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Beds for Rent: Economic Motives of County Jail Expansion 1970 - Present

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Abstract

For the last four decades, incarceration in the United States has risen in areas where few would expect: rural ex-mining and agricultural counties with low crime rates. In response, a body of literature has emerged revealing a nationwide trend in which declining counties invest in correctional facilities as a last-ditch economic revitalization strategy. However, researchers have focused on state and federal prison construction projects while neglecting the impact of county jails on growing rural incarceration rates. Since the 1970s, hundreds of counties have expanded their jails to house federal inmates. As jails are the first stage of incarceration, policies concerning their use directly influence mass incarceration. In this paper, I analyze contracts, data, and reports from federal, state, and county-level correctional agencies in a case study of Lackawanna County Jail in Northeast Pennsylvania. Mapping this case onto national trends, I argue that despite offering temporary economic relief, rural jail expansion and contracting incentivize national and local incarceration and offer a false economic solution. In examining the case, I show that the jail's 1997 expansion and subsequent contracts have harmed the local workforce and produced a number of high-profile lawsuits concerning human rights abuses. Indeed, jails are intended for low occupancy and short sentences, and when used for long-term sentences, result in inhumane conditions and higher recidivism rates. The results of this study

illuminate the hidden mechanisms and negative externalities of rural jail contracting and begin to address an unaddressed part of rural incarceration.

Keywords: Rural Incarceration, County Jails, Economic Revitalization, Corrections Contracts

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Incarceration rates around the US have been on a downward trend since 2007 (Vera Institute of Justice). However, around the country, incarceration rates in small and rural counties are rising (King et al. 1-2). These areas, many of which have been affected by the joint pangs of declining traditional industries and Reagan-era retrenchment, have experienced poverty rates higher than those of metropolitan areas since the 1980s (King et al. 1). Increasingly, they are embracing incarceration as a last-ditch economic revitalization strategy. In these counties, new jails are being built and old ones, expanded, so that counties can rent bed spaces to federal and state correctional agencies for holding their inmates. Since 1970, there has been an 888% increase in people serving time in county jails outside of their jurisdiction (Norton et al.) As jails are where people go first when arrested and awaiting their trial, the way that jails operate and the motives driving their operations directly affect the trajectory of mass incarceration, which appears to finally have peaked in 2007 after decades of growth (Subramanian et al. 2-4). Further, rural counties are committing significant resources to new projects for building or expanding jails and are increasingly basing their economy on incarceration. Despite the initial relief that investing in incarceration and renting out jail beds can offer struggling counties, in the long term, it is a false economic solution. As shown in this paper's case study of Lackawanna County Prison, this partnership creates minimal sustained benefit (King et al. 3) and carries concerning consequences for inmates, communities, and mass incarceration (Norton, "Why So Many in Jail in Scranton, PA?" 1).

To be clear, there are many political and economic factors driving the surge in rural incarceration, far exceeding the scope of any individual paper. There is also a wide range, varying regionally, of ways in which rural counties use incarceration for economic gain (e.g., bidding for new state and federal prison construction, building private prisons). This paper is specifically interested in the mechanisms, economic motives, and implications of bed-renting exchanges between county jails and federal and state-level government corrections agencies within the 1970-2019 timeframe. The case study and most of the reviewed reports and data are based in Northeast Pennsylvania's Lackawanna County.

1. Origins of the bed-renting phenomenon

The 1980s were disastrous for small counties. During this period, the disappearance of traditional industries devastated rural communities as significant parts of their communities' economy, identity, and tax revenue disappeared seemingly overnight (Perdue and Sanchagrin 210-223). Their populations plummeted, and the departure of industries which used to contribute to tax revenue reduced funding for vital social services, sending small counties in a downward spiral. In the same period, nationwide incarceration rates skyrocketed as a result of increased "tough on crime" policing and sentencing. Here arose an opportunity: state and federal correctional institutions, roughly 40% of which were over capacity in 2012 (Office of the Attorney General 22), lacked space, and small counties needed money and jobs. To government agencies such as the Federal Bureau of Prisons, the United States Marshals Service, and states' Departments of Corrections, these counties offered space and cheap warehousing of excess inmates; to the counties, these agencies offered a steady, recession-proof, and lucrative flow of inmates. In the next section, I use Lackawanna County Prison to illustrate this relationship.

2. Case Study: Lackawanna County Prison

Lackawanna County was founded in the late twentieth century at the peak of the anthracite coal boom. A blue-collar, majority-white mining area, it sat at the center of regional coal and steel production. As coal began to be replaced by oil at the turn of the century, however, mines and manufacturers began to leave the area (Data USA). With the economic downturn which ensued, Lackawanna's population decreased by seven percent (Fed. Reserve Bank of St. Louis, "Lackawanna Resident Population") between 1980 and 2017 and its poverty rate reached 15.4% in 2015 (Norton, "Why So Many in Jail in Scranton, PA?" 1). Around that time, federal and state prisons, including those under the administration of the US Marshals Service (USMS, which holds US Department of Justice detainees before and during proceedings), the Pennsylvania Department of Corrections (PADOC), and the Federal Bureau of Prisons (BOP) became overcrowded as a result of the rising incarceration rates starting in the early 1970s.

Lackawanna County Prison (LCP), the county jail[1], was built in the mid-1880s. In March 1997, the USMS signed an Intergovernmental Service Agreement (ISA) (USMS 1-15) with Lackawanna County for LCP to house federal prisoners under USMS custody (Office of the Inspector General Audit Division and USDOJ 37). By this contract, USMS pays the county a $32 per diem rate per inmate and $15.31 per guard hour for an estimated 3,650 "prisoner days" per year, totaling an estimated annual service charge of $137,376.64 (USMS, "Intergovernmental Service Agreement: Housing of Prisoners" 1, 12). This was part of the USMS Cooperative Agreement Program (CAP) which Lackawanna joined in 1997, by which USMS provides capital

[1] Some jails in Pennsylvania, including LCP, are referred to as prisons

investment to help counties with limited resources increase correctional capacity. In exchange, participating counties guarantee USMS bed spaces for an agreed-upon contract period, averaging 10-15 years. After receiving the undisclosed 1997 CAP appropriation, LCP expanded bed spaces from 110 to 1200 (Norton, "Why So Many in Jail in Scranton, PA?" 1). LCP also entered an agreement with US Immigration and Customs Enforcement (ICE) to hold aliens while they await immigration proceedings, and it held 116 of these individuals between 2011-2013 (Cole et al. 16). Additionally, PADOC, operating at 113% capacity, signed a contract with LCP and sent 83 inmates to the facility in 2019 (PADOC 4). Despite its crime rate being 27 percent lower than the national average, its incarceration rate grew fourteen-fold between 1970 and 2015, reaching double the national average jail incarceration rate (Norton et al., "Rural Incarceration Despite Low Crime"). But by then, it was too late for Lackawanna to turn back: in 2016, 32% of LCP's population were out-of-county inmates or, as LCP Deputy Warden David Langan called them, "paying customers" who earned LCP 5 million in profit in 2016 (Norton, "Why So Many in Jail in Scranton, PA?" 1).

3. Results at LCP: Abuse, dubious economic benefits, and conflicts of interest

Lackawanna made national headlines (Messer) in spring 2018 for a rape scandal involving three lawsuits, ten perpetrators (all staff) and sixteen inmates (Krawczeniuk). In April 2019, an eighth employee faced criminal charges for perpetuating a "a culture of sexual abuse within the prison" (Bresswein). Other lawsuits and testimonies against LCP mention unprovoked violence from guards, humiliation, discrimination against disabled inmates, and general disorder (Preate, "Testimony Before Subcommittee on Crime, Terrorism, and Homeland Security" 1-13).

Less clear is the economic impact of LCP's bed-renting. Between 2015 and 2016, Lackawanna received approximately an $1 million increase in payments for housing out-of-county inmates and its net deficit decreased by $3,909,153 (4%), although this was largely due to increase in tax revenue and operating grants (Baker Tilly 18, 23). It also saw a 4.5% increase in Charges for Service revenue, attributed almost entirely to housing out-of-county inmates (Baker Tilly 18, 23). However, while its average income rose and its unemployment (Federal Reserve Bank of St. Louis, “Lackawanna Unemployment”) rate is on a decade-long downward trend, its population loss continues save for a brief uptick in 2009 (Federal Reserve Bank of St. Louis, “Lackawanna Resident Population”). Additionally, its poverty rate is increasing, growing from 13.6% in 2013 to 15.4% in 2018 (Federal Reserve Bank of St. Louis, “Lackawanna Population Below Poverty Level”). The recent county-wide budgetary improvements, if even attributable to LCP’s bed-renting, are insignificant compared to the county’s overall deficit. Indeed, Lackawanna’s persistently above-average unemployment and rising poverty suggest that the long-term effects of investment in correctional facilities and renting out jail beds are insignificant if not negative.

On the federal level, it is clear that this relationship cuts costs. In a study by the Vera Institute of Justice, of the sixteen states which outsourced a larger than average (≥8%) proportion of their inmates to county jails, eleven incurred lower than average ($31,286) per-inmate costs (Henrichson and Delaney). The state with the lowest average cost ($16,251) was Louisiana, which spent the second most (proportionally) on inmate housing contracts. These trends, in aggregate, reveal a clear economic incentive for state and federal agencies to contract housing of inmates to county jails. This, then, incentivizes rural jurisdictions to invest more in correctional facilities, making it in their favor for national incarceration rates to remain high.

4. Implications of this Phenomenon

Incentivizing incarceration

LCP's relationship with state and federal agencies is not an exception. Since 1982, USMS gave counties $285 million in the form of CAP grants, creating 13,600 new guaranteed beds in county jails for federal detainees (USDOJ, "THE USMS CAP" 4-5, 25-47). From 2009 to 2010 alone, PADOC transferred 1,507 state inmates to Pennsylvania's small counties. As a result, between 1994 and 2012, Pennsylvania's county jails experienced an 88.2% increase in population and their gross revenue grew 50% between 2005 and 2010 (Commission on Crime and Delinquency 1). As a result of these aggregate trends, jail incarceration rates in small counties has grown seven times since 1970 (Norton, "Why So Many in Jail in Scranton, PA?" 1).

Minimal, if not harmful, impact on economic health

Boosters touting incarceration as a viable economic development tool claim it offers a number of economic benefits as well as further multiplier effects.[2] As a 2016 Federal Bureau of Justice budget report reads, "The BOP's positive impact on rural communities is significant. By bringing in new federal jobs, stimulation of local businesses and housing, contracting with hospitals and other local vendors, and coordinating with local law enforcement, the BOP improves the economy of the town and the entire region where these rural facilities are located." Another motive for counties to invest in corrections is that inmates from other jurisdictions are counted in the census as residents of the county where they are held. Over time, consistently inflated population counts draw increased federal funding and political influence for the counties. Looking at Lackawanna County, however, there is little indication of the 1999 LCP expansion benefiting the economy. While the expansion created around 100 new corrections officer jobs (UsaCountyRecords.com), this is insignificant compared to the 5,900 unemployed as of December 2019 (Center for Workforce Information & Analysis 1).

[2] This means that its ultimate effect on the county's GDP will exceed its initial contribution in jobs and new business.

The unclear economic impact of LCP's expansion agrees with a growing body of literature suggesting that very few jobs go to people living in the county when new correctional facilities are built or old ones, expanded. In one study of the economic impact of correctional facilities built in the US during the 1985-1995 period, the proportion of new jobs which went to locals varied regionally from 20% to 40% (Glasmeier and Farrigan 274-80, 290-295). This is due to a host of reasons, ranging from union restrictions for the jobs as well as locals lacking training for the jobs. Additional studies show that business doesn't follow jails in the way that counties expect them to and that expanding correctional capacities in counties can even reduce the number of jobs available for locals because inmates compete with them for low-skill jobs (King et al. 15-16). A study conducted in rural New York counties echoed the contradicting economic effects of the LCP expansion: after new county jails were built, the counties saw lower unemployment rates, but higher poverty rates, and lower average incomes (King et al. 15-16). This suggests that beyond initial gains in employment, there is little sustained, structural economic change in counties with new or expanded jails. Further, investing in corrections may detract from sustained investment in more sustainable and effective modes of economic development (Glasmeier and Farrigan 294-295).

Worsened inmate conditions, possible recidivism increases

A more controversial part of the bed-renting phenomenon is its implications for prisoners and recidivism rates. As seen with LCP, jails are often more violent and disorderly than prisons as a result of higher turnover rates and lower staffing (Belcher). Additionally, it is problematic that county jails like LCP are designed for holding people short-term, with fewer programs for rehabilitation than prisons, yet in the case of LCP, it can hold inmates up to five years minus one day. This may lead to more crime upon release and higher recidivism rates. The numerous high-profile sexual abuse and violence cases filed against LCP paint a picture of a system inadequate for providing long term rehabilitative service and humane detainment for inmates.

Culture of incarceration

Perhaps the most concerning and consequential part of the new-found incentive for counties to rent beds to federal and state agencies is what it means for incarceration on the local and national scales. In recent years, the contracting of county jails by federal and state agencies has led counties to build more jails and beds than they need because they know that any excess beds will be filled. “As soon as you build beds, the beds get filled,” Vera Institute researcher Nancy Fishman said. “As these systems have gotten bigger, they have become oddly self-perpetuating” (Ehrenfreund). At the local level, this phenomenon creates what the Vera Institute calls a “Culture of Incarceration,” where the existence of excess bed capacity and the potential for profit through incarceration drives prosecutors and law enforcement to police and sentence more harshly. On the national level, reducing the cost of incarceration for government agencies and increasing available jail space removes downward pressures on incarceration and threatens to reverse recent gains in lowering incarceration rates. This seemingly beneficial relationship misaligns incentives on both sides. It creates local “cultures of incarceration” which harm the already-struggling counties’ social structure, economy, and image. It further perpetuates and facilitates mass incarceration and the detrimental societal, financial and cultural consequences which come with it.

5. Discussion

This is a critical time for mass incarceration. Incarceration rates, which have been rising for decades, are finally going down. At the same time, the net incarceration rate does not tell the story of rural and small counties which are using incarceration as a much-needed economic development strategy. This trend, of government-sponsored local investment in incarceration and the perverse incentives it creates for jurisdictions to keep incarceration rates high, is a pressing issue and merits significant continued research. As this paper demonstrates, behind the scenes in small counties like Lackawanna, a host of federal and state actors and local boosters are pitching incarceration as a "cure-all" for the counties' economic malaise. While their promises of new jobs and government funds do indeed play out in the short term, the long-term benefits of this partnership are unclear and its social and economic implications on the local and federal levels are worrying. As shown in the case of LCP and the studies mentioned in this paper, beyond holding little long-term economic promise, this trend harms communities and may limit their ability to invest in more sustainable economic development in the long run.

As of now, data on jail contracting is limited, as government agencies tend to collect more data on prisons.[3] It is also difficult to relate local, regional and national trends with contracts and regulations as this data all resides within the individual databases of each jurisdiction, government agency, and state. Additionally, many other factors can drive prisons and agencies to contract jails for beds.[4] However, this illustration of how the beds-for-profit mechanism played out in one county is an important start to a conversation which must be continued. Most existing studies look at prisons rather than jails and the state level rather than county level, but it is crucial to look at jails as they are where incarceration starts, and counties, because state laws and regulations play out differently in each one. Finally, there is little information on the specific factors which make county jails less expensive than prisons, although this is likely attributable to the overall lower costs of land and resources in rural areas. This is

[3] As an example, Lackawanna County Prison does not even have its own website.
[4] Such factors include specialized services, court orders, prisoners' petitions, conflicts with other prisoners.

another useful trajectory for future research as understanding the factors which determine cost of incarceration can reveal more about the phenomenon and offer insight on how to mitigate the perverse incentives it breeds.

This study looks mainly at the mechanics and implications of jails renting beds to government entities and is only a snapshot of the wider trend of economic motives shifting the geography of incarceration. Another equally important part of the picture is the trend of rural counties bidding to attract new federal and state prisons to the sites of former factories and coal mines, which has striking parallels to the process by which large cities have bid for Amazon headquarters and “creative industries.” A study on this topic would have exceeded the scope of this paper, however future research on it would be useful for illustrating how the regional differences between urban and rural areas has affected the geography of incarceration.

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