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Aaron Littman is a Binder Clinical Teaching Fellow at UCLA School of Law, where he teaches a police accountability clinic and is developing an appellate prisoners' rights clinic. He has a J.D. from Yale Law School, an M.Phil. in Criminological Research from the University of Cambridge, and a B.A. in political science from Yale College. Before coming to UCLA, he clerked for the Honorable Stephen Reinhardt on the Ninth Circuit Court of Appeals and for the Honorable Myron Thompson in the Middle District of Alabama, and worked as a staff attorney in the impact litigation unit of the Southern Center for Human Rights. His practice there involved class action challenges to solitary confinement and inadequate mental healthcare in prisons and jails and to suspicionless mass searches of bar patrons and high school students, as well as representation of individuals in postconviction proceedings. His previous scholarship includes *Prison Visitation Policies: A Fifty State Survey*, 32 *Yale L. & Pol'y Rev.* 149 (2013) (with Chesa Boudin and Trevor Stutz), reprinted in *Prisoners and the Law* (Ira P. Robbins, ed.).

## **(De)carceral Jail Administration**

The machinery of mass incarceration in America is huge, intricate, and destructive. To understand it and to tame it, scholars and activists look for the levers – where are they, who holds them, and what motivates them? This much we know: legislators criminalize, police arrest, prosecutors charge, judges sentence, prison officials punish, and probation and parole officials manage release.

As this Article reveals, jailers, too, have their hands on the controls. The sheriffs who run jails and the county commissioners who fund them have tremendous but unrecognized power over the size and shape of our criminal justice system, particularly in rural areas and particularly for people accused or convicted of low-level crimes.

Because they have the authority to build jails (or not) as well as the authority to release people (or not), they exercise significant control over *both* the supply of and demand for jail bedspace: not just conditions in jails, but how they should be and how many people should be confined in them. Through their power to finance jail construction and operations, jailers determine who has a stake in carceral expansion and contraction. Their decisions are influenced by politics – and by money. Constraints they create or relieve on carceral infrastructure exert or alleviate pressure on other officials at the local, state, and federal levels.

Drawing on surveys of state statutes and of municipal securities filings, data from the Bureau of Justice Statistics, case law, and media coverage, this Article tells overlooked stories, of sheriffs who send their deputies out door-knocking to convince voters to support a new tax to fund a new jail, and of commissioners who raise criminal court fees and sign contracts to detain “rental inmates” to ensure that incarceration “pays for itself.” It also tells of jail population caps imposed by commissioners, and of sheriffs who override the arrest decisions of city police officers, release defendants who have not made bail, and cut sentences short.

A spotlight on jailers illuminates three important attributes of our carceral crisis. First: despite their disclaimers of responsibility, sheriffs and county commissioners are policymakers – not functionaries – with the power to increase and decrease the number of people behind bars. Second: jailing has become a public enterprise, its growth driven at least as much by political economy as it is by public safety, and should be regulated as such. Third: the fragmentation of the criminal justice system gives jailers cover and generates problematic incentives, but it can also create opportunities for democratic accountability.