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Written Testimony Supporting Senate Bill 445, An Act Concerning the Provision of Emergency Medical Services to an Individual Who Is in the Custody or Control of a Police Officer

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 submitting written testimony in support of Senate Bill 445, An Act Concerning the Provision of Emergency Medical Services to an Individual Who Is in the Custody or Control of a Police Officer.

The ACLU-CT is dedicated to ending police violence and racism in policing in all forms. We strongly support measures that ensure that police do not deprive a person of emergency medical services while that person is in police custody or control. While 18 U.S.C. § 242 applies to nearly all incidents of violence by law enforcement, it describes the circumstances under which an officer can be held criminally responsible for violating a person's constitutional rights but does not make clear the specific actions an officer cannot take. In 2020 alone, police killed more than 1,100 people,¹ and these killings are a leading cause of death for Black men in America.² Police brutality includes the failure of officials to provide medical treatment to people who

¹ *Mapping Police Violence* (last accessed Mar. 25, 2022), <https://mappingpoliceviolence.org/>.

² Frank Edwards, Hedwig Lee & Michael Esposito, Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex, 116 PNAS 16793, 16794 (2019), <https://www.pnas.org/content/pnas/116/34/16793.full.pdf>.

are arrested, in jail, or in prison.³ Although § 242 exists under federal law, police brutality cases of this kind are rarely prosecuted.⁴

There are countless examples of people, like George Floyd and Freddie Gray, who were killed or injured because police officers failed to provide emergency medical treatment.⁵ Because laypeople, bystanders, and police officers themselves are most likely to be at the scene when emergency medical care is needed, Senate Bill 445 critically defines an emergency medical condition as one that can be determined with a layperson's knowledge and not that of a physician. But accountability measures alone are not enough. Connecticut must also divest from policing and reinvest in programs that build strong and safe communities. Policymakers must reduce policing's responsibilities, scale, and tools to build an equitable future for all people in Connecticut. The ACLU-CT supports Senate Bill 445 as a beginning step towards police accountability by prohibiting the police from depriving a person of emergency medical care while in their custody or control. We urge this Committee to support Senate Bill 445 as well.

³ Taryn A. Merkl, *Protecting Against Police Brutality and Official Misconduct: A New Federal Criminal Civil Rights Framework*, BRENNAN CTR. JUST. (Apr. 29, 2021), available at <https://www.brennancenter.org/our-work/research-reports/protecting-against-police-brutality-and-official-misconduct>.

⁴ *Police Officers Rarely Charged for Excessive Use of Force in Federal Court*, TRAC REP. (June 17, 2020), available at <https://trac.syr.edu/tracreports/crim/615/> (reporting that "between 1990 and 2019, federal prosecutors filed § 242 charges about 41 times per year on average, with as few as 19 times (2005) and as many as 67 times in one year"). See also U.S. Department of Justice, *Civil Rights Division Highlights: 2009–2017*, 32–34 (Jan. 2017), available at <https://www.justice.gov/crt/page/file/923096/download> (reporting that the Civil Rights Division prosecuted 580 law enforcement officials for committing willful violations of civil rights and related crimes between 2009 and 2016); Brian R. Johnson & Phillip B. Bridgmon, *Depriving Civil Rights: An Exploration of 18 U.S.C. 242 Criminal Prosecutions 2001–2006*, 34 CRIM. JUST. L. REV. 196, 204 (2009), (observing that prosecutions under § 242 are a relatively rare event, and identifying a very small number of sexual misconduct cases); Paul J. Watford, *Screws v. United States and the Birth of Federal Civil Rights Enforcement*, 98 MARQ. L. REV. 465, 483 (2014).

⁵ Mark Puente & Meredith Cohn, *Freddie Gray Among Many Suspects Who Did Not Get Medical Care from Baltimore Police*, BALT. SUN (May 9, 2015 at 10:30 AM), available at <https://www.baltimoresun.com/news/investigations/bs-md-gray-jail-rejections-20150509-story.html>; Merkl, *supra* note 3.