AMERICAN CIVIL LIBERTIES UNION of CONNECTICUT

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Testimony Supporting Senate Bill 259, 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

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Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee, my name is David McGuire. I'm the staff attorney for the American Civil Liberties Union of Connecticut and I'm here to testify in support of Senate Bill 259, 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.

In 1987, at the height of the so-called War on Drugs, Connecticut passed one of the most harsh drug-free zone laws in the nation, establishing a three-year mandatory minimum sentence for a drug offense within 1,500 feet of a school, public housing complex or day care center. The laudable intent was to protect children from drugs. The lamentable result has been racial discrimination, a law that punishes African American and Latino offenders more severely than white offenders for exactly the same crimes while offering no protection at all to children in urban areas.

It is well past time, after 27 years, to re-examine this law. The non-partisan Connecticut Sentencing Commission has done so and has recommended the reforms now before you. Several other states have adopted or are considering similar reforms. In 2011, the legislature of Delaware reduced its drug-free zones to 300 feet and in 2012 Massachusetts did the same, also reducing the hours when the enhanced penalty applies.

As Connecticut law now stands, drug-free zones extend for a radius of more than a quarter-mile from every school, day-care center and public housing complex, 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] Retired Connecticut Supreme Court Justice David M. Borden, who is co-chairman of the Sentencing Commission, observed that in New Haven the only place outside a drug-free zone is the Yale golf course.[2] In comparison, the zones tend to cover far less of the area in smaller towns–mainly the commercial centers of suburban communities and only scattered areas in rural ones.

The consequences are obvious: African American and Latino people are far more likely than white people to live within drug-free zones and are therefore automatically subjected to harsher penalties for the same crimes. While members of minority groups comprise just under 30 percent of our population,

[1] http://www.cga.ct.gov/2005/pridata/Studies/Mandatory_Minimum_Sentences_Final_Report.htm
[2] http://articles.courant.com/2013-12-19/news/hc-sentencing-commission-1220-20131219_1_school-property-school-zone-proposal

they make up 68 percent of the population in New Haven, 77 percent in Bridgeport and 84 percent in Hartford. 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.[3] That report did not break down drug-free zone arrests by race, but a 2007 report by The New Jersey Commission to Review Criminal Sentencing found that 96 percent of those convicted and incarcerated for a drug-free zone offense in that state were African American or Latino.[4] 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.

It is also deplorable that the law, intended to protect children from drugs, is completely ineffective in urban settings where most minority children live. It hardly matters where in Hartford, Bridgeport or New Haven a drug crime is committed. If an entire city is a drug-free zone, without differentiation, there can be no deterrent effect. Reducing the size of the zones will create a distinction that will align the law with its original intent. William Brownsberger, a former assistant attorney general in Massachusetts, studied drug-free zones in three Massachusetts communities before the legislature reduced the radius from 1,000 to 300 feet. He concluded that the larger zones didn't move drug dealing away from schools. "If every place is a stay-away zone, no place is a stay-away zone," he said.[5]

Whether you support or oppose this bill is not a sign of whether you are tough on crime or soft on crime. It's about whether you support or oppose fairness. This bill will not eliminate the unjust consequences of drug-free zones but it will reduce them. We ask you to pass this legislation for the sake of a more just criminal justice system.

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[3] http://www.cga.ct.gov/2005/pridata/Studies/Mandatory_Minimum_Sentences_Final_Report.htm
[4] http://sentencing.nj.gov/downloads/supplemental%20schoolzonereport.pdf
[5] http://www.justicestrategies.org/news/2006/03/drug-free-school-zone-laws-questioned