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August 26, 2005

The Hon. Clare Fiorenza
Branch 3
Milwaukee County Courthouse, Rm 402
901 N. 9th Street
Milwaukee, WI 53233



Re: *Christensen et al. v. Sullivan et al.*, Case No 96 CV 1835

Dear Judge Fiorenza:

This letter is to provide the Court with a status report on the overcrowding portion of the consent decree in the *Christensen* jail overcrowding case. The *Christensen* settlement agreement provides for semi-annual reports on the defendants compliance with the population limits at the jail. At a status conference November 25, 2003, the plaintiffs discussed with the Court the fact that the plaintiffs had not filed written reports up to that point, and the plaintiffs provided the Court with a comprehensive graph summarizing the defendants' compliance, with the overall jail population cap (the 1100 inmate cap) through Fall 2003. The plaintiffs also first alerted the Court to the need for more full investigation of compliance on the matter of the booking room population cap (110 inmate cap) and booking room/required-bed length-of-stay limits (the 24 and 30 hour limits on length-of-stay in booking and maximum of 30 hours anywhere in the jail without a bed). This was discussed in light of information plaintiffs received, five days before the status conference, alleging a pattern of serious and unreported violations of the booking room length-of-stay limits and a practice of moving inmates from the booking room to the court staging area outside the jail before the midnight count and returning them to booking several hours later. This investigation and plaintiffs' motion for discovery led to the defendant's disclosure in April 2004 of approximately 13,000 (later learned to exceed 16,000) inmates held in booking over 30 hours.

As a result of the violation investigation and the April 2004 disclosures, the population provisions of the settlement have been continuously before the court in the form of reports, briefing, and status conferences, (as well as Your Honor's June 2004 tour of the booking room and adjacent areas), since the booking overcrowding and length of stay issues were uncovered in early 2004. This report is provided both to update the Court on the population numbers and to

raise some concerns of which the court should be aware as to the status on progress toward the defendants' operation of the Jail without judicial supervision.

Since approximately May 1, 2004 the defendants have reported compliance with the numerical caps and the 24 hour/30 hour limit on length-of-stay in the booking/open waiting area and otherwise being in the jail without a bed. There have been only a handful instances of inmates held in booking in excess of 24 hours and no reported instances of inmates in booking over 30 hours. The plaintiffs understand that the defendants' action to comply with the length-of-stay limits, after the booking violations were discovered, was to run the Jail at a lower population level or "voluntary cap" of 960 rather using the 1100 maximum cap as the reference point. Plaintiffs also understand that the defendants are able to run the jail at this lower cruising level only by making extensive use of the use of the House of Correction for housing pretrial detainees as "jail overflow". As of the most recent report from the Sheriff (August 24, 2005 County Inmate Population and August 24, 2005 Milwaukee County Jail Population pie charts attached hereto), only 343 of 915 felony pretrial detainees and 146 of 307 misdemeanor pretrial detainees were housed at the Jail rather than the House. The House of Correction was also holding a significant proportion of other non-sentenced detainees who would normally be Jail inmates (e.g. probation or parole violators with new charges).

On the good side, the plaintiffs are very happy with the low numbers in the Jail and particularly the low numbers reported in booking. Plaintiffs consider the most recently received Jail midnight-count census (copy attached) to be typical for the period following the April 2004 violation disclosures. The numbers in the Jail, overall, have been typically under 1000 and frequently below 900. The plaintiffs need to point out however, that the Sheriff has discontinued providing the useful monthly summaries of the daily "11:59" reports which provide the midnight count for each day as plaintiffs believe the decree requires. In addition, the plaintiffs have not been provided a daily "high" number for booking as the defendants indicated in June 2004 that they could and would make available. The low reported numbers over the past year indicate that, if the numbers reported to plaintiffs are accurate, are consistent throughout the week (as the full-month reports should indicate), and if they continue, operating the Jail at the lower population cruising level is a useful approach to avoid future booking crowding and length-of-stay violations.

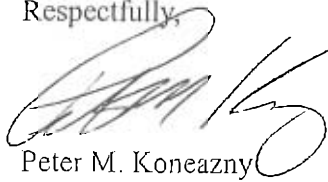
Concerns remain, however. One such concern is that use of the House of Correction for Jail overflow is not a solution to population pressures in the short or the long run. Of immediate concern is whether the Jail inmates transferred to the HOC are at risk of being held in overcrowded and unsafe conditions at the House of Correction. While HOC crowding is not covered by the decree, we are concerned that safe staffing and classification are maintained for jail transferees, so that compliance with one facility does not put the same population (pretrial detainees) in worse conditions, or at risk by putting them in crowded conditions at the HOC (presumably with less security). Over-stressing medical and mental health care at the HOC is a related concern, as there is a predictable decline in quality of care and general safety whenever any system is taxed beyond its staffing levels. Plaintiffs are waiting for the defendants to arrange for plaintiffs to visit and interview the House of Correction psychiatrist and the psychiatric social worker staff at both the Jail and House of Correction to assess the adequacy of

coverage and the impact of population shift to the House. This request was made more than two months ago and plaintiffs were told that these opportunities would be arranged.

Another immediate and significant concern is as to staffing levels at the Jail. The Settlement Agreement requires the staffing to not be reduced during the life of the settlement. However, Sheriff's Department witnesses deposed in connection with the plaintiffs' contempt motion indicated that the deputy staffing levels were reduced some time ago. This was never otherwise reported to the plaintiffs and the defendants have not responded to the plaintiffs request for information about the reduction in staffing levels. Plaintiffs hope that a formal motion to interview jail staff and to receive information about the staffing cuts will not be necessary.

These are issues that are not directly being addressed in the pending contempt and remedies litigation. We will apprise the Court of any resolution of these concerns as appropriate.

Respectfully,

A handwritten signature in black ink, appearing to read "Peter M. Koneazny", written over a horizontal line.

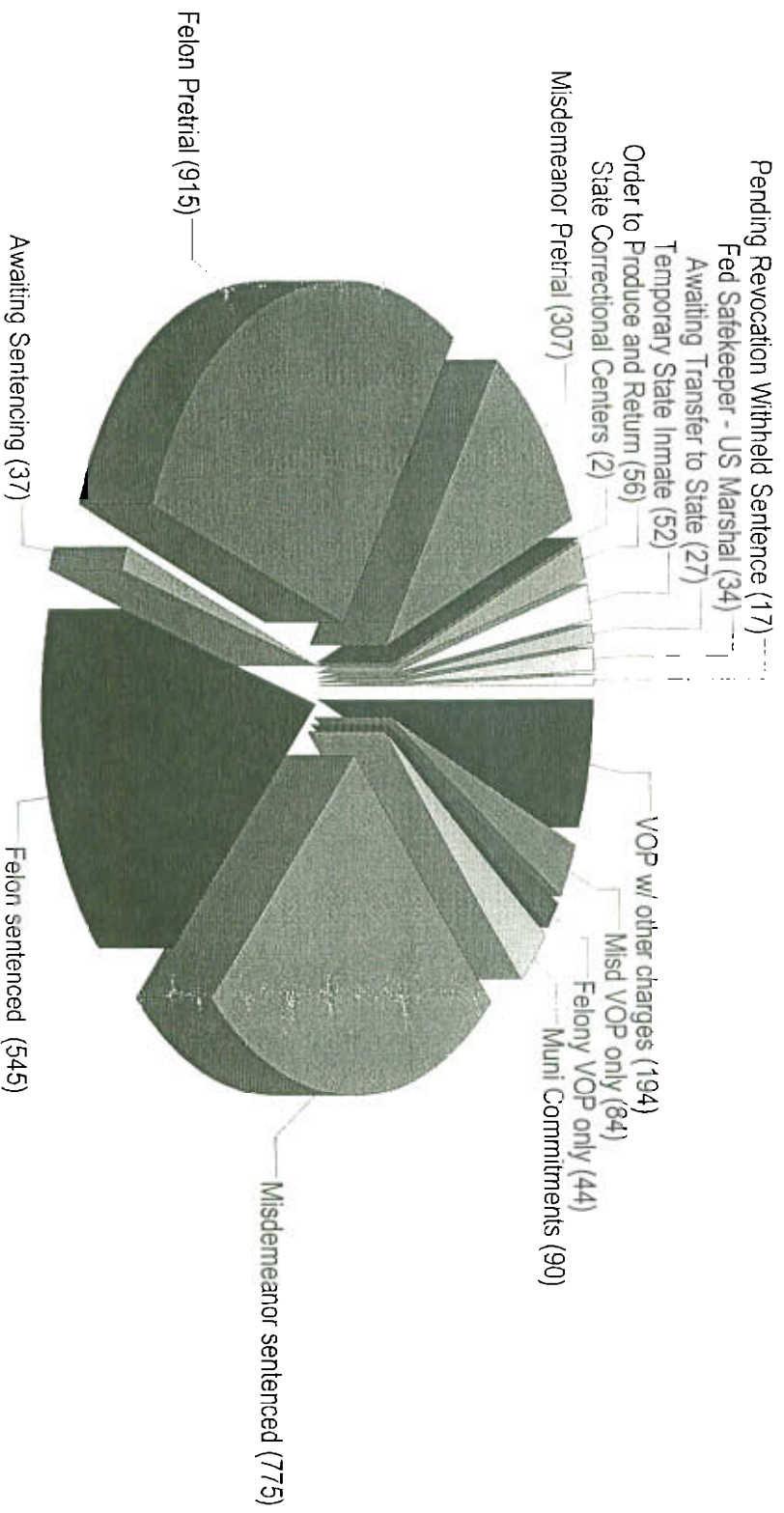
Peter M. Koneazny

One of the Attorneys for the Plaintiffs

cc: Attorney John Schapekahn, Office of the Corporation Counsel
Attorney Laurence Dupuis, ACLU

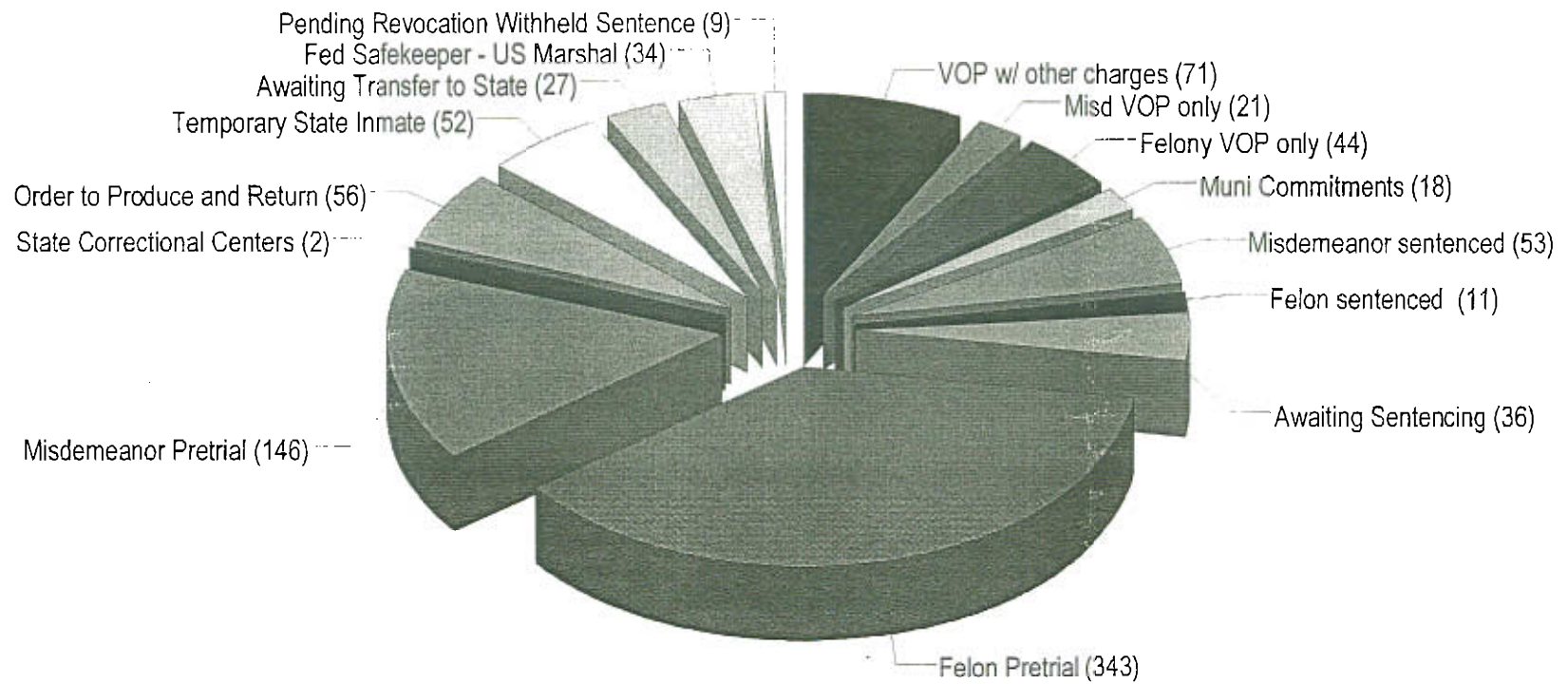
Milwaukee County Inmate Population

August 24, 2005



Milwaukee County Jail Population

August 24, 2005



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08/22/05
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MILWAUKEE COUNTY
CIVIL/CRIMINAL JUSTICE INFORMATION SYSTEM
MILWAUKEE COUNTY JAIL -- CENSUS BY LOCATIONS

PAGE 1

LOCATION TOTAL

BKOW	17
IBO	4
INFR	4
SNA	2
SNB	8
SNC	7
3A	64
3B	61
3C	62
3D	31
4A	39
SUBPOD A	2
SUBPOD B	16
SUBPOD C	21
4B	32
SUBPOD A	8
SUBPOD B	24
4C	47
4D	40
SUBPOD A	2
SUBPOD B	14
SUBPOD C	13
SUBPOD D	11
5A	63
5B	64
5C	63
5D	60
6A	62
6B	63
6C	63
6D	61

TOTALS: 917

*** END OF CENSUS BY LOCATION REPORT ***