



July 30, 2021

Dear Williamstown Select Board, Williamstown Interim Town Manager Charles Blanchard, and Williamstown Interim Police Chief Michael Ziemba,

I am writing on behalf of the Lawyers' Committee for Civil Rights Under Law¹ as we are deeply concerned about reports of racism and antisemitism within the Williamstown Police Department (WPD). As alleged in a lawsuit against the Town last summer and subsequently reported in local media, the WPD currently employs an officer, reported as Officer Craig Eichhammer, who displayed a poster of Adolf Hitler in his station locker for several years. Given that Town officials have not explicitly denied these extremely disturbing allegations, which have been repeatedly discussed in public for almost a year, we presume they are true.

To flaunt Hitler's image is to echo neo-Nazis and other hate groups that revere Hitler as a symbol of white supremacy.² As you undoubtedly know, Hitler was an avowed racist who believed that "Aryans" were superior to all other peoples. And Hitler acted on those principles. He was responsible for the mass murder of more than six million Jews, as well as millions of other civilians deemed by the Nazis to be racially inferior.³ Under Hitler's regime, Black Germans were persecuted, sterilized, incarcerated, and murdered.⁴ It is impossible to expect the community to turn to the WPD in the wake of a hate crime — whether that be a school vandalized with a swastika,⁵ or bias-motivated violence such as Massachusetts has recently seen⁶ — when there is a perception that WPD officers may hold the same white supremacist or bigoted

¹ The Lawyers' Committee is a national civil rights organization formed in 1963 at the request of President Kennedy to forward racial justice under the law. The James Byrd Jr. Center to Stop Hate, at the Lawyers' Committee, supports communities and individuals targeted for hate and challenges white supremacy by using creative legal advocacy, disrupting systems that enable hate, and educating the general public and policy makers.

² Anti-Defamation League, *Hate on Display Hate Symbols Database*, <https://www.adl.org/hate-symbols?keys=hitler>.

³ United States Holocaust Memorial Museum, *Documenting Numbers of Victims of the Holocaust and Nazi Persecution* (December 8, 2020), <https://encyclopedia.ushmm.org/content/en/article/documenting-numbers-of-victims-of-the-holocaust-and-nazi-persecution>.

⁴ United States Holocaust Memorial Museum, *Afro-Germans During the Holocaust*, <https://encyclopedia.ushmm.org/content/en/article/afro-germans-during-the-holocaust>.

⁵ Scott Merzbach, *Racist, anti-Semitic graffiti at Amherst Regional High School investigated*, Daily Hampshire Gazette (December 15, 2020), <https://www.gazettenet.com/Racist-and-anti-Semitic-graffiti-investigated-at-Amherst-Regional-High-School-37805518>.

⁶ See, e.g., Quincy Walters and Jack Mitchell, *Suffolk DA Rollins Investigating Brighton Rabbi Stabbing As Possible Hate Crime*, WBUR (July 2, 2021), <https://www.wbur.org/news/2021/07/02/rollins-brighton-rabbi-stabbing-hate-crime>; Jesus Jimenez and Eduardo Medina, *Fatal Shooting of 2 Black People Near Boston Is Investigated as a Hate Crime*, The New York Times (June 27, 2021), <https://www.nytimes.com/2021/06/27/us/winthrop-shooting-massachusetts.html>.

beliefs as the perpetrators of those crimes. Furthermore, displaying a symbol of hate such as the Hitler poster expressly violates WPD policies, which state that “a relationship of trust and confidence” between officers and the Town community is “essential to the successful accomplishment of law enforcement objectives.”⁷

The Lawyers’ Committee urges you to identify and implement reforms that will ensure bigotry and hate is no longer tolerated within the WPD. And we implore you to terminate Officer Eichhammer, whose continued employment undermines the WPD’s ability to effectively serve and build trust with the Williamstown community.

I. Background

In August 2020, WPD Sergeant Scott McGowan filed a lawsuit against Williamstown alleging sexual harassment, racial harassment, racial discrimination, and antisemitism by former police chief Kyle Johnson and several WPD officers.⁸ The Town did not deny the allegation, corroborated by accompanying photographic evidence, that an officer hung a poster of Adolf Hitler in his station locker for several years, where it was visible to every officer.⁹ Nor did the Town deny the allegation that this same officer sexually assaulted a Town resident in 2011.¹⁰ Local reporting later named the officer investigated for the 2011 sexual assault as Craig Eichhammer.¹¹

Subsequent reports of misconduct have further deepened Williamstown residents’ mistrust of the WPD, particularly among residents of color. In October 2020, a WPD dispatcher resigned after learning that the police chief at the time had recommended his firing because of racist social media posts shared by the dispatcher. The posts used dehumanizing and threatening language and celebrated violence against Black Lives Matter protesters.¹² For instance, in one post, the

⁷ Williamstown Police Department, *Administrative Order No. ADM 4.01* (September 1, 2003), available at <https://drive.google.com/file/d/1dBnu8I9CMWbLXnoae4aBWNmrqeuPelId/view>.

⁸ Jeongyoon Han and Kevin Yang, *Lawsuit brought by WPD sergeant alleges sexual assault, racial harassment by Williamstown Police Chief and unnamed officers*, *The Williams Record* (August 12, 2020), <https://williamsrecord.com/352894/news/lawsuit-brought-by-wpd-sergeant-alleges-sexual-assault-racial-harassment-by-williamstown-police-chief-and-unnamed-officers/>.

⁹ Jeongyoon Han, Kevin Yang, and Lucy Walker, *Town denies allegations against WPD chief, admits 2014 racial harassment incident*, *The Williams Record* (August 30, 2020), <https://williamsrecord.com/361513/news/town-denies-allegations-against-wpd-chief-admits-2014-racial-harassment-incident/>.

¹⁰ *Id.*

¹¹ Scott Stafford, *Williamstown to retain embattled police chief*, *The Berkshire Eagle* (October 29, 2020), https://www.berkshireeagle.com/news/local/williamstown-to-retain-embattled-police-chief/article_f229fed0-1a0d-11eb-8231-13b6cfd3ee52.html.

¹² Jack McGovern and Kevin Yang, *WPD dispatcher who shared anti-Black racist Facebook posts resigns*, *The Williams Record* (November 13, 2020), <https://williamsrecord.com/415096/news/wpd-dispatcher-who-shared-anti-black-racist-facebook-posts-resigns/>.

dispatcher shared a video of an altercation between a group of Black people, responding to a comment that said “Animals” with “yup, fucking losers.” This same dispatcher had shouted the N-word at a Black student of Williams College touring the WPD station in 2014, as alleged in McGowan’s lawsuit and subsequently admitted by the Town.¹³ The dispatcher’s posts themselves were not revealed until a local newspaper published them, intensifying concerns that the community was only seeing the tip of the iceberg in terms of racist behavior in the WPD.

Then, in March 2021, then-Acting Police Chief Michael Ziemba disclosed that three WPD officers had illegally searched the names of vocal WPD critics through the Criminal Justice Information Services database.¹⁴ These confirmed allegations — including racist social media posts, the racial harassment of a Black Williams College student, and illegal searches of WPD critics — have eroded public trust in the department and made it clear that accountability has been sorely lacking within the WPD.

Last month, it was disclosed that Eichhammer had been placed on the Berkshire DA’s “do-not-call” list, which consists of officers whose credibility is so compromised that they are disqualified from testifying on behalf of the state.¹⁵ At the June 28 Select Board meeting, Town Manager Charles Blanchard said that no disciplinary action could be taken against Eichhammer, as he had already been disciplined for the 2011 “incident” — presumably the 2011 sexual assault — that had likely placed him on the do-not-call list.¹⁶ However, Eichhammer has not been disciplined for displaying the poster of Hitler.

Experts on policing agree that the mere perception of a police officer harboring white supremacist sentiment jeopardizes the integrity of a law enforcement agency, endangers individual officers and community members alike, and may deepen the divide between police officers and communities of color.¹⁷ Eichhammer’s display of a white supremacist hate symbol

¹³ *Id.*

¹⁴ Rebecca Tauber and Jeongyoon Han, *Acting police chief confirms three officers illegally searched records of vocal WPD critics*, The Williams Record (March 12, 2021), <https://williamsrecord.com/456232/news/acting-police-chief-confirms-three-officers-illegally-searched-records-of-vocal-wpd-critics/>.

¹⁵ Stephen Dravis, *Williamstown Residents Press Board to Act on Police Officer*, iBerkshires (June 29, 2021), <https://www.iberkshires.com/story/65289/Williamstown-Residents-Press-Board-to-Act-on-Police-Officer.html>.

¹⁶ *Id.*

¹⁷ See Department of Justice, *Importance of Police-Community Relationships and Resources for Further Reading*, <https://www.justice.gov/crs/file/836486/download> (emphasizing community trust in police is critical to public safety, and stating community trust depends on perceptions that police actions reflect community values), Giffords Law Center, *In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence* (Jan. 2020), <https://giffords.org/wp-content/uploads/2020/01/Giffords-Law-Center-In-Pursuit-of-Peace.pdf> (finding lack of trust between police and communities is a major driver of national gun violence), and Desmond, Matthew, Andrew V. Papachristos, and David S. Kirk, *Police*

has already exacerbated this divide. As local organizers have told us, Eichhammer has lost the trust and confidence of Black and Jewish community members. Since he can no longer effectively carry out his duties, Eichhammer's continued employment by the WPD is untenable.

II. Eichhammer's conduct violates WPD policy and is not legally protected speech

Eichhammer's conduct violates the professional standards set out in the WPD's Policies and Procedures. As outlined in Administrative Order No. ADM 4.01, WPD employees "are expected to conduct themselves, whether on or off duty, in such a manner as to reflect favorably upon themselves and the department."¹⁸ In eroding public trust in the department through his display of a hate symbol, Eichhammer has reflected unfavorably upon the WPD and undermined the "consistently high quality" standard of conduct that "maintains the reputation of the department."¹⁹ At the very least, his demonstrated lack of commitment to the department's stated policy of "respect[ing] the diversity and the cultural differences of all people"²⁰ makes him unfit to represent the WPD as an active officer.

Beyond these concerns, the First Amendment does not protect the type of speech at issue here. As the U.S. Supreme Court has recognized, the speech of public employees is generally protected only when employees speak on a matter of public concern *and* their speech does not risk interfering with the agency's provision of public services.²¹ Here, Eichhammer's display of a photograph of Hitler plainly did not involve a matter of public concern and was not intended to contribute to public discourse. Rather, displaying the photograph was, at worst, an expression of hate and, at best, an abject failure to behave professionally.

Even if Eichhammer's speech was on a matter of public concern, the Supreme Court has held that a public employee's speech rights must be balanced against the state employer's interest in "promoting the efficiency of the public services it performs through its employees."²² In balancing these interests, courts have considered whether speech "impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise."²³ Moreover,

Violence and Citizen Crime Reporting in the Black Community, Am. Soc. Rev. 81.5 (2016) (finding that news of police abuses led to fewer 911 calls and diminished community safety).

¹⁸ Williamstown Police Department, *Administrative Order No. ADM 4.01* (September 1, 2003), available at <https://drive.google.com/file/d/1dBnu8I9CMWbLXnoae4aBWNmrqeuPelld/view>.

¹⁹ *Id.*

²⁰ Williamstown Police Department, *Administrative Order No. ADM 4.10* (March 1, 2005), available at <https://drive.google.com/file/d/1e6LlqFOfj7r1HNURgo7wdiHFeiqd3wc/view>.

²¹ *See Connick v. Myers*, 461 U.S. 138 (1983).

²² *Pickering v. Board of Education*, 391 U.S. 563 (1972); *see also Torres-Rosado v. Rotger-Sabat*, 335 F.3d 1, 13 (1st Cir. 2003) ("In general, government interests outweigh First Amendment rights when employee speech prevents efficient provision of government services or disrupts the workplace.").

²³ *Bennett v. City of Holyoke*, 230 F. Supp. 2d 207, 224 (D. Mass. 2002), *aff'd*, 362 F.3d 1 (1st Cir. 2004) (quoting *Rankin v. McPherson*, 483 U.S. 378, 388); *see also Curran v. Cousins*, 509 F.3d 36, 50 (1st Cir.

because the nature of police work requires extensive public contact, community trust, and close working relationships, courts may grant further deference to a police department's judgment that an officer's actions disrupt its operation.²⁴

Eichhammer's sullied reputation among community members prevents him from performing his duties effectively and disrupts the WPD's efficient operation.²⁵ In his current role, Eichhammer may be called to investigate hate crimes motivated by antisemitism or white supremacy. But his history of misconduct and tolerance for expressions of hate makes it impossible for the community to trust him to conduct such investigations. Indeed, the effects of community mistrust are already manifest. In October 2020, a Black staff member at Williams College who received a threatening hate letter expressed fear of reporting the incident to the WPD, citing reports of racism in the department.²⁶ These concerns were echoed in a November 2020 letter from the Berkshire County NAACP to the Select Board, which emphasized the lack of confidence among residents of color "in the ability and willingness" of the WPD to keep them safe.²⁷ As the NAACP wrote, "the citizens of Williamstown are scared, and many are scared of the police."²⁸

III. Williamstown must thoroughly reckon with issues of racism within law enforcement to earn the trust of its residents

2007) (correctional officer's termination for statements comparing his employer to Hitler was justified by the potential disruption to the workplace, including the risk of "undermining confidence in the administration.").

²⁴ See, e.g., *Bennett* 230 F. Supp. 2d at 225 (D. Mass. 2002) (quoting *McMullen v. Carson*, 754 F.2d 936, 938 (11th Cir.1985)) ("Additionally, law enforcement agencies, as para-military organizations, are qualitatively different from other governmental branches; law enforcement employees are 'subject to greater First Amendment restraints than most other citizens.'"); see also *Locurto v. Giuliani*, 447 F.3d 159, 178–80 (2d Cir. 2006) (recognizing NYPD's legitimate interest in its public perception, particularly by minority communities whose relationship with NYPD already was fraught, and upholding termination of officers who engaged in "disruptive" expressive activities that could perpetuate widespread perception of NYPD officers as racist), *Pappas v. Giuliani* 290 F.3d 143 (2d Cir. 2002) (recognizing a police officer's job quintessentially involves public contact, and holding that the public's perception of an officer's speech factors into whether it disrupts government operations).

²⁵ See, e.g., *Dible v. City of Chandler*, 515 F.3d 918, 926 (9th Cir. 2008) (police officer's effort to conceal his sexually explicit online activity was immaterial, and "it can be seriously asked whether a police officer can ever disassociate himself from his powerful public position sufficiently to make his speech (and other activities) entirely unrelated to that position in the eyes of the public and his superiors.").

²⁶ Jack McGovern and Sam Wolf, *Staff member receives violent and threatening hate letter at their home*, The Williams Record (October 29, 2020), <https://williamsrecord.com/401923/news/staff-member-receives-violent-and-threatening-hate-letter-at-their-home/>.

²⁷ NAACP, *Berkshire County Branch*, Letter Re: Misconduct of Williamstown Police Department and Town Manager, available at <https://williamsrecord.com/wp-content/uploads/2020/11/NAACP-BCB-to-Town-of-Williamstown-re-WPD-1.pdf>.

²⁸ *Id.*

We have spoken with Town residents and are concerned that WPD misconduct has undermined the entire department's ability to maintain the public faith. In addition to Eichhammer's immediate dismissal, affirmative steps should be taken to restore faith in the WPD's mission to serve and protect. We commend the Town for commissioning an independent investigation into the reports of WPD misconduct,²⁹ and urge the Select Board and police chief to ensure that the findings of this investigation translate into reform within the department. We also encourage the Town's research project into the "scope and nature of policing"³⁰ in Williamstown to identify policy changes aimed at rebuilding community trust in the department. The internal culture of the WPD must be one that shows no tolerance for bigotry or hate in any form.

Law enforcement agencies across the country are addressing racism within their ranks, responding to decades of activism. For example, in 2019, a Michigan police department fired an officer who had Confederate flags and a Ku Klux Klan document in his house. Though he claimed he collected the items as historical memorabilia, the department terminated the officer, citing the community's lost confidence in him.³¹ In West Virginia, 34 cadets training to be correctional officers were fired after an image was discovered of them giving a Nazi salute.³² The Wilmington, North Carolina police chief fired three officers after discovering footage of them exchanging racist and disparaging remarks.³³ In Washington, D.C., the Capitol Police suspended an officer who had been found with an antisemitic tract at his workstation.³⁴

It is time for Williamstown to act. As hate crimes in Massachusetts continue to rise,³⁵ the WPD can only fulfill its mission with the community's full confidence. We urge you to swiftly

²⁹ Josh Landes, *Williamstown Reiterates Commitment To Independent Investigation Of Police Department*, WAMC (January 12, 2021), <https://www.wamc.org/post/williamstown-reiterates-commitment-independent-investigation-police-department>.

³⁰ Town of Williamstown, *Williamstown CARES Community Assessment & Research*, <https://williamstownma.gov/community-research/>.

³¹ Lynn Moore, *Cop fired for KKK, Confederate flag 'memorabilia' signs separation agreement*, MLive (May 8, 2020), <https://www.mlive.com/news/muskegon/2020/05/cop-fired-for-kkk-confederate-flag-memorabilia-signs-separation-agreement.html>.

³² Scottie Andrew and Carma Hassan, *All the cadets pictured giving a Nazi salute will be fired, West Virginia governor says*, CNN (December 31, 2019), <https://www.cnn.com/2019/12/31/us/west-virginia-cadet-nazi-salute-fired-trnd/index.html>.

³³ Jason Slotkin, *North Carolina Police Chief Fires Three Officers Over Racist Comments Caught On Tape*, NPR (June 25, 2020), <https://www.npr.org/sections/live-updates-protests-for-racialjustice/2020/06/25/883358818/wilmington-n-c-police-fires-three-officers-over-racist-comments-caught-on-tape>.

³⁴ Mike DeBonis and Tyler Pager, *Capitol Police officer suspended after antisemitic document found at checkpoint*, The Washington Post (March 16, 2021), https://www.washingtonpost.com/powerpost/capitol-police-suspended-longworth/2021/03/15/b59b0e72-85ca-11eb-82bc-e58213caa38e_story.html.

³⁵ See Mark Gartsbeyn, *FBI: Massachusetts had a near 10% rise in hate crimes last year*, Boston.com (November 17, 2020), <https://www.boston.com/news/local-news/2020/11/17/hate-crimes-massachusetts-2019/> and Kami Rieck, *Sharp increase in hate crimes has Mass. legislators looking to tighten laws*, Milford Daily News (May 23, 2021),

terminate Eichhammer and partner with residents to build a police department worthy of the public's trust. We are happy to meet with you to discuss the issue and assist you with this matter. You can reach our office by contacting Arusha Gordon, Associate Director of the James Byrd Jr. Center to Stop Hate at the Lawyers' Committee for Civil Rights, at byrdcenter@lawyerscommittee.org.

Sincerely,

Arusha Gordon
Associate Director
James Byrd Jr. to Stop Hate
Lawyers' Committee for Civil Rights Under Law

<https://www.milforddailynews.com/story/news/state/2021/05/23/massachusetts-looks-tighten-hate-crime-statute/5179954001/>.