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April 9, 2009

Senator Mark Miller, co-chair
Joint Committee on Finance
Room 317 East
State Capitol
Madison, WI 53707-7882

Representative Mark Pocan, co-chair
Joint Committee on Finance
Room 309 East
State Capitol
Madison, WI 53708

VIA FACSIMILE

Dear Senator Miller and Representative Pocan,

We urge the members of the Joint Committee on Finance to support items proposed in the 2009 Executive Budget – Assembly Bill 75 that modify the state’s bifurcated felony sentencing structure and programs administered by the Department of Corrections which may affect an offender’s total prison and extended supervision sentence.

Overcrowded conditions have created a system-wide crisis in our state’s prisons. Prisoners suffering from physical or mental illness are at risk of permanent damage to their health, and even of death. These budget proposals will help address this crisis to the extent that they allow eligible offenders to leave prison for supervision in the community, thereby making the prisons less crowded, more manageable and less dangerous.

The American Civil Liberties Union’s staff, and pro bono lawyers and paralegals working in Wisconsin devote thousands of hours each year to addressing constitutional and other concerns in the corrections system. We have knowledge of the system informed by our direct experience.

The ACLU of Wisconsin receives hundreds of inquiries each year from Wisconsin's prison and jail inmates. Many of these inquiries allege that the conditions of confinement in our prisons violate recognized standards, if not the U.S. Constitution. A significant number of these allegations appear to have merit. Over the years we have brought many complaints against the prison system. For instance, we helped to represent the prisoners at the "supermax" prison in Boscobel, whose rights the Department of Corrections violated. We currently represent the women inmates at the Taycheedah Correctional Institution, whose rights to adequate health and mental health care the DOC is violating without adequate relief in sight.

Since 1991 Wisconsin's prison population has tripled to over 22,000 men and women, a severely disproportionate number of whom are persons of color. The aggregate rated capacity of all Wisconsin's prisons is nearly 18,000 inmates. The "supermax" in Boscobel is the only facility in the system that is not over crowded. From our experience it is clear that overcrowding exacerbates endemic system-wide problems.

The problems facing our overcrowded prisons are too numerous to detail here, but include the following:

- Overcrowding severely limits access to health care and mental health programs. This is because there is insufficient space, too few corrections officers to provide transport, and inadequate health care staff to keep up with the constant needs of ill and injured prisoners. *A federal court in California has ordered the release of prisoners primarily because overcrowding there makes the delivery of adequate medical services impossible.*
- Rehabilitation programs are overburdened yet underutilized. It is difficult to get into substance abuse programs. Job training is minimal. Inmate's access to their chosen prison ministries (including Native American ministries) is made more difficult.
- The current sentencing system, combined with overcrowding, makes the job of hardworking corrections officers more difficult (indeed more dangerous) than it should be. The sentence modification proposals in AB75 wisely restore incentives for turning prisoners' lives around and following institution rules.
- Many prisons are ill-equipped to house old and infirm prisoners or those with disabilities. For instance, because of overcrowding at Taycheedah there is not enough space or transport to allow inmates in wheelchairs or using walkers to eat meals in the mess.

Most prisoners will return to our communities. Committee members need to ask themselves, do you want prisoners coming out of overcrowded institutions, where rehabilitation has been minimal, thereby increasing the likelihood of violations of community supervision rules? Or, do you want to break this cycle by lessening

overcrowding, fostering good behavior and rehabilitation, giving corrections officers respect, and directing resources to effective programs in the community?

Some politicians, such as Milwaukee County Sheriff Clarke, have raised the specter of “criminal sympathizers” releasing the “worst of the worst”. This kind of ill-considered hyperbolic argument should have no place in your decisions. On the other hand, we commend Governor Jim Doyle and Secretary Rick Raemisch for facing up to reality and taking these steps to alleviate a crisis that has bad consequences for all Wisconsin residents.

The sentence modification and earned release proposals in the budget deserve your support.

Thank you.

Sincerely,

Chris Ahmuty
Executive Director