



Testimony

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Written Testimony Opposing Sentencing Commission Recommendations to Reform the Sex Offender Registry and Child Pornography Statutes and Supporting Recommendations Regarding Sentence Modification and Sentence Review Statutes, the Maximum Sentence for Misdemeanor Offenses, the Adoption and Safe Families Act, Automatic Erasure of Certain Records, and Voting Rights for Convicted Felons on Parole and Voting by Eligible Persons Who are Incarcerated

Judge Devlin and Distinguished Members of the Sentencing Commission:

My name is David McGuire, and I am the Executive Director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony regarding the Sentencing Commission's legislative proposals for the 2019 Connecticut General Assembly session.

As an organization that defends, promotes, and preserves individual rights and liberties under the U.S. and Connecticut constitutions, the ACLU-CT encourages recommendations from the Commission that make the criminal justice system more fair and just. The ACLU-CT appreciates the work of the Sentencing Commission and this opportunity to submit testimony regarding the Commission's proposals.

Proposed Recommendations on the Registry, Management and Sentencing of Sex Offenders:
Oppose

As a member of the Special Committee on Sex Offenders, I believe the Commission's proposed reforms to the sex offender registry will make the registry more effective and fair. Many of the proposals will increase public safety and create more fairness by establishing a non-public registry and allowing people to petition off the registries. The proposal will have a positive impact on people's abilities to reintegrate into society and find stable living conditions, which could directly improve rates of recidivism and increase public safety.

However, this proposal would deny thousands of registrants the ability to petition off of the registries due to the date of their conviction. This inequity would make the state vulnerable to equal protection challenges. Due to this serious flaw, ACLU-CT cannot support the proposal in its current form.

The ACLU-CT encourages the Sentencing Commission to amend the legislative proposal to include recommendations regarding sex offender data transparency offered by the Subcommittee on Community and Victims' Needs. The subcommittee expressed concerns regarding the lack of data available regarding people convicted of sexual offenses in Connecticut. It recommended that the Judicial Branch, in collaboration with the Department of Emergency Services and Public Protection, produce an annual report with such data. The subcommittee recommended that the annual report enumerate the number of sexual assault cases presented in Connecticut criminal

courts, including initial charges, pleas, convictions, and sentences. The report would also include information about any new arrests and convictions for persons on the sex offender registry. This data is incredibly important for advocates to have at their disposal. The availability of these statistics would allow oversight of sex offense sentencing, management, and registration. In turn, it would present an opportunity to improve the current system.

The existing lack of data about people who have been convicted of sexual offenses is one small piece of a larger issue around data transparency in Connecticut's justice system. It is important for the government and residents of Connecticut to know on a broader level what is happening in the state's justice system. Without the collection, dissemination, and analysis of data, we cannot determine if current practices are successful, efficient, and cost-effective. The ACLU-CT encourages the Sentencing Commission to call for reform to data collection in our justice system by requiring the Connecticut Division of Criminal Justice to disseminate annual reports on its prosecutorial work. Access to data around charging, pretrial detention, bail, plea deals, diversionary programs, and sentencing would allow the public and policymakers alike to evaluate important aspects of Connecticut's justice system. In particular, data on these aspects of the system, paired with demographic data about the people involved, would illuminate any racial inequities in the system. Shining a light on the justice system can lead to accountability and, when necessary, changes to the administration of justice. To better understand the successes and pitfalls of the current administration of justice in the state, this information should be reported by the Division of Criminal Justice annually and available to the government and public.

Proposed Changes to the Sentence Review and Sentence Modification Statutes: *Support*

The ACLU-CT supports the proposed changes to the sentence review and modification statutes. The proposal is an important step toward reducing mass incarceration. It gives more people who are incarcerated the opportunity to be discharged with or without probation or have their sentences reduced. This could decrease the number of people incarcerated in our state and give people who are incarcerated another chance at returning to their community and a better chance at rehabilitation in the long run.

An Act Concerning Misdemeanor Sentences: *Support*

The ACLU-CT supports the proposal to reduce the maximum sentence for misdemeanor offenses by one day in an effort to protect immigrants from unnecessary ICE involvement. When someone is charged with or convicted of an offense that carries a maximum sentence of 365 days in prison, it can trigger involvement from ICE. People convicted of minor offenses should not face disproportionately severe outcomes simply because they are imprisoned for 365 days, rather than 364 days. Immigrants should not face detention and deportation from the country they call home purely because they were convicted of a single small offense. Though this proposal will substantially alleviate the threat of ICE detention and deportation in certain situations, we as a state must continue to work to protect the immigrants' rights in Connecticut.

An Act Concerning the Adoption and Safe Families Act: *Support*

The ACLU-CT supports efforts to protect the rights of parents who are incarcerated. The proposal will ensure that a person's parental rights are not terminated due to circumstances outside of their control while they are incarcerated. A parent should not lose their rights to participate in their

child(ren)'s upbringing at the prison gate, and courts should consider an incarcerated parent's ability to participate in the life of their child(ren) and in programming when determining whether to terminate parental rights. It is vital that the government affords parents the right to participate in child welfare case hearings, whether or not they are incarcerated. Protecting an incarcerated parent's ability to participate in such hearings by allowing them to use phone or video is an imperative step toward allowing them to defend their parental rights. Incarcerated parents should not have their rights to parent and build relationships with their children taken away from them simply because of the fact that they are incarcerated, and these proposals will help prevent that unjust outcome.

An Act Concerning Automatic Erasure of Certain Records: *Support*

The ACLU-CT supports the intent of the proposal regarding the automatic erasure of records for certain offenses. Erasing criminal records of people convicted when they were under 18 years old prior to the full implementation of the 2007 Raise the Age legislation in 2012 ensures that they will be afforded the same benefits now given to people who are convicted at the same age. People convicted prior to the full implementation of the legislation should not be denied the benefit of having their criminal records erased simply because of the date of their convictions. Young people who make mistakes deserve a second chance to succeed. We support this proposal because it will help Connecticut truly uphold the justice and equality promised by our constitution.

Proposed Recommendations Concerning Voting Rights: *Support*

The ACLU-CT supports this proposal concerning the restoration of voting rights of people convicted of felonies who are on parole and a study of procedures to facilitate voting by eligible people who are incarcerated. The right to vote is a fundamental part of U.S. democracy, and the government should not abridge that right lightly. Restoring the right to vote for people who have been disenfranchised and ensuring people who are incarcerated but eligible to register to vote can do so strengthens our democracy by helping formerly incarcerated people to reintegrate into society and increasing voter participation. Being able to vote in elections is an incredibly important right that should not be denied to someone simply because they were convicted of a crime. More than six million Americans are currently disenfranchised due to a felony conviction. Laws that disenfranchise people because of felony convictions disproportionately disenfranchise Black voters. Moreover, people who are being held in pretrial detention for offenses that would not disenfranchise them if convicted, or who are being held on a misdemeanor charge, do not lose the right to vote. This right should not be taken away from them simply because they cannot leave pretrial detention to vote at their designated polling place. Enfranchisement is an incredibly important way for people to participate in the democracy, and this proposal will allow more people to participate.

Proposed Recommendation to Reform the Child Pornography Statutes: *Oppose*

The ACLU-CT generally supports and encourages the Sentencing Commission and the legislature to eliminate minimum mandatory sentences. However, we are wary of the penalty enhancements in this proposed recommendation. Therefore, we cannot support the proposal in its current form.

Thank you for your attention and work on these important issues.