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June 3, 2014

Sheriff David A. Clarke Jr.  
Office of the Sheriff  
Safety Building, Room 117  
821 West State Street  
Milwaukee, WI 53233

Dear Sheriff Clarke:

I am responding to your letter of May 30<sup>th</sup>. Everyone agrees that the shooting of 10 year old Sierra Guyton is an unspeakable and outrageous tragedy. But let's be clear on the facts. The accused shooter Sylvester Lewis was not on, nor was he ever offered, one of the "programs" you are complaining about. He was never the subject of a diversion or a deferred prosecution agreement. As to his numerous arrests that you reference in your letter, were you aware that the overwhelming majority were for municipal citations and not mentioned at his sentencing hearing for that reason? I assume by now you have been corrected that he was not on probation.

It is unfortunate that rather than engage in serious discussions about public safety issues in Milwaukee you have once again chosen to simply issue a misleading and inaccurate press release in the obvious ploy to advance your political agenda. I note that you delivered your letter to me and the media on the very day you filed for re-election.

You are asking that I "temporarily suspend the use of deferred prosecutions, pled down sentences in exchange for guilty pleas, read-in charges, and imposed-and-stayed custodial sentences, only as it relates to equivalent Part I offenses..... until a credible study of the last five years of these decisions and tactics can be conducted and published". With respect to your objection to read-ins and probation, I have seen District Attorney John Chisholm's letter addressing his office's use of read-ins and negotiations. I agree with his rationale and observations as to the use of such procedures where appropriate.

On the issue of suspending the use of probation, perhaps you are unaware that Judges are required in every case, except First Degree Homicide, to first determine if probation is an appropriate disposition. It would be illegal, and impossible for me to tell any judge that they could not consider probation for a class of cases. Despite your unsubstantiated rhetoric to the contrary we have 47 judges who try and make the right call on every case considering the numerous factors that the Wisconsin Supreme Court has told us we must consider in

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sentencing individuals. We resolve almost 50,000 juvenile, criminal and traffic matters each year. People convicted of violent offenses rarely get probation unless there are extenuating circumstances; victim issues or offender cooperation for example.

It is hard to discern exactly what you are asking for in your letter as the apparent premise is incorrect in so many respects.

Are you criticizing efforts by the DA's office to identify as early as possible low risk individuals who can benefit from diversion and deferred prosecution agreements and be safely monitored in the community? The use of validated risk assessment tools in making this determination has been well documented and supported across the country. These programs actually promote stability in the community by preserving jobs and family structures for appropriate individuals. We have done extensive training and work with assistance of national experts to advance this work and make sure the programs are evidence based. I used some federal grant dollars at my disposal to pay for the training of local service providers.

More to the point, these programs are not available for the violent career criminal you describe in your letter; to suggest otherwise, as you have repeatedly done, merely shows your lack of knowledge. By the way, these are the same programs that are funded by the TAD (Treatment Alternatives and Diversion) grants. TAD has been so successful that Governor Walker and this legislature recently added \$3 million dollars to the program. Are you suggesting that Governor Walker and the Republican controlled legislature are soft on crime too? These programs have been shown to return 2 or 3 dollars for every dollar spent.

Or perhaps you are criticizing our Drug and Veteran's courts? Any number of studies, locally and nationally, over the last 20 plus years has clearly demonstrated the effectiveness of these efforts. By the way, violent offenders need not apply to these programs either as they are not eligible. These programs are subjected to rigorous evaluations at the direction of our grant provider.

You are well aware, since you are theoretically a member of its executive committee, that we have a Milwaukee Community Justice Council (CJC) that has been in existence now for approximately 7 years. You know that the other members of the executive committee include the DA, the Mayor, the County Executive, the Public Defender, a representative from the County Board, a representative from the Department of Corrections, and myself to name just a few. You also know that you have not been at a meeting in almost 3 years. On a regular basis, we share information, develop, and implement strategies for addressing a myriad of issues facing this community. Our mission is to work collaboratively to ensure public safety and offender accountability through the use of evidence based practices and best use of community resources. We do not always agree, but at least we listen. Last month, for example, we heard from Chief Flynn on issues related to a small number of juvenile offenders who are responsible for a large number of crimes. Efforts are already underway to improve communications between Children's Court officials and MPD on that front. We are all about evidence based, data driven programs and practices. You would know that if you came to the meetings.

Over the last several years, I have called and written you letters numerous times asking to meet to discuss a variety of issues that affect our roles in the criminal justice system and more importantly public safety in Milwaukee. You have either neglected to respond or refused to meet with me.

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Four years ago, Milwaukee was selected as one of only seven jurisdictions in the country to receive a technical assistance grant from the National Institute of Corrections to initiate and implement an evidence based framework in Milwaukee to ensure that wherever possible, we use programs that are performance based and can be measured. In fact, you signed a letter pledging your support and cooperation.

In 2009, we undertook a study of people housed in the jail under your control. We wanted to know who was in our jail and for how long. I contributed \$25,000 (most of the cost) from federal grant money at my disposal for the cost of the study. Despite the jail being under your control, your office contributed little to the cost. Using data from that study, we were able to determine a baseline and make significant data and research based changes on how we make release and supervision decisions in this community focused on public safety.

Now, we are poised to do a follow up study through the National Institute of Corrections. This time, they have been convinced to do it for free. That's correct, no cost. All they need is access to the same jail data as before. It will show us whether our new methods are making a difference. I was told by Inspector Schmidt you are refusing to allow us access to the data.

In 2012, the CJC applied for a grant from the Wisconsin Office of Justice Assistance for money to be used to improve our data collections systems. You remember that grant I assume, since you wrote a letter on June 27, 2012 opposing our request saying it was not necessary. In part, you said, "...the Milwaukee County Sheriff's Office measures recidivism.... with our recently installed state-of-the-art business intelligence system. We would be more than willing to provide the CJC with recidivism data utilizing our program. For you to provide a grant would be a duplication of effort."

On July 16, 2012, I wrote you in my capacity as chair of the CJC taking you up on your offer to share data from your system. I am still waiting for a response. So I have to ask, how serious are you about engaging in efforts to ensure that we are providing the best possible criminal justice system for the people of Milwaukee?

You have quoted Professor Petersilia from Stanford. Having listened to her entire 50 minute presentation, I can only assume that you only listened to about 30 seconds. You have quoted her out of context in the extreme. She is not opposed to these types of programs. Her point was that they have to be evidence based. (As stated earlier, we have used national experts to ensure that our programs are evidence based.) She is one of the experts brought in to move 30,000 prisoners out of California's state prisons and back into the counties. She makes the point that we have to use appropriate evidence based programs and not just increased surveillance if we want to make a lasting impact on prison populations. She also talks about similar efforts in Texas to use these very programs you complain about to reduce prison populations to the point that Governor Rick Perry has closed two adult prisons. She expects similar closings in up to 15 other states. I know this does not fit your agenda, but it is a much stronger chorus from people on all sides of the political spectrum.

So, instead of using your federal grant dollars to build expensive private gyms for your command staff, how about using the money to address ongoing program improvement needs for our community. Let's make sure that our programs have measurable performance measures; another recommendation of Professor Petersilia. I have already put my federal grant dollars to use in this fashion, but we need more. The question is, are you willing to put

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your money where your mouth is? So we are clear, I am talking about federal grant or forfeiture money at your disposal, not county tax dollars.

I am not afraid of more evaluation. I have welcomed every agency that has come here to see what we are doing. If we need to make changes we will. I agree with District Attorney Chisholm with respect to any additional studies of our efforts. By the way I would add the Bureau of Justice Assistance and the Pretrial Justice Institute to John's list.

Will you join us in this effort to make Milwaukee even better? The people of Milwaukee deserve nothing less than our best efforts.

Very truly yours,



Jeffrey A. Kremers  
Chief Judge