

1 By Supervisor Weishan

File No. 12-

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A RESOLUTION

Providing for an advisory referendum on whether the U.S. Constitution should be amended to establish that only human beings, not corporations, are entitled to Constitutional rights, and money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech

WHEREAS, the United States Constitution acknowledges the rights that every person deserves, and it guarantees those rights to the people of the United States of America; and

WHEREAS, in delineating the rights of every person, the Framers did not state that any of the rights of persons are also rights of corporations, nor do the U.S. Constitution and its amendments use the word "corporation" even once; and

WHEREAS, acceptance by the courts of the doctrines of corporate personhood and the equivalence of money and speech has enabled corporations to spend money in much greater amounts than the vast majority of living human beings, to influence political and governmental decisions and the results of elections; and

WHEREAS, by enabling candidates and their supporters to raise unprecedented amounts of corporate money, the *Citizens United v. Federal Election Commission* decision of 2010, in effect, requires constant fundraising by candidates, diverting their attention away from the interests and needs of people they would represent; and

WHEREAS, the *Citizens United* decision has allowed and will allow unprecedented amounts of money contributed by corporations and other wealthy donors to influence the American political process, posing a direct threat to our democracy and feeding a growing movement toward a plutocracy by influencing candidate selection, election results, votes by public officials, and policy decisions while diluting the power of individuals as active, voting citizens; and

WHEREAS, the survival needs and profit-making agendas of large corporations are often in fundamental conflict with the essential needs and rights of living human beings; and

WHEREAS, when accorded the rights of human persons, large corporations and other wealthy groups have greatly exceeded less affluent human persons in political influence, resulting in elections, laws, and government policies that enable the corporations to carry on activities detrimental to the wellbeing of human persons; and

WHEREAS, votes and surveys taken since the *Citizens United* decision have demonstrated that a large majority of U.S. citizens oppose the doctrines of corporate

47 personhood and the equivalence of money and speech and the consequences of those
48 doctrines; and

49

50 WHEREAS, the people of the United States have previously used the
51 constitutional amendment process to correct those egregiously wrong decisions of the
52 United States Supreme Court that undermine our democracy; and

53

54 WHEREAS, an advisory, non-binding referendum would allow Milwaukee County
55 residents to express their opinion on whether the U.S. Constitution should be amended
56 to establish that only human beings, not corporations, are entitled to Constitutional
57 rights, and money is not speech, and therefore regulating political contributions and
58 spending is not equivalent to limiting political speech; and

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60 WHEREAS, a County-wide advisory referendum to ascertain the will of the
61 people can only be authorized by the Milwaukee County Board of Supervisors; now,
62 therefore,

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64 BE IT RESOLVED by the County Board of Supervisors of Milwaukee County,
65 Wisconsin, as follows:

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67 Section 1. Referendum Election. The County Clerk is hereby directed to call an
68 advisory referendum election to be held in the County at the regularly scheduled
69 election to be held on November 6, 2012, for the purpose of submitting to the qualified
70 electors of the County the proposition of whether an amendment to the United States
71 Constitution that would continue to guarantee Constitutional rights to individual, living
72 persons but not to corporations and would allow governments to regulate political
73 contributions should proceed. The referendum shall be held, noticed and conducted
74 following the procedures set forth in Section 59.52(25) of the Wisconsin Statutes.

75

76 Section 2. Official Referendum Ballot Form. The ballot to be used at the
77 referendum election shall be prepared in accordance with the provisions of Sections
78 5.64(2) and 7.08(1)(a) of the Wisconsin Statutes. The ballot shall be substantially in the
79 form attached hereto as Exhibit A.

80

81 ; and

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83 BE IT FURTHER RESOLVED, that the Comptroller is authorized and directed to
84 transfer the \$25,000 in funding needed to facilitate the placing of a County-wide
85 advisory referendum on the Fall 2012 ballot, from the Appropriation for Contingencies
86 (Org. 1945) to the Election Commission (Org. 3010).

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EXHIBIT A

OFFICIAL REFERENDUM BALLOT

November 6, 2012

NOTICE TO ELECTORS: THIS BALLOT MAY BE INVALID UNLESS INITIALED BY TWO (2) ELECTION INSPECTORS. IF CAST AS AN ABSENTEE BALLOT, THE BALLOT MUST BEAR THE INITIALS OF THE MUNICIPAL CLERK OR DEPUTY CLERK.

If you desire to vote on the question, make a cross (X) in the square beneath the question after "YES" if in favor of the question or make a cross (X) in the square after "NO" if opposed to the question.

ADVISORY REFERENDUM

Shall the U.S. Constitution be amended to establish the following:

1. Only human beings, not corporations, are entitled to Constitutional rights, and
2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

YES

NO

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 26, 2012

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution providing for an advisory referendum on whether the U.S. Constitution should be amended to establish that only human beings, not corporations, are entitled to Constitutional rights, and money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

FISCAL EFFECT:

- | | |
|--|---|
| <input type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input checked="" type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input checked="" type="checkbox"/> Use of contingent funds |
|--|---|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$25,000	0
	Revenue	0	0
	Net Cost	\$25,000	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution will authorize an advisory referendum to be held on the 2012 Fall Election Day, November 6, 2012.

The 2012 Adopted Budget contained an increase of \$325,000 for the increase in ballots, election supplies, and services needed for 2012; however, it did not include additional funds for any countywide referendums. The cost of printing ballots and allocating those costs to municipalities is based on many factors, including the number of local elections versus the number of countywide elections. In short, the Administrator of the Milwaukee County Election Commission estimates that the additional cost of a countywide referendum would be approximately \$25,000. This is higher than previous referendum cost estimates of \$17,000 to \$20,000 due to higher expenses and the added number of ballots that must be printed for the presidential election.

For the purpose of this fiscal note, the estimate of \$25,000 by Election Commission staff will be used as the additional cost to Milwaukee County if the advisory referendum were to be added to the ballot. Since these funds were not appropriated in the 2012 Budget, a transfer of funds from Org. 1945 – Appropriation for Contingencies or another available funding source would need to occur.

Department/Prepared By Jennifer Collins, County Board Research Analyst

Authorized Signature



Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: June 28, 2012

To: Supervisor Mark A. Borkowski, Chairman
Committee on Judiciary, Safety and General Services

From: Jerome J. Heer, Director of Audits

Subject: Review of June 13, 2012 Memo from the Office of the Sheriff [File No. 12-359]

Background

At its meeting on June 14th, 2012, the Committee on Judiciary, Safety and General Services discussed an informational report (**Attachment 1**) from Chief Judge Jeffrey A. Kremers regarding a request to meet with Sheriff David A. Clarke, Jr. to discuss jail population and inmate movement concerns. The report consisted of an undated cover memo and a March 30th, 2012 memo to the Sheriff. Also discussed was a memo (**Attachment 2**) from Inspector Richard R. Schmidt, Office of the Sheriff, to the Chairwoman of the County Board of Supervisors and the Chairman of the Committee on Judiciary, Safety and General Services, responding to the concerns raised by the Chief Judge.

The Committee referred the memo generated by the Office of the Sheriff to the Audit Services Division of the Office of the Comptroller for analysis prior to the July meeting cycle.

The issues discussed in the above-referenced reports from the Chief Judge and Office of the Sheriff are the subject of an audit in progress on the effectiveness of Alternatives to Incarceration Programs, including their impact on the jail population. This informational report, in response to the Committee's request from the June meeting cycle, is based on our review of the information contained in the Office of the Sheriff's memo. A more complete and detailed analysis of the issues will be presented in our audit report.

Analysis

The Office of the Sheriff's memo begins the first of its four specific refutations under the heading "**Allegation of the Chief Judge – Increased Inmate Population.**" The memo proceeds to display a graph with data showing a decrease of 24.6% in the system-wide average yearly inmate population from 2009 through 2012 year-to-date.

However, a direct comparison of the concerns expressed in the Chief Judge's report and the Office of the Sheriff's paraphrasing in that first heading suggests the Chief Judge's underlying concerns were mischaracterized in the paraphrasing. This allows the paraphrased concern to be refuted with data that is accurate, but not relevant in addressing the actual, correctly stated, concern. A complete and objective reading of the Chief Judge's informational report indicates the Chief Judge expressed concerns over procedural changes invoked by the Sheriff that the Chief Judge stated "...have resulted in an artificial increase in the jail population."

In other words, the Chief Judge's expressed concern is that the Sheriff's procedural changes have increased the jail population over what it would be had the procedural changes not occurred. That concern is neither dispelled nor confirmed by data on average annual inmate trend. A related specific concern expressed by the Chief Judge—"A reduction in defendants on electronic monitoring from over 200 per day to less than 40."—was not directly addressed in the Office of the Sheriff's memo.

The second refutation in the Office of the Sheriff's memo is under the heading "**Allegation of the Chief Judge—He is "concerned about what appears to be unnecessary delays in the release of defendants to court-ordered programs."**" The memo provides data showing that 19 of the 20 inmates (95%) currently assigned to the Day Reporting Center were moved into a Huber dorm within 24 hours of notification. The names and transfer times of the 20 inmates are provided as additional detail supporting the refutation. The measurement of timeliness in the Office of the Sheriff's memo is based on the time elapsed between notification to the CCF—South of inmates' Huber privileges, and actual placement of the inmates in a Huber dorm.

However, the data provided in the Office of the Sheriff's memo does not include the effective dates that the court-ordered Huber privileges were extended. Additional preliminary data from the Courts suggest that there are delays between the effective dates of the court orders and the notification of the CCF—South. It is those delays that the Chief Judge wishes to identify and remedy.

The third refutation in the Office of the Sheriff's memo is under the heading "**Allegation of the Chief Judge—The transport of defendants to the CCF—South Facility prior to initial appearance resulting in sometimes several extra days in jail before making their court appearance and being released on bail."**" The memo cites a lack of supporting data from the Chief Judge and proceeds to make two points regarding the general inmate population. One point is that inmates are classified according to State Department of Correction criteria and in accordance with specific mandates of the *Christensen Consent Decree*. A second point is that two dorms in the CCF—Central are currently unavailable for occupancy due to remodeling, part of a capital project that will result in two dormitory closures throughout the remainder of the year. Thus, capacity at the downtown facility is reduced from normal levels.

The Office of the Sheriff's memo suggests video conferencing as a possible remedy to the Chief Judge's expressed concern. That suggestion may have merit and deserves consideration by the Courts.

The Office of the Sheriff's memo does not address the portion of the Chief Judge's concern that indicates the transport of inmates from the CCF—South to the downtown facility, (a distance of approximately 20 miles) can sometimes result in several extra days in jail,

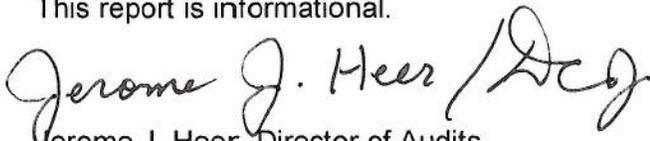
The fourth refutation in the Office of the Sheriff's memo is under the heading "**Allegation of the Chief Judge—He is "unclear as to the reasons for the dramatic change in who is allowed on electronic monitoring and the rules going forward for determining eligibility for the program."**" The memo proceeds to respond to this concern as if the Chief Judge questioned who is responsible for ordering an inmate to be placed on electronic monitoring (the memo cites case law making it clear this is the sole responsibility of the Sheriff), rather than the expressed concern about the lack of clarity regarding changes in the criteria for who is allowed on electronic monitoring, and the reasoning behind the Sheriff's imposition of those changes.

The memo goes on to challenge cost benefit assertions regarding electronic monitoring that the memo attributes to the Chief Judge. We have not examined the specific cost figures included in the memo. However, we concur with the Office of the Sheriff's conceptual argument that to determine the incremental cost of a change in the jail inmate population, costs must be evaluated in the context of whether they are fixed or variable. As previously noted, we are currently performing an audit of the effectiveness of Alternatives to Incarceration Programs, including their impact on the jail population. That audit will include a detailed analysis of costs, including both fixed and variable.

Supervisor Mark A. Borkowski, Chairman
Committee on Judiciary, Safety and General Services
June 28, 2012
Page Three

Conclusions

This report is informational.



Jerome J. Heer, Director of Audits

JJH/cah

cc: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors
Judiciary, Safety and General Services Committee Members
Jeffrey A Kremers, Chief Judge, First Judicial District
David A. Clarke, Jr., Milwaukee County Sheriff
Chris Abele, Milwaukee County Executive
Scott B. Manske, Milwaukee County Comptroller
Kelly Bablitch, Assistant Director, Intergovernmental Relations
Jennifer Collins, Research Analyst, County Board Staff
Janelle M. Jensen, Committee Clerk, County Board Staff

JEFFREY A. KREMERS
Chief Judge
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DAVID A. HANSHER
Deputy Chief Judge
Telephone: (414) 278-5340

MAXINE A. WHITE
Deputy Chief Judge
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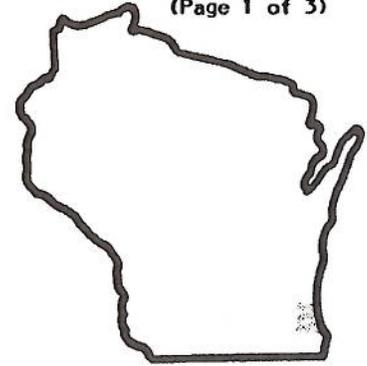
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STATE OF WISCONSIN
FIRST JUDICIAL DISTRICT

MILWAUKEE COUNTY COURTHOUSE
901 NORTH NINTH STREET, ROOM 609
MILWAUKEE, WISCONSIN 53233-1425

TELEPHONE (414) 278-5112
FAX (414) 223-1264



Dear Supervisors,

Attached is a letter that I delivered to Sheriff Clarke on March 30th requesting a meeting to discuss my concerns about the jail and some recent changes in procedure within the department that I felt were contributing to an increase in its population. Approximately one week after delivering the letter I was informed by Inspector Richard Schmidt that the Sheriff would not meet with me.

I feel that I now have no choice but to bring these matters to your attention. I have also asked to put this on the calendar for the next meeting of the Judiciary committee.

VTY
JAK

JEFFREY A. KREMERS
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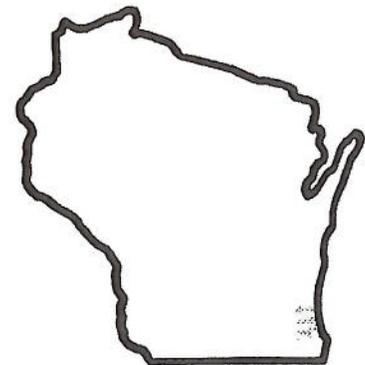
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STATE OF WISCONSIN
FIRST JUDICIAL DISTRICT

MILWAUKEE COUNTY COURTHOUSE
901 NORTH NINTH STREET, ROOM 609
MILWAUKEE, WISCONSIN 53233-1425

TELEPHONE (414) 278-5112
FAX (414) 223-1264



March 30, 2012

Sheriff David A. Clarke Jr.
Office of the Sheriff
Safety Building, Room 107

Dear Sheriff Clarke:

I am concerned about what appear to be unnecessary delays in the release of defendants from the jail on court ordered programs and the transfer of defendants to the CCC-South Facility prior to their first court appearance. Additionally, I am unclear as to the reasons for the dramatic change in who is allowed on electronic monitoring and the rules going forward for determining eligibility for the program.

Taken together, these changes in procedure have resulted in an artificial increase in the jail population. Conversely, the universal screening/bail monitoring program appears to be having a significant downward impact on the pre-trial population in the jail.

I am asking for a meeting with you and any members of your command staff that you wish to have present to discuss these issues. It is my hope that we can agree on a number of consistent strategies to ensure a jail population that protects public safety, which is everyone's first concern, and yet is mindful of the cost in public dollars.

My specific concerns relate to the following issues:

1. A reduction in defendants on electronic monitoring from over 200 per day to less than 40.
2. Resistance to placing all day reporting center inmates on GPS, despite the agreement that you and I reached a couple of years ago.
3. The transport of defendants to the CCC-South Facility prior to initial appearance resulting in sometimes several extra days in jail before making their court appearance and being released on bail.
4. Lengthy delays in placing court ordered Huber inmates into the Huber dorm.

I can provide you with case names and specific instances at our meeting. Many of these have already been provided to members of your staff, but the situations seem to keep happening. I look forward to meeting with you at your earliest convenience.

Very truly yours,

Jeffrey A. Kremers
Chief Judge

JAK: dla

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**MILWAUKEE COUNTY
OFFICE OF THE SHERIFF**
Inter-Office Communication



DATE: June 13, 2012

TO: Marina Dimitrijevic, Chairwoman
Milwaukee County Board of Supervisors

Mark Borkowski, Chairman
Judiciary, Safety, and General Services Committee

FROM: Richard R. Schmidt, Inspector

SUBJECT: Response to Letters to the Milwaukee County Board of Supervisors
from Chief Judge Jeffrey Kremers

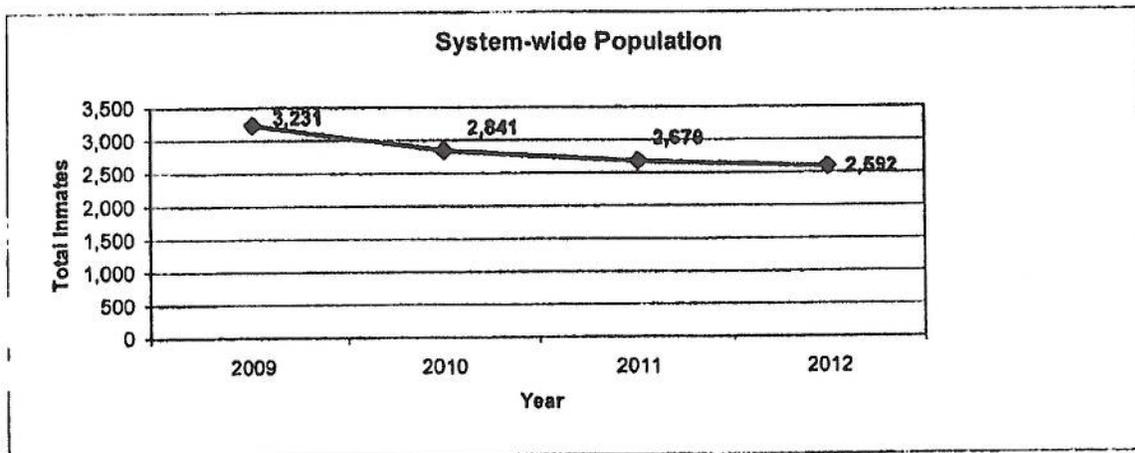
On April 12, 2012, Chief Judge Kremers wrote a cover letter to the Milwaukee County Board of Supervisors regarding his perception of an alleged increase in the inmate population at the jail. He attached a secondary letter outlining his undocumented perceptions of other jail-related issues. A significant fact is that Chief Judge Kremers was offered a meeting with the leadership of detention services and myself to discuss the issues he brought forth in his letter dated March 30, 2012, a process that we have used in the past to address other concerns of the Chief Judge. In this case, Judge Kremers refused to meet with our staff when given the offer in early April. However, on Monday, May 14, 2012, the Chief Judge agreed to meet with detention services leadership, including myself, where his concerns were addressed.

The issues presented will be addressed on three levels. Those levels include actual data, the constitutional authority of the Sheriff, and the expertise of the Sheriff's Office in handling public safety, including correctional facilities, as contrasted with those outside the law enforcement venue.

Allegation of the Chief Judge – Increased Inmate Population

The first issue is easily resolved by examining the actual data regarding the inmate population at the County Correctional Facility-South and the County Correctional Facility-Central. Attached is a graph of the system-wide inmate population under the Sheriff's watch since 2009.

FACT: The average yearly inmate population has decreased 24.6% in the past three years. FACT: The system-wide inmate population today is 2,508 inmates.



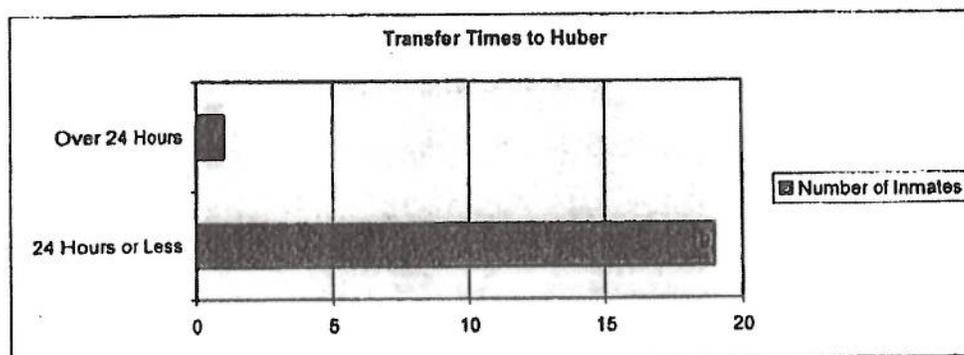
Source: Jail Population statistics obtained by L.E.A.D.

Specifically, since 2009, the system-wide jail population has decreased by 24.6%.

Allegation of the Chief Judge – He is “concerned about what appears to be unnecessary delays in the release of defendants to court-ordered programs.”

The Chief Judge's office provided no data. Therefore, Sheriff's Office staff did fact-finding on the 20 inmates currently assigned to the Chief Judge's Day Reporting Center, to determine what potential delays exist. The data reveals that 19 of the 20 inmates or 95% of the in-custody Day Reporting Center inmates were moved into a Huber dorm within 24 hours of notification. Once again, the data should dissuade any concerns regarding the timely movement of the few inmates assigned to the Day Reporting Center. In addition, the names of the inmates are included in this report with the transfer times to provide additional data to document the movement. Any concerns that the Sheriff's Office has inhibited the Day Reporting Center, which operates under the Courts, from

filling its stated goal of having 125 participants for the \$950,000 program should be set to rest based on the data.



DRC INMATE NAME	DORM/BED	BOOKING NUMBER	DATE CCFS NOTIFIED	DATE IN HUBER
BANNECKE, WILLIAM	A6 01	108911404	3/14/2012	3/15/2012
LEWIS, ROY	A6 14	279840620	4/24/2012	4/24/2012
ROSARIO, JULIO	A6 15	135092307	4/24/2012	4/24/2012
BEETS, ALONZO	A6 16	245050529	4/6/2012	4/7/2012
DAVIS, CLARENCE	A6 17	216604120	3/4/2012	3/4/2012
ROSCHA, NICHOLAS	A6 22	238414413	5/9/2012	5/9/2012
BATTLE, ROBERT	A6 26	208702925	3/6/2012	3/6/2012
HAMILTON, LARRY	A6 32	193980325	3/5/2012	3/5/2012
SMITH, MAURICE	A6 37	165555630	2/21/2012	3/4/2012
LEWIS, KENNETH	A6 40	229681028	3/29/2012	3/29/2012
RAYFORD, MILTON	A6 44	101835321	3/29/2012	3/29/2012
PASZKIEWICZ, CARY	A6 46	285433801	3/17/2012	3/17/2012
RODRIGUEZ, ANTONIO	A6 48	280155517	4/24/2012	4/24/2012
GAY, RICHARD	A6 52	266203602	5/9/2012	5/9/2012
DRAKE, TOMMIE	A6 53	288272523	4/28/2012	4/28/2012
WILSON, LAWRENCE	A6 54	120114811	3/4/2012	3/4/2012
LIGON, MONTAGUE	A6 55	221852827	3/29/2012	3/29/2012
MICHALOWSKI, JARRET	A6 50	291082804	5/10/2012	5/11/2012
KARRIKER, JAMES	A6 56	296904808	5/10/2012	5/11/2012
GUZMAN, DONA	B6 36	249474710	4/24/2012	4/24/2012

Allegation of the Chief Judge - "The transport of defendants to the CCF-South Facility prior to initial appearance resulting in sometimes several extra days in jail before making their court appearance and being released on bail."

Once again there was no data supplied by the Chief Judge. Therefore, the only way to answer this issue is with the facts regarding the inmate population. There are very specific classification tools that are used to determine the appropriate housing assignments of inmates that are mandated by the Department of Corrections. In addition, there are absolute mandates that must be followed based on the *Christensen Consent Decree*. This results in lower level summary arrest inmates being shipped to the County Correctional Facility-South, when there is no appropriate housing available in the high-security downtown County Correctional Facility-Central.

The downtown facility currently has two dormitories closed for workstation and electronic remodeling, based on a capital project that was funded by the County Board. All of the dormitories will be upgraded this year, resulting in the consistent closure of two dormitories at a time.

A viable solution to the transportation of inmates from Franklin to the downtown jail for court is a significant expansion in the use of video conferencing. The Courts have the equipment necessary to immediately expand their use of video conferencing technology, resulting in a potentially significant decline in the transportation of inmates between the County Correctional Facility-South and Central. The expanded use could also result in a decrease in the number of inmates being transported back and forth between other facilities around the state. The increased use of the available 21st Century technology by the Courts could have a significant impact in reducing the time and money required for inmate transportation and the security risks that are inherent in moving inmates between facilities. This is a large-scale solution that is waiting to revolutionize the judicial system.

Issue of the Chief Judge - He is "unclear as to the reasons for the dramatic change in who is allowed on electronic monitoring and the rules going forward for determining eligibility for the program."

The Chief Judge has had multiple conversations with the Sheriff's Office regarding who is responsible for ordering an inmate to be placed on electronic monitoring. Two appellate court decisions affirmed that the Sheriff has the sole authority to determine if an inmate shall be placed on electronic monitoring. Therefore, the Court cannot order the Sheriff to place an inmate on electronic monitoring. *See Court of Appeals of Wisconsin Published Opinion, 2005 WI APP 172, Case Number 2004AP779-CR and State of Wisconsin Court of Appeals Decision, Appeal Number 2006AP1884-CR.*

The Chief Judge has publicly stated in multiple forums that placing an inmate on "electronic monitoring" results in significant savings. That is not a factual statement. There are significant costs involved in putting an inmate on electronic monitoring, based on the type of offense and criminal history associated with the inmate. An inmate that has a history of alcohol and drug abuse must be tested and monitored on a continual basis while on electronic monitoring. In addition, any inmate convicted of Operating While Intoxicated would be placed on an alcohol monitoring system and GPS, which has daily costs equal to the incarceration costs. There are officers required to set up the inmates for electronic monitoring; there are officers who must monitor the whereabouts of the inmates twenty-four hours a day; there are officers who must perform drug tests randomly on the inmates, and there are supervisors who must make sure those assigned to the electronic monitoring program are performing.

When all of the costs are added up there are little to no savings to the taxpayers of Milwaukee County. The Chief Judge has cited that it costs \$140-\$150 a day to house an inmate at the County Correctional Facility-South. That figure is grossly inaccurate. The actual cost of a 60- to 70-inmate dormitory at the County Correctional Facility-South is approximately \$400,000 a year, not the \$3,832,000 that the Chief Judge has stated it costs the taxpayers. With the recent completion of a transition from Deputy Sheriffs in CCF-C to a full Correctional Officer complement in that division, the cost of operating a dorm in each division (CCF-C and CCF-S) is remarkably similar. Regardless, the \$140 to \$150 cost per inmate is a meaningless calculation often used by advocates. It is based on the annual tax levy cost of operating a facility, divided by the number of inmate days in a

year. This calculation is **not** the incremental cost of adding or subtracting an inmate from the system.

Put another way: There is a tax levy cost of maintaining the County Parks. You could compute a cost per person who uses the parks system. Would this have any meaning? If one less person used the parks would the costs go down? If one more person used the parks, would the cost go up? These calculations, as a cost basis, are meaningless.

Conclusion:

Anecdotal, speculative and undocumented allegations attempting to spark a political debate outside of one's area of expertise is an unproductive exercise. The time and cost to taxpayers to respond to the Chief Judge's letters, when all of the issues were discussed at the May 14th meeting with the Chief Judge, has been the only unnecessary and inefficient use of taxpayer money.

Sheriff Clarke has documented savings of \$6 million in one year after the former County Executive placed the Sheriff in charge of the County Correctional Facility-South in 2009. Saving large sums of money under the leadership of Sheriff Clarke has been a constant over the past ten years. The fiscal responsibility exercised by the Sheriff, while maintaining the highest standards possible for public safety, has been a hallmark of the past ten years.

The Constitutional authority of the Sheriff and the Wisconsin Statutes further accentuate that the current Sheriff, a law enforcement professional for over 34 years, shall oversee the inmates assigned to his care. Unless there is a change in the Constitution or the Wisconsin statutes, the issue of who is making the decisions is settled; and in the case of Sheriff Clarke, that is a tremendous value to the taxpayers of Milwaukee County.



Milwaukee County
 OFFICE OF CORPORATION COUNSEL
 INTER-OFFICE COMMUNICATION

KIMBERLY R. WALKER
 Corporation Counsel

MARK A. GRADY
 Deputy Corporation Counsel

TIMOTHY R. KARASKIEWICZ
 JEANEEN J. DEHRING
 ROY L. WILLIAMS
 COLLEEN A. FOLEY
 LEE R. JONES
 MOLLY J. ZILLIG
 ALAN M. POLAN
 JENNIFER K. RHODES
 DEWEY B. MARTIN
 Principal Assistant
 Corporation Counsel

DATE: June 26, 2012

TO: Marina Dimitrijevic, County Board Chairwoman
 Milwaukee County Board of Supervisors

FROM: Mark Grady, Deputy Corporation Counsel
 Milwaukee County Corporation Counsel

SUBJECT: Claim Filed by ALSCO
 Date of Incident: January 13, 2012
 Date Claim Filed: February 8, 2012

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$3,893.70 to ALSCO, to settle in full their claim against Milwaukee County.

On January 13, 2012, an employee of ALSCO was having transmission problems and stopped the company's white utility van in the right distress lane of Northbound Highway 45 near Hampton Avenue. A Milwaukee County plow truck passed by the claimant's vehicle and sideswiped the drivers' side of the van. The driver of the Milwaukee County plow truck was unaware he had stuck the utility van. The Milwaukee County Sheriff's Department report lists the driving factors of the accident as inattentive driving on behalf of the plow truck driver.

The claimant's vehicle is a 2007 Ford Utility van white in color. The vehicle was towed from the accident location by Rays Towing. The estimate submitted by ALSCO was written by F&S Truck & Trailer repair on N. 84th St. in Milwaukee, WI. The estimate was written in the amount of \$3,893.70. This included 38.5 hours of labor at a rate of \$75 per hour. The damage to the utility van was located on the hood, left front fender, left front door, and the entire left skirt panel on the van.

The adjustor and the county's insurer recommend the payment of \$3,893.70 to ALSCO, to settle this property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to pay ALSCO \$3,893.70 to settle all claims rising out of the property damage sustained to ALSCO's vehicle.

Chairwoman Marina Dimitrijevic
County Board of Supervisors
June 26, 2012
Page 2 of 2

Mark A. Grady
Deputy Corporation Counsel

MAG/kpe



Milwaukee County

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INTER-OFFICE COMMUNICATION

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JENNIFER K. RHODES
DEWEY B. MARTIN
Principal Assistant
Corporation Counsel

DATE: June 26, 2012

TO: Marina Dimitrijevic, County Board Chairwoman
Milwaukee County Board of Supervisors

FROM: Mark Grady, Deputy Corporation Counsel
Milwaukee County Corporation Counsel

SUBJECT: Claim Filed by Acuity on behalf of Sharon Martin
Date of Incident: January 12, 2012
Date Claim Filed: January 13, 2012

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$3,000.35 to Acuity Insurance, to settle in full their subrogation claim against Milwaukee County.

On January 12, 2012, Sharon Martin, was stopped at a stop sign near West Connell Ave and North 87th Street. A Milwaukee County Plow operator was plowing south on North 87th Street when he proceeded to back up onto West Connell Avenue, not seeing Ms. Martin's vehicle stopped at the stop sign.

Ms. Martin's vehicle is a 1998 Chevy Lumina. The damages were located on the front bumper, hood and headlamp assembly. The vehicle was repairable and the estimate was written for the amount of \$2,864.81 by Concourse Auto Works, LTD, West Allis, WI. The claimant required a rental vehicle for four days, which cost a total of \$135.54.

There were no injuries to the driver, Sharon Martin, or her 9-year-old daughter who was also in the vehicle at the time of the accident.

The adjustor and the county's insurer recommend the payment of \$3,000.35 to Acuity Insurance, to settle this property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to pay Acuity Insurance \$3,000.35 to settle all claims rising out of the property damage sustained to Ms. Martin's vehicle.

Chairwoman Marina Dimitrijevic
County Board of Supervisors
June 26, 2012
Page 2 of 2

Mark A. Grady
Deputy Corporation Counsel

MAG/kpe



Milwaukee County
OFFICE OF CORPORATION COUNSEL
INTER-OFFICE COMMUNICATION

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ALAN M. POLAN
JENNIFER K. RHODES
DEWEY MARTIN
Principal Assistant
Corporation Counsel

DATE: June 25, 2012

TO: Marina Dimitrijevic, County Board Chairwoman

FROM: Molly Zillig, Principal Assistant
Milwaukee County Corporation Counsel

SUBJECT: Ostrowski, et al. v. Milwaukee County, et al.
United States Eastern District Case No.: 11 C 0311

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$20,000.00 to MacGillis and Wiemer, LLP, to settle in full the lawsuit of the Milwaukee County Deputy Sheriffs Association, Robert Ostrowski and Casey Perine, Jr.

FACTS

Deputies Ostrowski and Casey Perine, Jr. (“Ostrowski and Perine”) filed a lawsuit under the Family Medical Leave Act (“FMLA”) against Milwaukee County and John Nelson, a former Lieutenant with the Milwaukee County Sheriff’s Office, for interference in exercising their FMLA rights. Both of these men were working for the Milwaukee County Sheriff’s Office (“MCSO”) in June 2010 and were assigned to the Milwaukee County Detention Services Bureau – Courts Division (“Courts Division”). Ostrowski suffers from two (2) serious health conditions. He has received medical treatment and FMLA approval for these health conditions. Perine suffers from one serious health condition and has received medical treatment and FMLA approval for this health condition. Both of these men requested and used FMLA leave in 2010.

According to the Complaint, former Lieutenant John Nelson told Plaintiffs that they were being transferred from the Courts Division to the County Correctional – Central (“Jail Division”) because of the fact that they were using too much FMLA time. Inspector Richard Schmidt allegedly directed Lt. Nelson to prepare a list of names of deputies who use too much FMLA and sick time. He then transferred these individuals from their assignments in Courts to the jail, in violation of the FMLA.

SETTLEMENT

Federal regulations allow temporary transfers to alternative jobs to better accommodate recurring periods of FMLA leave under very narrow circumstances. There is a question as to whether the facts of this case fit into those narrow circumstances (See, 29 CFR § 825.204). After negotiations, a

Chairwoman Marina Dimitrijevic
Milwaukee County Board of Supervisors
June 25, 2012
Page 2 of 2

tentative agreement was reached to pay \$20,000.00 for all of Ostrowski and Perine's actual attorneys' fees as the Plaintiffs have nominal damages, if any. This amount will be paid by Wisconsin County Mutual Insurance Company and applied to the County's deductible. Corporation Counsel along with Wisconsin County Mutual Insurance Company's Litigation Manager and the Milwaukee County Sheriff's Office, support this settlement based upon the facts established through three (3) witness interviews completed of former Lt. John Nelson, former Capt. Richard Gellendin and Inspector Richard Schmidt, who were involved with this incident, along with completed discovery.

Molly J. Zillig
Principal Assistant Corporation Counsel

MJZ/JD

Cc: Janelle Jensen
Amber Moreen
Richard Ceschin

RESOLUTION

**RE: MDSA, Robert Ostrowski and Casey Perine, Jr. v. County of Milwaukee and John Nelson
U.S. Eastern District Case No: 11 C 0311**

WHEREAS, a lawsuit was filed in the U.S. District Court – Eastern District of Wisconsin by the Milwaukee Deputy Sheriffs’ Association, Robert Ostrowski and Casey Perine, Jr. (“Plaintiffs”) alleging that their FMLA rights were violated while they were employed by the Milwaukee County Sheriff’s Office (“MCSO”); and

WHEREAS, Plaintiffs allege that in 2010 their rights were violated under the Family Medical Leave Act of 1993, 29 U.S.C. 2611 et. Seq. (“FMLA”); and

WHEREAS, Plaintiffs allege that Inspector Richard Schmidt requested the names of all deputy sheriffs who used the FMLA for transfer in violation of the FMLA to deter those individuals from using sick and FMLA time; and

WHEREAS, Plaintiffs allege that former Lt. John Nelson informed the Plaintiffs they were being transferred because they too frequently utilized leave under the FMLA and then Nelson was admonished by Inspector Richard Schmidt for having told Plaintiffs the reason for the transfer; and

WHEREAS, Plaintiffs allege that they were transferred from an assignment in courts to another position; and

WHEREAS, negotiations between the County by the Office of Corporation Counsel and the Plaintiffs’ attorneys, MacGillis and Wiemer, resulted in a settlement agreement to settle all claims arising out of the Complaint and dismissal of the remaining claims in the lawsuit for the sum of Twenty Thousand Dollars (\$20,000.00).

WHEREAS, the Committee on Judiciary, Safety and General Services at its meeting on July 28, 2012 voted (_____) to recommend payment; now, therefore;

BE IT RESOLVED, that Milwaukee County approves the payment of Twenty Thousand Dollars (\$20,000.00) to MacGillis and Wiemer to settle all claims arising out of the lawsuit, as well as attorneys’ fees and the dismissal of said lawsuit.

Dated at Milwaukee, Wisconsin this ____ day of _____, 2012.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 21, 2012

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: Lawsuit Filed by Robert Ostrowski and Casey Perine, Jr.
Case No. 11 C 0311

FISCAL EFFECT:

- | | |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution will result in a charge being applied to Milwaukee County's 2010 deductible with the Wisconsin County Mutual Insurance Corporation in the amount of \$20,000.

Department/Prepared By Corporation Counsel

Authorized Signature _____

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: June 25, 2012

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Deputy Corporation Counsel *MAG*

SUBJECT: Mary Castro v. Milwaukee County
ERD Case No. CR2008-00720
U.S. District Court Case No. 10-C-0444

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle this case for the total sum of \$50,000.00, plus reinstatement and pension service credit. Wisconsin County Mutual Insurance Corporation will pay the \$50,000.00 sum and apply it to Milwaukee County's deductible.

Ms. Castro worked many years for the Sheriff's office, most recently as an administrative assistant at the House of Correction. In 2007, Ms. Castro began missing work due to mental health issues. She was granted and received FML. Her psychiatrist wrote work excuses indicating that she suffered permanently from posttraumatic stress disorder caused in part by personal issues and in part by an assault she had suffered from an inmate in 1990 that was being aggravated by her work setting. During the fall of 2007, her psychiatrist variously wrote that Ms. Castro could not return to work "at this time" or that there were triggers for her illness that occurred at her work at the HOC and that she would need a different work setting. Ms. Castro began to evaluate the possibility of other work she could perform for Milwaukee County. In November of 2007, Ms. Castro and her attorney began communications with the Sheriff's office and with Corporation Counsel, alleging that she was permanently disabled and required an alternate job to accommodate her disability. Milwaukee County did not believe that it had enough medical information to determine the precise nature of the accommodation that was required and continued to request additional medical information. Much of the medical information that had been received was not clear on whether Ms. Castro was permanently disabled or exactly what triggers needed to be avoided in any job relocation search.

Communications between the parties broke down in late 2007. In early 2008, after being off of work continuously for approximately six months, the Sheriff's office asked Ms. Castro if she had additional medical information or if she was able to

return to her position at HOC. Ms. Castro indicated that she was not ready to return to work and that she had provided all the medical information that she had and that was necessary. As a result, believing that additional medical information was still necessary to trigger the County's obligations under the disability laws, and after consulting with the Corporation Counsel, the Sheriff's office terminated Ms. Castro's employment.

Ms. Castro filed a disability discrimination claim with the State of Wisconsin Equal Rights Division. After the initial investigation, a hearing was held. The Administrative Law Judge issued a decision dismissing the complaint and finding that there was no probable cause to believe that Milwaukee County had violated the law. Ms. Castro appealed to the Labor and Industry Review Commission. The Commission reversed. In a fairly strongly worded decision, the Commission essentially disagreed with the Corporation Counsel's advice to the Sheriff's office. The Commission held that probable cause did exist to believe that Milwaukee County had violated Ms. Castro's rights and remanded the case for a final hearing on the merits of the complaint and appropriate remedies. The Commission held that Milwaukee County had received sufficient medical information to know that Ms. Castro needed another position to accommodate her disability. State law requires that an employer who cannot modify an employee's duties in order to accommodate the employee's disability must then search for alternate employment with the employer that can do so and further provides that an employer must provide "clemency and forbearance" from enforcing its attendance and leave of absence policies while that interactive accommodation process occurs. The Commission held that Milwaukee County unilaterally violated the interactive accommodation process by terminating Ms. Castro's employment rather than granting her additional leave of absence to explore medical information and other options for her.

While the state administrative agency action was pending, Ms. Castro also filed suit in federal court alleging a violation of the ADA.

The parties participated in a mediation session sponsored by the federal court and conducted by U.S. Magistrate Judge Gorence. At the time of the mediation, because of the long duration of the continuing litigation, Ms. Castro had been out of county employment for four and one-half years. Although she had worked part-time in various private positions, her net wage loss claim is in excess of \$100,000.00. She sought recovery of medical expenses she incurred while she was without county health coverage and credit for pension service credit she would have earned had she been accommodated as required. She incurred attorneys' fees of approximately \$60,000 – \$70,000. She also claimed emotional distress damages in the federal court action.

Memo to Marina Dimitrijevic

6/25/2012

Page 3 of 3

The proposed settlement reached at mediation provides that Ms. Castro will be administratively granted 3.5 years of pension service credit and will be reinstated to County employment. She will then be immediately eligible to retire and will do so. The Wisconsin County Mutual will pay attorneys' fees totaling \$50,000.00 to Ms. Castro's attorneys: \$45,000.00 to Attorney Tricia Knight and \$5000.00 to Horizons Legal Group. No payment is being made directly for past wage losses or emotional distress damages. The settlement will have no direct tax levy impact.

Corporation Counsel and the Wisconsin County Mutual recommend this settlement for approval.

cc: Amber Moreen
Janelle Jensen
Jennifer Collins

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A RESOLUTION

WHEREAS Mary Castro worked as an Administrative Assistant I at the House of Correction in the Sheriff’s Office; and

WHEREAS Mary Castro claimed that she was an individual with a disability and requested reasonable accommodations in 2007 due to her condition; and

WHEREAS, Milwaukee County did not believe that she had presented information to substantiate that she was an individual with a disability and did not respond to her request for accommodations; and

WHEREAS, in January of 2008, Castro was discharged from employment based on her failure to return from a leave of absence; and

WHEREAS, Castro claimed that she had provided sufficient medical information to require Milwaukee County to search for alternate County employment that would accommodate her psychiatric disability and that Milwaukee County illegally terminated her employment without participating in the interactive process required by disability discrimination laws; and

WHEREAS Castro filed a claim of disability discrimination with the State Equal Rights Division and the U.S. District Court alleging that Milwaukee County refused to reasonably accommodate her disability; and

WHEREAS the state Labor and Industry Review Commission has found probable cause to believe that Milwaukee County discriminated against Castro for failing to accommodate her disability or for failing to exercise clemency and forbearance and a hearing on the merits of her disability discrimination complaint was scheduled; and

WHEREAS the parties engaged in court sponsored mediation and reached a tentative settlement agreement; and

WHEREAS the tentative settlement agreement provides for a dismissal of all complaints and a release of all claims against Milwaukee County in return for Castro to be administratively granted 3.5 years of pension service credit and reinstatement to a vacant County position from which Castro will immediately retire and a payment by Wisconsin County Mutual Insurance Corporation in the

44 total amount of \$50,000.00 in attorneys' fees with \$45,000.00 being paid to
45 Attorney Tricia Knight and \$5000.00 being paid to Horizons Legal Group; and

46

47 WHEREAS the Office of Corporation Counsel recommends this settlement;
48 and

49

50 WHEREAS the Committee on Judiciary, Safety and General Services
51 approved this settlement at its meeting on July 21, 2012 by a vote of ____;

52

53 NOW, THEREFORE, BE IT RESOLVED, that Milwaukee County approves the
54 granting of 3.5 years of pension service credit to Castro and her reinstatement to
55 a vacant County position from which Castro will immediately retire and
56 payments for attorneys' fees to be made by the Wisconsin County Mutual
57 Insurance Corporation to Attorney Tricia Knight in the amount of \$45,00.00 and
58 to Horizons Legal Group in the amount of \$5000.00, in return for a dismissal of the
59 pending discrimination complaints and a release of all employment claims
60 against the County.

61

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 25, 2012

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A RESOLUTION to approve a settlement agreement related to discrimination and other claims by Mary Castro.

FISCAL EFFECT:

No Direct County Fiscal Impact

Increase Capital Expenditures

Existing Staff Time Required

Decrease Capital Expenditures

Increase Operating Expenditures
(If checked, check one of two boxes below)

Increase Capital Revenues

Absorbed Within Agency's Budget

Decrease Capital Revenues

Not Absorbed Within Agency's Budget

Decrease Operating Expenditures

Use of contingent funds

Increase Operating Revenues

Decrease Operating Revenues

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	(0.00)	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

- A. The County is proposing a settlement to former employee Mary Castro. Adoption of this settlement will result in the granting of 3.5 years of pension service credit to Mary Castro, her reinstatement to a vacant County position and her immediate retirement, as well as payments to Ms. Castro's attorneys.
- B. Approval of this Resolution authorizes a payment of \$45,000.00 to Attorney Tricia Knight and of \$5000.00 to Horizons Legal Group by Wisconsin County Mutual Insurance Corporation which will be applied to the County's deductible.

Department/Prepared By Corporation Counsel

Authorized Signature

Mark A. Brady

Did DAS-Fiscal Staff Review?

Yes X

No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: July 2, 2012

TO: Mark Borkowski, Chairman
Committee on Judiciary, Safety and General Services

FROM: Mark A. Grady, Deputy Corporation Counsel

SUBJECT: Status update on pending litigation

The following is a list of pending cases which our office is prepared to discuss at the July meeting, at the Committee's discretion. New additions to the list since last month are noted in **bold**:

1. *DC48 v. Milwaukee County* (Rule of 75)
Case No. 11-CV-16826
2. *MDSA v. Milwaukee County* (Lay-offs)**(dismissed)**
Case No. 11-CV-18156
MDSA v. Milwaukee County (overturn arbitration award on layoffs)
Case No. 12-CV-1984
MDSA v. Clarke and Milwaukee County (recall of deputy sheriffs)
Case No. 12-CV-5551
3. *Hussey v. Milwaukee County* (Retiree health)
Case No. 11-CV-18855
MDSA Notice of Claim (MDSA and retiree health)
MDSA grievance (MDSA and retiree health)
AFSCME Notice of Claim (retiree health)
4. *Stoker v. Milwaukee County* (1.6 multiplier)
Case No. 11-CV-16550
5. *FNHP and AMCA v. Milwaukee County* (Medicare Part B)
Case No. 12-CV-1528
6. *Milwaukee County v. WERC and AFSCME* (2010 furlough days and bargaining)
Case No. 11-CV-12137
7. *MDSA v. Clarke & Milwaukee County* (G4S contract for bailiffs)
Case No. 12-CV-3410
MDSA WERC Prohibited Practice Complaint (G4S contract)

8. *McKenzie & Goodlette v. Milwaukee County* (captains layoffs)
Case No. 12-CV-0079
Rewolinski v Milwaukee County (captain layoff)
Case No. 12-CV-0645
Clarke v. Civil Service Commission (captains promotions and layoffs)
Case No. 12-CV-3366
9. *DC48 v. Milwaukee County* (seniority in vacation selection under Sheriff)
Case No. 12-CV-3944
10. *Wosinski et al. v. Advance Cast Stone et al.* (O'Donnell Park)
Case No. 11-CV-1003 (consolidated actions)
11. *Christensen et al. v. Sullivan et al.* (Sheriff motion on medical care in jail)
Case No. 96-CV-1835
12. *Milwaukee Riverkeeper v. Milwaukee County* (Estabrook dam)
Case No. 11-CV-8784

1 By Supervisor Harris

Journal,
File No. 12-

2
3
4 **A RESOLUTION**

5
6 requesting the Milwaukee County Sheriff to contact the National Commission on
7 Correctional Health Care to conduct a review of the health care services provided in the
8 Milwaukee County Correctional facilities.
9

10 WHEREAS, Milwaukee County has two correctional facilities serving up to 33,000
11 inmates annually; and
12

13 WHEREAS, approximately half of those inmates have a medical, and/or mental
14 health condition requiring treatment, medication, and care, and that while in jail, medical
15 emergencies arise; and
16

17 WHEREAS, since 2001, Milwaukee County has been operating under the
18 Christenson Consent Decree, a settlement agreement arising from litigation filed in 1996 by
19 an inmate at the Milwaukee County jail regarding population limits and inmate health
20 services; and
21

22 WHEREAS, during the 2012 budget deliberations, the County Board amended the
23 2012 Recommended Budget to deny the contracting out of inmate medical services, restore
24 funding for all related expenditures, revenues, and positions, and begin planning for a mid-
25 year transfer of this function from the Office of the Sheriff to the Department of Health and
26 Human Services, a policy which was ultimately adopted; and
27

28 WHEREAS, the passage of the aforementioned amendment showed that the
29 Milwaukee County Board was interested in looking at options related to the provision of
30 inmate medical services; and
31

32 WHEREAS, the National Commission on Correctional Health Care (NCCHC) has
33 the following mission:
34

35 *The mission of the National Commission on Correctional Health Care is to improve*
36 *the quality of health care in jails, prisons and juvenile confinement facilities. With*
37 *support from the major national organizations representing the fields of health, law*
38 *and corrections, NCCHC's leadership in setting standards for health services is*
39 *widely recognized. Building on that foundation, our not-for-profit organization offers*
40 *a broad array of resources to help correctional health care systems provide efficient,*
41 *high quality care.*
42

43 ; and
44

45 WHEREAS, the NCCHC offers technical assistance, and has standards related to
46 Accreditation of Correctional Health Care, and Milwaukee County is interested in achieving
47 accreditation; and
48

49 WHEREAS, as the policymakers of Milwaukee County, the Milwaukee County
50 Board should be given the best and most accurate information to review options for the care
51 of inmates currently and as a basis for moving forward; now, therefore,
52

53 BE IT RESOLVED, that the Milwaukee County Sheriff is respectfully requested to
54 contact the National Commission on Correctional Health Care and arrange for a review of the
55 correctional health care provided in the Milwaukee County correctional facilities; and
56

57 BE IT FURTHER RESOLVED, that should the Sheriff deny this request, that the
58 Department of Administrative Services is authorized and directed to contact the National
59 Commission on Correctional Health Care and arrange for the review; and
60

61 BE IT FURTHER RESOLVED, that representatives from the National Commission
62 on Correctional Health Care shall report, if at all possible, to the Committees on Judiciary,
63 Safety and General Services and Health and Human Needs in the September cycle to ensure
64 that the information is available for the County Board of Supervisors prior to consideration of
65 the 2013 budget.
66
67
68

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 27, 2012

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution requesting the Milwaukee County Sheriff to contact the National Commission on Correctional Health Care to conduct a review of the health care services provided in the Milwaukee County Correctional facilities.

FISCAL EFFECT:

- | | |
|---|---|
| <input type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget

<input type="checkbox"/> Decrease Operating Expenditures

<input type="checkbox"/> Increase Operating Revenues

<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures

<input type="checkbox"/> Decrease Capital Expenditures

<input type="checkbox"/> Increase Capital Revenues

<input type="checkbox"/> Decrease Capital Revenues

<input checked="" type="checkbox"/> Use of contingent funds |
|---|---|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$6,000	0
	Revenue	0	0
	Net Cost	\$6,000	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

This resolution requests that the Sheriff contact the National Commission on Correctional Health Care (NCCHC) and arrange for a review of the health care provided in the Milwaukee County correctional facilities. Should the Sheriff deny this request, the resolution authorizes and directs the Department of Administrative Services to arrange for the review instead.

County Board Research staff contacted the NCCHC for a cost estimate of such a review. The review cost generally consists of travel expenses (which is based on the number of staff members--generally 1 to 2 depending on the scope of the project needed to complete review, and the number of days needed on site), honorarium, and report fees. The initial estimate provided to County Board Staff, based on sending two surveyors to review the efficiency and effectiveness of Milwaukee County correctional health care services was \$6,000.

Funds were not included in the 2012 Adopted Budget to pay for the NCCHC review, and based on the "Fiscal Report 1st Quarter for Milwaukee County," prepared by the Office of the Comptroller, the Sheriff is projecting a budget deficit of \$3,830,500 so funds do not appear to be available within that budget. A transfer of funds from Org. 1945 (Appropriation for Contingencies) or another available funding source is required to pay for the aforementioned services.

Department/Prepared By Jennifer Collins, County Board Research Analyst

Authorized Signature

Jennifer Collins

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.