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**State’s Attorney Gail Hardy Should Not Be Reappointed
as State’s Attorney for the Hartford Judicial District**

Chairperson McDonald and distinguished members of the Criminal Justice Commission:

My name is Kelly McConney Moore, and I am policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in opposition to the reappointment of Gail Hardy to the position of State’s Attorney for the Hartford Judicial District. Throughout her nearly thirteen-year tenure as State’s Attorney, Hardy has shown herself incapable of managing the judicial district in such a way as to achieve justice for people hurt or killed by police and for people impacted by the criminal legal system. She has established a pattern of failing to meet the clearly-expressed needs of those community members and must not be reappointed as the State’s Attorney for the Hartford Judicial District.

1. Hardy Seriously Mismanaged Investigations of Police Killings and Denied Justice to the Victims’ Families

In general, investigations into killings and other deadly uses of force by police are not a speedy process in Connecticut’s Division of Criminal Justice. As of October 2019, these investigations take approximately one year on average.¹ This average, while inexcusably slow, pales in comparison to Hardy’s average time for completing an investigation: more than 800 days.² That means that the family and loved ones of people killed by police had to wait, typically, over 26 months to find out whether

¹ Nicholas Rondinone, “The Hartford State’s Attorney was required to investigated deadly police shootings. Five still sit without rulings -including two for more than a decade.” Hartford Courant, Oct. 24, 2019, available at <https://www.courant.com/news/connecticut/hc-news-hartford-states-attorney-police-shootings-open-investigations-20191024-e3rfjixx6bgf7j5upfbph37ikm-story.html>.

² *Id.*

Hardy would seek justice for their their loved ones. This kind of outrageous delay is, simply, unjust.

Moreover, Hardy had two investigations into police killings which took her more than a decade to resolve. People killed Joseph Bak and Taurean Wilson in 2008 and 2009, respectively.³ Hardy did not issue reports regarding their deaths until December 20, 2019, only after public scrutiny caused by press attention.⁴ In both cases, Hardy found that their killers were justified.⁵ Hardy released two other reports the same day, finding that the police killings of Edmanuel Reyes in 2011 and Ernesto Morales in 2012 were also justified.⁶

When apologizing to the families of Bak, Wilson, Reyes, and Morales, Hardy did not explain her delay.⁷ She promised to issue reports more promptly in the future,⁸ a promise she broke when it took her an additional three months to release the report on the investigation into the death of Anthony Jose Vega Cruz.⁹ That investigation, which she promised would be more timely, was ongoing for ten and a half months.¹⁰ In her report, Hardy found that the police employee who killed Cruz – an employee who had previously been investigated by the Division of Criminal Justice for a different police killing – was “objectively reasonable” when he shot at the teenager’s moving car after an attempted traffic stop.¹¹

³ “Prosecutor: Police Use of Deadly Force Justified in 4 Cases.” U.S. News and World Report, Dec. 20, 2019, *available at* <https://www.usnews.com/news/best-states/connecticut/articles/2019-12-20/prosecutor-releases-long-delayed-police-shooting-reports>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ “State’s Attorney Releases Long-Delayed Police Shooting Reports.” NBC CT, Dec. 20, 2019, *available at* <https://www.nbcconnecticut.com/news/local/states-attorney-releases-long-delayed-police-shooting-reports/2198758/>.

⁸ *Id.*

⁹ Frankie Graziano and Ryan Lindsay, “Prosecutors clear Wethersfield police officer in fatal shooting.” CT Mirror, Mar. 18, 2019, *available at* <https://ctmirror.org/2020/03/18/prosecutors-clear-wethersfield-police-officer-in-fatal-shooting/>.

¹⁰ *See id.*

¹¹ *Id.*

Then-Chief State's Attorney Kevin Kane investigated these delays at the behest of this Commission.¹² In his report on the investigation dated November 27, 2019, Kane recommended that this Commission discuss discipline and remediation in a closed executive session.¹³ Just last Thursday, this Commission unanimously voted to impose an unprecedented suspension on Hardy as discipline for this dereliction of her duty. The Commission clearly agrees that her neglect of these matters was serious and inexcusable. We strongly urge this Commission to also deny her reappointment in recognition of the severe harm she caused the victims, their families, the people of the Hartford Judicial District, and justice, by her abhorrent delays in investigating police killings.

2. Hardy Has Demonstrated Excessive Deference to Police, at the Expense of the Hartford Judicial District's Safety

Hardy's delays in investigating police killings were not only a procedural injustice, but a substantive one. Hardy's record demonstrates an undue and unjust reluctance to hold police accountable for any kind of misconduct. Of the ten police killings she has investigated in her time as State's Attorney, Hardy has found all ten justified. One of these included the killing of Jose Maldonado, who died in a jail cell after being Tased, punched, and pepper sprayed by police. It took Hardy three years to determine that his death was justified and the employees acted reasonably.¹⁴ Last week, Maldonado's brother testified to this Commission that he felt that Hardy's investigation was a rubber-stamp approval of his brother's death.

Hardy's unwillingness to hold police accountable extends beyond police killings. When the Enfield police filed an arrest warrant for one of their own, Matthew

¹² Lori Mack, "Chief State's Attorney Postpones Retirement to Resolve Police Shooting Investigations." WNPR, Nov. 1, 2019, *available at* <https://www.wnpr.org/post/chief-states-attorney-postpones-retirement-resolve-police-shooting-investigations>

¹³ Nicholas Rondinone and Kathleen McWilliams, "Chief State's Attorney opposes removing Hartford State's Attorney Gail Hardy from office for failing to resolve deadly police shooting probes, but recommends discussion of possible discipline." Hartford Courant, Nov. 27, 2019, *available at* <https://www.courant.com/breaking-news/hc-br-gail-hardy-investigation-20191127-2mub6lijrjaw7psb7jrv4a5djm-story.html>

¹⁴ Gail Hardy, "Report of the State's Attorney for the Judicial District of Hartford Concerning the Death of Jose Maldonado in East Hartford on April 13, 2014." Division of Criminal Justice, *available at* <https://portal.ct.gov/DCJ/Whats-News/Reports-on-the-Use-of-Force-by-Peace-Officers/2014---April---Jose-Maldonado---East-Hartford>.

Worden, for assault and falsifying evidence, Hardy vacated it six days later.¹⁵ It is rare for police to hold other police employees to account, and instead of seeing that for the unusual and serious situation it was, Hardy renounced her role in imposing consequences for lawless policing.

In this moment, when more U.S. residents view police violence as a serious problem, and almost 4/5 of U.S. adults think police violence is a problem,¹⁶ Hardy's extreme deference to police, even when they act violently, is out-of-touch. More importantly, though, it is dangerous for the people of the Hartford Judicial District and beyond. Hardy's failure to take police violence and misconduct seriously demonstrates her unsuitability for another term as State's Attorney for the Hartford Judicial District.

3. Hardy Has Mismanaged Sentencing Modification Requests

Although comprehensive data regarding sentence modifications is not collected for State's Attorneys or judicial districts, significant anecdotal evidence indicates that, under Hardy's leadership, the Hartford Judicial District is slow and unresponsive to sentence modification requests. State law requires that any person seeking to modify a sentence of over three years can only apply for modification with the consent of the relevant state's attorney. One case, well-documented in testimony by the applicant's wife,¹⁷ involves a person seeking a sentence modification for six years from the Hartford Judicial District before ultimately being denied. That applicant finally received a sentence modification in 2019 – yet another case of justice severely delayed in the Hartford Judicial District during Hardy's tenure. The NAACP of Connecticut has stated in a letter to this Commission that it has heard multiple similar stories from community members, indicating a rampant problem.

¹⁵ "State's Attorney Throws Out Arrest Warrant for Enfield Officer." NBC CT, July 23, 2014, available at <https://www.nbcconnecticut.com/news/local/states-attorney-denies-arrest-warrant-application-for-enfield-officer/52055/>

¹⁶ Kat Stafford and Hannah Fingerhut, "AP-NORC poll: Sweeping change in US view of police violence." AP News, Jun. 17, 2020, available at <https://apnews.com/728b414b8742129329081f7092179d1f>.

¹⁷ See Judiciary Committee testimony, Mar. 24, 2009, available at <https://www.cga.ct.gov/2009/juddata/chr/2009JUD00324-R001200-CHR.htm>.

Hardy's failure to ensure timely responses to sentence modification requests does not just deny justice to the incarcerated person seeking modification. It harms that person's family members and community. Moreover, it demonstrates a disregard for the stress that leaving decisions like this in indefinite limbo has upon justice-impacted people and their loved ones. A State's Attorney should serve the people of their community by looking out for their safety and delivering justice. Failure to timely and adequately respond to sentencing modification requests demonstrates that the Hartford Judicial District, under Hardy, was not prioritizing the community it serves.

This pattern of failure over the last thirteen years demonstrate that Hardy has refused to address the needs of the people of the Hartford Judicial District. Her *modus operandi* of justice delayed has led to too many instances of justice denied. For the benefit of the Hartford Judicial District, and justice for the people in and outside of that district, Gail Hardy should not be reappointed as State's Attorney for the Hartford Judicial District.