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**Written Testimony Supporting House Bill 5499, An Act Concerning the
Criminal Justice Commission and the Division of Criminal Justice**

Senator Winfield, Representative Stafstrom, Ranking Members Kissel and Fishbein,
and distinguished members of the Judiciary Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of House Bill 5499, An Act Concerning the Criminal Justice Commission and the Division of Criminal Justice.

The ACLU-CT believes that mass incarceration is the liberation struggle that defines our era in United States history. We have come to a point where approximately three out of every ten adults in the U.S. has a criminal record of some kind,¹ and over half of the people in this country have a close family member who has been incarcerated.² We believe that everyone has a role to play in ending the pervasive system of mass incarceration. That is especially true for people operating within the criminal legal system, like state's attorneys, whose decisions can either perpetuate mass incarceration or begin to work towards a different model of justice.

State's Attorneys hold people's lives in their hands: their decisions impact a person's freedom, fundamental rights, and entire future. In Connecticut, where being charged with a crime can lead to a lifetime of being denied for housing, employment, licensure,

¹ Jo Craven McGinty, *How Many Americans Have a Police Record? Probably More Than You Think*, WALL ST. J., (Aug. 7, 2015), available at <https://www.wsj.com/articles/how-many-americans-have-a-police-record-probably-more-than-you-think1438939802>.

² Niall McCarthy, *Over Half of Americans Have Had a Family Member Incarcerated [infographic]*, FORBES, (Dec. 7, 2018), available at <https://www.forbes.com/sites/niallmccarthy/2018/12/07/over-half-of-americans-have-had-a-family-memberincarcerated-infographic/?sh=3330e2eb3e4f>.

education, and other opportunities,³ prosecutors impose effective life sentences every day. For a long time, prosecution was a black box, shielding prosecutors' decisions from scrutiny and insulating prosecutors. Following the passage of the nation-leading Public Act 19-59⁴ in 2019, prosecution in Connecticut is incrementally becoming more transparent. That transparency is shedding light on areas where prosecution perpetuates, rather than ameliorates, mass incarceration. Particularly, we now have concrete evidence that Black and Latinx people are disproportionately prosecuted by state's attorneys when compared to white people.⁵ State's attorneys play a critical role in who enters the system, and it is imperative to ensure that our state's attorneys are insulated from corruption.

The Criminal Justice Commission's (CJC) powers to hold the chief state's attorney accountable are considerably more limited than those it has for other state's attorneys. This lack of accountability hurts Connecticut residents: a Stanford University report lamented that the "pattern of arbitrary, capricious, and discriminatory decisions [by state's attorneys] is not surprising."⁶ It is imperative that the legislature put an end to the current system in which cronyism among state's attorneys can too easily thrive, at the expense of not only government ethics, but of equity and fairness across the state. The recent scandal at the Office of the Chief State's Attorney reveals not just lapses in judgment from the most powerful prosecutor in the state, but shows symptoms of a state's attorney system that operates outside the bounds of democratic accountability. Whenever a powerful

³ National Inventory of Collateral Consequences of Conviction, available at https://niccc.csgjusticecenter.org/database/results/?jurisdiction=260&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; see also Kelan Lyons, *Council Begins Study of Discrimination Against People with Criminal Records*, CT MIRROR (Aug. 22, 2019), available at <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

⁴ Conn. Pub. Act. 19-59 (2019), available at <https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00059-R00SB-00880-PA.pdf>.

⁵ *Id.*

⁶ John J. Donohue, *Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation from 4600 Murders to One Execution*, STAN. L. SCH., NAT'L BUREAU ECON. RES., 427 (Dec. 4, 2014).

government official misbehaves, it is crucial for lawmakers to look at the system that allowed that behavior to happen, and to take steps to prevent future harm.

House Bill 5499 would critically strengthen the oversight and independence of the CJC by expanding its disciplinary powers to include the chief state's attorney in addition to the deputy chief state's attorneys and state's attorneys. The bill would further insulate our chief state's attorney, deputy chief state's attorneys, and state's attorneys from political influence by prohibiting them from contemporaneously holding elected office.

If House Bill 5499 is enacted, prosecution will change in important but realistic ways that can serve as a model for other states. Accountability for state's attorneys is a necessary for ending mass incarceration and House Bill 5499 is a step towards that endeavor. The ACLU-CT enthusiastically supports House Bill 5499 and urges this Committee to do the same.