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BOONE COUNTY JAIL POPULATION STUDY

April 13, 2017

by Gary Oxenhandler

**“We must always bear in mind...that...until, we, as a society,
change our attitude as to who and why we incarcerate,
dilemma is our destiny.”**

“Our next goal is to improve pretrial incarceration practices. Incarcerating persons simply because they are too poor to post bond needs to be examined in both municipal and criminal cases. Under our Missouri Constitution, an individual may be incarcerated before trial only when charged with a capital offense; when a danger to a crime victim, a witness, or the community; or a flight risk. All other persons are entitled to reasonable conditions of release prior to trial, based on the particular circumstances of their cases.

Our cities and counties incur costs for pretrial incarcerations of people who simply are poor. There are individual and societal consequences from these unwarranted pretrial incarcerations. The consequences impact the defendants, their families and, ultimately, the state. Defendants lose not only their freedom but also their ability to earn a living and to provide for loved ones. Children may even come into state custody, because incarcerated parents are not home to care for them. And – after only three days in jail – the likelihood that an individual will commit future crimes also increases.

A Supreme Court task force will examine how other states and cities have addressed the problem of unwarranted pretrial incarceration and recommend changes to our practices. We look forward to sharing what we learn with you and working together to enact common-sense reforms.”

An excerpt from Missouri Supreme Court Chief Justice Patricia Breckenridge's State of the Judiciary Speech to the Missouri Legislature delivered on January 24, 2017

Daniel K. Atwill, Presiding Commissioner
Fred J. Parry, District I Commissioner
Janet M. Thompson, District II Commissioner

Good morning, Commissioners:

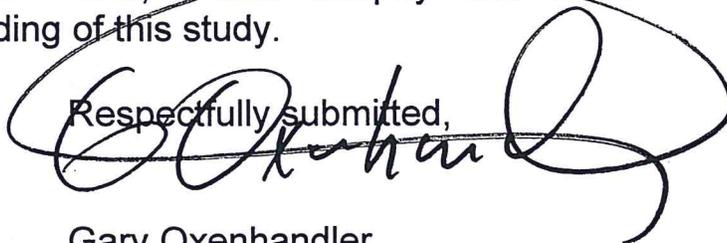
Thank you for the opportunity to participate in the discussions regarding the heightened detainee population issues at the Boone County Jail.¹ The simple answer to any “over capacity,” any “housing” problem, whether it be residential, office or jail is to build additional space. Construction of a jail, however, presents three confounding issues: what are your building requirements, can you afford to build it and if you build, can you staff it? The intent of this study is to: take a look at the history of the jail; try to identify the sources of the current increase in population; discuss the Boone County Model; endeavor to determine whether the increase is short or long term; and to present some points of study for additional consideration.

It should be noted that during the course of this study, all of those who own a piece of the jail population, the “stakeholders,” have continued to make changes for the better. Though some may view those changes as a reaction to the public discussions surrounding this work, I do not believe that to be the case as the Prosecutor, the Court, the Defense Bar, the Sheriff’s Office and Adult Court Services have regularly and consistently made changes and initiated new policies to address detainee population control since the first jail task force.

Though my work is in response to a request from the Commission, if I found something interesting in my research, even if it was very basic, I included it: I wanted not only the stakeholders to have all of the information that I came across, but all Boone Countians – the real stakeholders. If nothing else, it is my belief that this report gives a good sense of the complex issues surrounding the issue of control of local jail populations.

All of the stakeholders were very supportive of my work – thank you. A special thanks, to Captain Keith Hoskins, Detention Officer of the Boone County Jail, June Pitchford, our Boone County Auditor, and Jason Gibson of the Auditor's Office, who spent countless hours educating me on the intricacies of the jail and the Boone County Budget – not an easy task - and, Kristal Murphy and Janet Oxenhandler for their proofreading of this study.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "G. Oxenhandler". The signature is written over the text "Respectfully submitted," and extends to the right, ending in a large loop.

Gary Oxenhandler

Study Background

During the course of my work:

I interviewed² and talked to the following (whom I considered to be the primary players, the decision-makers, the “stakeholders,” whose work impacts upon the Boone County Jail population and, in turn, the costs of the jail):

- June Pitchford, Auditor, Boone County;³
- Sheriff Dwayne Carey, Boone County;
- Captain Keith Hoskins, Detention Director, Boone County Jail;
- David Wallis, District Defender, Office of the Public Defender;
- Mary Epping, Court Administrator, 13th Judicial Circuit;
- Rusty Antel, Chair, Judicial and Law Enforcement Task Force and Co-Chair, Stepping Up, the Mental Health Initiative;
- Jason Gibson, Auditor’s Office, Boone County;
- Dan Knight, Prosecuting Attorney, Boone County;⁴
- Tracy Gonzales, First Assistant Prosecuting Attorney, Boone County;
- The Honorable Kevin Crane, Presiding Judge, 13th Judicial Circuit;
- The Honorable Christine Carpenter, Circuit Judge, 13th Judicial Circuit;
- The Honorable Leslie Schneider, Associate Circuit Judge, 13th Judicial Circuit;
- The Honorable Jeff Harris, Circuit Judge, 13th Judicial Circuit;
- Richard Cloud, Richard Cloud Bail Bonding;
- Christy Blakemore, Boone County Circuit Clerk;
- Brandon Walker, Supervisor, Adult Court Services, Boone County;
- Kevin O’Brien, Defense Attorney;
- Criminal Law Committee of the Boone County Bar;
- Robert Rinck, Columbia Prosecuting Attorney;

- Robert Jenkins, Probation and Parole;
- Chief Ken Burton, Columbia Police Department;⁵
- Christopher Braddock, Chair, Board of Jail Visitors;
- Blair Campmeier, Operations Director, Reality House;⁶
- Rob Harrison, Executive Director, Reality House;
- Dave Young, Representative, BI Division of GEO Group;⁷
- Public Hearing, February 1, 2017, Government Center;⁸
- Jerry Swartz, Citizen;⁹ and
- Boone County Commission, February 7, 2017.

And, I reviewed the following materials:

- Jail Task Force Report, 1997;
- the Jail Study for Boone County, Missouri prepared by CSG Consultants, LLC, 1999;
- the Boone County Phase II Jail Expansion Proposal prepared by Schenkel Shultz Architecture, 1999;
- the Boone County Judicial and Law Enforcement Task Force Final Report, 2001;
- the Advanced Correctional Healthcare, Inc., Contract;
- the minutes of the Criminal Justice Administration Coordination Committee;
- various Boone County Budgets;
- Boone County Jail statistics;
- Report of Mayor's Task Force on Community Violence, November 17, 2014;
- Court statistics;
- Smart Sentencing Bulletin see Volume 3, Issue 1, Smart Sentencing Bulletin October 31, 2014, Sentencing Advisory Commission;¹⁰
- Various Jail Visitor's Reports;
- Reality House statistics;
- Pretrial Justice Institute;
- Recollections of a discussion with Ted Boehm;¹¹
- the Weekly Thursday Jail Reports emanating from Adult Court Services;¹²

- Incarceration's Front Door: The Misuse of Jails in America.¹³
- Currently-available technology for Adult Court Services

This report is based on the interviews that I conducted, the reports and papers that I reviewed and my professional experiences.¹⁴ As you read through this Study, please bear in mind the following:

- that although this report appears to treat the detainees of our Boone County Jail as mere demographics, such is not the intention. Those held in our jail are someone's family member, someone's friend, but most importantly, the detainees of our Jail are *our* fellow citizens. Though we speak of population and costs, we are really trying to figure out the most respectful way of treating members of our community who have seemingly lost their way.¹⁵
- that the population of Boone County is growing. For the period 2010 to 2015, Boone County grew by 7.58 percent, tying with Platte County as the fastest-growing county in Missouri.¹⁶ There is no end in sight for this growth. As our community grows, so will grow the volume of our serious crime. Serious crime requires jail space. Notwithstanding how efficiently we operate our jail, at some point in time (unless there are significant changes in the application of the law), we will require more space . . . it's time to begin planning so that when that time comes, we can move cost effectively and expeditiously.

My charge for this Study was to take the first steps in analyzing whether the current increase in population in the Boone County Jail is short-term or long-term and to do so by studying the historical and current status of the jail population. I was to consider the work of the Criminal Justice Administration Coordination Committee and the Boone County Judicial & Law Enforcement Task Force¹⁷ and the programs and protocols that have been implemented to address the population of the Boone County Jail. Thus, the breadth of this Study was broad; my view, macro, not micro.¹⁸

My initial thought with regard to one of the primary objectives of my study was to try and identify the jail population tipping point, that is, that point at which the cost of administering the jail in its current configuration (including out-of-jail housing) exceeded the cost of constructing and operating additional facilities. After my discussions with the various stakeholders and further consideration, I realized that the determination of the tipping point, though interesting, is not ascertainable with my level of expertise with any degree of certainty and is, in fact, not a controlling objective. The reasons for reconsidering the tipping point as a primary objective are significant and they, themselves, are an important part of my analysis:

- Almost unanimously, but for one reason or another, those interviewed were **not** supportive of the construction of additional jail facilities at this time.
- Even if there existed significant support for the construction of additional jail facilities, where would the millions of dollars required to fund such a project come from?^{19, 20}
- Even if there existed significant support for the construction of additional jail facilities and the funds were available for such a project, where would we find the professionals to staff a facility? We already know from our personal Boone County Jail experience, finding a professional staff to operate our Jail is, at best, difficult. From late December 2015 to March, 2016, D Pod was closed due to lack of staffing.
- If the identification of the jail population tipping point became the end in itself, would it tend to reduce the pressure on the system - the stakeholders of the system - to find ways to reduce jail population.²¹

Significantly, the identification of the tipping point is not the end-all answer to Boone County's heightened jail population. Even if we could ascertain that point at which the cost of administering the jail in its current configuration (including out-of-jail housing) exceeds the cost of constructing and operating additional facilities, we would still need to determine the parallel point at which it is more cost-effective to expand the existing jail facility instead of housing detainees in

other facilities. And, in that analysis, the dates, that is, the points in time for the tipping point and the parallel point could be in any sequence: the same date or before or after one another. The difficulty in trying to identify these two points, the tipping and cost effectiveness points, are the almost infinite possible answers to the following questions:

- How big of a jail do we need?
- Will we expand the current jail and/or build an addition somewhere else or build an entirely new facility on the jail's current footprint or somewhere else?
- Will construction require additional property?
- Will the additional property be in the County's current inventory or owned by third parties?
- If owned by third parties, how much will the property cost?
- If owned by third parties, will there be neighborhood/zoning issues?
- What are the development requirements of the property?
- Does the site require geological testing?
- Do we need to relocate utilities?
- What are the technology costs for the expansion (fiber optics, wiring, etc.)?
- What are the costs of specialized furniture, fixtures and equipment?
- What about the debt issuance costs and interest during construction?
- What will it cost to build?
- How long will it take to build?
- How much will it cost for detainee displacement incurred for temporarily housing detainees in other secure facilities?
- What design services are required for the project (needs assessment and program requirements, schematic design, design development, construction documents, bid and negotiation, construction administration, etc.)?

At the same time that we seek answers to the above issues, we have the following ongoing matters to consider:

- What is the availability (and continuing availability) of quality, detainee beds in other nearby, secure facilities?

- How much will those beds cost?
- Will the current out-of-jail housing model (housing, transportation, food and medical) as used by other secure facilities remain a constant?
- As our jail population continues to move from less violent detainees to more violent detainees, will other secure facilities continue to accept our prisoners?
- As we house more detainees out of jail, what are the administrative and financial impacts on transport staff, overtime, and vehicles?
- What about the other operational impacts associated with housing large numbers of detainees in other facilities i.e., medical care, availability of video arraignment technology, etc?
- What is the estimated annual operating cost for a new facility (this is dependent on size, design, supervision model, etc.?)
- What changes in State law and our alternative sentencing courts will impact on jail population?
- With the current bail system falling into constitutional question, what impact will this have on detainee population?
- And, most significantly, if we build it, can we staff it?

After reducing my initial tipping point analysis to a non-primary goal, I turned my focus to the history of our jail system and to what I learned from my interviews about the growth of our detainee population; the movement of detainees through that system; the evolution of the seriousness of the alleged criminal nature of our detainees; the cost of housing our detainees; the Boone County "Model"; the Boone County budget and the practicalities of expanding our jail facilities. I conclude my report with my "points of study" – those areas which I believed were appropriate for further consideration by everyone involved in our jail system but specifically by the Criminal Justice Administration Coordination Committee. Notwithstanding anything that anyone draws from this study, it is my opinion that the cumulative work of the Criminal Justice Administration Coordination Committee and the Boone County Judicial & Law Enforcement Task Force is the key to all successes achieved by Boone County with respect to the administration of the Jail, and, they remain the key to all future decision-making. Notwithstanding the critical discussions that occur in these two groups and notwithstanding the protocols and programs that they implement, it is my belief that their mere existence and, in

turn, the continuous psychological pressure that they put on the jail system is the fundamental basis of the successes of the Boone County incarceration model.²²

Some Background

There are more than 3,000 jails in the United States, holding 731,000 people on any given day - more than the population of Detroit and nearly as many people as live in San Francisco . . . Jails are the gateway to the formal criminal justice system in a country that holds more people in custody than any other country on the planet. *Incarcerations Front Door: the Misuse of Jails in America, February 2015. Vera Institute of Justice. WWW.Vera.Org*

In Boone County, we have one jail.²³ Operating at its most efficient, that is, with the men and women beds exactly matching the men and women, respectively, to be housed, it houses 210 men and women. On average, each day, we are only able to house approximately 181 detainees in the jail footprint. In 2016, detainees exceeded the space available at a daily average of approximately 44 detainees. It costs about \$40.00 per day to house a detainee in another secure facility. In 2016, to house Boone County detainees in other facilities, Boone County spent approximately \$500,000, about \$200,000 more than its \$300,000 budget. It is those numbers that have prompted this study.

Understanding the Boone County “Corrections” Budget

As reflected on the hereinafter-included Chart, the gross “Corrections” component of the 2016 Boone County Budget was \$5,477,404. The budget line for out-of-jail housing was \$300,000.²⁴ The \$300,000 includes paid housing placements at Reality House²⁵ as well as placements in secure facilities in other counties.²⁶ \$120,000 of the \$300,000 budget line comes from the County’s general revenues; the remaining \$180,000 of the \$300,000 budget line comes from the revenues of Proposition L (the Law Enforcement Services Fund). Proposition L derives its revenues from a voter-approved 1/8-cent sales tax. The Proposition L Fund is jointly administered by the Sheriff, the Prosecuting Attorney, the Commission and the Circuit Court. The group meets annually to set

allocations and goals. In 2008, the group agreed that when the out-of-jail costs are less than the then-budgeted amount (\$300,000), the unused portion of the then-budgeted amount would be held in a reserve fund for application to future overages.²⁷ The saved funds have been held in a reserve fund. The reserve fund prior to the hereinafter-described 2016 overage held \$1,295,800. In 2016, for the first time since the creation of the reserve fund, the out-of-jail housing costs exceeded the \$300,000 in the budget. The out-of-jail housing costs were approximately²⁸ \$500,526.49, \$200,526.49 over the \$300,000 budget line. However, \$83,906 of the \$200,526.49 overage was incurred for out-of-jail housing as a result of the closure of D Pod due to staff shortages. Therefore, the \$500,526.49 was funded (paid) as follows:

- \$120,000 from general revenue;
- \$180,000 from the Prop L Fund;
- \$110,000 from the Prop L Reserves;
- \$6,620.49 of unused funds in the Line 71100 "Outside Services" fund; and
- the balance of \$83,906 from the General Fund from the Corrections Class 1 Personal Services appropriations.²⁹

As suggested, on January 1, 2016, the Prop L Reserve³⁰ Fund's balance was \$1,295,800; it has now been reduced by \$110,000 to \$1,185,800. If the current level of out-of-jail housing continues at, hypothetically, \$110,000 over the \$300,000 budget line (a total of \$410,000) and the average daily cost for out-of-jail housing is \$40 per day and the Reserve Fund is used to meet the overage, the Prop L Reserve Funds will be depleted in 10.78 years. Although \$110,000 annually seems like a big chunk of money, it only supports the out-of-jail housing of 7.47 detainees for a year (\$110,000 divided by \$40 divided by 365 = 7.47).³¹

In recent months, there has been discussion among members of the Criminal Justice Administration Coordination Committee as to the financial significance of the annual reimbursement from the Department of Corrections: the Department of Corrections reimburses Boone County for detainees that are held at the expense of Boone County and are ultimately sent to the Department of Corrections. In 2016, the reimbursement was \$841,527. It is my opinion that while the reimbursement is a significant dollar amount

and directly impacts upon the overall Corrections' budget, it is irrelevant to an analysis of the population of the Jail.³²

Who are our Detainees?

The population of the Boone County Jail is a saga of transition. Not only has our detainee population shown the appearance³³ of sustained growth, but the very nature of our detainees has evolved. Combining that with the population growth in our community and budget, staffing and mental health issues and we, along with everyone else in the United States, find ourselves facing a perplexing enigma. In the mid 1990's, when we first commenced in earnest to analyze the population of the Boone County Jail, the classifications of the detainees in the jail (misdemeanants, felons, pretrial holds and commits – those serving misdemeanor sentences) was considerably different than today. Though overcrowding existed, our overall population was smaller, mostly male, mostly misdemeanants serving sentences. Detainee mental health problems were either less prevalent or simply under our radar (most likely, the latter). Likewise, detainee healthcare was not a particular area of concern. Today, our female detainees represent about 12% of our population.³⁴ Misdemeanants serving sentences are almost non-existent (at one point in January, 2017, we had 1 misdemeanor commit in our Jail). During 2016, our average daily Jail population was 225.96 detainees. January had the lowest daily inmate average, 180, and September had the highest, 245. 12% of the average daily jail population are misdemeanants; the remaining 88% are felons.

The Stepping Up Initiative³⁵ suggests that 20% of our detainees are battling mental health issues, many diagnosed; up to 60% undiagnosed, or, unwilling to share their mental health condition. Our jail is now a full service health clinic.³⁶

Under our law, we differentiate between our misdemeanants and felons based upon the gravity of the possible sentences that they face: misdemeanants, up to a year in the county jail; and felons, simply, more than that (usually in the Department of Corrections). So if the punishment is greater, the conduct of the criminal must, in turn, be more egregious, more violative of our social norms. As the felon-percentage of our detainee population increases, it is reasonable to

project that our increased felony population would be more difficult to administer in a jail setting.

One of the focal points of this report is the cost effectiveness of housing Boone County Jail detainees in other county jails. Though at first blush, the process seems simple: if we don't have the room for a detainee, for a fee we can house that detainee elsewhere. However, we can't just send any detainee to another county: other jails only want our best and brightest. They will not accept allegedly dangerous or hardened criminals (and recall: we are now housing more felons than ever before and our felons are, arguably, our most anti-social); detainees with identified mental health or physical health problems³⁷; and, of course, our Detention Officer must ask himself if he believes that the target jail will provide adequate security to an acceptable but physically and/or psychologically vulnerable Boone County detainee. At the same time, our best detainees serve as trustees in our jail assisting our staff with low level administrative help (e.g. serving meals, delivering messages, etc.). Though the other counties are more than willing to accept our trustee-qualified detainees in their jails, are we able to sacrifice the help that our trustees provide?³⁸ Then, of course, we must find the staff and time to transport the detainees to and from the other jails (so the detainees are available for court appearances and conferences with counsel). And, housing in other jails has become more expensive: in 2015, we were paying \$35.00 per day; today, it's \$41.00 per day (and as high as \$50.00 per day). As state-wide, county jails continue to age, beds become a premium, new construction is not affordable and new staff non-existent, other jails will vie for the extra spaces we need, and, in turn, available beds in other jails will begin to shrink for Boone County . . . driving up costs. It is reasonable to anticipate that the classifications of detainees in our jail will continue to evolve. If the housing pressures on the jail remain static, at some point, regardless of the charge, we will no longer house misdemeanants in the jail.

As a result of a realistically anticipated confluence of limited jail space, unavailability of construction funds, the rising recognition by other overcrowded jails that housing of prisoners out-of-county is a fiscally responsible way of avoiding construction, and the, in turn, shrinking of rental jail space in other jails, we find ourselves in a never ending cycle.

The Boone County Jail Dilemma

“Although there is new appetite for reducing America’s reliance on incarceration, scaling back jail populations will be a complicated task. How and why so many people cycle through jails is the result of decisions dispersed among largely autonomous system actors—which together make up one system of incarceration.³⁹ These include the police who choose to arrest, release, or book people into jail; prosecutors who determine whether to charge or divert arrested persons; pretrial services program providers who make custody and release recommendations; judges . . . who decide whom to detain or release, and under what conditions; other court actors, from attorneys and judges to administrators, whose action or inaction can accelerate or delay pending cases; and community corrections agencies who choose how and when to respond to persons who violate their conditions of supervision in the community. Release and detention decisions may also depend on the existence of critical community services that can provide the supports needed to keep people charged with crimes out of custody . . . Given that all of these actors may be driven by contradictory goals or incentives and may operate with varying degrees of knowledge of, or enthusiasm for, alternatives to jail incarceration, it can be very difficult to align or coordinate their efforts to ensure that jails are used only when absolutely necessary to serve the public good. But it’s not impossible.”
Incarcerations Front Door: the Misuse of Jails in America, February 2015. Vera Institute of Justice. WWW.Vera.Org.

For the past four decades, federal and state funding for mental health services has been on the decline. Without funding, mental health facilities have been closing and mental health patients have been forced to transition to the care of their families, to self-motivated care, to no care and to the streets. As late as 2008, in the aftermath of the recession, the states cut over 3.4 billion dollars from mental health services.

In 1991, the current Boone County Jail was built. Within four months of the opening of the jail, it was at capacity and Boone County was

housing detainees in other county jails.⁴⁰ At that point in time, the jail was primarily filled with misdemeanor commits; that is, detainees serving misdemeanor convictions. In the mid-to-late 1990's, alternative sentencing courts⁴¹ became the catchphrase for diverting criminals from, in some instances, a criminal conviction; in others, from jail or prison. Along with the alternative sentencing courts, risk assessment tools or algorithms⁴² become mainstream. During that same period of time, the Boone County Jail, still overpopulated, prompted action by the Boone County Commission and the Jail Task Forces of 1997 and 2001⁴³ were formed. As an outgrowth of these groups, the Boone County Judicial & Law Enforcement Task Force and the Criminal Justice Administration Coordination Committee came into being.

Stepping back a bit, in the mid 1980s, the first private jails appear. Some argued that privatization and its inherent profit motive spelled the degradation of the quality of services in the privatization of historically publicly operated institutions; others argue otherwise.^{44, 45, 46} Though the population of Boone County continues to grow, crime has fallen nationally. Gangs come to the community.⁴⁷ Nationally, the infrastructures (bridges, streets, sewer systems etc.) of local communities begin to deteriorate and require local revenues for revitalization. This impacts on the availability of funds to renovate and/or build jail facilities. The issues of mass incarceration and the incarceration of citizens with identifiable mental health problems become a country-wide discussion.

The collateral consequences of convictions⁴⁸ is spotlighted by the American Bar Association and national criminal reform movement.⁴⁹ Pressure is felt from the jail themselves as to their inability to hire professional staff for risky, low paying, unpleasant jobs in often deteriorating jails filled with detainees with significant mental health issues.⁵⁰ Local jails, being at capacity, look to other jails to house their prisoners. Jails with housing space realize the value of those spaces and those spaces become a marketable product. Demand for space for housing overflow detainees increases and, in turn, the sales price of those spaces increases. Local jails being at capacity begin bidding on placement space for their excess detainees.⁵¹ The federal government endeavors to get out of the prison business and begins placement of their prisoners in non-federal, local facilities.

Local jails reserve space for federal prisoners, who pay almost double the local bidding rate. Jails with available rental space only want the best and brightest detainees. At the same time, overcrowded jails need those same prisoners to provide staffing assistance in their own jails. Overcrowded jails are hesitant to house certain prisoners in other jails concerned that the physically and mentally vulnerable will not be as secure in other facilities. No longer is the jail filled with misdemeanor commits as the population has shifted to its current-predominantly pre-trial felons – almost no misdemeanor commits. On the one hand, this is a good thing: the jail is no longer over-housing low level criminals; on the other, detainees being primarily felons (and an arguably more challenging population to control) housing them out-of-county comes with its placement issues. As communities realize that running a jail is expensive and eroding its ability to pay to fill potholes,⁵² the nature of the detainee shifts again: communities consider and some commence to limit incarcerating misdemeanants. Pressure is added to the system as more and more state and federal courts question the legal basis of bail protocols.⁵³

The Chart

Thanks to the Auditor's Office and the Sheriff's Office for the preparation of the following chart.⁵⁴ In light of the fact that there is no common software program between the Auditor and the Jail, the Auditor relied upon the total in-custody numbers and the breakdown of those numbers as calculated by the Sheriff's Office. Though the Auditor's Office and me have confidence in the Sheriff's numbers and the same were readily available, the software programs run by both the Sheriff's Office and the Auditor's Office should be able to communicate with one another; they don't – this is a problem.⁵⁵ The data displayed on this chart includes not only the Department of Corrections reimbursements but also the indirect costs of operating the jail, moving us closer to a true picture of the costs of operating the jail. For comparison purposes, the chart covers 2007 through 2016 (and includes the final data for 2016).

Average Daily "In-Custody" Cost at the Boone County Jail

Source: AS400 Ledger (Budget Basis); Cost Allocation Plan (most current and prior year cost plans as they relate)

Department Gross Operating Expenses	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007
1255 - Corrections	4,172,027	4,077,602	3,738,280	3,680,952	3,734,048	3,822,511	3,872,513	4,041,229	4,034,414	3,746,763
1256 - SH/CORR Maint/HK (portion allocated to Corrections)	162,871	226,765	164,905	187,951	140,824	- ^c				
2902 - Corrections - LE Sales Tax	837,577	787,299	744,397	733,134	670,824	714,832	672,023	652,241	667,701	679,288
2906 - Contract Inmate Housing	304,929	102,748	84,524	50,894	9,782	173,072	71,681	50,763	112,056	23,737
Total Gross Operating Expenses	5,477,404	5,194,414	4,732,106	4,652,931	4,555,478	4,710,415	4,616,217	4,744,233	4,814,171	4,449,788
Deduct: Program Revenues										
State Reimbursement for Prisoners Assigned to DOC	(841,527)	(822,977)	(628,871)	(470,537)	(637,767)	(616,323)	(666,472)	(580,917)	(697,194)	(641,483)
All Other Program Revenues	(342,291)	(388,080)	(367,953)	(403,683)	(377,416)	(368,384)	(391,237)	(390,288)	(347,419)	(274,922)
Total Program Revenues	(1,183,818)	(1,211,057)	(996,824)	(874,220)	(1,015,183)	(984,707)	(1,057,709)	(971,205)	(1,044,613)	(916,405)
Total Net Operating Expenses (WITHOUT INDIRECT COSTS)	4,293,586	3,983,357	3,735,282	3,778,711	3,540,295	3,725,708	3,558,508	3,773,028	3,769,558	3,533,383
Add: Indirect Cost ^a (i.e. HR, IT, Legal)	392,971	297,191	297,191	246,373	246,373	238,841	286,139	267,629	325,745	424,920
Total NET Operating Expenses (INCLUDING INDIRECT COSTS)	4,686,557	4,280,548	4,032,473	4,025,084	3,786,668	3,964,549	3,844,647	4,040,657	4,095,303	3,958,303
In Custody - Housed at Jail	66,242	66,653	66,613	66,496	64,920	66,115	65,943	64,328	66,182	61,498
In Custody - Housed Out of Jail	16,235	7,779	7,310	7,406	3,176	10,798	7,684	7,166	9,017	2,455
Total In Custody Days Per Year ^b	82,477	74,432	73,923	73,902	68,096	76,913	73,627	71,494	75,199	63,953
Average Number under Jail Custody Per Day - (total per year/365)	225.96	203.92	202.53	202.47	186.56	210.72	201.72	195.87	206.02	175.21
Total Net Operating Expenses (INCLUDING INDIRECT COSTS)	4,686,557	4,280,548	4,032,473	4,025,084	3,786,668	3,964,549	3,844,647	4,040,657	4,095,303	3,958,303
Average Number In-Custody Per Day	225.96	203.92	202.53	202.47	186.56	210.72	201.72	195.87	206.02	175.21
Average Daily Total In-Custody Cost	56.82	57.51	54.55	54.47	55.61	51.55	52.22	56.52	54.46	61.89
Total Net Operating Expenses (INCLUDING INDIRECT COSTS)	4,686,556.97	4,280,548.00	4,032,473.00	4,025,084.00	3,786,668.00	3,964,549.00	3,844,647.00	4,040,657.00	4,095,303.00	3,958,303.00
Less: 1255 - Out of County Costs	(203,905.81)	(120,000.00)	(120,000.00)	(120,000.00)	(40,570.00)	(120,000.00)	(120,000.00)	(120,000.00)	(120,000.00)	15,403.80
Less: 2906 - Out of County Costs	(304,928.68)	(102,748.00)	(84,524.00)	(50,894.00)	(9,782.00)	(173,072.00)	(71,681.00)	(50,763.00)	(112,056.00)	(23,737.00)
Total Net Operating Expenses related to In Custody - Housed IN Jail	4,177,722.48	4,057,800.00	3,827,949.00	3,854,190.00	3,736,316.00	3,671,477.00	3,652,966.00	3,869,894.00	3,863,247.00	3,949,969.80
Average Number In-Custody Per Day - Housed IN Jail (at Jail/365)	181.48	182.61	182.50	182.18	177.86	181.14	180.67	176.24	181.32	168.49
Average Daily Total In-Custody Cost - Housed IN Jail	63.07	60.88	57.47	57.96	57.55	55.53	55.40	60.16	58.37	64.23
Total Out of County Costs (including Work Release Contracts)	508,834.49	222,748.00	204,524.00	170,894.00	50,352.00	293,072.00	191,681.00	170,763.00	232,056.00	8,333.20
Average Number In-Custody Per Day - Housed OUT of Jail (Out of Jail/365)	44.48	21.31	20.03	20.29	8.70	29.58	21.05	19.63	24.70	6.73
Average Daily Total In-Custody Cost - Housed OUT of Jail	31.34	28.63	27.98	23.08	15.85	27.14	24.95	23.83	25.74	3.39

a - Indirect costs obtained from independent 3rd party Indirect Cost Allocation Plan

b - In Custody Numbers provided by Keith Hoskins, Detention Director

c - Prior to 2012, Facilities Maintenance and Housekeeping for the Detention Center was accounted for in Internal Service Fund 610 and charged back to the department in account 1255-71500 (within the operating expenses above). Beginning in 2012, the Sheriff assumed administrative responsibility of Facilities and Housekeeping duties at the Detention Center and costs were accounted for in Department 1256.

Actual Indirect Costs- Most Current Cost Plan	2015 Report	2014 Report	2014 Report	2011 Report	2011 Report	2011 Report	2009 Report	2009 Report	2008 Report	2007 Report
Total Indirect for Corrections 1255, 1256 (81%), 2902, & 2906 (Allocated Costs by Department)										
1255	403,479.00	324,166.00	324,166.00	417,812.00	417,812.00	417,812.00	497,777.00	497,777.00	563,899.00	663,175.00
1256	24,476.00	14,865.00	14,865.00	(130,742.00)	(130,742.00)	-	-	-	-	-
2902	17,852.00	10,289.00	10,289.00	11,851.00	11,851.00	11,851.00	12,098.00	12,098.00	13,904.00	14,304.00
2906	1,023.00	1,730.00	1,730.00	1,311.00	1,311.00	1,311.00	660.00	660.00	802.00	301.00
Less:										
FM Internal Service Charge (exclude amt in cost plan b/c also included in AS 400 class 7 totals above)	(53,859.00)	(53,859.00)	(53,859.00)	(53,859.00)	(53,859.00)	(192,133.00)	(224,396.00)	(242,906.00)	(252,860.00)	(252,860.00)
Housekeeping (included in AS 400 class 7 totals above)	-	-	-	-	-	-	-	-	-	-
Indirect Costs to be Included	392,971.00	297,191.00	297,191.00	246,373.00	246,373.00	238,841.00	286,139.00	267,629.00	325,745.00	424,920.00

Note: IT & Legal costs were captured as Sheriff costs in the Indirect cost plan so therefore Indirect Costs may be understated.

For 2016, the actual "Corrections" budget was \$4,172,027. However, adding the jail's share of the Sheriff's budget for maintenance and housekeeping of the jail of \$162,871, adding \$837,577 from the Law Enforcement Sales Tax and adding \$304,929 for contract detainee housing, the Total Gross Operating Expenses for the jail are \$5,477,404. Then, the Total Gross Operating Expenses of \$5,477,404 are reduced by the Program revenues that include the Department of Corrections reimbursement of \$841,527. Without the addition of the indirect costs of operating the jail, the Total Net Operating Expenses of the jail was 4,293,586. With the addition of the indirect expenses (human resources, information technology, legal, etc.) of \$392,971, the Total Net Operating Expenses with Indirect Costs was \$4,686,557.

In 2016, the jail utilized 82,477 bed days or an average of 225.96 detainees per day. Therefore, the daily rate for all detainees, wherever they may be housed, was \$56.82. The daily rate for the 181.48 detainees held in the jail was \$63.07. The daily rate for the 44.48 detainees held outside of the jail was \$31.34.⁵⁶ From 2007 through 2016, the Boone County Jail logged 734,016 bed days.⁵⁷ The average annual bed days was 73,401. The range was from a low in 2007 of 63,953, to a high in 2016 of 82,477. In years, the ascending order of population was the years 2007, 2012, 2009, 2010, 2013, 2014, 2015, 2008, 2011 and 2016. The average bed days per year for the first five years was 72,237 or 1.3% below the 10 year average. The average bed day-per-year for the most five years was 74,566 or 1.8% above the ten year average. The difference between the bed day averages of the first five year period and the second five year period is 2,329 bed days. At \$40.00 per day, the cost is \$93,160. The Jail is in the process of adding 13 beds to D Pod. Ostensibly that translates into 4,745 additional bed days in the jail. For comparison purposes, the addition of the 4,745 bed days at \$40 per day translates into \$189,800. Over the past ten years, the annual bed days for detainees housed in the jail has remained fairly constant:⁵⁸ about 65,499, with the most recent five years averaging 66,184: the change has been in the number of detainees housed out of the jail. In 2007, we had 2,455 bed days in other secure facilities; in 2016, we had 16,235 bed days in other secure facilities. From 2015 to 2016, the jail experienced its largest one-year increase in required

bed days, 8,456. An interesting statistic is the Department of Corrections reimbursement to the County for detainees that are housed in Boone County but ultimately sent or returned to DOC. Though the daily rate of reimbursement has gone up and down over the years, the range of change is very small.⁵⁹ What is significant, though, is the annual amount of reimbursement (which is shown on the Chart). It would appear⁶⁰ that the annual amount of reimbursement is increasing (particularly in the last two years). If there is a direct relationship between those felons that we send to DOC and the seriousness of their crimes, an increase in the reimbursement may give us a signal as to type of criminal that we are now housing in our jail.

The Boone County Model

Boone County's unique⁶¹ jail population control model is predicated upon knowledgeable leadership at the Boone County Jail, ongoing and effective discussion among the stakeholders whose decisions impact upon the jail population, the work of the Mental Health Jail Staffing Meeting, an active and independent Adult Court Services, the Jail Visitors⁶² and a supportive Commission and community.

Over the past 25 years, the Boone County Commission, the Judiciary, the Sheriff's Office and the Prosecutor's Office have maintained an enviably cordial, working relationship.⁶³ The work of the 2001 Jail Task Force began with the Department of Justice principle that if you wanted to take control of jail overcrowding, you needed to bring to the table all of the players who impacted upon the growth of the jail population and commence an unabashed discussion of the jail population – each player assuming their share of the responsibility for the jail population.⁶⁴ After the work of the Task Force was completed, Boone County took that DOJ principal and extended it long term: in 2003, Presiding Judge Gene Hamilton formed the Criminal Justice Administration Coordination Committee and the Boone County Commission created the Judicial and Law Enforcement Task Force. The Coordination Committee's membership consisted of all of those persons or organizations that contributed to the jail population. Since then, the Committee has been dutifully meeting on a monthly basis. The meeting is well attended. Over time, entity representatives have been added to the membership. The

Committee currently consists of the following: any Boone County Judge who presides over criminal cases; the Court Administrator; the Assistant Court Administrator; the Prosecutor; the Public Defender; a Commission-designated Commission member; a representative of the Columbia Police Department; the Columbia Municipal Judge (and any other Municipal Judge within Boone County); a representative of Probation and Parole; a representative of Reality House; the Sheriff; the Detention Officer of the Boone County Jail; the Supervisor of Adult Court Services; the Circuit Clerk and members of the private defense bar. The meeting is open to the public. Though the Presiding Judge prepares the agenda, anyone may suggest a topic of discussion. The discussions are centered on any issues impacting upon the population of the jail including the orderly and timely movement of detainees through the criminal justice system. The discussions are substantive. The Committee has created an environment of collegiality and cooperation between the Judiciary, the Prosecutor, the Public Defender, the Commission and the Sheriff that is unparalleled in this State. As a direct result of the work of the Committee, Boone County has implemented programs and policies that have aided in the providing of due process to our detainees, saved the county money and reduced the jail population.

On May 4, 2016, the Mental Health Jail Staffing Meeting commenced its work. It meets on Wednesday, bi-weekly, to review the status of detainees in the Jail who have been identified as suffering mental health issues. Detainees charged with sex offenses or serious violent offenders are generally excluded from the discussion. Any other detainee with a mental health issue is discussed by the group, with the goal of making certain that the detainee gets the appropriate mental health treatment and that the case moves efficiently through the system. On Monday of the week of the Meeting, a list of the detainees to be discussed is distributed by Captain Jenny Atwell to Judge Leslie Schneider. Other names may be added at the request of attorneys or a judge. Judge Schneider presides over the Meeting and it is attended by a representative of the Prosecutor, the Public Defender, private counsel where one of his/her cases is going to be discussed, the Jail Mental Health Worker, a representative of Burrell Behavior Health, Captain Jenny Atwell of the Jail and any other interested parties (which usually include Commissioner Janet Thompson and Rusty Antel). The participants review the general

status of each listed detainee, services being provided and those available and case status and progress including available bond reports. Judge Schneider has suggested that the Mental Health Jail Staffing Meeting has not only identified and provided needed and available mental health services to detainees at the Jail but more importantly has resulted in making sure that such cases are progressing, that attorneys are active in the representation and that other available services are identified if and when the identified person is released from custody.⁶⁵

The Judicial and Law Enforcement Task Force is a seven-member citizen oversight board comprised of non-stakeholder community members. The Task Force studies available resources to create a plan to maximize the effective long-term use of the Boone County Jail, the Courthouse and the Sheriff's Office, while meeting the needs of Boone County for continued, quality law enforcement and a balanced budget. The Task Force meets on call but meets no less than quarterly. The Task Force is chaired by Rusty Antel.

Adult Court Services (ACS) reports on and administers alternatives to incarceration. Every detainee who cannot post their bond is evaluated by ACS and a report to the assigned judge is prepared. Where appropriate, ACS recommends a plan of pre-trial release, subject to the approval of the assigned judge. ACS supervises many detainees who are released. ACS also supervises misdemeanor probation cases, primarily driving while intoxicated and stealing. Interviews of detainees may be in person, by telephone or by video connection to the Boone County Jail. While ACS works with the Prosecuting Attorney's Office, private defense counsel and the Public Defender's Office, it does not work for either party to criminal cases. The Adult Court Services Supervisor reports to the Court Administrator of the 13th Judicial Circuit Court.

In the Vera Institute's paper, *Incarceration's Front Door, Reducing the Overuse of Jails*, it is said that

“(t)he misuse of jails is neither inevitable nor irreversible. But to chart a different course will take leadership and vision. No single decision or decision maker in a local justice system determines who is in the local jail. While some jurisdictions

have made strides in developing, implementing, and evaluating off-ramps from the path that leads to the jailhouse door, change at one point in the system will have limited impact if other key actors and policies pull in the opposite direction. To both scale back and improve how jails are used in a sustainable way, localities must engage all justice system actors in collaborative study and action. Only in this way can jurisdictions hope to make the systemic changes needed to stem the tide of people entering jails and to shorten the stay for those admitted.”

This is the Boone County Model – the Vera Institute Model.

Points of Study

1. The Criminal Justice Administration Coordination Committee is the single most significant tool for controlling the population of and costs attendant to the operation of the Boone County Jail. Currently, no member of the Committee is a budget expert with access to and knowledge of all monetary issues regarding the operation of the Jail and the relationship between jail costs, the county budget as a whole and local and national budget trends. Consideration should be given to adding June Pitchford, the Boone County Auditor, to the Criminal Justice Administration Coordination Committee.
2. There is only one group in Boone County that independently interacts with the detainees of the Boone County Jail:⁶⁶ the Board of Jail Visitors. Consideration should be given to adding the Chair of the Board or a representative of the Board to the Criminal Justice Administration Coordination Committee.
3. Within the court system, the work of Adult Court Services serves as an objective informational hub to assist the judiciary in its decision-making with regard to the incarceration and continued incarceration of jail detainees. Notwithstanding whether or not a judge supports a recommendation of ACS, the reports and recommendations of ACS should be delivered to the court on a fast track. ACS's ongoing responsibilities to manage the video dockets are a continuous drain on ACS staff.

4. Consideration should be given to ameliorating this time drain on the ACS staff by bridling some other department with the management of the video dockets or expanding the staff of ACS so that reports and recommendations can be completed without delay.⁶⁷
5. Consideration should be given to creating an Adult Court Services protocol providing for the bi-weekly updating of bond reports on non-violent detainees.⁶⁸
6. Since the late 1990's, a philosophical transition has occurred with respect to the housing of non-violent offenders. What was once a Boone County Jail filled with misdemeanants is a now jail filled with a high percentage of pre-trial detainees held on felony charges. The transition should continue to the point in time where we are only housing detainees that pose the risks outlined by Judge Breckenridge in her legislative address. The key to continuing this transition is an independent, aggressive and fully funded Adult Court Services. Consideration should be given to additional funding for Adult Court Services so that we achieve the incarceration of only the most serious offenders.⁶⁹
7. A number of interviewees suggested that at one time or another they believed that a detainee should be re-considered for a less restrictive environment but that there was no simple, unimpeded process in place to make their suggestion known. Consideration should be given to the creation of protocol for such a suggestion to be made. It would appear that ACS would be the most logical gatekeeper for such suggestions.
8. Consideration should be given to the increased use of home detention for both pre-trial detainees and sentenced inmates.
9. Adult Court Services monitors many detainees through its multi-faceted GPS system.⁷⁰ According to ACS, the failure of a defendant to appear for court appearances is a significant reason for an otherwise successful GPS monitored person to be returned to the jail. Though ACS electronically communicates with defendants with regard to meetings with ACS, ACS does not so communicate as to court date.

Consideration should be given to a means for so-notifying GPS monitored persons.

10. Consideration should be given to the immediate referral of newly arrested detainees to Adult Court Services for bond report prior to the court requesting a bond investigation.
11. Though home detention statistics provided by Adult Court Services are an important consideration in any analysis of the population of the jail, by including them as a percentage of the total in-custody on the Thursday report tends to mask the actual in-custody numbers. Consideration should be given to reporting the home detention numbers but not as a percentage of the total in-custody.
12. The Sheriff is currently converting 13 beds in D Pod from double bunking to triple bunking. With the federal detainee housing guidelines in mind, consideration should be given to expanding the triple bunk option to other housing units in the Jail.⁷¹
13. At the time of the arrest and regularly during the bond setting process, the prosecuting attorney is permitted to make recommendations as to the amount of bond and the conditions of the bond. In the early stages of detention, the input of the prosecuting attorney may be significant as to such issues as prior convictions. However, the prosecutor's recommendation⁷² as to the *amount* of the bond tends to create an undue momentum throughout the criminal process thereby impacting upon possible subsequent bond modifications favorable to a detainee.⁷³ In the early stages of a detainee's detention, no such opportunity is given to the detainee; a detainee may not have counsel at this stage. Consideration should be given to limiting the prosecutor's input at the arrest and first setting of bond to (a) prior convictions⁷⁴ and (b) suggested conditions of release to protect the safety of the victim and the community.
14. The movement of detainees through the Associate Circuit Court is a time consuming process. Consideration should be

given to policies that reduce the amount of time that it takes to move detainees through the Associate Circuit Court.

15. Consideration should be given to the creation of a group to regularly review the bond status of every detainee in the jail in order to identify those detainees whose circumstances have changed such that it is believed that they should be given further bond consideration by the judge presiding over their case. The model for such a group currently exists in the biweekly Mental Health Jail Staffing Meeting. Though the very essence of due process is the independence of the court and, in turn, the independence of any given judge of the court, the implementation of such a model would be a step toward the uniformity of decision-making with respect to bond settings. If created, such a group should not serve as a limitation on the rights of any detainee to seek review of her or his bond.
16. Consideration should be given to the issuance of summonses for non-violent misdemeanor detainees and non-violent felon detainees charged with such crimes as bad checks, forgery, stealing and non-support.
17. For about the past year, the Missouri University Police Department has been releasing drivers arrested for driving while intoxicated first offense (wherein there are no aggravating circumstances) for Columbia Municipal Court on summonses, without having to post a monetary bond. In these cases, the offenders are being brought to MUPD where they are processed (breath test, fingerprints and photographs). It is my understanding that there have been no significant issues with offenders not appearing in court (most are hiring private counsel prior to arraignment) and no reported issues of the offender going back to the vehicle and repeating the offense. The officers work with the offender to make sure they have a safe way home upon release from MUPD – either a sober driver or a taxi/Uber or within safe walking distance. Rough estimates suggest that this procedure could avoid 250 bookings annually. County-wide adoption of this protocol would eliminate all of these cases from being booked into the jail and having to go through the bonding process, which would save time for jail

staff. Consideration should be given to all law enforcement effectuating such a practice.⁷⁵

18. Consideration should be given to preserving the Proposition L Reserve Fund for use for transitional detainee out-of-county housing at such time as facility expansion is required.
19. Consideration should be given to the support of the expansion of Reality House at its current location or on other property in the County's inventory to house additional qualified detainees.⁷⁶
20. Consideration should be given to regularly emphasizing to the patrol officers of all law enforcement (Columbia Police Department and other Boone County municipal police departments, Missouri University Police Department, Missouri State Highway Patrol and the Sheriff's Office) of the significant role that their arrest discretion plays on the population of the jail.⁷⁷
21. Consideration should be given to the creation of a software system that gives the primary stakeholders access to the all-inclusive information underlying every aspect of the detainee population and its attendant costs.⁷⁸

Final Point

Notwithstanding the points of study raised in this report, the Boone County Model has done an exceptional job of controlling its overall jail population. As a result of that work, the type of prisoner that Boone County is housing has shifted from pre-trial and post-trial misdemeanants to pre-trial detainees held on pending felony charges. Though we would rather not have anyone in our jail, if we are going to incarcerate any group, it should only be those who pose the greatest threat to the safety of our community. At the same time, Boone County is fast-growing and will continue to grow; and, in turn, our overall out-of-jail detainee population is heightened. As we dip into our Proposition L reserve funds to pay for our out-of-county housing, we are faced with an almost insurmountable dilemma: space appears to be running low, professional staff is a vanishing resource, money is short and though housing in other facilities is

currently a viable, cost-saving alternative, it is likely that such space is a disappearing commodity. Though I am uncertain as to the value of what we might learn, consideration should be given to retaining the services of a jail consultant⁷⁹ to analyze the numbers and provide us with our alternatives. We must always bear in mind, though, that notwithstanding any studies that we may conduct, no matter the level of expertise of our consultants, until we, as a society, change our attitude as to who and why we incarcerate, dilemma is our destiny.

¹ The history of jails in English-speaking countries, including America, can be traced back to twelfth-century England during the reign of King Henry II who ordered their construction and placed them under the control of the crown's local government representative, the county sheriff. Their primary purpose was to detain people awaiting trial and those convicted but awaiting punishment. The earliest reference to jails in the United States is to the construction of a "people pen" in 1632 in prerevolutionary Boston. Mirroring the brutal British penal codes and practices of the day, the dominant form of criminal punishment in colonial America was corporal—with serious crimes punishable by death, physical mutilation, branding, or whipping, and lesser offenses by public ridicule and humiliation through the use of the stocks, the pillory, the public cage, or the ducking stool. But with the conversion of Philadelphia's Walnut Street Jail into the country's first penitentiary in 1790—as part of penal reform championed by the Quakers—incarceration as punishment soon became the default response for serious law-breaking and with it the modern prison system was born. ***Vera Institute of Justice. Introduction to Incarcerations Front Door: The Misuse of Jails in America.***

share my philosophies about prosecution. We have frequent discussions about the topics I will address and are well aware of incarceration expense issues in Boone County. We will continue to try to alleviate jail pressures when appropriate. I do not take taxpayer expenditures lightly. On all budgetary issues, I always strive to be careful and thoughtful regarding how taxpayer money is spent. To keep direct expenses to Boone County citizens down, my office has aggressively pursued and successfully secured federal grant funding for employees' salaries and other expenses. We have also tried our best to minimize all expenses associated with prosecution without compromising our effectiveness. While I am concerned about incarceration expenses in Boone County, my top priority is to seek justice even if there is an economic cost associated with doing so. My other priority is to keep the public safe. To seek justice and protect the community, I evaluate each case on an individual basis. As you know, prosecutors don't set bonds or impose sentences; those are judicial functions. When making my recommendations on these matters, I take many factors into consideration including: the seriousness of the offense, how the case impacts any victim and what can be done to help, any negative or positive aspects of the defendant's background, and whether the defendant is a danger to a victim or the community. I evaluate information provided to me by law enforcement officers, victims, criminal defense attorneys, or anyone else. I always do my best to be as fair as possible in every case. Missouri Supreme Court Rule 4-3.8 sets forth special responsibilities of prosecutors, and the very first sentence in the comment section of that rule states, "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate." As a minister of justice, it is not my job to recommend high bonds and maximum punishments in every single case. In some cases, however, I will seek high bonds and long sentences, while in others I will recommend lower bonds and more lenient punishments. In each case, I will strive to do the right thing. It would be highly inappropriate for me, as a minister of justice, to make recommendations regarding the incarceration status of individuals based primarily on the costs of incarceration rather than justice and public safety. As you know, county jails house detainees primarily for two different reasons. First, some detainees are incarcerated there while awaiting trial after being charged with felonies. Felony sentences are typically served in the Missouri Department of Corrections. Second, some detainees are incarcerated in jail while awaiting trial for misdemeanor offenses or while serving misdemeanor sentences. I have been working as a prosecutor in this office since 1992. Since that time, the population of Boone County has grown substantially. Felony filings have increased while the Boone County Jail has remained the same size. The percentage of the inmate population awaiting trial for felony offenses has risen while the percentage of detainees incarcerated for misdemeanor offenses has decreased. Many of the people who are in pre-trial custody have allegedly committed extremely serious, violent felonies. Also, numerous people charged with felonies are in custody for repeatedly violating conditions

of bond. It is important to have adequate capacity to house individuals charged with felonies when appropriate. It is also important for some offenders to be sentenced to serve jail sentences for misdemeanor offenses rather than being placed on probation or home detention. Crimes such as domestic assault, harassment, stalking, and violations of orders of protection are serious even though they are classified as misdemeanors. Defendants who commit these types of crimes are often very dangerous, and victims of these crimes need and deserve to be protected. Further, imposing jail sentences to be served for some misdemeanors often can effectively deter future crimes. The offenders might very well have second thoughts about committing other crimes after spending some time in jail. Even short "shock" incarceration sentences, especially for youthful offenders, can serve to strongly deter future, more serious crimes, and thus benefit the offenders along with the rest of the community. I strongly believe our county must always have the capacity to incarcerate offenders for some misdemeanor offenses when appropriate. If there is not adequate deterrence, more crimes will be committed and public safety will be detrimentally affected. Without adequate deterrence, Boone County taxpayer expenses associated with the criminal justice system will increase. Law enforcement officers will investigate more crimes which might have been deterred with appropriate sentences. More cases will make their way to an already overburdened court system. More resources will be needed for court clerks, prosecutors, public defenders, and judges to handle these cases. These expenses can be referred to as hidden costs. For example, there might be an initial cost savings of a few hundred dollars to not sentence an offender to a short "shock" sentence in jail. However, if that offender is not adequately deterred, there is a higher likelihood that the offender will commit additional crimes which could result in significantly higher hidden costs to Boone County taxpayers than the costs required to house that offender for a short jail sentence. Over the last 10 years, my first assistant and I have regularly attended the monthly Criminal Justice Administration Committee meetings where issues related to Boone County inmate incarceration expenses have been discussed. I, along with the other prosecutors in this office, have frequently evaluated the status of cases where defendants were in jail custody to determine if we would agree to recommend alternatives to incarceration. We have done our best to keep an open mind about these matters when making recommendations. We have agreed to recommend lower bonds or shorter jail sentences in individual cases when appropriate. The reality is that our jail capacity relative to the population of this county is very small. In 2007, I analyzed the size of the Boone County Jail relative to the sizes of county jails across the country and Missouri. On 7-1-07, the Boone County Jail had a maximum capacity of 210 (which is the current capacity), and the county's population was estimated to be 152,435, so there were 138 beds available at the Boone County Jail for every 100,000 residents. Based on the U.S. Department of Justice Bureau Statistics/Jail

Statistics and the estimated population of the U.S.A. during that year there were on average 270 beds for every 100,000 U.S. citizens. Further, I analyzed the capacities of 22 county jails ranging in size from the Howard County Jail to the Jackson County Jail, and I discovered that there were on average 273 beds for every 100,000 residents in the counties my office surveyed. In conclusion, I found on a per capita basis Boone County's Jail was about 50% smaller than the average jail on both the national and Missouri state levels. Further, it is my understanding that in 2015, the estimated population of Boone County was 174,974, so the number of beds available for every 100,000 citizens had decreased to about 120. Currently, I am not advocating for an expansion of the Boone County Jail. I understand that the "brick and mortar" and ongoing operations costs associated with an expansion could be significant. However, I am strongly in favor of continuing to house detainees "out of county" when there is not sufficient space to do so at the Boone County Jail. This has been done for quite a while, and it is my understanding this can be a cost effective way to incarcerate individuals. Since 2004, Boone County has budgeted \$300,000 every year for "out of county" housing. It is my understanding that from 2004 through 2015, this "out of county" housing budget was never exceeded and that \$1,671,658 was saved. I do not know how much of these savings have been set aside for future "out of county" housing expenses but that figure should be substantial. Every year, the State of Missouri reimburses Boone County a portion of the cost of housing detainees who are sent to the Missouri Department of Corrections. This is an important budgetary issue that I raised with the Criminal Justice Administration Coordination Committee on 10-25-16. It is my understanding that from 2001 through 2015, Boone County received \$9,633,686.22 for these per diem reimbursements, which comes to an average of \$642,245.75 per year. Going forward, these very substantial state reimbursements should be incorporated into the "In Custody Census and Cost Per Day" spreadsheets which have been regularly disseminated in order to give more accurate figures regarding incarceration costs incurred by Boone County taxpayers. In Boone County, inmate populations have been reduced by utilizing a myriad of alternative programs to incarceration. There is an Adult Court Services office in Boone County which among many functions performs bond investigations, administers pre-trial and post disposition home detention, provides bond supervision, and in certain cases supervises misdemeanor probation. There are four alternative sentencing courts in Boone County. The list of programs that provide alternatives to incarceration goes on and on. I support utilizing these programs when appropriate, which can result in savings to Boone County citizens. In addition to alternative programs to incarceration, another important way to reduce jail populations is to process cases quickly. The 13th Circuit consistently moves cases through the criminal justice system as rapidly or more rapidly than any other circuit in the State of Missouri. It is wonderful that the 13th Circuit has expedited the processing of cases. However, since cases are already being

resolved very quickly, and because cases take longer on average to handle than they did in the past, it will be extremely difficult to further reduce the Boone County inmate population by processing cases any faster. As of January 1st of this year, each prosecutor in this office was handling an average of 440 pending cases which is an enormous volume. The number of felony filings has been increasing. There are 9 pending murder cases in my office. We are currently handling many other complex and serious cases such as felony assaults, robberies, and sex crimes. As stated above, on average, it takes more time to handle cases now than in the past. This is due in large part to the huge increase in the volume of conversations which are recorded by law enforcement officers. 25 years ago, the statements of suspects, victims, and witnesses were rarely recorded whereas now they routinely are. Without any doubt, recorded statements are highly valuable because they often provide a clear and detailed record of what was said. However, evaluating these recorded statements takes a lot more time than reading a police report summary and therefore a much larger work burden has been placed on prosecutors and criminal defense attorneys. Further, the time required to competently handle cases increased considerably in 2014 when all uniformed officers at the Columbia Police Department started wearing body cameras. Several other law enforcement agencies followed suit and are now also using them. I believe body cameras are great for a multitude of reasons. They often provide excellent, accurate evidence for both the prosecution and the defense. However, the volume of recorded statements we must evaluate has greatly increased with their widespread implementation. For example, instead of perhaps spending 30 minutes or less reading 5 pages of police reports regarding a crime, there could be hours and hours of footage from multiple body cameras worn by various officers which could need to be reviewed for the same case. This is no small matter. These body cameras have significantly increased the workloads of both prosecutors and criminal defense attorneys which makes it more difficult to move cases as quickly as was done in the past. In conclusion, I believe that if decisions regarding the incarceration of individuals are ever made based primarily on capacity considerations rather than justice and public safety, then we will need to try to increase our capacity to house jail detainees one way (expanding the jail) or another (increasing funding for "out of county" housing). I will continue to consider matters relating to incarceration expenses in Boone County and do what I can to help keep those expenses down when appropriate. However, seeking justice and striving for public safety will always be my primary objectives. Thank you for taking the time to read this letter. Please let me know if you have any questions or concerns. Sincerely, Daniel K. Knight, Prosecuting Attorney"

⁵ Letter from Public Information Officer Latisha Stroer, Columbia Police Department, January 30, 2017: "Judge Oxenhandler, I understand you met with Chief Burton last week to discuss ways to reduce the population at the Boone County Jail. Since Chief Burton took over in 2009, he has made several changes

to the way officers handle calls for service based on the number of officers at the Columbia Police Department. Chief Burton is always looking at ways to make the most efficient use of our resources and balance that with the safety to the citizens of Columbia. The first change involved updating our policy manual that had not been updated since the 1970's. This allowed for Chief Burton to look at certain calls that officers responded to and how to make things more efficient. The Columbia Police Department changed the SWAT (Special Weapons and Tactics Unit) procedures used in executing search warrants. The Columbia Police Department procedure insured complete surveillance on the property prior to the search warrant and continues through the execution of the search warrant. The procedure changes require officers to complete a thorough background check on everyone known inside the residence as well as intelligence gathered about children or animals inside the residence. This procedure change was made to make search warrants safer for the officers as well as the public. The second change made by the Columbia Police Department was the way we responded to non-injury crashes. If the officer was dispatched to a non-injury crash where the vehicle did not have to be towed from the scene then the officer has the involved parties exchange names and insurance information in lieu of a crash report and diagram. Crash reports and diagrams take an officer off of the streets where they do not handle calls for service for hours. The change allowed officers to arrive, diagnose what happened, and to get back into service quicker to respond to emergency calls. The third change made by the Columbia Police Department was how officers responded to shoplifters. A shoplifting response procedure was made to improve efficiency in cases where the value of the stolen property is under \$50.00. The purpose of the procedure is to allow the majority of shoplifting suspects to be released at the scene without posting bond or being transported to the Boone County Jail. This procedure helps in reducing the population at the Boone County Jail and allows officers to get back into service to handle emergency calls for service. The Columbia Police Department has implemented online reporting. In the online reporting procedure, we have provided a list of allowed misdemeanor offenses where there is no suspect information so that the citizen can make the report online. They can do it from: home, work, cellular phone or in the Columbia Police Department Lobby, etc. This allows for citizens to make a police report when it is convenient for them and they do not have to wait for an officer to call them or come to their residence. It also allows for officers to respond to emergency calls and provide quicker response times to calls in progress. Chief Burton and his command staff are looking now at better ways for officers to respond to law alarms. Most law alarms that occur in Columbia are false alarms and this takes two officers away from emergency calls. Changes have not been made yet. The Columbia Police Department is always looking at other misdemeanor arrests where there is no other factors involved so that the person can be released on a summons rather than post bond at the Boone County Jail. Please let me know if you need anything else. Thanks. Public Information Officer Latisha Stroer, Columbia Police Department."

⁶ The mission of Reality House Programs, Inc. is to provide a broad continuum of community corrections in the least restrictive and most productive environment; while remaining true to our core philosophy of helping to maintain the rehabilitative focus of our participants, offering accountability to our courts, providing safety for our community, and seeking retribution for the victims of crime.

⁷ GEO Group provides GPS and related technology to Adult Court Services.

⁸ Minutes attached. Thanks to Commissioner Janet Thompson for taking the minutes.

⁹ Mr. Swartz sent me a letter with some suggestions and I called him.

¹⁰ See attached Smart Sentencing Bulletin, dated October 31, 2014, from the Missouri Sentencing Advisory Commission (<http://www.mosac.mo.gov/file.jsp?id=80273>).

¹¹ Ted Boehm was the Sheriff of Boone County from 1985 to 2004. He was a prime mover in the construction of the 1991 jail, the expansion of the courthouse and he saw his way through the 1997 and 2001 jail task forces. Sheriff Boehm's philosophy with regard to whether we should incarcerate an individual was simple: are we mad at them; or, are we afraid of them. If we are afraid, lock them up; if we are just mad, find some alternative to lockdown. Of course, he would say, sometimes people make you so darn mad, you have got to lock them up. Though simplistic, it made good sense and it appears that over time, those are most of the people that we now have in our jail. However, as described in this report, even if we had a jail filled with Sheriff Boehm's kind of prisoner, we would still have a problem.

¹² It has been suggested by some interviewees that the Thursday Jail Report is misleading in that "Thursday inmate housing numbers" are historically the lowest of the week. The objection appears to be well founded; however, since we are using statistical analyses based on averages over the long term and we are endeavoring to ascertain trends, the use of Thursday as the report date is, in this Study, *de minimis*. The Report is approximately 13 pages long. It provides detailed information regarding Home Detention, Electronic Monitoring and Alcohol Monitoring participants and pending reports, court actions, pleas and placements. I have only attached the last 5 pages of the March 30, 2017 Report; the first 8 pages providing specific names and case numbers.

¹³ Vera Institute of Justice, February 2015, Ram Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman and Peggy McGarry.

¹⁴ Since 1973, I have been a licensed attorney in Missouri, always practicing law in Boone County. While in private practice, I represented litigants in both civil and criminal cases. For 12 years, I served as member and Chair of the Boone County Jail Visitors. I chaired the 1997 Boone County Jail Task Force and 2001 Boone County Judicial and Law Enforcement Task Force. I served as Circuit Judge and Presiding Judge for the 13th Judicial Circuit and as member and Chair of the Missouri Sentencing Advisory Commission.

¹⁵ . . . many readers will come to this report thinking (a) jail is reserved only for those too dangerous to be released while awaiting trial or those deemed likely to

flee rather than face prosecution. Indeed, jails are necessary for some people. Yet too often we see ordinary people, some even our neighbors, held for minor violations such as driving with a suspended license, public intoxication, or shoplifting because they cannot afford bail as low as \$500. Single parents may lose custody of their children, sole wage-earners in families, their jobs - while all of us, the taxpayers, pay for them to stay in jail." **Nicholas Turner, President and Director, Vera Institute of Justice. Introduction to Incarcerations Front Door: The Misuse of Jails in America.**

"According to the American Bar Association's National Inventory of the Collateral Consequences of Conviction (<https://niccc.csgjusticecenter.org/#>), "collateral consequences are the legal and regulatory sanctions and restrictions that limit or prohibit people with criminal records from accessing employment, occupational licensing, housing, voting, education, and other opportunities. Collateral consequences most frequently affect people who have been convicted of a crime, though in some states an arrest alone—even an arrest that doesn't result in a conviction—may trigger a collateral consequence. Some collateral consequences serve a legitimate public safety or regulatory function, such as keeping firearms out of the hands of people convicted of domestic violence offenses, prohibiting people convicted of abuse from working with children or the elderly, or barring people convicted of fraud from positions of public trust. Others are directly related to the particular crime, such as registration requirements for sex offenders, driver's license restrictions for people convicted of serious traffic offense, or disbarment of people convicted of fraud. But many collateral consequences apply to people convicted of any crime, without regard to any relationship between the crime and opportunity being restricted, and frequently without consideration of how long ago the crime occurred or the person's rehabilitation efforts since. Collateral consequences with overbroad restrictions that offer no chance to overcome the restriction function as additional punishment and may discourage rehabilitation and ultimately increase recidivism." The impact of these "collateral consequences" is often discussed in the context of offender re-entry, but they attach not only to felonies and incarcerated individuals but also to misdemeanors and individuals who have never been incarcerated. Collateral consequences tend to last indefinitely, long after an individual is fully rehabilitated. Multiple studies demonstrate that collateral consequences have a disproportionate impact on individuals and communities of color. See, e.g., Michael Pinard, Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity, 85 N.Y.U. L. Rev. 457 (2010).

In Missouri, there are over 600 collateral consequence statutes, over twice those in the federal system, almost 300. On January 1, 2018, Section 610.140, RSMO, Expungement of certain criminal records . . . , etc., will become law. The statute is the first step in Missouri's efforts to ameliorate the lifetime impact of collateral consequences. When a defendant has served their time (or otherwise paid their

due), done their penitence, except in the most serious circumstances, they should be given the opportunity to full return of their citizenship.” **Draft Recommendation to Missouri Supreme Court’s Commission on Racial and Ethnic Fairness from Judiciary Subcommittee, 2017.**

¹⁶ http://www.columbiamissourian.com/news/local/boone-county-ties-for-fastest-growing-county-in-missouri/article_da7ecbf8-397f-11e6-ad37-8fa4d593a2f8.html

¹⁷ The Judicial & Law Enforcement Task Force is a seven-member board comprised of non-stakeholder citizens formed to study available resources and to create a plan to maximize the effective long-term use of the Boone County Jail, the Courthouse and the Sheriff’s Office, while meeting the needs of Boone County for continued, quality law enforcement and a balanced budget. The Task Force meets on call. Rusty Antel chairs the Task Force.

¹⁸ I am solely responsible for the contents of this study including any suggested “points of study” at the end of this report. I have done my best to give correct citations for other’s materials referenced in this work.

¹⁹ According to Sheriff Dwayne Carey and Captain Keith Hoskins, any expansion of the Jail is limited by its current footprint and the nature of the soil beneath the footprint (a multi-story building will require costly piling). A basic plan exists to demolish D Pod with the construction of multi-level building in its place. With the anticipated triple bunking, D Pod will house 57 detainees. The multi-level building will add 100 beds, a total of 157 beds. The anticipated cost of the construction is approximately \$10,000,000 to \$15,000,000 do. According to Captain Hoskins, 100 new beds would require no less than 23 additional staff members working 2,080 hours per year at no less than \$17.47 per hour (\$835,764.80) with 108 hours of vacation time, without overtime calculations and benefits.

²⁰ “I think the best menu of the County’s potential debt options are reflected in the County’s Debt Management Policy, a copy of which is attached. It sets out our intentional plan on how we will approach both the type of debt and the mechanics of how we would issue that debt. A General Obligation bond issue would require voter approval and, in its strictest form, payment would result from an increase in a property tax levy. A General Obligation bond ballot issue under RSMo Secs. 108.010 – 108.020 would also require a petition signed by 1% of the voters casting ballots for governor at the last election at which a governor was elected per RSMo Sec. 108.040. (I think that would mean at least 827 valid signatures in Boone County based on the November, 2016 election, but I would want to verify that number with Wendy Noren). Another option the County would have (in lieu of issuing debt) is to ask the voters for a short-term sales tax increase for capital projects. That is the path the County chose in 2006. That issuance is what provided funds for the Courthouse renovation/expansion and the completion of the 3rd floor of the Government Center. I’ve attached the Commission Order and related documentation for that short-term, 4-year capital improvement tax. The County could propose such a tax and then wait until sufficient collections are receipted before commencing on construction expenditures. A combination of the above approaches would involve a short-term capital project tax and then the

issuance of a Special Revenue Bond secured by the anticipated receipts from that new sales tax. Again, the short-term tax would require voter approval. The advantage of this option is that we wouldn't have to wait until the funds were "cash in hand" before proceeding with construction. This also avoids the petition requirement of RSMo Sec. 108.040. In the past, the County Auditor and County Treasurer, with assistance from our contracted Financial Advisor, would lead our organization through the various options and the anticipated costs of each." ***CJ Dykhouse, Counsel, Boone County, email to Oxenhandler, dated January 30, 2017.***

²¹ For example, someone thinking: ". . . we are housing 40 detainees outside of the jail footprint but the tipping point is 150 such detainees: gee, we've got an 110 inmate leeway . . ." This is a mere thought.

²² The Hawthorne effect (also referred to as the observer effect) is a term referring to the tendency of some people to work harder and perform better when they are participants in an experiment. Individuals may change their behavior due to the attention they are receiving from researchers rather than because of any manipulation of independent variables. The original research was conducted at the Hawthorne Works in Cicero, Illinois, on lighting changes and work structure changes such as working hours and break times and interpreted to mean that paying attention to overall worker needs would improve productivity. This interpretation was dubbed "the Hawthorne effect." Rusty Antel and I have been cooperatively studying jail populations for many years and often anecdotally commented to one another that when the issue of jail population was discussed in a public manner, the population of the jail dropped. I asked Rusty to comment on this effect: ". . . Our observations of the anecdotal evidence suggest that the Hawthorne Effect has some relation to our jail population, although it is acknowledged there has been no scientific validation of these observations. Prior to 1997, there was no significant effort made to manage our jail population and consequently we saw a steady increase in the jail population. The courts decided who needed to be jailed and the jail staff scrambled to find the necessary beds. During the time that the first Boone County Jail Task Force met during 1996 and 1997, we saw a decline in the jail population which was attributed to the idea that a great deal of attention was being focused on the jail population, which caused decision makers to be more careful in their decisions as to who would be jailed. The first BCJTF completed its report in April 1997. There was no permanent oversight mechanism in place to continue to monitor the jail population. The jail population quickly spiraled up when the first BCJTF completed its work. The county spent over \$1.2 million on out-of-county housing costs during 1998 and 1999, much more than the \$350,000 that was budgeted. The second BCJTF met in 2000 and completed its work in October 2001. During the time of the second BCJTF we again anecdotally noted a decrease in the jail population, again believed to be associated with the attention we were paying to the jail population. The second BCJTF report recommended a permanent oversight board which became the Judicial and Law Enforcement Task Force which began meeting in 2002. Generally speaking, out of county housing costs

remained stable and within budget from 2002 through 2007. In addition, the Criminal Justice Administration Coordinating Committee began meeting in 2003 to keep attention focused on the jail population issue.” Rusty Antel, Chair, Judicial and Law Enforcement Task Force and Co-Chair, Stepping Up, the Mental Health Initiative.

²³ For the past 30 years, Boone County has been attentive to the Sheriff's Department and, in turn, the corrections side of the Department. The department and jail that formerly sat on the footprint of the 1991 north courthouse addition was nothing short of dreadful. It was old, cold, smelly and out-of-date; a cobbled together building that disrespected the staff that worked there and the detainees that it housed. Then, in 1991, the construction of the Prathersville jail changed all that – the new Sheriff's Department and Jail were state of the art and, today, 25 years later, the facility remains in astonishingly good shape – because our Sheriffs, Jail Directors and Commission have maintained it as a priority.

²⁴ In 13 years, the \$300,000 budget line has not been adjusted.

²⁵ The jail also daily places 3 or more of our best and brightest detainees as Trustees in Reality House. Since these detainees are helping Reality House operate its programs, they are housed without charge.

²⁶ For example, on February 7, 2017, Boone County was housing 9 detainees in each both Cooper and Montgomery Counties.

²⁷ The group also discussed the application of the Prop L Reserve Fund for the out-of-jail transitional housing required if part or all of the jail was closed during any future construction.

²⁸ I say “approximately” because it appears that Line 71100 “Outside Services” had an unused balance of \$6,670.49, which was used for out-of-facility detainee housing. This also goes to the Point of Study regarding the ability of county management software to communicate with one another and complicated by the fact that the jail and the Auditor may operate on a different accounting basis.

²⁹ A budget revision to cover that amount was made on 09/15/2016. The budget adjustment moved \$83,906 of appropriations from account 1255-10100 Corrections – Salary & Wages to account 1255-72000 Corrections – Out of Facility Inmate Housing.

³⁰ The “saved” funds described above.

³¹ There is a separate budget line for Drug Court participants housed at Reality House.

³² In the 1980's, the State began reimbursing the counties for the above-described detainees. The amount of the reimbursement was based upon the actual cost of housing a detainee for one day. The total corrections budget was divided by the total annual jail days provided and the quotient so-obtained was the daily rate and the basis for the reimbursement. Today, for example, the daily rate would be \$60.00 or so (in the 1980's, it would have been less). As State money dried up, the daily rate was arbitrarily reduced by the State to \$21.08 (see attached). It remains around that dollar amount, today. The reimbursement goes into the Corrections Budget. This same formula has been used by Boone County since the reimbursements began. It is my opinion that although the

reimbursement is a significant dollar amount in overall budget planning, it has no logical connection to the fact that space is limited in the Boone County Jail or that we are being required to house detainees in other county jails.

³³ I carefully use the word “appearance” as though our jail population has increased in recent months, there have been a number of times in past years when we experienced increases in detainee population only to see population return to lower levels.

³⁴ Men and women cannot be housed in the same unit. Men and women’s units are physically different from one another. As detainees, therefore, they are not fungible. For example, if you have a 10-person male unit that has 6 detainees, that is, with 4 beds available and you have a 10-person female unit but 11 females to house, even if you have 4 available beds (in the male unit), you cannot house the extra woman in one of the 4 available beds. This same formula applies to other fact situations.

³⁵ A national program to create a plan to reduce the number of people with mental illnesses in jail by engaging in the following six steps:

1. Convene or draw on a diverse team of leaders and stakeholders;
2. Collect and review data on the prevalence of people with mental illnesses in jails and assess their treatment needs;
3. Examine treatment and service capacity and identify policy and resource barriers;
4. Develop a plan with measurable outcomes;
5. Implement research-based approaches; and
6. Create a process to track and report on progress.

³⁶ Advanced Correctional Healthcare, Inc., an Illinois corporation, provides healthcare services to detainees of the Jail. The base annual cost of the services is \$529,054.19. A copy of the contract is attached to the Commission’s order dated May 17, 2016.

³⁷ Captain Keith Hoskins indicated that when placing an inmate in another jail, he tries to place the inmate in a facility that uses the health provider used for the Boone County Jail.

³⁸ Oxenhandler Note: The question is begged: if these detainees are such good detainees, why are they being incarcerated?

³⁹ In the operation of any political entity, there exists a delicate equilibrium between the various officeholders and decision-makers. This equilibrium is predicated upon the principle that an officeholder or decision-maker (within the bounds of the law and ethics) can run their office the way they want to run it. Judges, Commissioners, Sheriffs and Prosecutors are elected officials. Public defenders, though not elected, are appointed by an independent commission. Each of these offices are independent of one another. As such, they have the right to perform their respective jobs autonomously. A judge might believe a prosecutor too strident, too aggressive. A prosecutor might perceive a judge too defense-oriented. A commissioner might perceive that a public defender moves her cases too slowly. A public defender might perceive that a judge is too prosecution-oriented. All have the right to perceive what they perceive and some

have the right to take action within the Supreme Court Rules e.g. disqualify a judge from a case, but as long as the judge or prosecutor or public defender is acting ethically, that's as much as they can do.

⁴⁰Rule No. 1 of jail construction: if you build it, they will come. When a jail is expanded, notwithstanding the good intentions of the stakeholders, there is no longer any pressure on the system to control the population and the jail will become filled.

⁴¹In Boone County, we currently offer the following alternative sentencing courts: Drug, Mental Health, DWI and Veterans. The essence of these courts is provide alternative paths to those with addiction or mental health issues or who have served our country. It is not the intention of these courts to give anyone a free pass with regard to their wrongdoings.

⁴²The foundation of good criminal justice and correctional practices is the administration of a validated risk or risk and needs assessment tool to defendants and offenders. Risk assessment instruments measure the likelihood that a person will reoffend if or when released into the community. Needs assessments identify a person's criminogenic needs - that is, personal deficits and circumstances known to predict criminal activity if not changed. Today's assessment tools measure static (those things that can't be changed, such as age, criminal history, etc.) and dynamic (those that can, such as drug addiction, anti-social peers, etc.) risk factors, criminogenic needs, and strengths or protective factors present in a person's behavior, life, or history. There are a variety of assessment tools available for different purposes. Some are proprietary while others are available at no cost. Whatever tool is used in whatever context, states and counties must validate them using data from their own populations. Assessment tools are used to some degree in all states and in many counties at a number of decision points in the criminal justice process and in a variety of settings. Judges and releasing authorities use information from assessment tools to guide decisions regarding pretrial release or detention and release on parole; corrections agencies use them for placement within correctional facilities, assignment to supervision level or to specialized caseloads, and for recommendations regarding conditions of release. Since the best tools evaluate the person's dynamic or changeable risk factors and needs, they should be re-administered routinely to determine whether current supervision or custody levels and programming are still appropriate. A 2012 survey conducted by Vera found that a majority of community supervision agencies and releasing authorities routinely utilize assessment tools. Responses from 72 agencies across 41 states indicated that 82 percent of respondents regularly assessed both risk and need. While these self-reported numbers may be inflated, the responses do show correctional agency awareness of the importance of assessments. ***Vera Institute of Justice. Introduction to Incarcerations Front Door: The Misuse of Jails in America. Adapted from Peggy McGarry et al., The Potential of Community Corrections to Improve Safety and Reduce Incarceration (New York, NY: Vera Institute of Justice, 2013), p. 16.*** Such algorithms are used in Missouri by the Department of Corrections, Probation and Parole, the 13th

Judicial Circuit's Alternative Sentencing Courts and Boone County Adult Court Services, among others.

⁴³ One of the first organized events of the 2001 Task Force was the attendance of the group at a video conference sponsored by the National Institute of Corrections of the U.S. Department of Justice. The topic was alleviating jail overcrowding. The essence of the day-long program was that if you wanted to ameliorate a crowded jail, you needed to bring all of the parties that contribute to that population to the table for open discussion, cooperation and fair consideration of all of the available options.

⁴⁴ On August 16, 2016, the Office of the Inspector General of the Department of Justice issued a report entitled Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons. The report concluded that federal prisons run by private companies are substantially less safe and secure than ones run by the Bureau of Prisons, and feature higher rates of violence and contraband. The report, which followed years of pressure by advocacy groups, highlighted a series of riots at these facilities in recent years, often sparked by substandard food and medical care and generally poor conditions. *See the Marshall Project, October 18, 2016.* However, in February, 2017, Attorney General Jeff Sessions jettisoned an Obama administration order to phase out the use of private prisons to hold federal detainees.

⁴⁵ **Thousands of ICE detainees . . .** by Kristine Phillips, The Washington Post, March 5, 2017: Tens of thousands of immigrants detained by U.S. Immigration and Customs Enforcement were forced to work for \$1 day, or for nothing at all — a violation of federal anti-slavery laws — a lawsuit claims. The lawsuit, filed in 2014 against one of the largest private prison companies in the country, reached class-action status this week after a federal judge's ruling . . . At the heart of the dispute is the Denver Contract Detention Facility, a 1,500-bed center in Aurora, Colo., owned and operated by GEO Group under a contract with ICE. The lawsuit, filed against GEO Group on behalf of nine immigrants, initially sought more than \$5 million in damages. Attorneys expect the damages to grow substantially given the case's new class-action status . . . GEO Group also is accused of violating Colorado's minimum wage laws by paying detainees \$1 day instead of the state's minimum wage of about \$9 an hour. The company "unjustly enriched" itself through the cheap labor of detainees, the lawsuit says . . . GEO Group has strongly denied the lawsuit's allegations and argued in court records that pay of \$1 a day does not violate any laws. *Oxenhandler Note: This article is included as it addresses the issue of privatization of jails and the Federal use of private contractors to provide jail services. Further, BI, Inc., which provides tracking services for our Adult Court Services is owned by the GEO group.*

⁴⁶ Boone County's contract with Advanced Correctional Healthcare, Inc., is an example of privatization.

⁴⁷ Consensus Recommendation No. 7 of Mayor's Task Force on Community Violence, November 17, 2014: "Gangs exist in Columbia but it is difficult to tell how much of a factor they are."

⁴⁸ "Collateral consequences are the penalties, disabilities, or disadvantages imposed upon a person as a result of a criminal conviction, either automatically by operation of law or by authorized action of an administrative agency or court on a case-by-case basis. Collateral consequences are distinguished from the direct consequences imposed as part of the court's judgment at sentencing, which include terms of imprisonment or community supervision or fines. Put another way, collateral consequences are opportunities and benefits that are no longer fully available to a person, or legal restrictions a person may operate under, because of their criminal conviction. The most familiar examples of collateral consequences are being unable to vote (serve on a jury) or obtain certain licenses or possess a firearm because of a felony conviction. <https://niccc.csgjusticecenter.org/description/>. Pretrial detainees may lose their jobs, be forced to abandon their education, and be evicted from their homes. They are exposed to disease and suffer physical and psychological damage that lasts long after their detention ends. Their families also suffer from lost income and forfeited education opportunities, including a multi-generational effect in which the children of detainees suffer reduced educational attainment and lower lifetime income. The ripple effect does not stop there: the communities and states marked by the over-use of pretrial detention also must absorb its socio-economic impact. **The Socio-economic Impact of Pretrial Detention. Open Society Foundation, WWW.Soros.org.**

⁴⁹ For an excellent book on the topic of Collateral Consequences, see *The New Jim Crow* by Michelle Alexander.

⁵⁰ **Butler County Jail sends detainees away because of large staff shortage.** KWCH12 News. January 4, 2017. Butler County, Kansas. (KWCH) If you look inside the Butler County Jail, things aren't as they should be. That's according to Butler County Sheriff Kelly Herzet. "The pods aren't being kept as clean as they need to be. We're not able to do our cell checks as thorough as we should," Herzet said. That, he said, could mean danger. "So I think in my mind and in my staff's mind that that leaves the inmate to have the opportunity to maybe make a shank, maybe make some homemade wine or hooch or whatever you want to call it." Herzet said it all comes down to the deputies inside the jail, or lack thereof. He said the jail is down 16 staff members, which is one third of the desired number of employees. "It's just at the point where we need to take some action until we can get some people hired," he said. That action is sending out-of-county detainees away from Butler County. Right now, Butler County contracts with several counties and agencies. For every inmate it houses from one of those places, Butler County gets a certain amount of money per day. Both Sedgwick County and Greenwood County pay \$35 per day for each inmate Butler County houses. The Kansas Department of Corrections (KDOC) pays \$40

per day for each inmate. The state marshal's office and Immigration and Customs Enforcement (ICE) both pay \$60 per day for each inmate. But with the staffing problem, the deputy to inmate ratio is far off and Herzet said that means some of those detainees have to go for now. He said Sedgwick County has already taken its 20 or so detainees back and he's waiting to hear back from KDOC to take its 21 detainees away too. Sending those detainees away means the county loses money. That's where the conversation and potential controversy starts. "Oh, it's going to hit the county at about 500 thousand dollars just by taking away 40 detainees, being Sedgwick County and Kansas Department of Correction detainees. That's a lot of money. I understand that. But what's a person's life worth or a deputy that gets into an altercation and gets put in the hospital for a week or two and maybe gets hurt so bad that he can't or she can't come back to work," Herzet said. Herzet said he knows there will be some backlash and criticism of his decision to do this since over the course of a year, the county loses a half a million dollars. But he said he hopes people understand his reasoning. "I think it's the right thing to do and I hope the taxpayers in the county see that, that I'm trying to do the right thing," he said. "I'm not really worried about revenue. I'm worried about running a safe jail. And I think the way of doing that is cutting detainees right now." Herzet isn't alone in his decision. Butler County Administrator Will Johnson said he supports Herzet's push for safety first. He said it will be difficult for the county to take that kind of financial hit since the budget has been in place for months but it's something that has to happen. Johnson said the county probably should have been more proactive back when doing the budget on this situation but now it needs to be proactive about hiring. If not, he said the county will have to take money from its reserves fund and potentially look at cutting expenses elsewhere. He said the best-case scenario is the jail minimizes detainees for six months or so and gets aggressive in hiring and retention. That would mean a roughly \$200,000 or \$300,000 hit versus \$500,000 if this issue lasts for an entire year. But hiring isn't easy. Herzet said just last week he had 17 people apply and only three showed up for an interview and test. "When you're trying to compete with the Wichita market and get people over here to work in a direct supervision jail for \$13.99 an hour, it's hard to do," Herzet said. But he's hoping a proposed incentive package can help fix the hiring issue. Herzet is asking the county commission for a package that offers new hires a \$1,000 signing bonus, plus \$500 after staying for six months and another \$500 after staying for a year. He mentioned the current employees who are working the duties of several people and working mandatory overtime would get compensation too. The commissioners are planning to make a final decision on that proposal next week. Johnson said while he would never say he has confidence in which way the commission will vote, he said he thinks Herzet's plan is a solid policy and has support. "It's just that we're working our people to death," Herzet said adding he wants to be proactive and make sure this is fixed before someone gets hurt.

⁵¹ This year, Boone County has paid up to \$50.00 per day to house detainees in other secure facilities.

⁵² Of the more than \$60 billion spent annually on correctional institutions, \$22.2 billion, or about one-third, is spent by local jurisdictions. Even this figure fails to capture the true costs of jails to local jurisdictions, as money spent on jails—for pension plans for staff, for example, or healthcare for detainees—often comes out of the budget of non-correctional agencies. Cities and counties have to cover most costs themselves, drawing on the same pool of tax revenue that supports schools, transportation, and an array of other public services. *Incarcerations Front Door: the Misuse of Jails in America, February 2015. Vera Institute of Justice. WWW.Vera.Org*

⁵³ Bail is the money paid for pretrial release from custody. Nationwide, bail protocols are under judicial scrutiny. Citizens charged with a crime are not to be held in pre-trial custody unless they are a danger to the victim, the community or will not appear for court. The judicial scrutiny is predicated upon the application of the Equal Protection Clauses of federal and state constitutions. If two near identical citizens are charged with near identical crimes, and one of the citizens has the funds to obtain their release and the other doesn't, then the application of the Equal Protection Clause is at issue.

⁵⁴ You will not find a copy of this chart anywhere in the Boone County Budget. From an auditor's point of view, it inappropriately mixes apple and oranges. I am responsible for the mixing.

⁵⁵ In December, 2017, the Sheriff intends to launch Sungard's "One Solution" management software. The software is a comprehensive records keeping system for a Sheriff's department including corrections. Initially, the software will not communicate with the software system utilized by, for example, the Auditor's office – though the Auditor might be given access to the records.

⁵⁶ According to Captain Keith Hoskins, only minimal costs are incurred for detainees housed outside of the jail. In other words, the daily rate represents the total gross costs of housing out of the jail. This begs the question of whether or not a portion of the reimbursement received annually from the Department of Corrections should be applied as a reduction to the daily rate thereby further reducing its actual cost.

⁵⁷ A "bed day" is a calculation representing the housing of one inmate for an overnight, whether or not they are housed in the jail or anywhere else (Reality House, hospitalized but guarded or in any secure facility).

⁵⁸ Subject to the closing of D Pod as noted, the jail has always maximized the use space available in its jail before seeking space in other facilities.

⁵⁹ Since 1997, the rates have fluctuated between \$22.00 per day to \$19.58; the current rate is \$21.08. A schedule of the rates is attached (see Footnote 31).

⁶⁰ I use "appear" due to the fact the amount of reimbursement that Boone County receives in a given year is dictated by, among other things, timing, that is, when the State makes a reimbursement.

⁶¹ I am unaware of any similar model in Missouri. I have been unable to identify a near-similar model in the United States.

⁶² It shall be the duty of such board of visitors, by personal visitation or otherwise, to keep themselves fully advised of the conditions and management of all corrective institutions, supported wholly or in part by county or municipal taxation, or which are under county or municipal control, and especially the county jails. They shall examine every department of each institution, and shall ascertain its condition as to effective and economical administration, the cleanliness, discipline and comfort of its detainees and other respects, and at least once in every three months all of said institutions shall be visited by said board or a committee of its members. In case the said board or one of its committees shall find any state of things in any institution, which in their opinion shall be injurious to the county or to the detainees of the institution, or which is contrary to good order and public policy, it shall be their duty to address a memorial to the presiding judge, sheriff, and county commission, or other officials having jurisdiction, in which memorial they shall set forth the facts observed and shall suggest such remedies as in their judgment may be necessary.

⁶³ On a statewide basis, such a relationship is not indigenous to such groups.

⁶⁴ Department of Justice, Federal Bureau of Prisons, National Institute of Corrections Videoconference, April 8, 2001, **Alleviating Jail Overcrowding: a Systemic Approach**. Oxenhandler Note: I have a copy of the video in my file

⁶⁵ The prevalence of people with mental illness in jail is at odds with the design, operation, and resources in most jails. Characterized by constant noise, bright lights, an ever-changing population, and an atmosphere of threat and violence, most jails are unlikely to offer any respite for people with mental illness. Coupled with the near-absence of mental health treatment, time in jail is likely to mean further deterioration in their illness. According to the latest available data, 83 percent of jail detainees with mental illness did not receive mental health care after admission. The lack of treatment in a chaotic environment contributes to a worsening state of illness and is a major reason why those with mental illness in jail are more likely to be placed in solitary confinement, either as punishment for breaking rules or for their own protection since they are also more likely to be victimized. **Vera Institute of Justice. Introduction to Incarcerations Front Door: The Misuse of Jails in America.**

⁶⁶ **Boone County Jail Visitors Report, filed by Christopher Braddock:** The Boone County Jail Visitors Board inspected the Boone County Jail on Tuesday, December 13, 2016 at 10:00 a.m. The Boone County Jail was notified of our inspection approximately 30 minutes in advance. Members of the Board in attendance were: Christopher Braddock, Tony Davis, Beverley Fries, and Dr. Hank Schneider. The representative of the Boone County Jail who met with us was Capt. Jenny Atwell. During the most recent visit the Board reviewed the jail operations and procedures that are in place concerning detainees suffering from mental illness. During this review we focused on areas suggested by Kelli E. Canada, a social work professor at the University of Missouri, which were forwarded to Board Chairman Christopher Braddock, by attorney Rusty Antel and Boone County Commissioner Janet Thompson. The suggested areas were: (1) Whether detainees were receiving services from any provider (medical, social,

psychological, housing, vocational, etc.) prior to incarceration; (2) Were there services detainees needed but could not access while detained? (3) If so, what were the reasons detainees couldn't access them? (4) What kind of services are provided detainees upon leaving jail (e.g., a ride, housing, vocational, medical)? During the most recent visit the board mostly focused on items 1-3 stated above. The Board's previous report concerning our visit to Reality House on September 13, 2016, however, does discuss many, but not all, of the programs available to detainees upon release from custody. On or about June 1, 2016, Advanced Correctional Healthcare, a private, for-profit company, took over detainee healthcare at the Boone County Jail. We had an opportunity to discuss this change with Capt. Atwell, Tom Fuhrman, and Gia Baldwin . From these discussions the Board found that had been both positive and negative changes to how mental illness is handled at the Boone County Jail. We began by discussing how detainees suffering from mental illness were initially processed upon arrival at the jail. Capt. Atwell discussed that upon arrival at the jail all detainees complete an initial screening. During this screening process detainees are asked about any current medical conditions, any current medications, and any current treating physicians, in addition to other inventory information. Capt. Atwell also discussed that in addition to the initial screening, which relies on the detainees own answers and truthfulness, the jail staff is also trained to observe new detainees for possible mental health issues upon admission. If it appears that a detainee may be suffering from mental health issues, but did not mention it during the initial screening, procedures are in place to separate such detainee from the general population until a mental health evaluation can be performed. In cases of serious mental illness the staff also can and does send detainees to the emergency room or to Missouri Psychiatric Center (MUPC). Capt. Atwell stated that the need to send detainees offsite for such treatment can sometimes take jail staff away from their normal duties thereby causing a temporary shortage. We also discussed the specifics of how detainees needing a mental health evaluation, but not arising to the level of an emergency room visit or MUPC visit were handled. As discussed above, detainees in such state are held separate from the general population until such time that an evaluation can be completed. This includes being in an individual room/cell separating the person from the general sleeping and recreation areas. Regarding the separation of potentially mentally ill detainees, the Board was partially concerned that in the event a detainee is brought to the jail over the weekend there is no person to perform a mental health evaluation until the following Monday. As such, a person with undiagnosed mental illness may be required to be kept in isolation from Friday night through Monday morning without receiving treatment, unless his or her situation rises to the level of a transport to the emergency room or MUPC. Based on the current facilities and services available to the jail, however, this seems like the only procedure available to the jail staff to protect both the mentally ill detainee as well as the general population of the jail. As such, the Board in no way faults the staff of the Boone County Jail for the above-described situation, but suggests that providing staff for weekend mental health services to the jail

may significantly assist detainees with undiagnosed mental illness, while also relieving the strain on the current staff of caring for mentally ill detainees to the best of their ability while still maintaining their other demanding duties. While discussing the initial screening of detainees, Capt. Atwell also discussed the idea of "Pre-Arrest Evaluation Centers" which are found in some other jurisdictions. In other jurisdictions that have instituted such centers, specially trained law enforcement officers and teams transport diverted individuals to crisis drop-off centers that are available twenty-four (24) hours per day. Such centers triage clients to identify underlying mental health conditions and stabilize symptoms. Clients are subsequently referred to other treatment centers within the mental health system based on level of needed care. Such system may be able to fill a currently existing mental health treatment gap existing between the Boone County Jail and MUPC. Capt. Atwell was very supportive of the idea of instituting such system in Boone County. The Board next spoke with Gia Baldwin, the jail's full time L.P.N. provided through Advanced Correctional Healthcare. Under the current jail medical contract twenty-four (24) hours nursing services are provided to the jail. Ms. Baldwin discussed that when new detainees with medical issues enter the jail, the nursing staff will fax the person's primary care physician(s) to receive his or her medical records. The nursing staff will also verify the detainee's medications and prescriptions. Once records and medications are verified they are reported to the jail staff doctors who will then assess a treatment plan, and can have the medications filled or prescribe different medications or treatment. It was discussed that sometimes the staff doctors will modify the prescriptions due to possible over or under medication with a belief that the change will make a better medical outcome. Additionally, it was discussed that sometimes medications must be changed because certain types of medication are not allowed at the jail, such as very strong narcotics/opiates. Capt. Atwell discussed that under the Advanced Correctional Healthcare contract there are three (3) staff doctors provided to the jail. It is our understanding that Dr. Robert Ferris is the primary physician who visits the jail, and that the other two doctors are alternates who can be reached by phone in case of emergency. Capt. Atwell also spoke very highly of Dr. Ferris, stating that he was "wonderful." Ms. Baldwin was also specifically asked about what would happen if a detainee was brought to the jail over the weekend. She stated that the twenty-four (24) hour nursing staff also has access to a back-up pharmacy, and in the case life sustaining medications, the back-up pharmacy can bring the medications to the jail over the weekend. Ms. Baldwin stated that the nursing staff is responsible for distributing the medication to the detainees, and that medication rounds are made twice per day. Ms. Baldwin also discussed that one of the main difficulties for the nursing staff is that Boone County detainees move in and out of the Boone County Jail to other surrounding jails, such as Cooper or Montgomery County due to overcrowding, and that can make it more difficult to ensure consistent medical treatment. It was discussed that some of the alternate jails for housing detainees do not have any full-time medical staff at all, unlike Boone County. Capt. Atwell discussed that it has been an improvement for the jail to have nursing staff available twenty-four

(24) hours per day. She also spoke very highly of the work that Ms. Baldwin has been doing. Capt. Atwell did state, however, that there has been a large amount of turn-over of nurses under the contract, and that that was one of the main struggles that jail has had with Advanced Correctional Healthcare. The Board next met with Tom Furhman, the jails full time L.P.C. through Advanced Correctional Healthcare. Mr. Furhman stated that he begins each day in A-pod of the jail where detainees who are homicidal or suicidal are held. He then meets with other detainees who have put in requests for counseling services. Both Capt. Atwell and Ms. Baldwin believed that Mr Furhman was doing an excellent job in providing counseling services to detainees. However, due to the number of detainees his time is stretched fairly thin. Mr. Furhman stated that due to time constraints he often sees a detainee for a first consult, but then as he put it "unlike a regular doctor's office [where] you schedule your next appointment and come in on that day, here it usually is prompted by the client sending in another request." He stated that it would be a nice improvement to have sufficient time resources to have an actual client scheduling system, but due to the number of detainees needing services it is not currently possible to set multiple appointments for each detainee. The Board inquired about whether adding an additional counseling staff member during the weekends would assist Mr. Furman in meeting with the large number of detainees at the jail. Mr. Furman discussed that such addition could allow for more follow up meetings with detainees, as well as allow for group counseling. The Board also spoke further about the current group counseling with Furhman. It is our understanding that presently some group services such as AA, NA, etc. are provided by volunteers, but that due to volunteer nature of such groups they are not always available as consistently as if a staff L.P.C. ran the groups. It was also discussed whether it would be possible for student social workers to assist in providing services to the jail. However, it is our understanding that in order for students to provide such services, they must be under the supervision of a licensed supervisor. Because Mr Furhman's schedule is already completely filled with direct counseling services, we do not believe that it would be a benefit for him to take time away from those duties in order to provide supervision. It is also our understanding that there are no other present staff members at the jail who could supervise such services. Furhman also believed that another area that the jail could provide additional beneficial services would be the formation of dual-diagnosis groups. Furhman stated that the best treatment for substance abuse for people who have co-occurring disorders is treatment at the same time in a coordinated fashion. Furhman believed that treatment of this type could be very beneficial to the detainees, but that the resources are not presently in place for such treatment. Furhman estimated that 75% of detainees suffering from mental health disorders also were suffering from co-occurring disorders/substance abuse. Capt. Atwell believed that the number sounded accurate. Both Capt. Atwell and Ms. Baldwin spoke very highly of Mr. Furhman. The Board also was impressed with his dedication to the detainees and the services he currently is providing. If funding became available to hire additional counseling or psychiatrist staff the Board

believes that such additional staff could provide a great benefit to the jail by providing counseling services. In particular, the Board would suggest a person skilled in addiction counseling/treatment and co-occurring disorders. Areas in particular which could be added would be counseling services in the evenings and/or on weekends, assistance in providing follow up counseling, co-occurring disorder treatment and regular group therapy. The Board also had an opportunity to discuss the status of D-Pod with Captain Atwell. During the Board's previous visit to the Boone County Jail on March 1st, 2016, the D-Pod was closed due to a lack of available staffing. Captain Atwell discussed that staffing had increased since our previous visit, and that D-Pod had been reopened. Capt Atwell believed that an increase in new hire salaries over the last year had helped the jail in recruiting qualified candidates. Current problems of over-crowding were also discussed with Captain Atwell. She believed that approximately 90% of detainees were being held awaiting felony trials. The possibility of expanding the jail was discussed with Captain Atwell, and it was her belief that it would be extremely difficult for the jail to hire sufficient staff to operate an additional pod or larger facility. Presently, the Boone County Jail continues to pay outside jails such as Cooper County and Montgomery County. The Board also reviewed the jail's effort to continue to upgrade the cameras to HD. Captain Atwell demonstrated the difference between the previous cameras and the cameras which have been upgraded to HD. The Board was able to see a substantial upgrade in the quality of the video captured by the HD cameras. It is the Board's understanding that these video files are maintained for at least thirty (30) days, and can be kept longer when needed. The Board also had a brief opportunity to discuss changes with the jail's current food contract/vendor. Since the Board's last visit the jail's previous cook, Roy, had passed away. Captain Atwell discussed that under the previous food contract the kitchen had more options concerning where food was purchased from, and menu design. Under the previous contract Roy and the other cooks prepared meals from scratch. Captain Atwell believed that the flavor quality of the food under the previous contract had been better than under the current contract. Finally, the Board again discussed the current maintenance position at the jail. It is the Board's understanding that the jail continues to have a single maintenance person, Bob Schwartz. Further, the Board understands that Mr. Schwartz will be retiring in approximately nine (9) months. The Board renews its suggestion that an additional maintenance person be hired prior to Mr. Schwartz's retirement. This would allow the institutional knowledge of the jail's systems and machines to be passed on to the additional hire by Mr. Schwartz to ensure a smooth transition following Mr. Schwartz's retirement. In conclusion, the Boone County Board of Jail Visitors continues to believe that the programs and operations of the Boone County Jail are safe, secure and a model facility for our county and state. The Board requests that county officials strongly consider the minimal requests included herein as the Board believes these recommendations are reasonable and will enhance the facility and benefit the staff and residents. We welcome and

encourage any thoughts or further discussion on how these suggestions might be implemented.

⁶⁷ Adult Court Services reports that: “Both bond investigation and bond supervision numbers appear to be at or near historic highs for 2016. The typical bond investigation requires an extensive criminal history check, an interview, an attempt to investigate and verify certain information, the completion of a risk assessment tool and a typed report summarizing these results. These practices and procedures are modeled on those developed by an agency in another state that has been recognized as a leader in this area. In recent years, the Arnold Foundation has led an initiative to create a faster, more efficient yet also more accurate and reliable bond investigation. It’s expected that ACS may have an opportunity to evaluate and perhaps adopt this near the end of 2017. This new tool could cut the time it takes ACS to complete a bond investigation significantly yet also provide a more consistently accurate method of risk analysis.”

⁶⁸ The setting of bail and the special conditions of that bail is tricky business. In the early stages of a case, reliable information is not readily available. Seldom is the police officer making the arrest a witness to the alleged crime. Uniformity among the police reports is illusive. Some officers are seasoned, some not. Some are having a busy day, some not. Some are skilled writers, some not. Though the prosecutor reviews the probable cause statement prepared by the officer, the prosecutor can only add a criminal history to the information, along with the prosecutor’s recommendation. Like the officers, some are seasoned, some not . . . It is highly unlikely that a defendant will have counsel at this stage of the proceedings, so no input is received on behalf of the accused. Then, a judge based on her experiences tries to make a reasoned decision about the extent to which the community may be at risk and whether the accused will show up for court. If the accused is not released immediately after arrest, Adult Court Services will conduct interviews and utilize risk assessment tools and report to the judge for reconsideration. But things change and regular review and updating of ACS’s reports could result in a reduction of jail population.

⁶⁹ Jail efficiency, fiscal and otherwise, is only achieved when we only house the most serious threats to our community.

⁷⁰ See Adult Court Services Electronic Monitoring Program Daily Prices and Equipment Features, as of January 30, 2017, attached.

⁷¹ From American Bar Association’s Standards on Treatment of Prisoners, General Principles Governing Imprisonment (www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/Treatment_of_Prisoners.authcheckdam.pdf):

- (a) A correctional facility should be safe and orderly and should be run in a fair and lawful manner.
- (b) Imprisonment should prepare prisoners to live law-abiding lives upon release. Correctional authorities should facilitate prisoners’ reintegration into free society by implementing appropriate conditions of confinement and by sustained planning for such reintegration.
- (c) A correctional facility should maintain order and should protect

prisoners from harm from other prisoners and staff. Restrictions placed on prisoners should be necessary and proportionate to the legitimate objectives for which those restrictions are imposed.

(d) Correctional authorities should respect the human rights and dignity of prisoners. No prisoner should be subjected to cruel, inhuman, or degrading treatment or conditions.

(e) For a convicted prisoner, loss of liberty and separation from society should be the sole punishments imposed by imprisonment. For a prisoner not serving a sentence for a crime, the purpose of imprisonment should be to assure appearance of the prisoner at trial and to safeguard the public, not to punish.

(f) A correctional facility should be appropriately staffed.

(g) Correctional officials should implement internal processes for continually assessing and improving each correctional facility.

(h) A correctional facility should be monitored and regularly inspected by independent government entities.

(i) A lack of resources should not excuse treatment or conditions that violate prisoners' constitutional or statutory rights.

(j) Governmental authorities should provide sufficient resources to implement these Standards.

(k) If governmental authorities elect to furnish prisoners any services by contracting with private providers, those contracted services should comply with these Standards, and the correctional agency should monitor and ensure such compliance, and should be held accountable for doing so.

⁷² See Rule 2-2.9, Ex Parte Communications, Code of Judicial Ethics.

⁷³ Anchoring is a cognitive bias that describes the tendency to rely too heavily on the first piece of information offered (the "anchor") when making decisions. During decision-making, anchoring occurs when individuals use an initial piece of information to make subsequent judgments.

⁷⁴ This point of study is not suggesting that a probable cause statement would not be delivered to the Court for consideration.

⁷⁵ Robert Rinck is the Prosecutor for Columbia, Missouri. Mr. Rinck indicated that no problems have arisen with regard to the MUPD policy of issuing a summons for first offence DWI arrests. Mr. Rinck also suggested the CPD has begun using the same procedure in appropriate circumstances.

⁷⁶ In terms of quality of services provided, Reality House is a known quantity. The support of an expansion could (and should) guarantee the availability of space for Boone County detainees. Such support could serve as a contractual means of controlling the per diem costs of inmate housing into the future. Further, instead of sending Boone County dollars to other counties, Boone County would be supporting a Boone County not-for-profit agency.

⁷⁷ Arrest is a person's entry point into the criminal justice system. An incident occurs and law enforcement—the police or sheriff's department—is called to the scene, or there is an interaction with or observation by law enforcement in the

course of regular duties, such as a traffic stop or a street encounter. What happens at arrest is an important determinant of the flow and number of accused persons who enter jail. The police have several choices when responding to reported or observed criminal activity. They decide whether to decline intervention; whether a summons, or verbal warning is warranted; or whether to refer an individual to services outside the criminal justice system, such as community mental health or substance abuse programs. Even when a police officer feels that circumstances justify an arrest, that decision does not have to open the door to jail. Under most state laws, the officer may take the suspect to the station house to be photographed and fingerprinted and where a more detailed background check can be completed. Where available, computers in cars or hand-held tablets allow police officers to conduct some of these procedures in the field. Law enforcement can then release the defendant using a "notice-to-appear" or "desk appearance" ticket to secure a promise from the person to appear in court when required. How the police make an arrest decision is influenced by a number of intersecting factors and dynamics on a precinct, departmental, local, state, and federal level. While state and federal laws define what constitutes a criminal offense, local political pressures, policy decisions, and departmental priorities will play a larger role in how and when police resources are used and where they are deployed. In some jurisdictions, pressure from public officials—often responding to the concerns of residents and businesses to combat low-level, quality-of-life offenses . . . has led to zero-tolerance policing policies that may also require arresting anyone who breaks the law. This may increase the number of misdemeanor or non-criminal arrests (ordinance violations) for drug possession, vagrancy, loitering, and other public order offenses. Meanwhile, political or community pressures may determine which neighborhoods to target, how and when line officers are deployed, and which arrest protocols to follow, including whether pre-arrest (e.g., cite and release) or post-arrest (e.g., the provision of an appearance ticket at the police precinct) diversion options are available for certain types of offenses . . . The likelihood that arrest will lead to a jail booking has increased steadily over the years. Thirty years ago, when crime rates overall were higher, there were 51 admissions into jail for every 100 arrests. By 2012, the most recent year for which national data are available, that number had climbed to 95 admissions per 100 arrests. *Incarceration's Front Door: the Misuse of Jails in America, The Vera Institute of Justice.*

⁷⁸ Though the Sheriff's Office and the Auditor's Office have been incredibly helpful and supportive in the preparation of this report and it is laudable that the Sheriff will soon implement the Sungard Software Management Program, the extraction of inmate statistics for this report has been, at best, arduous. As I give this example, I recognize my ignorance may be the cause of the problem that I describe. Nonetheless, for example, I was provided with annual inmate housing numbers for 10 years. I asked and the number was broken down into detainees in the jail and detainees outside of the jail. I asked and the number was broken down into detainees in Reality House and detainees in other counties. I learned

that the Reality House detainees included both Work Release detainees and detainees housed at Reality House. All of these different classifications of detainees cost different amounts of money. Each one of these layers of questions required more than a mere keystroke: in some instances, the data had to be manually extracted and computed. It's true, it's a fair question to ask: just how far down the statistical rabbit hole do you go when trying to analyze a budget problem? The answer, for me, is that we go as deep as necessary so that when we are faced with spending taxpayer dollars we have done our due diligence. All of our jail statistics should be available at the stroke of a key.

⁷⁹The consultant should be independent of those involved in the design and construction process to insure that the consultant stands free and clear of the profit motives of the construction process.



BOONE COUNTY AUDITOR

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April 7, 2017

The Honorable Gary Oxenhandler
1001 East Walnut, Suite 300
Columbia, MO 65201

See Footnote 3

Dear Judge Oxenhandler,

I want to express my appreciation for your diligent and thorough efforts in reviewing the many factors impacting our inmate population. Your experience, skill, and interest in exploring solutions serves the County well. I also appreciate the opportunity to share a few observations from my perspective as County Auditor and Budget Officer. The comments below focus on a couple of financial issues that are relevant to an understanding of the County's budget environment and may be of interest to your readers.

First, I want to highlight a few basic elements of the County's revenue structure.

The General Fund accounts for all revenues that are unrestricted and may be used for *any* legally permissible governmental service. These revenues provide funding for a wide array of County services including Voter Registration and Elections, Information Technology, Planning and Zoning, Public Health, etc as well as for *public safety activities* such as Sheriff, Prosecuting Attorney, Circuit Court, Jury Services, Juvenile Office, and Juvenile and Adult detention. The County's general revenues are comprised primarily of sales tax revenue and property tax revenue (52% and 13% of total revenue, respectively) with other revenues derived from fees, permits, hospital lease revenue, state reimbursements, grants, and investment income.

In addition to the general revenues described above, the County receives revenues that are legally restricted to specific purposes. These revenues are accounted for within separate special revenue funds and the monies are not co-mingled with any other County revenues. In some instances, the dedicated revenue covers the *entire* operating costs for a department (such as Road and Bridge Operations, 911 and Emergency Management, and Community Children's Services); in other instances, the dedicated revenue *supplements* the funding provided from the General Fund (such as the Law Enforcement Training Fund or the Law Enforcement Sales Tax Fund). Most of these dedicated revenues are derived from voter-approved sales tax levies.

The annual operating costs for the Boone County Jail, including the cost to house inmates in other facilities, is paid primarily from the General Fund with supplemental funds provided through the Law Enforcement Sales Tax Fund. The Law Enforcement Sales Tax Fund accounts for revenues derived from a 1/8th cent sales tax levy and is sometimes referred to as The Prop L Fund (a reference to the original ballot title, Proposition L). The monies are used to supplement the General Fund budgets of the Sheriff, Corrections, Prosecuting Attorney, and Alternative Sentencing Programs. Approximately 82% of the operating budget for the jail comes from General Fund appropriations with the balance provided from the Law Enforcement Sales Tax Fund.

With this brief overview in mind, it is worth noting the following:

1. **Limited control over revenues.** The nature of the County's operating revenues is that in any given budget cycle, "the revenues are what they are" and the County Commission has limited control over them. During budget development, revenue projections, together with estimates of available carry-over resources, establish the outer limits for spending and this in turn drives a budget process that is primarily focused on controlling or limiting expenditure growth. County officials are responsible for providing a broad spectrum of statutory services, but they must do so within the bounds of available resources. In our environment, County officials have limited means of increasing operating revenues despite growing budgetary needs.
2. **Competition for scarce resources.** Within the General Fund, the various statutory service areas compete for scarce resources. To the extent a given area requires increased funding without commensurate growth in overall revenues, the County must reduce or limit budget allocations in other areas. This sets the stage for significant challenges and internal competition within the budget development process.
3. **Emphasis on cost control.** There is no inherent or natural "linkage" between the costs incurred for operations and the revenues available to pay for such costs. For instance, tax revenues may be relatively flat but operating costs increase significantly due to a rise in jury trials, higher inmate census numbers, or escalating inmate medical costs. For this reason, County Officials and Directors must be ever vigilant with respect to cost control measures.

Next, let's consider the County's primary tax base: taxable sales.

The County's primary revenue source is sales tax which means that taxable sales is the County's primary tax base. A growing tax base is necessary to generate sufficient annual operating revenues year over year. This tax base is eroded whenever the legislature carves-out sales tax exemptions within state law. More importantly and of greater concern, however, is that *significant tax revenue is lost due to untaxed interstate e-commerce*.

Research shows that e-commerce is expanding each year, accounting for an ever-growing proportion of total commerce. Governments (like the County) that are highly dependent on sales tax are losing revenue each year to untaxed e-commerce all the while facing increased demand for services. For a growing community, such as ours, it will be nearly impossible to provide adequate services in the long-run if the primary tax base continues to erode due to the growth in untaxed e-commerce activity. The issue you are exploring --- that is, the increased inmate population which incurs substantial additional costs--- is but one example of the significant budgetary pressures the County will face as our community grows but our primary tax base fails to keep pace due to untaxed e-commerce activity.

Exploring the complexities of untaxed e-commerce is beyond the scope of my comments here, particularly given that both U.S. congressional action (i.e., enacting "market place fairness" legislation) and Missouri legislative action (i.e., implementing the provisions of the Streamlined Sales Tax Project) are needed. However, at the local level, voters could be presented with an opportunity to approve a local use tax equivalent to the local sales tax rate. This would be helpful because several out-of-state retailers *voluntarily* collect and remit use tax. These retailers currently collect the state's 4.225% use tax, but because Boone County voters have not approved a local use tax for the county, these retailers are unable to collect and remit any Boone County tax. It may be time for local government leaders to collaborate on obtaining approval from voters to enact a local use tax. Such action wouldn't solve the problem of untaxed e-commerce entirely, but it would be a first step toward protecting the tax base and achieving tax fairness and tax compliance.

Considering the County's significant dependence on sales tax revenue, the growing budgetary demands, and the growth of e-commerce, it may be appropriate to explore a local use tax. Your study of the current inmate housing situation highlights the need for this and will likely provide an impetus for such consideration.

Again, I appreciate the opportunity to share these observations and please contact me if you have any questions.

Regards,

s/s June Pitchford

June E. Pitchford, CPA
Boone County Auditor

Public Meeting
The Hon. Gary Oxenhandler, convener
Study of the Boone County Jail and its population

Judge Gary Oxenhandler, Senior Judge of the 13th Judicial Circuit, having been asked by the Boone County Commission to continue his longitudinal study of the Boone County Jail, its inmate capacity levels, and existing and potential system responses, convened a public meeting on February 1, 2017 at 6 p.m. in the Chambers of the Boone County Government Center.

Judge Oxenhandler began the discussion by noting that he was working on the jail study at the request of the County Commission, specifically looking at the trends with respect to the jail population. He noted that in September 2016, Boone County had housed out of county 60 people, while in the week including February 1, 2017, 30 people were housed out of county. His research included studying whether the jail population numbers, and the impact on out of county housing, were part of a longer-term trend or were a short-term glitch. He also noted that he was reviewing all of the processes the stakeholders had put in place over the years, determining if other processes or methods could be utilized to minimize the numbers and whether despite or in addition to all efforts, a larger jail was needed and desired.

Judge Oxenhandler stated that he has reviewed many if not all of the key players, including: Sheriff Dwayne Carey; CPD Chief Ken Burton; Captain Keith Hoskins, Boone County Jail; David Wallis, Public Defender District Defender; Mary Epping, Court Administrator; Christy Blakemore, Circuit Clerk; Chris Braddock, Chair, Board of Jail Visitors; Presiding Judge Kevin Crane, Rusty Antel, Chair of Judicial and Law Enforcement Task Force and Co-Chair Stepping Up—Mental Health Initiative, June Pitchford, County Auditor; Jason Gibson, Auditor's Office,; Daniel Knight, Prosecutor; Tracy Gonzalez, First Assistant Prosecutor; Richard Cloud, Richard Cloud Bail Bonding; Brandon Walker, Direct, Adult Court Services; Kevin O'Brien, private defense lawyer; Criminal Law Committee, Boone County Bar Association; Robert Jenkins, Probation & Parole; Blair Campmier, Executive Director at Reality House; Rob Harrison, Executive Director, Reality House; David Young, Representative, BI Division of GEO Group. Judge Oxenhandler stated that he will meet with the members of the County Commission within the next week as well. He noted that the present meeting was critically important since the public should have the opportunity to hear what has been happening and provide its feedback. He stated that he hopes to have completed his report by mid-April but is in the process now of gathering statistical data.

Judge Oxenhandler has found Captain Hoskins and Auditor Pitchford particularly helpful in understanding the costs of corrections in Boone County. Based on their information, he told the audience that Boone County is one of the two fastest-growing counties in Missouri and, while the correlation may not be direct, crimes rates in Boone County are also rising, which factor impacts the population in the jail.

Auditor Pitchford shared with Judge Oxenhandler that on a yearly basis, \$120,000 is assigned from the General Fund to the cost of out of county housing, while another \$180,000 is assigned to that cost from the "Prop L" Fund. In years in which out of county housing costs do not reach the \$300,000 mark, what is not expended is put into a reserve which, it has been anticipated, could be used at some future date to house inmates out of county if/when the jail has to be re-modeled or a new one built and thus housing in county is impossible. Over time, that reserve has been built to a level of approximately \$1.2 million. In 2016, because out of county housing exceeded the \$300,000 mark, a portion of the \$1.2 million was utilized to pay that cost. As Judge Oxenhandler noted, if every year we had to dip into the reserves to make up the difference, in short order no reserve fund would exist.

Judge Oxenhandler then provided a short historical overview of some facets of the population's make-up for the audience. He noted that, in 1980, President Carter signed legislation making mental health services more available to local communities and thereafter, in 1981, it was repealed by President Reagan. Then, in 2009, across the country, States reduced their mental health budgets by a total of over \$2 billion. These actions directly affected Boone County and the Boone County Jail, which, when built in 1991, was immediately over capacity, requiring that detainees be housed out of county.

Judge Oxenhandler noted that Boone County has implemented various processes to help to address the issues, some of which are unique to Boone County and the combination of which place Boone County at the forefront of those who are seeking to address the problems. For instance, Boone County has alternative sentencing courts, adult court services, the Judicial and Law Enforcement Task Force, and the Judicial Coordination Committee (this specifically was highlighted as a major factor in Boone County's successful efforts in this area). Impacting the system, bringing more people with increased levels of needs into play, are factors such as mass incarceration of certain sectors of society; incarceration of those with mental health issues (20% of the total jail population has been identified as having mental health issues); the privatization of jails, which has a profit motive that may move the need for services to another stakeholder or sector of the process; the inability of jails to hire at optimum levels; the decreasing number of available beds for out of county housing at reasonable price points; and the mutual agreement of jail administrators like Captain Hoskins and his predecessor Captain Brewer, who don't send individuals with mental health issues or those who are otherwise more difficult to other jails, thus creating a more difficult environment in the home jail.

As part of Judge Oxenhandler's historical perspective, he noted that in 1991, the vast majority of those in the Jail were misdemeanor commits while in January 2017, there had been only one misdemeanor commit. This reflects the very "tight ship" run in Boone County. The jail is now, he noted, being utilized for the most part to house felony pre-trial detainees.

At this point, Judge Oxenhandler opened the meeting up for public comment.

One attendee asked the impact of programs such as alternative sentencing on the jail population. Judge Oxenhandler noted that placements could be made to Reality House so that more appropriate uses could be made of jail space. He also noted that the diversion courts were important component of Boone County assets, and that these assets had become more useful through time as the thresholds for taking people into these programs are no longer such high barriers. They are viewed now as alternative ways to help people who face problems in their lives. Another attendee asked about the recidivism rate among misdemeanants. Judge Oxenhandler did not state a specific rate of recidivism for misdemeanants but noted that Greene County now has a policy of not locking them up, and suggested that might be the wave of the future. He also noted that according to Chief Burton, CPD does not take people to the jail on shoplifting under \$50 unless a physical assault is involved. Judge Oxenhandler suggested that this issue could be important in considering the massive nature of the corrections budget in any community, including here. Judge Oxenhandler also noted that bond investigations help to move people out of the jail more quickly and are thus a good tool for keeping the jail population under control.

Another attendee asked about the trends with respect to felony -pre-trial detainees. The prosecutor noted that there are currently nine people in jail on murder charges and discussion was had about the nature of the crimes with which individuals are charged seems to be more violent than before. It was also noted that gangs create the likelihood that detainees will be charged with more than one crime and that more than one person will be charged on the same incident. The prosecutor also noted that, when the jail was first built, the vast majority of the people were serving time on sentences, while now, the vast majority are awaiting trial on serious felonies. Judge

Oxenhandler then noted that, while one of the goals is to keep the jail population in check, judges and others in the system must constantly be mindful of the effect on the community if someone who commits another crime is released. He further stated that, while there is no risk to society by keeping everyone who is charged with a crime in jail, that is not the appropriate model. It is a balance.

Judge Oxenhandler noted as an aside that since 1991, the number of violent felonies with which one could be charged was much lower than it is now.

Captain Hoskins responded to a question about the ages of the population in the jail. He stated that 37% of the population was 20-39 years of age and that approximately 40% were below 20 years of age, and of that group, most were pre-trial commits on felonies.

Judge Oxenhandler noted the age of the people in the jail is important to consider, especially because of our increasing knowledge about the development of the adolescent brain. Until one is 24-25 (women—24, men—25), the pre-frontal lobe has not fully developed, which impacts decision-making processes. This might be something to consider with respect to the age at which we consider people to be adults for purposes of the criminal justice system.

Judge Oxenhandler also spoke about the race issue with respect to the population in the jail. He noted that data shows that the rate of incarceration of African Americans is 4.3 times higher than that of whites.

He further noted the collateral consequences of conviction, such as the denial of the right to vote, to serve on a jury etc. He noted that new expungement laws may help this issue but it is still an issue.

Another attendee asked what percentage of the time are the pods in the jail used to capacity. Judge Oxenhandler stated that in general they are fully used. The problems arise when some of the inmates are women or need to be held in isolation and these factors impact how other inmates can be arranged throughout the jail to keep all people as safe as possible. He noted that Captain Hoskins and Captain Brewer have always been magicians in keeping people safe and still utilizing the jail to its fullest extent.

Another attendee asked about the use of ankle bracelets and other forms of home detention. Judge Oxenhandler noted that these programs were utilized to a great degree in Boone County and that efforts had been made to reduce the cost to the program by getting the people to pay for them. Recently retired Judge Aulgur noted that it is important to make these programs as available to those with lower incomes and fewer assets as those who have more resources. Thus, to ascribe the costs to the individual may be problematic. These kinds of programs, in addition to Reality House, are important tools and have a very high rate of success (less recidivism). Of interest is that with the ankle bracelets, there is a 67% rate of success and that the rest typically don't "succeed" because they fail to show up for court. Questions were raised about the availability of transportation or perhaps someone to help those people get to court.

Judge Oxenhandler noted that programming in adult court services are critically important but that often the individuals in these programs have deficits which make their ability to succeed problematic.

One attendee asked about the need to educate people about appropriate behavior. Judge Oxenhandler responded that goal of the entire system is to educate people about the rules of social behavior.

Another attendee asked about services provided within the community and the attendee and Judge Oxenhandler noted the need for a wraparound support system including mentors. He further noted that the component of the mentor is one of the keys to success in Veterans' Court, one of the diversion courts in Boone County.

Another attendee asked about the possibility of implementing programming in the jail that would help detainees to make better choices and thus not recidivate at such high rates. Captain Hoskins noted that one of the challenges to such education is that the nature of the jail setting means that the administration doesn't know when a detainee will be released.

Another attendee noted that, while treatment courts are a valuable tool for Boone County, they are only as successful as the treatment providers. He suggested that the community should provide the services whether the

individual can afford them or not. He further noted that the availability of a home is critically important to the success of the person.

Another attendee noted that individuals with mental health issues often recidivate because they are not connected with care or with adequate care. Discussion was had about the changes in the provision of mental health services in the county jail setting. It is now an important aspect in the process.

Another attendee noted that supportive services are necessary to keep people from recidivating and he passed out flyers about a program that he is using to help people develop skills and support groups.



SMART SENTENCING

VOLUME 3, ISSUE 1

OCTOBER 31, 2014

ANNUAL REPORT HIGHLIGHTS: A LOOK AT SENTENCING AND SENTENCING DISPARITY

BULLETIN DEFINITIONS:

• *First, unless otherwise specified, all events considered in this report are deemed to have occurred at the first, final disposition for a defendant.*

• *Second, a sentence to prison is an unmitigated sentence to prison. It does not include any section 559.115 or section 217.785, RSMo program, nor does it include court-ordered detention (CODS).*

• *Third, a conviction for felony includes a SIS, SES, 559, 217 or unmitigated sentence to prison.*

• *Fourth, a defendant sentenced to multiple felonies on the same day and in the same court is deemed to have one felony sentence (the most serious).*

MOSAC
Is dedicated to supporting public safety, fairness, and effectiveness in criminal sentencing

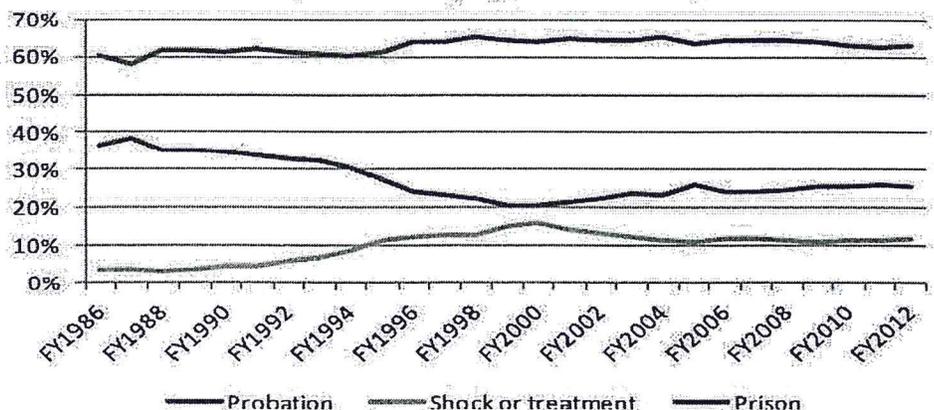
The purpose of this bulletin is to summarize the findings of the Missouri Sentencing Advisory Commission’s *Annual Report on Sentencing and Sentencing Disparity 2012*. The report itself contains the supporting data and is the first authority for painting a true picture of sentencing and sentencing disparity in Missouri. As you read through this bulletin, the commission hopes you will refer to the report for comparing circuit and county sentencing practices. How

circuit and county practices compare is left for you to decide. However, as you make your comparisons, the following backdrop is meaningful:

- From 1986 to June 30, 2012, Missouri’s prison population increased 320 percent from 9,711 to 31,057.
- A primary reason for the increase was the growth in the sheer number of defendants being sentenced to a felony. Since 1986, felony sentencing has grown by 270 percent.

- Interestingly, over the same time period, the overall percentage of felons placed on probation remained almost static – 60.1 percent in 1986 and 62.8 percent in 2012.
- Commencing in the 1990s, there was distinct increase in the use of section 559.115 and 217.785, RSMo, programs (120-day shock probation, 120-day treatment, post-conviction drug treatment and the long-term drug programs).

Felony sentencing by percent of disposition



FACTORS DETERMINING MISSOURI'S INCARCERATION RATE

At first glance, the best predictor of prison population would appear to be the number of offenders being sent to prison at their first sentencing.

However, the percentage of growth in the prison population has been greater than the percentage of growth of offenders being sentenced to prison at their first sentencing. The best predictor of changes in the prison population is the number of offenders being sentenced for a felony offense (regardless of disposition) due to the 'revocation effect:' if the total number of offenders sentenced to probation at first sentencing increases then the number of probationers who are later revoked increases. If the number of offenders sentenced to 559 and 217 programs increases then the number of probationers who are later revoked increases.

In fact, the revocation rate of offenders released from a Chapter 559 program is higher than that of offenders who are sentenced to straight probation. (This makes sense because straight probation is, arguably, a lesser punishment than a Chapter 559 program and offenders sentenced to a Chapter 559 program generally have an increased criminal history.) Prior criminal history not only influences sentencing but is also a risk measure. Simply stated, Chapter 559 participants represent a riskier group than those defendants sentenced to straight probation.

Of course, there are other factors that impact the prison population snapshot (that is, the total prison population on a given day) such as parole board release practices; minimum sentences; longer sentences for sex offenders; the 40 percent, 50 percent and 80 percent service rules; and the ever-growing list of dangerous felons (those required to serve 85 percent before parole consideration).

1. Felony Sentencing in Missouri

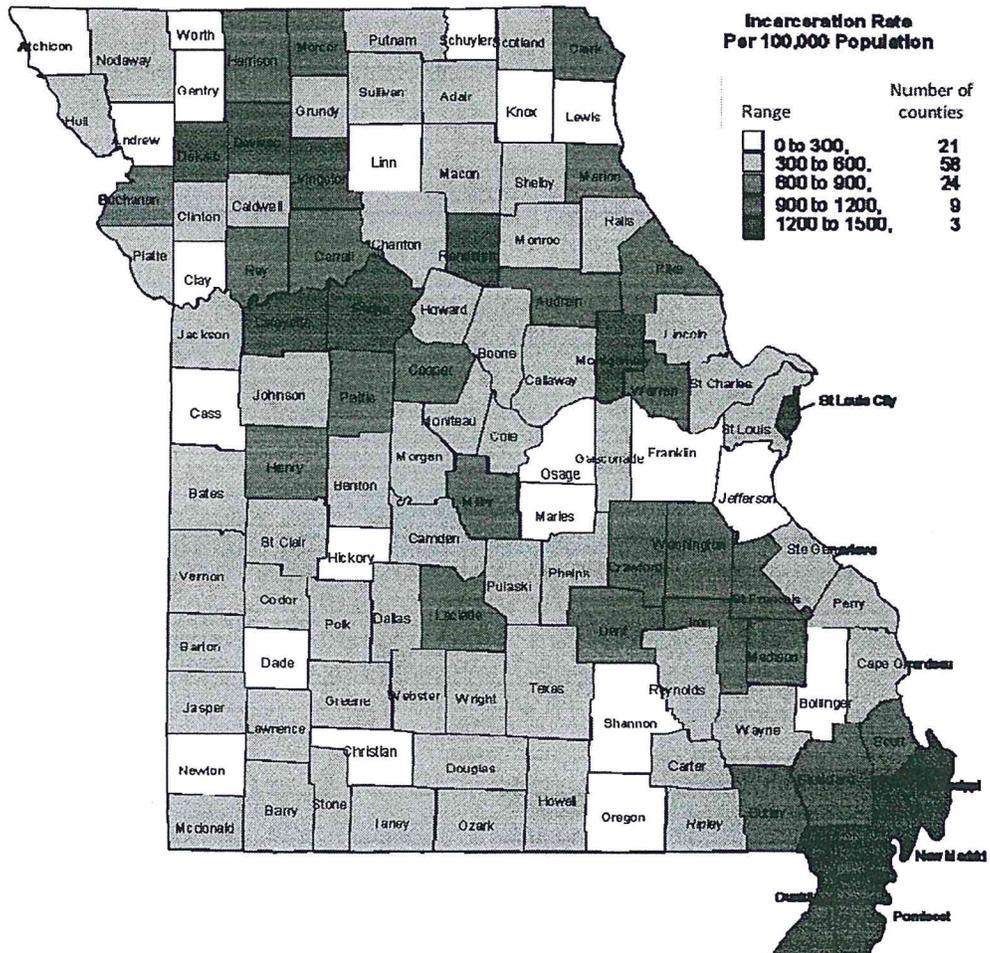
In fiscal 2012 (July 1, 2012, through June 30, 2013), the number of felony sentences

(first, final dispositions including SIS, SES, Chapter 559, Chapter 217 or unmitigated sentences to prison) increased 5.3 percent from 25,861 to 27,237. In 62.8 percent of the 27,237 sentences, probation was granted. The increase of 5.3 percent in fiscal 2012 is large compared with the average annual increase of 1.2-percent in the past decade. In the 1990s, the average annual increase in sentencing was 5.7 percent. This slowing in sentencing in the last decade is a major reason why the grown in the prison population has slowed. Nevertheless, in the last decade,

the prison population has increased by the near equivalent of a new prison, 1,802 inmates. See page 5.

2. Circuit and County Rankings

Great variations exist in how counties sentence. One of the most striking disparities is in the percentage of defendants who, at first, final disposition are sentenced to unmitigated prison commitments, no SIS, no Chapter 559, no Chapter 217, etc. In fiscal 2012, while the state average for unmitigated prison commitments was 25.5 percent, three circuits



FACTORS DETERMINING MISSOURI'S INCARCERATION RATE

sentenced more than 40 percent of their defendants to prison, while nine circuits sentenced fewer than 20 percent of their defendants to prison. Even when comparing metropolitan areas, significant differences exist: St. Louis city sentenced 29 percent of its defendants to prison compared with 21 percent each by St. Louis County and Jackson County. The counties that used the Chapter 559 programs the most are generally the counties with a low percentage of unmitigated prison commitments.

3. Incarceration and Felony Sentencing Rates

The incarceration rate for fiscal 2012 for a given county is the number of offenders in prison from that county on June 30, 2012, divided by the population of the sentencing county on June 30, 2012. The incarceration rate allows comparisons in sentencing between counties with small populations and counties with large populations. See chart, page 18.

Ranking first is St. Louis city (with a population in excess of 300,000). On June 30, 2012, it had the highest incarceration rate in the state. Ranking 2nd and 3rd were Dunklin and Pemiscot counties, respectively, with a population 1/7th the size of St. Louis city. It would appear that St. Louis city's rate is primarily due to the large number of serious crimes it experiences, resulting in more and longer prison sentences. Dunklin's and

Pemiscot's rates are likely due to the sheer amount of crime per population they experience.

Interestingly, in terms of the amount of crime (violent and nonviolent), St. Louis city is only ranked 14th in the state. See chart Felony Sentencing Rates, page 20.

4. Geographic Sentencing Disparity

Geographic sentencing disparity is the difference in sentencing around the state for specific offenses. The data show that rural counties more severely sentence offenders with convictions for drugs, DWI and other nonviolent offenses than the metropolitan circuits. For example, rural counties sentence 22 percent of drug offenders to prison while the metropolitan counties send only 11.9 percent of offenders to prison. The sentencing for serious violent and sex offenses is closer but rural counties still sentence more severely. For class A felony violent offenses (murder, robbery, assault and kidnapping), 82.3 percent of offenders are sentenced to prison by metropolitan counties and the average sentence of 17.4 years, while 84.3 percent of offenders are sentenced to prison in rural counties for an average sentence of 22.2 years. See chart, page 24.

5. Sentencing Disparity by Race

Endeavoring to analyze fairly whether race forms the basis of a sentencing disparity requires an examination of the severity of the offense, prior criminal

history and time served.

Notwithstanding the need for this analytical approach, the frank numbers are that the Missouri incarceration rate for blacks (based on 100,000 population increments) is 4.7 times that of whites. Nationally, the rate is 4.1 times that of whites.

Fiscal 2012 sentencing data shows that for the four racial or ethnic groups (black, hispanic, white and other), blacks receive the highest average prison sentences (blacks, 7.2 years; hispanics, 6.8 years; whites, 5.5 years and other, 5.3 years). Further, when compared to whites, blacks have a higher rate of unmitigated prison sentences (blacks, 27.8 percent; hispanic, 33.3 percent; whites, 23.4 percent and other, 20.3 percent). See chart, page 26.

An analysis by offense group (violent, nonviolent, DWI, drug and sex) indicates blacks are more likely to be sentenced to prison and/or have a longer sentence than whites for drug offenses and for violent C and D felonies. See charts, pages 27 and 29. For the remaining offenses (DWI, nonviolent, sex and child abuse, and violent A and B felonies), there are no significant differences among the races.

Prior criminal history could be a reason for sentencing disparities among the races because prior criminal history results, arguably, in more severe sentencing. Blacks have the lowest percentage of offenders in level I (no prior felony convictions and no more than

three misdemeanors) and the highest percentage in level II (No more than two felony convictions). The differences for level III and higher (one or more prison stays) are not significant, however.

Another source of the disparity may lie with the release practices of the Missouri Board of Probation and Parole. For offenders sentenced to a prison sentence, the board has the discretionary responsibility to determine the release dates, subject to statutory restrictions on minimum prison time (section 558.019, RSMo) and the statute that defines conditional release (section 558.011, RSMo).

In fiscal 2012, Missouri Department of Corrections (DOC) released 5,236 offenders to their first release from their commitment. The average time served was 36.5 months, and that comprised 50.1 percent of the aggregate sentence. Blacks served significantly more time than whites (49.6 months compared with 31.9 months), in part, because blacks were sentenced to longer sentences (89.3 months for blacks compared with 68.1 months for whites, see chart on page 31). As a percent of sentence, blacks also served longer than whites (55.5 percent for blacks compared to 46.8 percent for whites) but the difference between the actual time served and the parole board guideline time was similar for all races. The guideline time served is based on a race-neutral risk

FACTORS DETERMINING MISSOURI'S INCARCERATION RATE

assessment, using risk factors that have been related to recidivism. See chart, page 32.

Many of the differences in sentencing and time served between blacks and other races can be explained, as suggested above, by the seriousness of the offense and a defendant's prior criminal history. This conclusion, of course, begs the questions: Are blacks a targeted population with more arrests, convictions and, in turn, criminal histories? Are blacks charged with the same evenhandedness as other populations, or are they consistently charged with a more serious available charge?

With regard to sentencing disparity by race, this bulletin particularly addresses the black – white comparisons. The report, itself, specifically analyses disparities among the four report classifications: white, black, hispanic and other. The comparisons in this summary are not meant to suggest that some disparities are more important than others. This bulletin addressed the black – white classification because this comparison represents the two

largest populations in the prison system.

6. *Disparity in the Application of the Death Penalty*

The number of offenders being sentenced to death has been declining for a decade, as have the number of offenders being sentenced for first and second-degree murder. Although there is a great disparity in the number of blacks being convicted of murder compared with other races, there does not appear to be a disparity in the percentage of blacks being sentenced to capital punishment compared with the percentage of other races, either statewide or by county.

7. *Recidivism and Sentencing Disposition*

According to the data collected by DOC, defendants with a level I criminal history (no prior felonies and no more than three misdemeanors) who are placed on probation are less likely to violate probation and be sent to prison within two years of being placed on probation than those same level defendants who are sentenced to an unmitigated prison sentence at their first

final disposition and are released from prison. See chart, page 40.

The purpose of this bulletin is to serve as a summary of the voluminous report. The commission hopes you will review the entire report. Different readers of the report may come to different interpretations of the data, which is entirely appropriate.

NOTE:

SMART SENTENCING INFOFIDES USING THE LATEST STATISTICS, INFORMATION, RESEARCH FINDINGS AND EVIDENCE-BASED PRACTICE TO MAKE INFORMED DECISIONS ABOUT HOW TO PUNISH CRIMINAL BEHAVIOR.

THE SENTENCING ADVISORY COMMISSION HAS LAUNCHED THIS PERIODIC BULLETIN TO KEEP JUDICIAL DECISION MAKERS CURRENT AS TO THE LATEST INFORMATION RELATED TO SENTENCING PRACTICES AND THEIR IMPACTS. THE BULLETIN IS BEING DISTRIBUTED TO JUDGES, PROSECUTORS, PUBLIC DEFENDERS, PROBATION OFFICERS AND THE PUBLIC VIA E-MAIL AND ON THE SENTENCING ADVISORY COMMISSION'S WEBSITE AT WWW.MOSAG.MO.GOV.

COMMENTS AND SUGGESTIONS ARE WELCOME AND SHOULD BE SENT TO: SMART.SENTENCING@COURTS.MO.GOV.

Sentencing Advisory Commission Members

Judge Gary Oxenhandler, Chair, Rural Area
Phyllis Becker, Member of Citizen's Organizations
Rep. Galen Higdon, Member of Citizen's Organizations
Larry Joiner, Member of Citizen's Organizations
George Lombardi, Director of Corrections

Ellis McSwain, Jr., Member of Probation and Parole
Dane Miller, Private Member of Missouri Bar
Judge W. Brent Powell, Metropolitan Area
Sen. Kurt Schaeffer, Senate Member Appointed Pro Tem
Dwight K. Scroggins, Jr., Prosecutor Member

In Custody Census and Cost Per Day 09/30/2016 Through 03/30/2017

Census Date	Total in Custody (TIC)	Boone County Jail (BCJ)	\$65.00 per day @ opt. cap. ^a			\$35.00 per day			Average \$38.00 per day			\$0.00 per day			Average \$5.00 per day			\$0.00 per day ^f			
			% of TIC	Cost ^b	Realty House Paid	% of TIC	Cost ^c	Other Paid Placements	% of TIC	Cost ^c	Realty House Trustees	Other Unpaid (MH or Writ)	% of TIC	Unpaid (2 oc)	Work Release	% of TIC	Cost ^d	ACS Supervision	% of TIC	Total Cost All Non-BCJ Programs	BCJ % of Opt. Cap.
10/06/2016	380	178	46.84%	\$11810.00	14	3.68%	\$490.00	35	9.21%	\$1330.00	2	4	1.58%	4	1.05%	\$20.00	143	37.63%	\$1840.00	97.80%	\$35.92
10/13/2016	392	200	51.02%	\$11920.00	11	2.81%	\$385.00	22	5.61%	\$836.00	2	4	1.53%	5	1.28%	\$25.00	148	37.76%	\$1246.00	109.89%	\$33.59
10/20/2016	385	181	47.01%	\$11825.00	21	5.45%	\$735.00	20	5.19%	\$760.00	2	4	1.56%	5	1.30%	\$25.00	152	39.49%	\$1520.00	99.45%	\$34.66
10/27/2016	373	185	49.60%	\$11845.00	16	4.29%	\$560.00	15	4.02%	\$570.00	2	4	1.61%	3	0.80%	\$15.00	148	39.68%	\$1145.00	101.65%	\$34.83
11/03/2016	378	180	47.62%	\$11820.00	21	5.56%	\$735.00	14	3.70%	\$532.00	4	4	2.12%	3	0.79%	\$15.00	152	40.21%	\$1282.00	98.90%	\$34.66
11/10/2016	389	175	47.43%	\$11795.00	16	4.34%	\$560.00	14	3.79%	\$532.00	3	6	2.44%	2	0.54%	\$10.00	153	41.46%	\$1102.00	96.15%	\$34.95
11/17/2016	370	184	49.73%	\$11840.00	17	4.59%	\$595.00	10	2.70%	\$380.00	3	2	1.35%	3	0.81%	\$15.00	151	40.81%	\$990.00	101.10%	\$34.66
11/24/2016	374	190	50.80%	\$11870.00	15	4.01%	\$525.00	8	2.14%	\$304.00	3	2	1.34%	3	0.80%	\$15.00	153	40.91%	\$844.00	104.40%	\$33.99
12/01/2016	388	196	50.52%	\$11900.00	17	4.38%	\$595.00	13	3.35%	\$494.00	3	3	1.55%	2	0.52%	\$10.00	154	39.69%	\$1099.00	107.69%	\$33.50
12/08/2016	386	189	48.96%	\$11865.00	20	5.18%	\$700.00	13	3.37%	\$494.00	3	3	1.55%	2	0.52%	\$10.00	156	40.41%	\$1204.00	103.85%	\$33.86
12/15/2016	374	188	50.27%	\$11860.00	17	4.55%	\$595.00	7	1.87%	\$266.00	2	2	1.07%	1	0.27%	\$5.00	157	41.98%	\$866.00	103.30%	\$34.03
12/22/2016	371	187	50.40%	\$11855.00	17	4.58%	\$595.00	6	1.62%	\$228.00	2	2	1.08%	1	0.27%	\$5.00	156	42.05%	\$828.00	102.75%	\$34.19
12/29/2016	385	189	49.09%	\$11885.00	21	5.45%	\$735.00	2	0.52%	\$76.00	4	3	1.82%	2	0.52%	\$10.00	164	42.60%	\$821.00	103.85%	\$32.95
01/05/2017	431	232	53.83%	\$12060.00	19	4.41%	\$665.00	17	3.94%	\$646.00	3	3	1.39%	2	0.46%	\$10.00	155	35.96%	\$1321.00	127.47%	\$31.09
01/12/2017	391	179	45.78%	\$11815.00	20	5.12%	\$700.00	24	6.14%	\$912.00	3	3	1.53%	4	1.02%	\$20.00	158	40.41%	\$1632.00	98.35%	\$34.39
01/19/2017	385	182	47.27%	\$11830.00	18	4.68%	\$630.00	22	5.71%	\$836.00	3	2	1.30%	3	0.78%	\$15.00	155	40.26%	\$1481.00	100.00%	\$34.57
01/26/2017	386	180	46.63%	\$11820.00	11	2.85%	\$385.00	19	4.92%	\$722.00	4	2	1.55%	3	0.78%	\$15.00	167	43.26%	\$1122.00	98.90%	\$33.53
02/02/2017	386	187	48.45%	\$11855.00	7	1.81%	\$245.00	15	3.89%	\$720.00	4	2	1.55%	3	0.78%	\$15.00	168	43.52%	\$830.00	102.75%	\$32.86
02/09/2017	402	183	45.52%	\$11835.00	19	4.72%	\$665.00	19	4.73%	\$722.00	4	2	1.49%	2	0.50%	\$10.00	173	43.03%	\$1397.00	100.55%	\$32.92
02/16/2017	408	186	46.08%	\$11860.00	25	6.13%	\$875.00	15	3.88%	\$570.00	4	2	1.47%	2	0.49%	\$10.00	172	42.16%	\$1455.00	103.30%	\$32.63
02/23/2017	412	186	45.15%	\$11850.00	24	5.83%	\$840.00	24	5.83%	\$912.00	4	3	1.70%	3	0.73%	\$15.00	168	40.78%	\$1767.00	102.20%	\$33.05
03/02/2017	395	188	47.59%	\$11860.00	25	6.33%	\$875.00	13	3.29%	\$494.00	3	2	1.27%	2	0.51%	\$10.00	162	41.01%	\$1379.00	103.30%	\$33.52
03/09/2017	386	182	47.15%	\$11830.00	18	4.66%	\$630.00	17	4.40%	\$646.00	3	2	1.30%	2	0.52%	\$10.00	162	41.97%	\$1286.00	100.00%	\$33.98
03/16/2017	391	185	47.31%	\$11845.00	19	4.86%	\$665.00	15	3.84%	\$570.00	4	2	1.53%	2	0.51%	\$10.00	164	41.94%	\$1245.00	101.65%	\$33.48
03/23/2017	399	188	47.12%	\$11860.00	24	6.02%	\$840.00	12	3.01%	\$456.00	3	2	1.25%	4	1.00%	\$20.00	166	41.60%	\$1316.00	103.30%	\$33.02
03/30/2017	405	193	47.65%	\$11885.00	18	4.44%	\$630.00	17	4.20%	\$646.00	3	2	1.23%	4	0.99%	\$20.00	168	41.48%	\$1296.00	106.04%	\$32.55

See Footnote 12

^a Boone County Jail optimal capacity ('opt. cap.') is 182 inmates. BCJ maximum capacity is 210.
^b Jail cost per inmate at optimal capacity (182 inmates) is \$65.00 per day in 2017, of which \$60.00 is fixed cost and \$5.00 is variable cost.
(e.g. for 03/30/2017 population of 193 inmates, the total cost is 182 X \$60.00 (\$10920.00) plus 193 X \$5.00 (\$965.00) = \$11885.00)
^c In 2017 other paid placements varied in cost from \$20.00 per day (Howard County trustees) to \$45.00 per day (Pettis County), with a weighted average of \$33.42 per day.
^d \$38.00 per day is a best guess of actual board cost per day with time and expense to transport inmates included.
^e \$5.00 per day represents the 2017 total work release board cost minus payments by inmates towards board divided by the total 2017 program days.
This amount is the average 2017 out-of-pocket cost per day paid by Boone County for this program.
^f ACS supervision costs are shown as \$-0.00, because equipment rental revenues exceed equipment vendor charges.

Adult Court Services (ACS) Supervised Programs Alternative to Incarceration 09/30/2016 Through 03/30/2017

Census Date	Total Under ACS Supervision	% of TIC	Parole	% of TIC	Bond Supervision	% of TIC	Home Detention / EM	% of TIC	Pre-Trial	Commit
10/06/2016	143	37.63%	1	0.26%	108	28.42%	34	8.95%	20	14
10/13/2016	148	37.76%	0	0.00%	109	27.81%	39	9.95%	23	16
10/20/2016	152	39.48%	0	0.00%	111	28.83%	41	10.65%	25	16
10/27/2016	148	39.68%	0	0.00%	110	29.49%	38	10.19%	23	15
11/03/2016	152	40.21%	0	0.00%	113	29.89%	39	10.32%	23	16
11/10/2016	153	41.46%	0	0.00%	114	30.89%	39	10.57%	21	18
11/17/2016	151	40.81%	0	0.00%	115	31.08%	36	9.73%	20	16
11/24/2016	153	40.91%	1	0.27%	117	31.28%	35	9.36%	22	13
12/01/2016	154	39.69%	1	0.26%	120	30.93%	33	8.51%	21	12
12/08/2016	156	40.41%	1	0.26%	123	31.87%	32	8.29%	21	11
12/15/2016	157	41.98%	1	0.27%	124	33.16%	31	8.29%	22	10
12/22/2016	156	42.05%	1	0.27%	123	33.15%	31	8.36%	24	8
12/29/2016	164	42.60%	1	0.26%	129	33.51%	33	8.57%	25	9
01/05/2017	155	35.96%	0	0.00%	124	28.77%	31	7.19%	25	6
01/12/2017	158	40.41%	0	0.00%	125	31.97%	33	8.44%	29	4
01/19/2017	155	40.26%	0	0.00%	122	31.69%	33	8.57%	27	6
01/26/2017	167	43.26%	0	0.00%	130	33.68%	37	9.59%	27	10
02/02/2017	168	43.52%	0	0.00%	132	34.20%	36	9.33%	27	9
02/09/2017	173	43.03%	0	0.00%	141	35.07%	32	7.96%	25	7
02/16/2017	172	42.16%	0	0.00%	140	34.31%	32	7.84%	26	6
02/23/2017	168	40.78%	0	0.00%	134	32.52%	34	8.25%	26	8
03/02/2017	162	41.01%	0	0.00%	130	32.91%	32	8.10%	26	6
03/09/2017	162	41.97%	0	0.00%	132	34.20%	30	7.77%	23	7
03/16/2017	164	41.94%	0	0.00%	134	34.27%	30	7.67%	22	8
03/23/2017	166	41.60%	0	0.00%	134	33.58%	32	8.02%	22	10
03/30/2017	168	41.48%	0	0.00%	138	34.07%	30	7.41%	22	8

What This Chart Presents

On Thursday, March 30, 2017, a total of 405 defendants were "in custody" (which includes alternatives to incarceration) as follows:

- 193 were held at the Boone County Jail ('BCJ').
- 25 were placed at Reality House, of which
 - 4 were Work Search/Work Release,
 - 18 were paid placements, and
 - 3 were no-cost trustees.
- 17 were placed at other paid facilities such as jails in surrounding counties.
- 30 (7.41% of 405) were on the home detention / electronic monitoring administered by Adult Court Services.
- 138 (34.07% of 405) were on bond supervision administered by Adult Court Services
- 0 (0.00% of 405) were on supervised judicial parole administered by Adult Court Services

The 193 BCJ inmates represent 106.04% of the jail's optimal capacity of 182.

On March 30, 2017, \$1296.00 was the total daily cost of those inmates not housed in the jail.

In Custody Census and Cost Per Day 09/30/2015 Through 03/30/2016

Census Date	Total In Custody (TIC)	\$65.00 per day @ opt. cap. ^a			Average \$38.00 per day			\$0.00 per day			Average \$5.00 per day			\$0.00 per day ^f							
		Boone County Jail (BCJ)	% of TIC	Cost ^b	Reality House Paid	% of TIC	Cost ^c	Other Unpaid (MH or Writ)	Unpaid (2 col) % of TIC	Work Release	% of TIC	Cost ^d	ACS Super-Vision	% of TIC	Total Cost All Non-BCJ Programs	BCJ % of Opt. Cap.	Avg. Cost All Defrs				
10/01/2015	338	179	52.96%	\$11815.00	3	0.89%	\$105.00	27	7.98%	\$1026.00	4	2	1.78%	8	2.37%	\$40.00	115	34.02%	\$1179.00	98.95%	\$38.44
10/08/2015	335	182	54.63%	\$11835.00	3	0.90%	\$105.00	23	6.87%	\$874.00	4	2	1.79%	5	1.49%	\$25.00	115	34.33%	\$1009.00	100.55%	\$38.34
10/15/2015	342	183	53.22%	\$11830.00	9	2.63%	\$315.00	20	5.85%	\$760.00	4	3	2.05%	6	1.75%	\$30.00	118	34.50%	\$1111.00	100.00%	\$37.84
10/22/2015	340	173	50.88%	\$11785.00	8	2.35%	\$280.00	23	6.76%	\$874.00	4	2	1.76%	6	1.76%	\$30.00	124	36.47%	\$1190.00	95.05%	\$38.16
10/29/2015	345	183	53.04%	\$11835.00	12	3.48%	\$420.00	15	4.35%	\$570.00	4	2	1.74%	7	2.03%	\$35.00	122	35.36%	\$1032.00	100.55%	\$37.30
11/05/2015	323	170	52.63%	\$11770.00	5	1.55%	\$175.00	12	3.72%	\$456.00	4	2	1.86%	4	1.24%	\$20.00	126	39.01%	\$655.00	93.41%	\$38.47
11/12/2015	338	182	53.85%	\$11830.00	4	1.18%	\$140.00	13	3.85%	\$494.00	4	2	1.79%	6	1.78%	\$30.00	127	37.57%	\$670.00	100.00%	\$36.98
11/19/2015	325	167	51.36%	\$11755.00	3	0.92%	\$105.00	5	1.54%	\$190.00	4	3	2.15%	5	1.54%	\$25.00	138	42.46%	\$325.00	91.76%	\$37.17
11/26/2015	333	182	54.65%	\$11830.00	2	0.60%	\$70.00	6	1.80%	\$228.00	3	3	1.80%	3	0.90%	\$15.00	134	40.24%	\$316.00	100.00%	\$36.47
12/03/2015	338	182	53.85%	\$11830.00	6	1.78%	\$210.00	4	1.19%	\$152.00	3	3	1.78%	4	1.18%	\$20.00	136	40.24%	\$366.00	100.00%	\$36.14
12/10/2015	343	184	53.64%	\$11940.00	4	1.17%	\$140.00	13	3.79%	\$494.00	1	4	1.46%	1	0.29%	\$5.00	136	39.65%	\$640.00	101.10%	\$36.38
12/17/2015	342	188	54.97%	\$11860.00	0	0.00%	\$0.00	14	4.09%	\$532.00	1	4	1.46%	2	0.59%	\$10.00	133	38.89%	\$544.00	103.30%	\$36.27
12/24/2015	320	169	52.81%	\$11785.00	0	0.00%	\$0.00	15	4.69%	\$570.00	2	4	1.89%	2	0.62%	\$10.00	128	40.00%	\$582.00	92.86%	\$38.58
12/31/2015	326	147	45.09%	\$11655.00	0	0.00%	\$0.00	41	12.58%	\$1558.00	2	4	1.84%	3	0.92%	\$15.00	129	39.57%	\$1576.00	80.77%	\$40.59
01/07/2016	330	137	41.52%	\$11605.00	7	2.12%	\$245.00	50	15.15%	\$1900.00	4	0	1.21%	2	0.61%	\$10.00	130	39.39%	\$2155.00	75.27%	\$41.70
01/14/2016	335	146	43.58%	\$11650.00	4	1.19%	\$140.00	43	12.84%	\$1634.00	4	4	2.39%	2	0.60%	\$10.00	132	39.40%	\$1784.00	80.22%	\$40.10
01/21/2016	317	132	41.64%	\$11580.00	7	2.21%	\$245.00	41	12.98%	\$1558.00	4	3	2.21%	4	1.28%	\$20.00	126	39.75%	\$1823.00	72.53%	\$42.28
01/28/2016	332	138	41.57%	\$11610.00	4	1.20%	\$140.00	40	12.05%	\$1520.00	3	5	2.41%	4	1.20%	\$20.00	138	41.57%	\$1680.00	75.82%	\$40.03
02/04/2016	337	142	42.14%	\$11630.00	1	0.30%	\$35.00	37	10.98%	\$1406.00	3	3	1.78%	5	1.48%	\$25.00	146	43.32%	\$1466.00	78.02%	\$38.86
02/11/2016	336	151	44.94%	\$11675.00	1	0.30%	\$35.00	30	8.93%	\$1140.00	3	3	1.79%	5	1.49%	\$25.00	143	42.56%	\$1200.00	82.87%	\$38.32
02/18/2016	347	158	45.53%	\$11710.00	1	0.29%	\$35.00	34	9.80%	\$1292.00	3	3	1.79%	6	1.73%	\$30.00	142	40.92%	\$1357.00	86.81%	\$37.66
02/25/2016	342	150	43.86%	\$11670.00	3	0.88%	\$105.00	38	11.11%	\$1444.00	2	3	1.46%	5	1.46%	\$25.00	141	41.23%	\$1574.00	82.42%	\$38.73
03/03/2016	337	143	42.43%	\$11635.00	4	1.19%	\$140.00	36	10.68%	\$1368.00	4	3	2.08%	6	1.78%	\$30.00	141	41.84%	\$1538.00	78.57%	\$39.09
03/10/2016	352	156	44.32%	\$11700.00	5	1.42%	\$175.00	37	10.51%	\$1406.00	3	3	1.70%	8	2.27%	\$40.00	140	39.77%	\$1621.00	85.71%	\$37.84
03/17/2016	361	160	44.32%	\$11720.00	4	1.11%	\$140.00	39	10.80%	\$1482.00	5	5	2.77%	7	1.94%	\$35.00	141	39.06%	\$1657.00	87.91%	\$37.06
03/24/2016	359	177	49.30%	\$11805.00	2	0.56%	\$70.00	25	6.95%	\$850.00	2	4	1.67%	6	2.23%	\$40.00	141	39.28%	\$1060.00	97.25%	\$35.84

^a Boone County Jail optimal capacity (opt. cap.) is 182 inmates. BCJ maximum capacity is 210.
^b Jail cost per inmate at optimal capacity (182 inmates) is \$65.00 per day in 2017, of which \$60.00 is fixed cost and \$5.00 is variable cost.
(e.g., for 03/30/2017 population of 193 inmates, the total cost is 182 X \$60.00 (\$10920.00) plus 193 X \$5.00 (\$965.00) = \$11885.00)
^c In 2017 'other paid placements' varied in cost from \$20.00 per day (Howard County trustees) to \$45.00 per day (Pettis County), with a weighted average of \$33.42 per day.
\$38.00 per day is a best guess of actual board cost per day with time and expense to transport inmates included.
^d \$5.00 per day represents the 2017 total work release board cost minus payments by inmates towards board divided by the total 2017 program days.
This amount is the average 2017 out-of-pocket cost per day paid by Boone County for this program.
^e ACS supervision costs are shown as \$-0.00- because equipment rental revenues exceed equipment vendor charges.

**Adult Court Services (ACS) Supervised Programs
Alternative to Incarceration
09/30/2015 Through 03/30/2016**

Census Date	Total Under-ACS Supervision	% of TIC	Parole	% of TIC	Bond Supervision	% of TIC	Home Detention / EM	% of TIC	Pre-Trial	Commit
10/01/2015	115	34.02%	0	0.00%	73	21.60%	42	12.43%	30	12
10/08/2015	115	34.33%	0	0.00%	74	22.09%	41	12.24%	29	12
10/15/2015	118	34.50%	0	0.00%	74	21.64%	44	12.87%	32	12
10/22/2015	124	36.47%	0	0.00%	78	22.94%	46	13.53%	32	14
10/29/2015	122	35.36%	0	0.00%	76	22.03%	46	13.33%	33	13
11/05/2015	126	39.01%	0	0.00%	78	24.15%	48	14.86%	34	14
11/12/2015	127	37.57%	0	0.00%	80	23.67%	47	13.91%	34	13
11/19/2015	138	42.46%	1	0.31%	90	27.69%	47	14.46%	31	16
11/26/2015	134	40.24%	1	0.30%	86	25.83%	47	14.11%	31	16
12/03/2015	136	40.24%	1	0.30%	87	25.74%	48	14.20%	34	14
12/10/2015	136	39.65%	1	0.29%	87	25.36%	48	13.99%	34	14
12/17/2015	133	38.89%	1	0.29%	81	23.68%	51	14.91%	38	13
12/24/2015	128	40.00%	1	0.31%	80	25.00%	47	14.69%	37	10
12/31/2015	129	39.57%	1	0.31%	80	24.54%	48	14.72%	37	11
01/07/2016	130	39.39%	2	0.61%	79	23.94%	49	14.85%	35	14
01/14/2016	132	39.40%	2	0.60%	80	23.88%	50	14.93%	33	17
01/21/2016	126	39.75%	1	0.32%	78	24.61%	47	14.83%	32	15
01/28/2016	138	41.57%	1	0.30%	85	25.60%	52	15.66%	33	19
02/04/2016	146	43.32%	2	0.59%	91	27.00%	53	15.73%	33	20
02/11/2016	143	42.56%	3	0.89%	88	26.19%	52	15.48%	32	20
02/18/2016	142	40.92%	4	1.15%	86	24.78%	52	14.99%	32	20
02/25/2016	141	41.23%	4	1.17%	85	24.85%	52	15.20%	33	19
03/03/2016	141	41.84%	3	0.89%	90	26.71%	48	14.24%	33	15
03/10/2016	140	39.77%	3	0.85%	94	26.70%	43	12.22%	30	13
03/17/2016	141	39.06%	3	0.83%	97	26.87%	41	11.36%	33	8
03/24/2016	141	39.28%	3	0.84%	96	26.74%	42	11.70%	36	6

July 1, 1997 - June 30, 1998	\$22.00
July 1, 1998 - June 30, 2002	\$22.50
July 1, 2002 - June 30, 2007	\$20.00
July 1, 2007 - June 30, 2008	\$21.25
July 1, 2008 - June 30, 2010	\$22.00
July 1, 2010 - Sept 30, 2014	\$19.58
Oct 1, 2014 - June 30, 2015 (s/h/b effective 7/1/2014 but was delayed due to Governor's withholding)	\$21.58
July 1, 2015 - June 30, 2016	\$20.58
July 1, 2016 - Present - State Budget included \$2 increase but due to Governor restrictions County only received \$0.50.	\$21.08

See Footnote 32

Adult Court Services Electronic Monitoring Program
Daily Pricing and Equipment Features

Home Guard - HG200 (regular landline)	\$1.72
- Basic curfew monitoring anklet which requires the use of a landline phone	
Home Guard - HG206 (regular cell unit)	\$4.24
- Basic curfew monitoring anklet which uses an internal cellular unit	
ET-1 (GPS)	\$4.35
- Curfew monitoring anklet which uses global positioning technology	
TAD (landline)	\$7.72
- Continual alcohol monitoring anklet using Transdermal Alcohol Detection	
- Curfew monitoring	
- Requires the use of a landline phone	
TAD (cell)	\$9.47
- Continual alcohol monitoring using Transdermal Alcohol Detection	
- Curfew monitoring	
- Requires the use of an internal cellular unit	
Sobriator (landline only)	\$2.15
- In-home breath alcohol monitoring using voice verification technology	
- Requires the use of a landline phone	
Soberlink	\$7.50
- Portable breath alcohol monitoring	
- Uses facial recognition technology	
- Requires the use of a cell phone	

Note: Prices listed above are the daily cost of equipment billed to the Court by the monitoring agency. These fees are offset by billing the defendant.

Fees charged to the defendant for use of the monitoring equipment is guided by the court through Administrative Order 03-10; fees are directed to be determined by whichever of the following three measurements provides the greatest amount: cost of equipment, defendant's hourly wage, or minimum wage.

**First Correction
Boone County Jail Population Study,
Dated April 13, 2017**

Insert as Page 27b:

² Recommendations and suggestions came from many of the interviewees. Unless someone I spoke with sent me a communication, I did not identify the interviewee.

³ See attached letter from June Pitchford, Auditor, Boone County, dated April 7, 2017.

⁴ Letter to Gary Oxenhandler from Dan Knight, Prosecuting Attorney: "January 19, 2017 - Dear Judge Oxenhandler, Pursuant to your request, I am writing this letter to set forth some of my thoughts regarding inmate population issues in Boone County. I understand you will be making a report to the Boone County Commission, and I appreciate the opportunity to weigh in on this matter. Please feel free to submit this letter to the Commission when you present your findings. Even though I will frequently refer to myself throughout this letter, I am also writing on behalf of my staff. There are 13 assistant prosecutors who work with me in this office. They work here because they