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Testimony in Support of House Bill No. 6511, An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Enhanced Penalty for the Sale or Possession of Drugs Near Schools, Day Care Centers and Public Housing Projects

Senator Coleman, Representative Fox and esteemed members of the Judiciary Committee, my name is David McGuire and I am the staff attorney for the American Civil Liberties Union of Connecticut. I appreciate the opportunity to offer this testimony in favor of House Bill No. 6511, An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Enhanced Penalty for the Sale or Possession of Drugs near Schools, Day Care Centers and Public Housing Projects.

Clearly, none of us would support legislation that imposes a harsher penalty on people of color than on white people for exactly the same behavior, but that has been the very real, if unintended, consequence of drug-free zones. The zones were established — along with extra, mandatory sentences for drug offenses within them — during the 1980s, as the ruinous War on Drugs intensified. The zones extend for a radius of more than a quarter-mile from every school, day-care center and public housing complex in the state, overlapping in a blanket that covers our cities. A 2005 report by this legislature's Program Review and Investigations Committee noted that "almost the total geographical areas of Bridgeport, Hartford, and New Haven are within 'drug-free' zones."¹

In comparison, drug-free zones tend to cover far less of the area in smaller towns -- mainly the commercial center of suburban communities and only scattered areas in rural ones. No wonder that the state police reported in 2005 that almost all the drug arrests they made in cities and "urban-like" suburbs were within drug-free zones and almost all the drug arrests made in suburban and rural municipalities were outside them.² Considering the de facto housing segregation that continues in our state, the consequences are obvious: African American and Latino people are far more likely than white people to be automatically subjected to the harsher penalties tied to drug-free zones, entirely because of where they live, which is inextricably tied to who they are.

We have seen this kind of racial disparity in drug sentencing before. Until 2005, the penalty for possessing an ounce of powdered cocaine in Connecticut was the same as the penalty for possessing just half a

¹ LEGISLATIVE PROGRAM REVIEW & INVESTIGATIONS COMMITTEE, CONNECTICUT GENERAL ASSEMBLY, MANDATORY MINIMUM SENTENCES (December 2005) http://www.cga.ct.gov/2005/pridata/Studies/Mandatory_Minimum_Sentences_Final_Report.htm

² See *id.*

gram of crack cocaine, a 56.7-to-1 ratio. The main difference between these drugs was that powdered cocaine was and is more favored among white people and crack cocaine among racial minorities. Recognizing the injustice of this arbitrary disparity, the legislature equalized the penalties.

This unequal punishment violates the spirit and substance of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, and it is morally repugnant. Adding to the insult of this injury, the law offers less protection to children in urban areas. It hardly matters where in Hartford, Bridgeport or New Haven a drug crime is committed. If an entire city is a drug-free zone and therefore the penalty for possessing or selling drugs in your home is the same as if you were in the schoolyard itself, how could there be a deterrent effect? The Sentencing Commission recognized this contrary effect in recommending the measure before you today, which would at least create some differentiation between school zones and other areas of our cities.³ Reducing the size of drug-free zones from a 1,500 foot perimeter to a 200-foot perimeter is a step in the right direction. Another important amendment is clarifying that a person who violates C.G.S. §21a-267 and §21a-278a must possess the intent to commit the violation in a specific location that is within 200 feet of the perimeter of a school, daycare or public housing facility.

We support House Bill No. 6511 because it will reduce, although not eliminate, the unjust consequences of drug-free zones. A 200-foot perimeter will be less offensive than a 1,500-foot one, and so I respectfully request that you pass this legislation.

³ INSTITUTE FOR MUNICIPAL AND REGIONAL POLICY, CENTRAL CONNECTICUT STATE UNIVERSITY, STATE OF CONNECTICUT SENTENCING COMMISSION ANNUAL REPORT (2012), http://www.ct.gov/opm/lib/opm/cjppd/cjabout/sentencingcommission/2012_sentencing_commission_annual_report.pdf