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February 8, 2021

Hon. Stephen Isherwood
Rhode Island District Court
J. Joseph Garrahy Judicial Complex
One Dorrance Plaza
Providence, RI 02903

Re: Community Impact Statement; Rhode Island v. Richard Gordon,
6th Division District Court (61-2020-06565)

Dear Judge Isherwood:

ADL (the Anti-Defamation League) is pleased to submit this Community Impact Statement to the Court in connection with the above-referenced case.

As you may know, ADL is a leading anti-hate organization founded in 1913 with a mission “to stop the defamation of the Jewish people and to secure justice and fair treatment to all.” Dedicated to combating antisemitism, prejudice, and bigotry of all kinds, as well as defending democratic ideals and promoting civil rights, our ultimate goal is a world in which no group or individual suffers from bias, discrimination, or hate.

Over the past three decades, ADL has also been recognized as a leading resource on effective responses to violent bigotry, conducting an annual *Audit of Anti-Semitic Incidents* and drafting model hate crime statutes for state legislatures. Currently 46 states, as well as the District of Columbia, have enacted hate crimes laws, many of which are based on, or similar to, ADL’s model hate crime statute. We were also privileged to lead a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations in support of the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA) for more than a decade.

Hate crimes demand priority attention because of their special impact. These crimes are often described as “message crimes,” in large part because they cause harm not only to the individual victim, but also to the victim’s entire community, sending a message to anyone who shares the victim’s protected characteristic that they are not safe or welcome in the community.

The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. Failure to properly address these incidents can cause a single event to explode into widespread community tension, leaving an entire community fearful, isolated and vulnerable.

At their core, hate crimes are criminal acts in which a perpetrator intentionally selects a victim, in whole or in part, because of a protected, immutable characteristic – such as race, color, religion, ethnicity, national origin, gender, sex, sexual orientation, gender identity or expression, or disability. While a bias motivation must always be proven beyond a reasonable doubt, bias does not necessarily have to be the *only* factor that caused the hate crime offender to act. Examples of such “mixed motive” hate crimes could include a perpetrator who vandalizes an LGBTQ+ community center *both* because of anti-LGBTQ+ animus *and* because the offender is angered by the amount of traffic that the center brings to the neighborhood; or a perpetrator who assaults a Jewish victim *both* because the victim owes the perpetrator money *and* because the perpetrator believes that all Jewish people are greedy and need to be “taught a lesson.” These “mixed motive” crimes can also arise in the context of road rage incidents, where a hate crime perpetrator, upon seeing that the offending driver is a person of color, follows the victim to a rest stop and assaults the victim as the victim is exiting his or her vehicle.

In these and other similar cases, requiring prosecutors to prove that bias was the *sole* or *only* motivating factor underlying the crime is not only inconsistent with the concept of hate crimes, but it also creates a convenient loophole for hate crime offenders—by pointing to any other factor that may have also contributed to their desire to commit the crime, hate crime offenders can potentially escape liability for conduct that otherwise rises to the level of a hate crime. But just because a hate crime offender had multiple reasons for committing a crime, does not mean that the bias motivation was any less substantial, or had any less impact on the victims targeted.

For these reasons, ADL believes that this case is an appropriate candidate for consideration under Rhode Island’s Hate Crime Sentencing Act, § 12-19-38. Here, it appears that the hate crime offender, Richard Gordon, shouted racist slurs, including the N-word, towards his neighbor, Bahram Pahlavi, prior to escalating the encounter into a physical assault. There was also evidence of bias in the immediate aftermath of the altercation, when the Defendant allegedly called Mr. Pahlavi a “raghead.” The fact that bias was a motivating factor here is only underscored by the Defendant’s own

purported justification for the remarks – that his hate speech was meant to “distract” Mr. Pahlavi as a matter of self-defense – which was not deemed credible by the Court.¹

There is no question that this hate crime has had a deep impact on the entire Barrington community, sparking racial justice protests outside of the Defendant’s home and additional protests at Barrington Town Hall. Not only did the Defendant commit a bias-motivated offense, but he attempted to “justify” his racist motivations as a matter of “self-defense” – in a base attempt to further appeal to bias and avoid accountability for his actions. This, combined with Defendant’s remarks after the altercation – “Wait ‘til the cops get here. He’s going to jail” – provide an ugly reflection of how interpersonal racism, systemic racism, and white privilege can manifest. Defendant’s actions and excuses appear rooted in his assumption that his power and privilege would afford him preferential treatment by law enforcement and allow him to avoid the consequences of his actions.

By considering whether this case is eligible for a sentencing enhancement under Rhode Island’s Hate Crime Sentencing Act, this Court will send a strong message to residents in Barrington and other parts of Rhode Island that hate crimes are taken very seriously and will not be tolerated in our communities.

We hope the information in this letter is helpful to the Court. Please do not hesitate to contact us with any questions.

Sincerely,



Robert Trestan
Regional Director

¹ Rhode Island’s Hate Crime Sentencing Act requires that the perpetrator commit the underlying offense “because of” hatred or animus towards the victim’s protected characteristics. In Massachusetts, similar “because of” language has been interpreted to mean that bias simply played a *role* in the underlying offense. See *Commonwealth v. Kelley*, 470 Mass. 683, 689-92 (Mass. 2015) (declining to interpret “because of” to mean that hostility towards a protected characteristic must be the “sole” reason or a “substantial” reason for defendant’s unlawful conduct, and instead indicating that bias must “play a role” in the perpetration of the crime); M.G.L. c. 265, s. 39 (emphasis added) (defining a hate crime to include “assault or a battery . . . with the intent to intimidate such person *because of* such person’s race, color, religion, national origin, sexual orientation, gender identity, or disability”).