‘Pure torture.’ Inmates suffer and die as Kentucky overcrowds its county jails.

By **John Cheves**

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Terrible things happen when too many people are crammed into too small a space, a common practice in Kentucky’s local jails.

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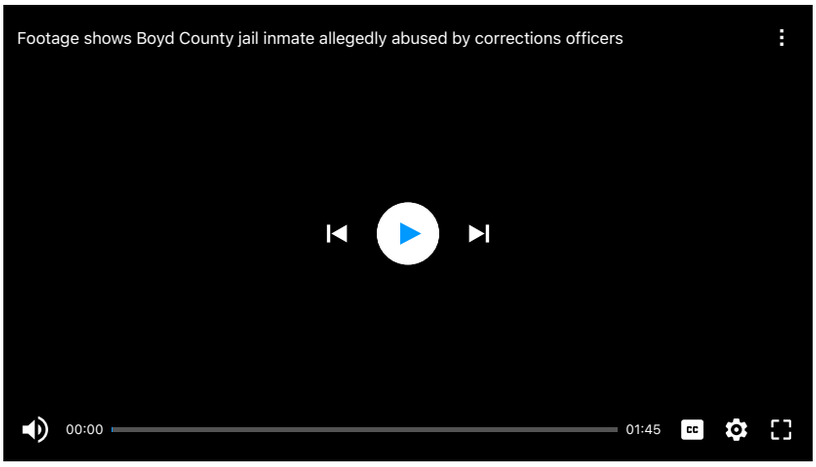
Terrible things happen when too many people are crammed into too small a space, a common practice in Kentucky’s local jails, which are packed far beyond their capacity with state inmates who should be serving their felony sentences in a prison.

At the Boyd County Detention Center, which typically houses at least 50 percent more prisoners than it’s supposed to, an Ashland police officer left 40-year-old Michael “Boo” Moore last Nov. 27 to be booked for public intoxication, a minor offense.

Moore’s battered corpse was carried out of the jail two days later.

Security video showed four corrections officers roughly hurling Moore around the jail’s booking area, flipping him backward while he was hooded and tied into a restraint chair, shocking him, pepper spraying him, slamming his head into a concrete wall and throwing him down into a metal toilet. He suffered three broken ribs and internal bleeding that killed him, a Kentucky State Police officer later testified in court.

“This boy went through abuse for 36 hours. It was pure torture what they did to him,” said Brenda Murphy, Moore’s aunt, in a recent interview. “They were mean to everyone who came through there, it wasn’t just him. He’s just the one who died from it.”



Footage shows four Boyd County jail corrections officers allegedly abusing inmate Michael "Boo" Moore after being arrested Nov. 27, 2018, in Ashland for public intoxication. By Boyd Circuit Court Clerk's Office

The four corrections officers are charged with first-degree manslaughter in Moore's death. A fifth officer who failed to seek medical attention for Moore has pleaded guilty to wanton endangerment.

In June, Boyd County's insurance company paid Moore's family $1.75 million in compensation for his death to avoid a lawsuit that could have cost even more. The county also agreed to erect a memorial plaque for Moore, an Army veteran, outside the jail.

The Boyd County jail, overwhelmed with more inmates than it can handle, has a history of cruelty. Federal investigators in February revealed a pattern of corrections officers brutally abusing inmates while purportedly trying to maintain control. Nonviolent inmates — some of them intoxicated, like Moore — deliberately were harmed by the very same officers who were supposed to protect them.

"Staff are given no training to help them manage prisoners in the jail's overcrowded living conditions," the U.S. Department of Justice Civil Rights Division warned in a report that also documented fatal drug overdoses by inmates inside the facility and a destructive 2017 riot that briefly closed the 206-bed lockup.

Michael "Boo" Moore *"Justice for Boo" Facebook page*

Officers shocked scores of male and female inmates with Tasers and directly pepper-sprayed their exposed genitals for not following orders fast enough, according to the report. A man was Tased in the intake room because he could not remove his wedding ring after wearing it for 20 years.

Female and male inmates were strapped into a restraint chair in "suicide smocks" — naked from the waist down, with no underwear — and put on display in a hallway with their legs spread so inmates of the opposite sex could walk by and stare at them. At least once, in 2015, the jail ordered this humiliating treatment as punishment for a female inmate who was suffering a panic attack.

"Jail officials are deliberately indifferent to a pattern or practice of improper use of force by jail staff," the Justice Department wrote.

Bill Hensley, who took office last December as Boyd County jailer, promising to enact reforms, did not return repeated phone calls for this story. When the Justice Department issued its report, Hensley told the Boyd County Fiscal Court that he was implementing higher professional standards at the jail and increasing the staff size from 25 to 42 to better manage the swollen inmate population.

A lawyer who represents inmates and their families says Boyd County's jail is not unique.

"You spend time in a Kentucky jail and you will come out a very different person with a very different perspective on life, and I can assure you, it won't be positive," said Greg Belzley, an inmate rights attorney in Prospect.

Greg Belzley, inmate rights attorney *Provided*

"And if you think, 'Well, they're just animals, who cares what happens to them,' guess what?" Belzley asked. "These 'animals' will be released back into your communities. They can come out better or they can come out worse. The way we treat them while they are incarcerated is going to play a big role in that."

The biggest problem facing most jails is that they're far too crowded.

This spring, Kentucky's jails were packed at 121 percent of their capacity. But that's just a statewide average. Three dozen jails were filled beyond the 138 percent limit recommended by the U.S. Supreme Court in a 2011 inmate overcrowding decision. Some jails, such as the Madison County Detention Center, routinely hold more than twice as many people as intended.

Federal and state inspection reports, lawsuits, interviews and jailhouse tours paint a damning portrait of the result.

Violence flares up, sending inmates and corrections officers to the hospital. Filth accumulates. Toilets clog and leak, forcing inmates to sleep on moldy mats in puddles on the floor — if they even get mats. Inmates sicken. Suicidal inmates kill themselves, unseen in windowless rooms, because overworked officers can't keep an eye on everyone. Overtaxed buildings crumble.

In Richmond, Phillip Poston allegedly fell more than $1,000 behind in child support payments in 2015. That's a felony in Kentucky called "flagrant nonsupport," so he was arrested and stuck for 24 hours in the Madison County Detention Center until he could post bail.

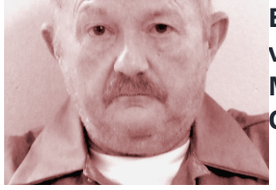
"That place was hot, it was dirty, it was nasty," Poston said in a recent interview.

The Madison County Jail in Richmond, Ky., photographed Thursday, June 13, 2019. Ryan C. Hermens *rhermens@herald-leader.com*

"I was in an area that had eight bunks and one working toilet and 31 people," he said. "There were guys sleeping on the concrete floor on these thin little mats, guys sleeping in the shower. You constantly had to step over each other to go anywhere. We had fights break out because everyone was right in each others' faces all the time."

That jail long has been overwhelmed. Madison County last year agreed to pay $300,000 to settle a lawsuit over the suicide of inmate Charles Hoffman, who hung himself with a bed sheet. Hoffman was isolated in "the hole." Officers were supposed to check on him every 20 minutes. But evidence indicated they ignored him for more than three hours and falsified their logs to cover their tracks, according to the U.S. 6th Circuit Court of Appeals.

READ THE JAILHOUSE DIARY



Ex-cop Harold Hill spent some very unhappy time in the Madison County Detention Center.

"Would you agree with me that the (former jailer) knew that the logs were falsified and it was a practice of the Madison County Detention Center to falsify logs?" Christopher Trainor, a lawyer for Hoffman's family, asked Kentucky State Police Detective Michael Keeton during a 2015 deposition.

"I would agree that they had knowledge that they were false," said Keeton, who investigated the inmate's death. "He told me that he had talked to the staff about not doing that (falsifying logs), but I can say that there was a history of practice there."

Not far away in Lincoln County — where the jail this spring was crushed to 182 percent of capacity — a deputy jailer last year reported that three male inmates sexually assaulted a fourth in the jail's 179-square-foot detox cell. For 40 minutes, they dropped their pants, tried to kiss him, demanded oral sex, poured fruit juice over his head and hit him with a broom, the deputy told her superiors.

Security video showed Lincoln County jail staff "outside of the cell, laughing" when the door opened several times during the assault, according to an internal incident report. Under "recommendations to prevent similar occurrences," the deputy wrote, "Better response by staff."

Dumping state inmates in local jails

The Kentucky Department of Corrections is supposed to inspect local jails twice a year. It's fully aware of the overcrowding crisis.

What's more, it's largely responsible. It has parked more than 11,000 state prisoners in local jails, nearly doubling their populations. The Boyd County jail — where Moore died in agony, where federal investigators detailed a pattern of abuse — on a recent day housed 64 state inmates serving their felony time. The jail that day operated at 163 percent of capacity.

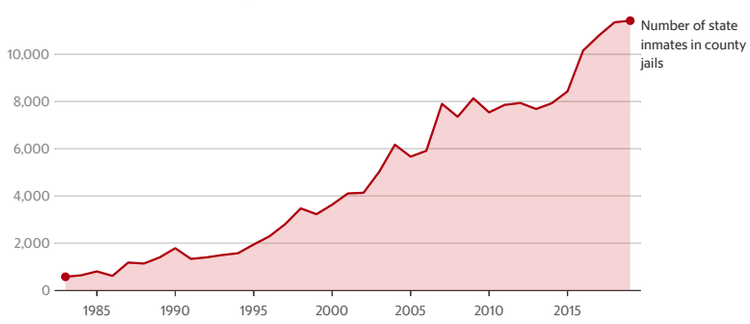
Plagued by poverty and drugs, Kentucky has one of the highest incarceration rates in the United States, which in turn has one of the highest incarceration rates in the world. As the 1980s began, Kentucky locked up 98 people for every 100,000 living within its borders. Today that unhappy number is more than 500 per 100,000 — and it's continuing to rise.

As a result, the state's dozen prisons long have been full. Rather than build a dozen more, Kentucky chose to rely on jails to house its growing spillover of state inmates as incarceration rates exploded.

In April, there were 11,378 state inmates serving time in Kentucky's state prisons and slightly more — 11,434 — serving time in one of 76 county jails.

STATE INMATES IN COUNTY JAILS, 1983-2019

Over the last 35 years, the Kentucky Department of Corrections has come to depend on county jails to hold state inmates who won't fit in the state's 12 prisons, all of which are full.



Source: Kentucky Department of Corrections • Get the data

The problem is that jails and prisons aren't interchangeable.

Jails are small boxes only meant to hold people for short stays near a county courthouse. Apart from their state inmate populations, Kentucky jails also house about 13,000 local inmates serving misdemeanor sentences of a year or less or awaiting trial behind bars because they're unable to post bond.

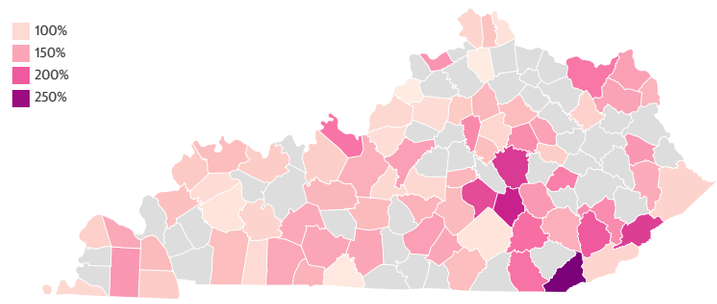
Prisons are large boxes meant to hold people for years, and they offer recreation yards, libraries, classrooms, gymnasiums, dining halls and a wide range of rehabilitation programs to make it less likely that criminals will re-offend once they are released. Studies show that parole rates are higher and recidivism rates are lower for Kentucky felons who serve their time in prison rather than in jail.

Of course, being smaller and offering less, jails are cheaper.

The Department of Corrections pays local jailers a daily rate of $31.34 for each state inmate they hold. The cost to house inmates in state prisons can run two or three times as high. In 2017, when the DOC signed a contract with private, for-profit CoreCivic to hold about 800 state inmates at a prison the company owns in Lee County, it agreed to pay a daily rate of $57.68.

OVERLOADED JAILS

In April, most Kentucky jails were beyond 100 percent of their capacity. In other words, they had filled every bed, so inmates were sleeping on the floor, in recreation areas and anyplace else space could be found. Not every county has a jail.



Source: Kentucky Department of Corrections, week of April 18, 2019 • Get the data

Cheaper is better for Frankfort politicians facing lean budgets.

And many local jailers enjoy the revenue stream that state inmates bring. Some are expanding their jails so they can squeeze more state inmates and even federal inmates under their roofs.

"Unfortunately, we have gotten to the point where we're looking at incarceration as a money-making industry," said Brad Boyd, the Christian County jailer and president of the Kentucky Jailers Association.

"I hate the fact that we've gotten to this point," Boyd said. "I don't think that was ever intended to be how it works. But there is so much pressure being put on the elected jailers by the fiscal courts to do this, to find some revenue so the local governments don't have to bear all the costs of our operations."

'This is a failed policy'

State officials insist they're not happy with the overcrowding. Other than Louisiana, no other state in the nation houses anywhere near as many of its prisoners in local jails.

"This is a failed policy. No one likes this," said John Tilley, secretary of the Kentucky Justice and Public Safety Cabinet, which oversees the Department of Corrections.

Apart from a lack of beds, Tilley said, barely two dozen jails offer substantive addiction treatment, which is a glaring deficiency given how many inmates have drug and alcohol addictions. In some jails, twitchy addicts are simply tossed into a small detox cell on arrival to writhe on the cold, hard floor until the worst has passed — assuming they don't become grievously ill in the process.

"You have those (jails) that lack any resources," Tilley said. "They are not nearly equipped — there is simply no physical plant space. They are truly stacking bodies. They don't have, the counties don't have the resources to invest in them at all."

The problem seems likely to worsen.

Gov. Matt Bevin's administration, which expects to spend $628 million this fiscal year on the Department of Corrections, says it won't build more prisons. The General Assembly has rejected attempts at criminal justice reform that could reduce the inmate population. While other states are enjoying a decline in incarceration rates, thanks in part to their reform efforts, Kentucky is not.

So ever more Kentuckians will be stuffed behind bars like Poston, the one-time Madison County inmate.

"At one point I saw a nurse, and she told me we were stacked in there like fish. That's how she described it," Poston said. "It was a horrible place."

The Madison County Jail in Richmond, Ky., photographed Tuesday, June 25, 2019. Ryan C. Hermens *rhermens@herald-leader.com*

While inspecting jails, the Department of Corrections carefully notes violations like mass overcrowding. It even takes room-by-room head counts. However, if jailers say they're doing the best they can under difficult circumstances, the DOC typically sends a "good faith" response letter that allows them to continue as is.

"It's bullshit," said Belzley, the inmate rights lawyer. "These inspections are supposed to mean something. But when you see the same violations for overcrowding excused at the same jails every time, year after year, clearly they have come to mean nothing. These awful conditions are baked into our criminal justice system now. They're not the exception, they're the rule."

Tilley said he agreed conditions are "deplorable" in many jails where the state keeps its inmates.

"The conundrum for us at Justice is that we have very few options," Tilley said. "State law mandates ... that we have no choice. It says 'You shall house these state inmates in county jails.' And these county jailers are independently elected officials. We cannot run their jails for them."

The Justice Cabinet's two alternatives when dealing with a troubled jail are removing all of the state inmates or, in extreme cases, ordering the jail closed, and it's loathe to do either, Tilley said. The state briefly has removed inmates from the Boyd and Grant county jails for serious violations in those places. In 2017, it shut the Estill County jail over fire-safety issues.

"The truth is that when we use the one thing that is most available, which is to remove state inmates — we can't control their county inmates at all — then what do we do with those inmates? Those are human beings that have to be housed somewhere. They have to go into another county jail," Tilley said.

"It's an unfortunate situation in which we find ourselves," he said.

Nobody worries too much about the safety of jail inmates unless their loved ones are involved, said Murphy, the aunt of Moore, who died in Boyd County.

"Most people don't care. They say, 'They're all criminals, they probably deserve whatever happens to them in there,'" Murphy said. "But everyone in there is somebody's child. You need to remember that."

BEHIND THE STORY

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