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TESTIMONY OF MICHAEL KEBEDE, ESQ.

*-regarding-*

**LD 2224, An Act to Strengthen Public Safety by Improving Maine’s  
Firearm Laws and Mental Health System**

Joint Standing Committee on Judiciary

March 7, 2024

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary, greetings. My name is Michael Kebede, and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support Sections 4 and 6 (providing Maine people with more resources to address violence and mental health challenges); oppose Sections 2 (increasing the class of crime for recklessly selling or transferring a firearm to a prohibited person from a D to a C), 3 (creating a Class C crime for selling a firearm without a background check) and 19 (increasing the class of crime for a prohibited person in possession of a dangerous weapon from a D to C); and oppose portions of the bill addressing the so-called yellow flag law, to the extent that those portions double down on the conflation of mental illness with a propensity for violence.

**We Support Sections 4 and 6 of LD 2224, Which Provide More Resources to Maine People**

Section 4 of the bill would require the Department of Health and Human Services to provide children and families access to, among other things, “[i]njury and violence prevention programs.” Section 6 would establish a crisis receiving center in Lewiston. We support both measures. We also urge the legislature to fund more than just one crisis receiving center. While Lewiston was the epicenter of mass violence, families across the entire state are hurting for resources for their loved ones who experience gun violence on a smaller scale, and who also need access to mental health care and substance use disorder treatment wholly unrelated to violence.

## **We Oppose Sections 2, 3, and 19, Which Increase Criminal Penalties**

The right to own and use firearms is neither absolute nor immune from government regulation. Firearms are inherently dangerous instruments. Unlike other activities protected by the Bill of Rights, using firearms can inflict serious bodily injury or death on others. Therefore, firearms ought to be subject to reasonable regulation in the interests of public safety, environmental protection, and public health.

Gun violence has increased in recent years, reaching levels not seen in the past twenty years, but increasing criminal penalties will only further our mass incarceration crisis and disproportionately harm people of color.<sup>1</sup> For instance, Black people and young people aged 18 to 24 are the most frequent victims of gun violence.<sup>2</sup> However, Black and Brown people are also disproportionately punished for illegal weapons possession. A 2020 Harvard report that examined sentencing disparities in the Massachusetts criminal legal system found that Black and Latinx people charged with drug and weapons offenses were more likely to be incarcerated and receive longer sentences than white people charged with similar offenses.<sup>3</sup> This difference persists after controlling for charge severity and additional factors. Maine already disproportionately arrests people of color as compared to white people, so that while 1.6 percent of Maine's population is Black, Black people make up 5 percent of all arrests and more than 10 percent of those in Maine's prisons.

As you deliberate over this bill, we ask that you look for solutions that do the most good while preventing the most harm. After decades of failed policies like those at the core of the War on Drugs, it is clear that criminalizing certain behaviors is not the way to change those behaviors. And, regulation of guns does not require the

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<sup>1</sup> See Ed Pilkington, *Gun deaths in US rise to highest level in 20 years*, data shows, THE GUARDIAN, Dec. 13, 2018, available at <https://www.theguardian.com/us-news/2018/dec/13/us-gun-deaths-levels-cdc2017>.

<sup>2</sup> Firearm Violence, 1993-2011, Bureau of Justice Statistics, available at <https://bjs.ojp.gov/press-release/firearm-violence-1993-2011>.

<sup>3</sup> Elizabeth Tsai Bishop, Brook Hopkins, Chijindu Obiofuma, Felix Owusu, *Racial Disparities in the Massachusetts Criminal System: A Report by The Criminal Justice Policy Program Submitted to Chief Justice Ralph D. Gants, Supreme Judicial Court of Massachusetts*, Criminal Justice Policy Program, Harvard Law School, Sept. 2020, available at <https://hls.harvard.edu/wp-content/uploads/2022/08/Massachusetts-Racial-Disparity-Report-FINAL.pdf>.

creation of new crimes—there is at least one bill before this committee that would regulate the purchase of guns without adding to the project of mass incarceration.

### **We Oppose the Portions of LD 2224 That Double Down on the Law’s Conflation of Mental Illness and Propensity for Violence**

We oppose the portions of the LD 2224 that conflate mental illness with a propensity for violence. Maine law already inappropriately allows a person’s mental illness to be a prerequisite for protective custody, instead of just their behavior. LD 2224 doubles down on this stigmatizing and harmful conflation.

Having a mental illness is not a crime, nor does it make a person inherently dangerous. A mental illness is a health condition. People with severe mental illness are over ten times more likely to experience violence than the general population.<sup>4</sup> Attempts to link mass violence to an individual’s mental health obscure the drivers of violence: increasing deregulation of firearms, unavailability of violence intervention programs, and virulent misogyny, among other things. These attempts infringe on the civil rights and liberties of people with mental illness, while leaving exceedingly dangerous weapons unregulated. We urge this committee to amend Maine’s laws so mental illness is no longer a prerequisite for triggering the yellow flag law.

### **Conclusion**

We can shrink our outsized and misused criminal legal system and commit our resources to things that make communities healthier and safer: education, housing, and health care. Indeed, this bill does just that. Sections 4 and 6 create more resources for both violence prevention and mental health treatment. But the bill’s new crimes would expand a failed system, and its conflation of mental illness with violence stigmatizes and unfairly paints people with mental illness as the reason for mass violence. We lock up more people in this country than any country in the history of the world and our incarceration rate in Maine is higher than most NATO member states. Worse, that incarceration rate is racially biased, especially

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<sup>4</sup> SAMHSA, Mental Health Myths and Facts, available at <https://www.samhsa.gov/mental-health/myths-and-facts>, last accessed Mar. 6, 2024.

when it comes to gun charges. A better world begins with making the commitment to stop turning to the criminal legal system to solve society's problems.

Thank you for your time and attention.