jails (2018)**

| <b>County</b> | <b>Utilization Rate</b> |
|---------------|-------------------------|
| Bell          | 265%                    |
| Lincoln       | 211%                    |
| Johnson       | 210%                    |
| Letcher       | 210%                    |
| Madison       | 192%                    |
| Leslie        | 189%                    |
| Adair         | 182%                    |
| Rockcastle    | 181%                    |
| Laurel        | 180%                    |
| Pulaski       | 178%                    |
| Perry         | 178%                    |
| Carroll       | 173%                    |
| Russell       | 172%                    |
| Lee           | 171%                    |
| Montgomery    | 169%                    |

<sup>14</sup> [http://apps.auditor.ky.gov/Public/Audit\\_Reports/Archive/2006jailsurveyvolumeifinal.pdf](http://apps.auditor.ky.gov/Public/Audit_Reports/Archive/2006jailsurveyvolumeifinal.pdf)

|         |      |
|---------|------|
| Carter  | 160% |
| Greenup | 153% |
| Whitley | 151% |

Source: KY DOC [Weekly Jail Population Reports](#). January 2018 - July 2018 weekly average.

## Prison Admissions

Echoing the trend in jail populations, **prison admissions have also grown the fastest in Kentucky's smallest counties**. Since 2000, the number of people sent to state prison from small counties has increased 159 percent, while the number of people sent to prison from the state's largest counties increased 96 percent (See Table 7). This trend represents a dramatic reversal of historic trends. In 2000, small counties sent a disproportionately low proportion of people to prison; people in small counties then comprised 32 percent of state residents and 27 percent of the people sentenced to prison. By 2015, small counties were sending a **disproportionately high** proportion of people to prison; small counties now comprise 30 percent of state residents and 33 percent of prison admissions.

This finding is unsurprising in light of the aforementioned findings on jail incarceration, but nevertheless notable for two reasons.

1. It is yet another piece of evidence that the geography of incarceration is shifting from more populous places, to less populous places. This additional data is particularly important because it reinforces that the use of local jails to hold state prisoners, and the presence of regional jails, which are common in small counties, are not the reasons that small counties have higher jail incarceration rates.
2. It underscores that the incarceration, the cost of imprisonment, is a statewide problem and one that is increasingly driven by small counties.

**Table 7. Prison Admissions, 2000 and 2015**

| County size (# counties) | County Residents | Prison Admissions (2000) | Prison Admissions (2015) | Change       | Percentage Change |
|--------------------------|------------------|--------------------------|--------------------------|--------------|-------------------|
| Large (10)               | 75,000+          | 3,713                    | 7,269                    | 3,556        | 96%               |
| Mid-sized (23)           | 30,000-75,000    | 2,250                    | 4,396                    | 2,146        | 95%               |
| Small (47)               | < 30,000         | 2,250                    | 5,829                    | 3,579        | 159%              |
| <b>Total (80)</b>        |                  | <b>8,213</b>             | <b>17,494</b>            | <b>9,281</b> | <b>113%</b>       |

Source: U.S. Department of Justice. Bureau of Justice Statistics. See [trends.vera.org/about](https://trends.vera.org/about) for detail.



## Conclusion

Since 2000, the growth of Kentucky's jails has been driven by dozens of small county jails where incarceration rates are the highest in the state. Individually, each of these facilities accounts for a mere fraction of the state's incarcerated population, but collectively, these small jails comprise the lion's share of the state's jail population. Consequently, a meaningful reduction to Kentucky's pretrial population is only possible if reforms are made across the state.

The practice of boarding state prisoners in local jails has also inflated jail populations, and tied the financial viability of outsized local jails to the status quo of criminal justice policy and practice. In 35 counties, more than half of the "jail" population are actually state prisoners. The state prison system avoids overcrowding by holding nearly half of its population in local jails, where overcrowding is not only pervasive, it is also incentivized by the DOC per diem payments that jails receive each day a person in state jurisdiction is held in the jail. Put another way, the jails that are persistently overcrowded and the jails holding a large number of state inmates are the same jails. **If overcrowded jails reduced their state DOC population to eliminate, or alleviate, overcrowding, the state prison system would be forced to add bed space to accommodate 4,300 people, or to reduce the state prison population by 4,300.**<sup>15</sup> The loss of state per diem payments to counties, in turn, would reduce county jail revenue by \$50 million annually.

Ultimately, Kentucky's path toward meaningfully reversing high and rising incarceration rates relies on both significant criminal justice policy and practice change at both the state and local level, as well as reducing the reliance on local jails to hold people with state sentences.

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<sup>15</sup> This analysis uses July 26, 2018 data and was conducted by determining how many more people are in each county jail than the jail is rated to hold ("people held above capacity") and comparing this to the number each jail held for the state prison system ("held for state"). When the number "held for state" was less than "people held above capacity," then we assume the jail reduces the population by "held for state." When "held for state" was greater than "people held above capacity," then we assume the jail reduces its population by "people held above capacity," thereby reducing the jail population to its rated capacity.