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To: Boone County Board Members
From: State's Attorney Tricia Smith
Sheriff David Ernest

Date: December 13, 2021
Re: Pending investigation

Over the past weekend, many of you received a call from a fellow board member regarding a pending investigation involving another board member. This memo is an attempt to clear up the facts surrounding this matter.

On October 18, 2021, a complaint was made to the State's Attorney's office regarding actions of a county board member. At that meeting, the person making the complaint was informed that the State's Attorney's office does not perform initial investigations, and that the complaint would be referred to the Sheriff's office. The following day, Tricia Smith informed Dave Ernest of the complaint, and the day after that she delivered a memorandum to him outlining the allegations made against the board member. Because of the nature of the allegations and the identity of the people involved, Sheriff Ernest determined that there would be an inherent conflict if the Sheriff's Department performed the investigation. At that point, the Sheriff referred the matter to the Illinois State Police for investigation. That investigation is still ongoing.

Once the investigation is complete, the results will be forwarded to the State's Attorney's office. Because the State's Attorney's office also has an inherent conflict in this matter, any determination as to whether charges will be filed will be made by either the Attorney General's office or the Appellate Prosecutor's office. Both the Sheriff's office and the State's Attorney's office have followed standard operating procedure for a case where the departments have a conflict of interest.

At the same time the State's Attorney's office referred the matter to the Sheriff's department, steps were taken to advise the county as to [REDACTED]. As the attorney for the county, the State's Attorney's office had the obligation to ensure [REDACTED] once it became aware that a problem might exist.

There is no provision in the Open Meetings Act that would allow the State's Attorney to advise the Board on this matter in closed session. It was the determination of the State's Attorney's office and the Sheriff's Department that any discussion of this matter in open session was likely to negatively impact the efficacy of the investigation. The State's Attorney's office and the Sheriff's Department strongly urge the Board to allow the Illinois State Police to conduct their investigation without outside interference or influence.

All information contained in this memorandum is a confidential communication between an attorney and his/her client. This information is protected by attorney-client privilege and cannot be released to any third party without the specific written consent of the intended recipient of this memorandum.