



Legislative Testimony  
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**Written Testimony Opposing House Bill 6878, An Act Concerning Appeals Regarding Governmental Immunity of Police Officers, Use of Force By a Police Officer, Searches of Motor Vehicles, Pursuit of a Suspect Policies and Verification of Residence Addresses of Persons on the Sex Offense Registry**

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 writing to testify in opposition to House Bill 6878, An Act Concerning Appeals Regarding Governmental Immunity of Police Officers, Use of Force By a Police Officer, Searches of Motor Vehicles, Pursuit of a Suspect Policies and Verification of Residence Addresses of Persons on the Sex Offense Registry.

The ACLU-CT is committed to ending police violence and racism in policing in all forms. In addition to accountability measures, 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. Among the most vulnerable people who become enmeshed in the criminal legal system are young people under the age of eighteen, who suffer unique harms due to their involvement in the criminal legal system and are more likely to experience even wider racial disparities than exist for adults.<sup>1</sup>

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<sup>1</sup> Colette Marcellin & Samantha Harvell, *Data Snapshot of Youth Incarceration in Connecticut*, URBAN INST. (May 2020), available at [https://www.urban.org/sites/default/files/publication/102176/data-snapshot-of-youth-incarceration-in-connecticut\\_1.pdf](https://www.urban.org/sites/default/files/publication/102176/data-snapshot-of-youth-incarceration-in-connecticut_1.pdf).

Recognizing these harms and disparities, the ACLU-CT believes that children should be supported with services and resources that support them, their families, and their communities, rather than criminalized. The policies proposed by House Bill 6878, though, do not share this value; instead, this bill's proposals are primarily rooted in a criminal legal foundation. Politicians have made hyperbolic claims in the court of public opinion about the "rash" of car thefts. There is no such "rash"—in fact, car thefts in 2020 were down 3 percent relative to 2018, after a record-setting reduction in 2019.<sup>2</sup> Connecticut differs from much of the country in that the state has seen a substantial decline in car thefts over the last decade, including a 20 percent drop in 2019 from the previous year.<sup>3</sup> Since the peak of car thefts in Connecticut in 1991, the state saw a 77 percent reduction in car thefts to record lows in 2019.<sup>4</sup> Like the rest of the country, rates of crime across the board increased during the beginning of the COVID-19 pandemic has wrought economic destruction upon communities.<sup>5</sup> Motor vehicle thefts have increased nationally, but Connecticut's rate of theft has remained below the national rate.<sup>6</sup> Moreover, data analysis makes clear that any perceived uptick in car thefts has no correlation to criminal legal system reforms made over the past few years.<sup>7</sup> With that understanding, it does not make sense to enact far-reaching policies which are not data-driven or services-based to solve a problem that is not, in fact, a problem. This bill contains several particularly problematic sections, reviewed below.

### *Interlocutory Appeals of Governmental Immunity*

Current Connecticut law provides that defendants cannot make interlocutory appeals of a trial court's denial of the application of the defense of governmental immunity. House Bill 6878 would amend § 52-571k(d) to permit interlocutory appeals.

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<sup>2</sup> Kelan Lyons, *New Data Show Car Thefts Are Declining, Despite a Pandemic Bump*, CT MIRROR (Mar. 19, 2021), available at <https://ctmirror.org/2021/03/19/new-data-show-car-thefts-are-declining-despite-a-pandemic-bump/>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Zach Murdock, *Connecticut Has a Teen Car Theft Problem, But It Is Not Related to State Juvenile Justice Reforms, New Analysis Finds*, HARTFORD COURANT (Mar. 26, 2021), available at <https://news.yahoo.com/connecticut-teen-cartheft-problem-162200460.html>.

Interlocutory appeals are relatively rare and made when litigation is ongoing in a case. Permitting interlocutory appeals of denials of governmental immunity could potentially allow an appellate court to halt a trial early by granting police officers qualified immunity. This provision would make it even more difficult than it already is to hold police accountable when they harm people. We oppose this section of the bill.

### *Use of Force*

The ACLU-CT is committed to ensuring that no people ever die at the hands of the police. One step towards eradicating police killings is to make the law clear that police are authorized to use deadly force only in narrow situations, rather than giving the police wide latitude to shoot, beat, Tase, or otherwise injure or kill people. In Connecticut, an improper use of force is one that the officer knows or should know is either unreasonable, excessive, or illegal. This standard is vitally important for both holding police accountable and for setting societal expectations for police conduct.

When the legislature passed Public Act 20-1 in response to both the nationwide Black Lives Matter uprising and numerous consequence-free police killings in Connecticut, it amended its use of force standard. The changes made in Public Act 20-1 were an improvement over the existing standard, but as we testified at the time, they did not go far enough to create a standard that reflected the value that no one should die at the hands of police. The standard the legislature created specified that police uses of deadly force are only justified when they are objectively reasonable and either (1) necessary, in the officer's reasonable belief, to defend the police or others from actual or imminent uses of deadly force or (b) when effecting certain arrests or preventing certain escapes, the police employee has exhausted reasonable alternatives to deadly force and determined that use of deadly force does not pose a substantial risk of injury to third parties. That police accountability bill also identified specific factors for State's Attorneys to consider in making this decision. These factors include the victim's possession, or apparent possession, of a deadly weapon, whether police

attempted reasonable de-escalation, and whether the police made the situation more likely to become violent. At the time, we pointed out that this standard was deficient for several reasons. First, it does not limit uses of deadly force to only those incidents where the force is both necessary and proportional. In our testimony, we also pointed out that the bill needed to more clearly define de-escalation and to make it clear that the entire police interaction must be examined. Despite objections from people and groups committed to ending police violence, like the ACLU-CT, this compromise language was adopted and passed into law. This bill weakens the standards adopted in 2020. We oppose attempts to weaken Public Act 20-1, and encourage this Committee to oppose this bill.

### *Consent Searches*

The restrictions on consent searches that were put in place two years ago by Public Act 20-1 would be substantially undermined by Section 11 of House Bill 6878. During the public hearing of the police accountability bill that became Public Act 20-1, the ACLU-CT praised its changes to consent searches as a way to make significant inroads to reducing harm by police. As we noted at the time, data shows that Connecticut vehicular stops result in many more searches of Black and Latinx drivers relative to white drivers, even though searches of drivers of color are much less likely to find criminal activity or contraband.<sup>8</sup> In addition, stop-and-frisk searches are not only racist, but also result in police abuses, with police using physical force in almost 25 percent of stops in some states.<sup>9</sup>

Although Sections 21 and 22 of Public Act 20-1 went into effect less than two years ago, they are already being undermined by police and politicians unhappy with the changes to increase police accountability. Reports have indicated that police, police unions, and politicians were unhappy about the changes to consent searches

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<sup>8</sup> See Ken Barone, James Fazzalano, Jesse Kalinowski & Matthew B. Ross, *State of Connecticut Traffic Stop Data Analysis and Findings, 2018* (May 2020), at xii, available at <http://www.ctrp3.org/wp-content/uploads/2020/05/2018-Connecticut-Racial-Profiling-Report.pdf>.

<sup>9</sup> Rose Lenehan, *What "Stop-and-Frisk" Really Means: Discrimination and Use of Force*, PRISON POLY INITIATIVE (Aug. 17, 2017), available at <https://www.prisonpolicy.org/reports/stopandfrisk.html>.

immediately before and after the effective date of these sections,<sup>10</sup> but the ACLU-CT has been unable to find any reports after the effective date of specific problems encountered by police in implementing the changes or in negative impacts on public safety. It is clear that police disliked the limits on consent searches from the day Public Act 20-1 was signed into law and have sought to reverse those changes regardless of the actual impact of the provisions after implementation.

This Committee should not be so quick to undo the changes it put into place in July 2020. The police accountability bill passed by the General Assembly was significant, but not radical. Indeed, it was less far-ranging than one passed in Massachusetts months later and signed into law by the Republican governor of Massachusetts.<sup>11</sup> Significant work went into the drafting of Public Act 20-1 to ensure that bipartisan viewpoints were considered and included.<sup>12</sup> The proposed changes, though, are a complete gutting of the consent search changes. In the absence of compelling evidence demonstrating the clear need to revoke all the progress made on consent searches in 2020, this Committee should reject this bill.

### *Police Pursuits*

When police decide to use cars to chase people, they can endanger the lives of the people they are pursuing, pedestrians, drivers, passengers of other vehicles, and themselves.<sup>13</sup> In Connecticut, in 2019, one person died after police pursued them in a

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<sup>10</sup> See, e.g., Kim Healy, *Concerned About the Consequences of the New Police Accountability Law*, CT MIRROR (Sept. 25, 2020), available at <https://ctmirror.org/category/ct-viewpoints/concerned-about-the-consequences-of-the-new-police-accountability-law/>; Fasano Demands Lawmakers Fix Police Accountability Bill in September Special Session, Press Release (Sept. 14, 2020), available at <https://ctsenaterepublicans.com/2020/09/fasano-demands-lawmakers-fix-police-accountability-bill-in-september-special-session/>; Jodi Latina, *CT Lawmakers Putting Police Accountability Law Under the Microscope*, WTNH NEWS CHANNEL 8 (Sept. 14, 2020), available at <https://www.wtnh.com/news/politics/ct-lawmakers-putting-police-accountability-law-under-microscope/>; Kimberly Fiorello, *Opinion: CT House Candidate Kimberly Fiorello Points to Consequences of the Police Bill*, STAMFORD ADVOCATE (Sept. 11, 2020), available at <https://www.stamfordadvocate.com/opinion/article/Opinion-CTHouse-candidate-Kimberly-Fiorello-15559340.php>; Josh LaBella, *Fraternal Order of Police Endorses Fairfield Republicans Following Controversial Police Bill*, FAIRFIELD CITIZEN (Oct. 23, 2020), available at <https://www.fairfieldcitizenonline.com/news/article/Fraternal-Order-of-Police-endorses-Fairfield-15669642.php>.

<sup>11</sup> See, e.g., Press Release, *Governor Baker Signs Police Reform Legislation*, (Dec. 31, 2020), available at <https://www.mass.gov/news/governor-baker-signs-police-reform-legislation>.

<sup>12</sup> See Mark Pazniokas, *"Zooming" Their Way to a Special Session on Police Reforms*, CT MIRROR (July 6, 2020), available at <https://ctmirror.org/2020/07/06/zooming-their-way-to-a-special-session-on-police-reforms/>.

<sup>13</sup> See, e.g., Anna Skinner, *Hundreds Are Killed Each Year in Police Pursuits, Many of Them Bystanders*, (Aug. 16, 2022), <https://www.newsweek.com/hundreds-are-killed-each-year-police-pursuits-many-them-bystanders-1734216>;

vehicle.<sup>14</sup> In 2017, six people died; in 2015, two people died; in 2014, one person died; and in 2013, three people died. Some of these people who died because of fatal police pursuits were the targets of police pursuits; others were bystanders. Nationwide, according to a study by USA Today, police car chases killed at least 11,506 people from 1989 to 2013.<sup>15</sup> Nearly 25 percent of those people (2,456) were bystanders—pedestrians, or drivers or occupants of other cars—and more than 130 people who died in police car chases were police officers themselves.<sup>16</sup> Because they are so dangerous, police car chases should be rare. We oppose this unnecessary expansion of police pursuits.

### *Sex Offender Registry Address Changes*

In 2007, Human Rights Watch released a comprehensive report, *No Easy Answers*, which found that if anything, sexual offense registry laws are counterproductive. They make it harder for law enforcement to focus its resources on truly dangerous individuals.<sup>17</sup> And unrestricted public access to the registries results in ostracism and diminishes the likelihood of people reintegrating into society. Our increasingly scarce resources would be better spent on counseling for victims, education for the community, and treatment.

What we have learned from the sex offender registries that already exist in Connecticut and many other states is that they can constitute an additional extrajudicial form of punishment and that they can lead to retaliation against people who are trying to rehabilitate themselves. Criminal convictions are public records that can easily be consulted for a background check when truly necessary. But the

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[https://www.cga.ct.gov/jud/tfs/20200116\\_Police%20Transparency%20and%20Accountability%20Task%20Force/20200608/Connecticut%202019%20Police%20Pursuit%20Report-Updated%20June%209.%202020.pdf](https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/20200608/Connecticut%202019%20Police%20Pursuit%20Report-Updated%20June%209.%202020.pdf)

<sup>14</sup> See *Summary Descriptive Information*, CONN POLICE PURSUIT DATA — 2019 (2020).

<sup>15</sup> See *Summary Descriptive Information*, CONN POLICE PURSUIT DATA — 2017 (2018); *Summary Descriptive Information*, CONN POLICE PURSUIT DATA — 2015 (2016); *Summary Descriptive Information*, CONN POLICE PURSUIT DATA — 2014 (2015); *Summary Descriptive Information*, CONN POLICE PURSUIT DATA — 2013 (2014).

<sup>16</sup> Thomas Frank, *High-Speed Police Chases Have Killed Thousands of Innocent Bystanders*, USA TODAY (July 30, 2015), <https://www.usatoday.com/story/news/2015/07/30/police-pursuits-fatal-injuries/30187827/>.

<sup>17</sup> *No Easy Answers: Sex Offender Laws in the U.S.*, HUM. RTS. WATCH (2009), <https://www.hrw.org/report/2007/09/11/no-easy-answers/sex-offender-laws-us>.

casual ease of consulting a public registry can bring unnecessary public exposure and retribution against those who have already paid their debt to society and are trying to rebuild their lives. Research clearly shows that a job, a stable home, and family support are the factors that prevent recidivism. And the reintegration of formerly incarcerated people into productive roles in society is good for everyone. We oppose any legislation that expands the presence of sex offender registries in people's lives. As such, we oppose this bill.

### *Conclusion*

House Bill 6878 rolls back too many needed accountability provisions and re-expands opportunities for police searches not even two years after the police accountability bill was enacted. Accordingly, the ACLU-CT strongly opposes House Bill 6878 and urges this Committee to oppose it as well.