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PROTECTING RURAL JAILS FROM CORONAVIRUS

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EXECUTIVE SUMMARY

In the summer of 2015, Louisiana’s LaSalle Parish Sheriff’s Department arrested 19 people in a covert drug operation dubbed “Operation Fielder’s Choice.” One of those people was Charles Keene, who allegedly sold an informant two pills for \$20. For this, he was arrested and, because Keene could not afford bail, he was jailed until trial.

LaSalle is a rural county and its biggest town, Jena, has a population of 3,000. Because the public defender’s office was both underfunded and had conflicts with Keene’s case—two of the public defenders had represented the informant in previous proceedings—Keene was forced to wait in jail as his trial date faced postponement after postponement. Charles Keene believed he was innocent and hoped to challenge the evidence used against him. But, the judge wouldn’t proceed until Keene was represented by counsel. For months, Keene wrote letters asking the judge to put his case on the calendar. The trial didn’t happen until 2017.

For two years, Charles Keene was incarcerated in the county jail where he faced the deprivations of confinement, a lack of adequate medical care, and the near-loss of custody of his children. Through his case is one that could happen anywhere in the country, the problems Keene faced are representative of the challenges rural criminal legal systems face.

While national headlines have focused on the spread of coronavirus in large, urban jails, the same attention is now turning to America’s rural communities, where the virus is gaining traction through community spread. Although the largest outbreaks thus far have been in large jails, like

those in Chicago, Houston, and New York, it’s quite clear that rural regions are not going to avoid the ravages of this disease. The question is how these communities will respond.

Rural communities have certain traits that make them particularly vulnerable in a pandemic. On the whole, people living in rural regions are poorer, older, and less healthy. One in three rural counties has a poverty rate over 20%. More than half of all births at rural hospitals are covered by Medicaid. Rural communities are quickly losing hospitals and health care providers. Small newspapers are closing across the heartland, and internet access in rural areas is often limited, so rural residents may not have accurate information about the pandemic or how to best respond.

Many of these concerns are amplified in rural jails. People detained in rural jails are likely to be there because they cannot afford cash bail. Judges in rural courts often send people to jail for drug possession, in part because there are few diversion programs. Given the paucity of medical providers and other social services in rural areas, the criminal legal system is often used to address a range of social, emotional, and financial problems that elsewhere may be handled outside of the court system through community treatment or other programs. And people inside the jails may have prior substance use or other medical problems that are exacerbated in a pandemic.

Perhaps most alarming, rural jails are frequently located in counties that lack hospital capacity to

handle the coronavirus pandemic. Our analysis shows that a significant percentage of people being held in jails—12% nationally and over a third in some states—are housed in counties without any ICU beds. This could have disastrous consequences should an outbreak occur in a jail located in a rural community without access to critical care resources.

The need for reform in both rural and urban jails is urgent. This report discusses specific challenges and responses to decarceration in rural communities in light of the coronavirus.

KEY CHALLENGES IN RURAL COMMUNITIES

Growing rural jails require more aggressive release policies.

Rural jails and prisons have exploded in size over the past few decades. The Vera Institute of Justice reports that from 1970 to 2013, rural jail populations grew by 400%. In 2019, per capita rural jail incarceration rates were more than double those of urban jails. The growth of incarceration is especially extreme in states like Kentucky, where, according to Vera, in 113 years every single person will be incarcerated should current growth continue.

Even on an ordinary day, many rural jails are overcrowded and lack the staffing and resources to handle their medical needs. They are certainly ill-prepared for the conditions imposed by a pandemic. For example, in Hamblen County, Tennessee, the sheriff himself described the jail as a “cesspool of a dungeon” where detainees

sleep on the floor; the jail offers no treatment for substance use disorders. These jails are unsafe for detainees and staff, violence is frequent, and there are often few resources for medical and mental health care. Rural jails also tend to hold more detainees for ICE and the U.S. Marshal Service, putting those people at risk and increasing transmission as people are transferred between facilities.

Rural law enforcement will also be hit especially hard by the pandemic. In general, rural law enforcement agencies are small—some have fewer than 5 members, including part-timers. Illness can quickly decimate their ranks. Many rural police departments were already stretched thin; an outbreak will force them to reduce staff available to patrol. In one rural Michigan town, half of the police force has either tested positive for coronavirus or is in quarantine for exposure to the virus. When law enforcement, deputies, or jail staff get sick, they will not only bring the virus home to their families; they will also put further pressure on local health care systems. Simply reducing the number of arrests—and contacts—will help rural police protect their own ranks and the communities they serve.

Most people in rural jails are not a threat to public safety.

Individuals held pretrial have not been convicted of a crime and are presumed innocent. Yet across the country, over 60% of all people held in jails are being detained pretrial; the proportion is even higher in rural areas where pretrial detention rates have continued to grow.

Once arrested, people in rural jails may have a difficult time advocating for their legal rights. Rural communities are often “legal deserts,”

meaning they lack lawyers; many import attorneys and judges from nearby urban centers, particularly as a way to avoid conflicts of interest. This means that rural courts move much more slowly. Defendants may wait weeks—or even months—for the appointment of counsel or the chance to see a judge. Wisconsin, for example, has chronically underfunded public defense systems, and people who are arrested wait weeks to receive assigned counsel. In one rural Wisconsin community, it took two weeks on average to find an attorney willing to take cases. Such delays and hurdles to obtaining legal assistance mean that many people charged with crimes will plead guilty and accept jail or prison sentences even if they are innocent of the charges.

Even before the pandemic, overuse of pretrial detention caused significant harm. In normal times, people held pretrial—largely because they cannot afford cash bail—risked losing housing, employment, and benefits. Now, they are at high risk for exposure to coronavirus. The most sensible course is to keep people from entering pretrial detention at all.

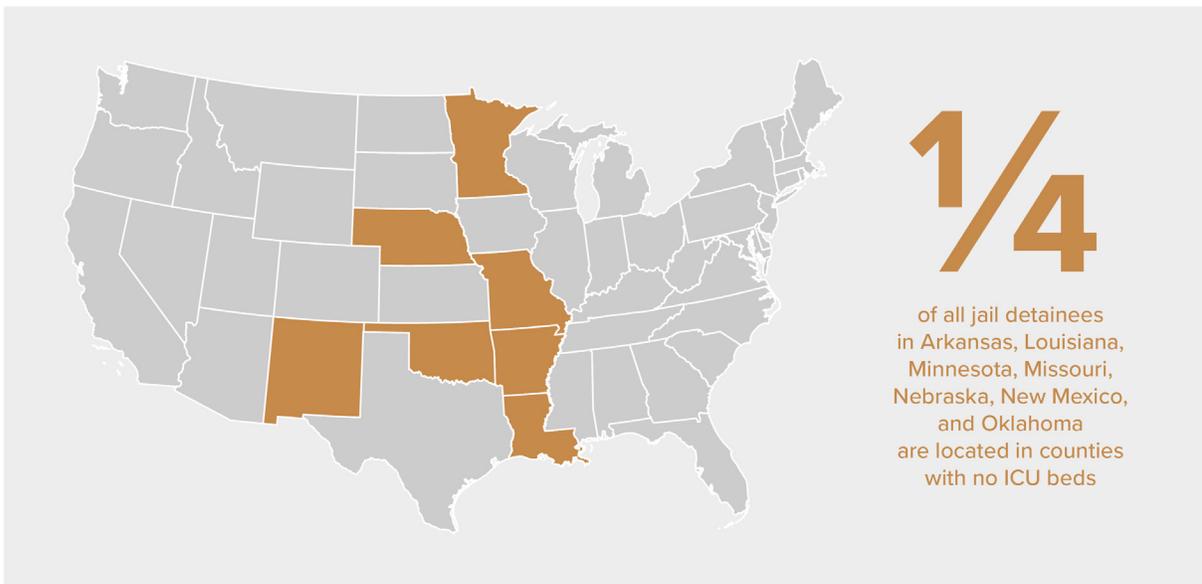
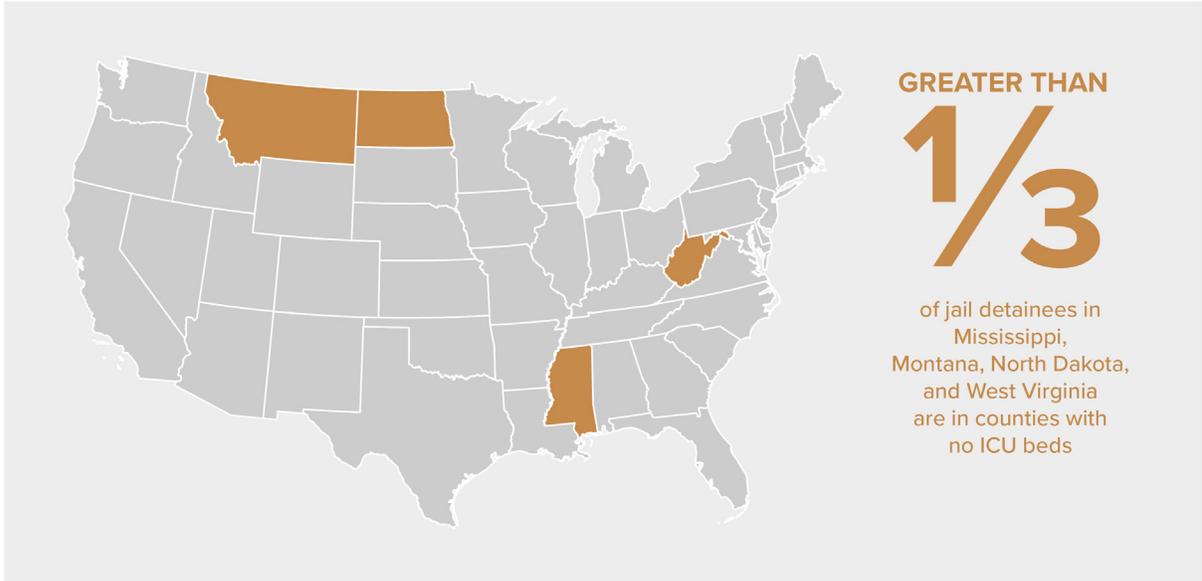
Rural jail and community health care systems cannot handle a sudden surge of acutely ill patients

Rural jails tend to hold fewer people than urban ones—Bureau of Justice Statistics data show that about a third of rural jails hold between 10 and 99 people, whereas the jails in New York, Chicago, and Los Angeles hold thousands. As a result, rural jail facilities lack the resources that are available in large urban jails because they cannot benefit from economies of scale. Larger, urban jails are more likely to have (and afford) full-time

medical care providers with advanced credentials; smaller, rural jails are more likely to have only part-time nursing staff, supervised remotely. Big metropolitan jails—where people are still getting sick and dying—may have full medical suites, stocked with equipment; small country jails will not.

When detainees or staff become seriously ill and need hospital care, they will encounter a rural healthcare system that is already profoundly overtaxed. More than half of all counties—home to about 30 million Americans—don't have any ICU beds at all, and most of those are rural. Counties that do have ICU units are overwhelmingly found in urban areas: over 80% of urban hospitals have an ICU, but only about a third, in small rural areas. Many counties are without a hospital altogether, as rural hospital closures have accelerated in the past decade. As a result, the limited critical care resources that exist in rural areas will be in exceedingly short supply when disease outbreaks occur.

In fact, data suggest that those incarcerated in some rural jails are likely to be in counties without adequate healthcare resources.* About 12% of people incarcerated in U.S. jails (around 90,000 people) are detained in facilities located in counties without a single ICU bed. About 5% of them (around 35,000 people) are detained in facilities in counties without any hospital at all. These disparities are markedly higher in predominantly rural states. For example, at least a quarter of jail detainees in Arkansas, Louisiana, Minnesota, Missouri, Nebraska, New Mexico, and Oklahoma are located in counties with no ICU beds. Over a third of jail detainees in Mississippi, Montana, North Dakota, and West Virginia are in counties with no ICU beds.



When staff and detainees do seek care, they will likely have to travel further to get that care. One [Georgia nurse](#) explained to *The New Yorker* that “there aren’t enough ventilators in this country to deal with the demand if this really hits hard,” and the nearest hospitals are about an hour away. By the time [some people](#) reach a hospital—which can take hours over country roads—it may be too late. Finally, the [rural regions](#) suffering the greatest lack of health care resources

tend to be disproportionately home to people of color. Centuries of discrimination mean that rural poverty is also more deeply entrenched in communities of color, like those in the [Black Belt of Alabama](#) and Native American lands. The coronavirus pandemic will disproportionately impact rural communities of color; in the same way it appears to be impacting urban communities of color.

The town of Albany, in southwest Georgia, presages what rural communities face when coronavirus sweeps through. In late March, 2020, the coronavirus infection rate in Albany, Georgia, was the second highest in the United States after New York City, due largely to a late February funeral where many people caught the virus. The sole hospital's capacity was immediately overwhelmed. The nearby prison also experienced an outbreak, leading to the first Georgia prisoner who died from coronavirus. The Albany outbreak also reflects the racial disparity emerging in coronavirus deaths; 90% of those who died were African American. And yet Dougherty County, where Albany is located, is relatively lucky—nine nearby rural counties have no hospital nor any practicing physicians at all.

RECOMMENDATIONS

At this point, there is broad agreement that jails must dramatically reduce new bookings and release inmates in order to avoid a humanitarian disaster. Some rural jails have already started to limit admissions in order to reduce jail populations and ensure better care for detainees and employees. In East Texas, for example, counties have entered into agreements amongst themselves to stop transfers and new bookings to keep jail populations low. Jails in rural Alabama, Georgia, and Tennessee, have also started reducing jail populations pursuant to judges' orders. Most of their releases are of people being held pretrial as well as people being held for technical violations of parole or probation.

Criminal system actors should also stem the flow of jail admissions by using cite-and-release and releasing pretrial detainees as well as those approaching the ends of their sentences. There are good alternatives to pretrial detention, such as text message reminders to alert people of their court dates; this option, used effectively in parts of rural Oregon and elsewhere, reduces contact and is inexpensive.

CONCLUSION

While rural leaders can still reduce jail populations before coronavirus ravages their jails, it's clear that there is little time to waste. Judges, prosecutors, law enforcement, and other elected leaders should recognize the need and use their respective authority to decarcerate now in order to save the lives of detainees, jail staff, and entire communities. If they do not, they will likely overwhelm already stretched-thin healthcare resources, which will impact the entire community and impede care for all.

+ METHODOLOGY

Figures regarding the number of jail detainees in counties without ICU beds are based on an analysis conducted by Aaron Littman using the following data sources: (1) ICU bed data from 2018 and 2019, compiled and cleaned by Kaiser Health News and drawn from hospitals' most recent financial cost reports, which are filed annually with the Centers for Medicare & Medicaid Services. It excludes Veterans Affairs hospitals; (2) Jail population data from 2013, the most recent year of published results from the Bureau of Justice Statistics' Census of Jails, compiled and cleaned by the Vera Institute of Justice. As a result, the figures reflect the number of people incarcerated in 2013 in jails in counties that in 2018 or 2019 lacked any ICU beds.

Note also that Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont have combined jails and prisons and do not report any or significant numbers of incarcerated people in the Census of Jails, and so have been by necessity excluded from this analysis. Of course, the lack of an ICU bed in a given county does not mean that a person confined in its jail who becomes critically ill will not have access to care at an out-of-county hospital, but these statistics highlight the scarcity of healthcare resources available to jail detainees and staff—and others—who become infected with coronavirus in rural areas.