



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

DMP:FJN/RAS/APW  
F. #2021R00818

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July 26, 2022

By ECF and Email

The Honorable Joanna Seybert  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

Re: United States v. Robert Fehring  
Criminal Docket No. 22-059 (JS)

Dear Judge Seybert:

The government respectfully submits this memorandum in advance of sentencing in the above-captioned case, which is scheduled for August 3, 2022, at 3:00 p.m. The defendant Robert Fehring pleaded guilty to mailing threatening communications, in violation of 18 U.S.C. § 876(c). The defendant threatened people for eight years because of their sexual orientation. The defendant's threats were designed to make—and did make—members of the LGBTQ+ community and those who support them live in fear. The defendant has a First Amendment right to hold bigoted beliefs; he does not have a right to threaten people based on his bigoted beliefs. It is now time for the defendant to face the consequences of his hate-filled conduct. For these reasons, and the reasons discussed below, the government recommends that the Court impose a sentence of 51 months' imprisonment, which is within the applicable advisory United States Sentencing Guidelines range. Such a sentence considers the defendant's age and medical conditions, while also ensuring punishment that is appropriate given the offense conduct.

I. Factual and Procedural Background

Since at least 2013, the defendant has authored and mailed threatening letters to individuals, organizations, and businesses associated with the lesbian, gay, bisexual, transgender and queer or questioning ("LGBTQ+") community, as well as government agencies. Many of these letters threatened violence, including the use of firearms and explosives. PSR ¶ 6.

A. The Threats Written by the Defendant

The government attaches as Exhibit 1 approximately 65 letters written and/or mailed by the defendant between June 2013 and September 2021.<sup>1</sup> A sampling of the content of some of these letters is set forth below:

1. June 5, 2013: Identical typed letters in two separate envelopes – one addressed to a Long Island town hall and the other to the President and CEO of a Long Island-based LGBTQ+ organization (the “LGBT CEO”) – stated:

THINK THE BOSTON INSANITY WAS INSANE?... WAIT TIL YOU SEE THE PARADE IN HUNTINGTON ON SATURDAY!!!! WHOOPEE!!!!!!

The “Boston insanity” referred to the bombing that took place at the Boston Marathon on April 15, 2013, just two months prior to the mailing of this letter. The Boston Marathon bombing resulted in the death of three spectators (including an 8-year-old child) and the wounding of more than 260 other spectators (including children). The “parade” in Huntington referred to the pride parade, which is an event to celebrate and support the LGBTQ+ community in Long Island.

PSR ¶ 8.

2. June 11, 2014: Identical typed letters in two separate envelopes – one addressed to a local government office and the other to the LGBT CEO stated in part:

YOU'RE A FREAK.... WE KNOW WHERE YOUR LOCATIONS ARE.....WE KNOW NOW WHERE YOU LIVE.....AND WE'RE READY TO START ELIMINATING THE SCUM OF THE EARTH LIKE YOU....STARTING WITH YOUR FAG-FEST ACTIVITIES IN HUNTINGTON THIS SATURDAY.....THE PLACE WILL NEVER BE THE SAME. THINK BOSTON MARATHON YOU ANIMAL.

PSR ¶ 9.

3. October 2014: A typed letter to the LGBT CEO stated in part:

YOU PIECE OF SHIT, SOOOOOOOOOO SORRY COULD NOT BLOW YOUR ASS AWAY UP IN HUNTINGTON BACK IN THE SPRING. SUCKING DICK, AND GETTING IT IN THE ASS LATELY? HAVEN'T SEEN YOUR FAT, UGLY, WARPED, GAY FACE SINCE . .

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<sup>1</sup> A redacted copy of Exhibit 1 has been filed on ECF to protect the privacy of victims. An unredacted copy has been provided to the Court, defense counsel, and the Probation Department.

. THOUGHT YOU GOT THE MESSAGE WE ARE TARGETING YOU. BUT NO . . . FAG LOVING NEWSDAY SPLATTERS YOUR UNBELIEVABLE GAY MUG IN THE PAPER . . . BUILDING A GAY “SAFE HOUSE” IN BAYSHORE. WELL GUESS WHAT . . . IT WON’T BE SAFE . . . YOU ARE NOT SAFE . . . YOU ARE BEING TRACKED . . . IT IS JUST A MATTER OF TIME UNTIL THE RIGHT MOMENTS ARRIVE TO ELIMINTATE YOU AND YOUR LOCATIONS, AND THE “SAFEHOUSE” IS BURNED TO THE GROUND.

PSR ¶ 10.

4. June 6, 2018: A typed letter in an envelope addressed to the owner-manager of a beach club in Long Beach, New York stated in part:

Hosting the LI Pride fag-fest party? Be warned. There will be radio-controlled explosives planted in your establishment.

PSR ¶ 12.

5. June 6, 2018: A typed letter in an envelope addressed to the owner of a water ferry service in Sayville, New York stated:

Beware . . . Your Pines and Grove ferries to the fag-fest on Friday . . . and over the weekend . . . are in grave danger. Will pay to screen everyone coming on board with a metal detector. And a thorough search of your boats would be in order.

PSR ¶ 11.

6. June 24, 2019: A typed letter in an envelope addressed to an individual associated with a Long Island Chamber of Commerce stated:

If you continue to plan to have the LGBT thing at Alive at Five, be prepared by having a large police presence, and numerous ambulance available. Alhamdulillah. Praise be to Allah.

PSR ¶ 16.

7. May 20, 2021: A typed letter in an envelope addressed to the executive director of an organization associated with the New York City Pride Parade stated in part:

AS YOU FUCKING SCUM ARE PREPARING TO WALTZ YOUR FRUITY, FREAKY, FAGGOT ASSES DOWN THE NY PARADE LANE(S), WE WARN YOU THAT THERE WILL BE RADIO-CONT[R]OLLED DEVICES PLACED AT NUMEROUS STRATEGIC PLACES, AND FIREPOWER AIMED AT YOU FROM OTHER

STRATEGIC PLACES. WE'VE HAD ENOUGH!!! THIS WILL MAKE THE 2016 ORLANDO PULSE NIGHTCLUB SHOOTING LOOK LIKE A CAKEWALK.

The "2016 Orlando Pulse Nightclub Shooting" referred to a mass shooting at Pulse, a gay nightclub in Orlando, Florida on June 12, 2016. Approximately 49 people were killed in the shooting and dozens of others were wounded. The reference to a "parade" was to the June 27, 2021 New York City Pride Parade in Greenwich Village.

PSR ¶ 20.

8. June 9, 2021: A typed letter in an envelope addressed to the LGBT CEO stated in part:

BETTER BE READY TO MEET YOUR END IF YOU SHOW UP AT EISENHOWER ON SUNDAY. IT'S A GREAT PLACE TO UNLOAD A HIGH-POWERED RIFLE BULLET FROM A DISTANCE, THAT CAN GO RIGHT THROUGH YOUR GAY FACE. YOU WERE WARNED....PAY THE PRICE IF YOU WANT. THEY CAN CALL YOU A MARTYR. WE CAN CALL YOU.....GONE.

"Eisenhower" referred to Eisenhower Park in East Meadow, New York, which was to host a LGBTQ+ Pride event on or about June 13, 2021 (the "Eisenhower Park Pride Event").

PSR ¶ 22.

9. June 16, 2021: A doctored Newsday newspaper page was sent in an envelope addressed to the LGBT CEO. The doctored newspaper was titled "FAG FEST BUST!!" and contained photographs of the Eisenhower Park Pride Event with derogatory captions. A copy of the doctored newspaper is copied below:



10. June 25, 2021: A typed letter in an envelope addressed to the LGBT CEO stated in part:

[W]e were right there you fudge-packing, scum-sucking, disgusting, fucking animal...FREAK!!! They couldn't get a shot off at you, slithering around the back stage area like a snake. Too many cops. Very disappointed. But your time has come. . . . They are out to KILL you....and your boyfriend. You are being watched. No matter how long it takes, you will be taken out....high-powered bullet....bomb.....knife.... whatever it takes.

The letter contained a photograph from the Eisenhower Park Pride Event.<sup>2</sup>

PSR ¶ 24.

11. June 25, 2021: Identical typed letters in envelopes addressed to the co-owners of a landmark LGBTQ+ bar<sup>3</sup> in New York, New York stated in part:

FUCK YOU ABNORMAL, UNNATURAL, DEVIANT PERVERSE FREAKS!! . . . MEN HAVING ORAL AND ANAL SEX WITH EACH OTHER IS AS FOUL, DISGUSTING, FILTY, SICKENING AS IT GETS. EVEN ANIMALS KNOW BETTER. ALL OF YOU SHOULD BE SHOT, HUNG, EXTERMINATED . . . WE WILL BLOW UP/BURN YOUR ESTABLISHMENTS DOWN. WE WILL SHOOT THOSE WHO

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<sup>2</sup> Notably, the June 25, 2021 letter stated that the defendant was deterred from taking violent action due to "too many cops."

<sup>3</sup> The bar in Greenwich Village in Manhattan is popular with the LGBTQ+ community and is known for its involvement in the beginning of the modern struggle for civil rights of gay and lesbian Americans.

FREQUENT YOUR DENS OF FILTH, SHIT, SCUM AND PERVERSION . . . JUST A MATTER OF TIME. PLEASE . . . CATCH AIDS AND DIE . . . JUST FUCKING DIE!!

PSR ¶ 25.

12. August 20, 2021: Identical typed letters in envelopes addressed to members of a Long Island Chamber of Commerce and a local company, stated in part:

The next time another rainbow flag is flown in Sayville. Then look out. You will regret it for sure. PSR ¶ 30.

13. September 9, 2021: A typed letter in an envelope addressed to the owner of a LGBTQ+ barbershop in Brooklyn, New York from “People Who Hate Gays . . . and In Particular Nigga Gays,” stated in part:

You unnatural, abnormal, deviant, perverse scum...animals...lower than the shit at the bottom of the pig pen. . . . Men having oral and anal sex with each other is as twisted and beyond comprehension as it gets. Gay niggas going at it is even more gross and horrendous human behavior. I’m sorry if you are too stupid and low-IQ to understand what is being said here. You should all contract social diseases, HIV etc., and DIE . . . you don’t deserve to be on the planet. . . . Thanks to [local news], we now know who you are, and where you are. And your shop is the perfect target for a bombing and/or graffiti and/or a shattered window front...or beating the scum that frequents your den of shit into a bloody pool of steaming flesh. . . . When you least expect it, “[Name] Barber Shop” will cease to exist.

PSR ¶ 31.

14. September 23, 2021: Identical typed letters in envelopes addressed to members of a Long Island Chamber of Commerce and a local company, stated in part:

UNFORTUNATELY THAT IMAGE [of American flags] WAS DESTROYED WITH THE SICK SPLURGE OF THE GAY RAINBOW FLAG BEING PUT UP AS WELL. . . . REST ASSURED THAT IF THAT GAY FLAG IS PUT UP AGAIN, YOU WILL REGRET THAT DECISION. PSR ¶ 32.

**B. The FBI Searches the Defendant’s Home**

On November 18, 2021, the Federal Bureau of Investigation (“FBI”) executed a search warrant at the defendant’s home in Bayport, New York. The agents who executed the warrant wore clear markings that prominently stated “FBI”. The agents also knocked and announced their presence and that they were in possession of a search warrant. The defendant’s wife answered the door and when the agents announced themselves again, she attempted to close the door on them. The agents lawfully pushed the door open and entered the home. Upon entering,

the agents saw the defendant on a landing at the top of the entry staircase. The defendant then entered a bedroom and shut the door. At that point, the agents focused their attention on the bedroom door and repeatedly ordered the defendant to exit the bedroom with his hands up. The defendant refused to respond or comply for approximately 30 to 45 seconds. When the defendant finally complied and exited the bedroom, he positioned himself in such a way so that the agents could not see his left hand. The defendant continued to disobey the agent's repeated directions to raise both hands above his head. When agents later entered the bedroom, they found a loaded shotgun with the safety off that had been within easy reach of the defendant.

The search of the defendant's home revealed the following, among other items:

- Copies of several of the threatening letters described herein;
- Photographs and videos taken at the Eisenhower Park Pride Event, including the photographs mailed to the LGBT CEO;
- Two calendars with the dates of the Eisenhower Park Pride Event and the New York City Pride Parade circled;
- A copy of the doctored Newsday newspaper sent to the LGBT CEO;
- Twenty LGBTQ+ Pride flags that were stolen from Sayville;<sup>4</sup>
- A stamped envelope in the defendant's freezer containing the remains of a dead bird, which was addressed to an attorney who had worked on LGBTQ+ related cases, had published an article on an LGBTQ+ related court decision, and represented a plaintiff in civil litigation against the defendant;<sup>5</sup>
- Two loaded shotguns;
- Nearly 400 rounds of ammunition for shotguns and other firearms;

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<sup>4</sup> On July 13, 25, and 26, 2021, approximately twenty LGBTQ+ Pride flags were stolen from Sayville, New York. The flags had been placed in Sayville as part of the town's celebration of Pride Month by the Sayville Chamber of Commerce. Video footage of the theft shows that the defendant stole the flags using a tool that permitted him to reach their high perch. The government's investigation also revealed that the defendant sent multiple anonymous letters expressing anger at the presence of the flags prior to their theft. On December 7, 2021, the Suffolk County District Attorney's Office charged the defendant with grand larceny in the 4th degree—a Class D felony. The defendant is expected to plead guilty to that offense prior to his sentencing in the instant matter.

<sup>5</sup> The United States Fish and Wildlife Service examined the dead bird and determined that it was a Cedar Waxwing, which is a federally protected species under the Migratory Bird Treaty Act. 16 U.S.C. §§ 703-12.



- Two stun guns; and
- An envelope addressed to the defendant containing a DVD titled, “Underground Build Your Own Silencer System.”

The defendant admitted to the FBI that he had authored certain of the letters described herein and that he had addressed them in a way to ensure that they reached their intended targets and were taken seriously. PSR ¶ 33. The defendant also acknowledged ownership of the firearms and admitted that he had animosity for the LGBTQ+ community.

On December 6, 2021, the FBI arrested the defendant for mailing threatening communications, in violation of 18 U.S.C. § 876(c). PSR ¶ 34. On February 23, 2022, the defendant pleaded guilty before Your Honor to an Information charging him with mailing threatening communications, in violation of 18 U.S.C. § 876(c). PSR. ¶ 1.

## II. Guidelines Calculation

The government agrees with the Guidelines calculation set forth in the PSR, which estimates a Total Offense Level of 24, which, based on a Criminal History Category of I, carries an advisory Guidelines sentencing range of 51 to 63 months’ imprisonment. PSR ¶¶ 43-55, 102. The Guidelines range is predicated on the following stipulated Guidelines calculation:

Base Offense Level (§ 2A6.1(a)(1))	12
Plus: Offense involved conduct evidencing an intent to carry out such threat (§ 2A6.1(b)(1))	+6
Plus: Offense involved more than two threats (§ 2A6.1(b)(2))	+2
Plus: Offense resulted in a substantial disruption of public, governmental, or business function or services, or a substantial expenditure of funds to respond to the offense (§ 2A6.1(b)(4))	+4
Plus: Hate Crime Motivation (§ 3A1.1(a))	<u>+3</u>
Total:	<u>27</u>

## III. The Section 3553(a) Factors

The government respectfully submits that a sentence of 51 months’ imprisonment is sufficient, but not greater than necessary, to achieve the purposes of sentencing in this case for the following reasons. See 18 U.S.C. § 3553(a).

First, a Guidelines sentence will accurately reflect the seriousness of the defendant’s conduct in repeatedly threatening to murder individuals associated with the LGBTQ+ community and to commit other violent acts. See 18 U.S.C. § 3553(a)(1), (a)(2)(A). The evidence demonstrates that over an eight-year period, the defendant mailed threatening communications to



multiple persons associated with and/or supportive of the LGBTQ+ community, as well as government agencies and local businesses. In many letters, the defendant threatened to use firearms and explosives to kill people. In other letters, the defendant threatened property damage and other forms of ruin to local businesses. The defendant did not select his targets randomly. He intentionally targeted LGBTQ+ persons because of their sexual orientation or threatened those who exercised their First Amendment rights in support of the LGBTQ+ community. The defendant also sent many threats during Pride Month (*i.e.*, June) or in the weeks leading up to Pride Month. The clear purpose of this timing was to make people afraid when they were celebrating Pride month. This conduct is reprehensible and deserves serious punishment. The length of the defendant's appalling campaign is an aggravating factor. The defendant made his threats over a period of eight years, which gave him ample opportunity to reflect on the wrongfulness of his conduct and reconsider his course of action. But despite the time that the defendant had to consider his actions, he persisted, and in fact escalated his threats.

Additionally, the defendant did not stop at mere threats. Instead, the defendant did reconnaissance on selected targets and used that reconnaissance to further terrify victims. For example, the defendant threatened the LGBT CEO that he would be shot at the Eisenhower Park Pride Event. PSR ¶ 22. The defendant showed up at the event and took photographs and videos. PSR ¶ 24. The defendant then sent some of the photographs to the LGBT CEO to prove that he had been at the event but had been unable "to get a shot off." *Id.* On another occasion, the defendant sent a letter to a water ferry operator in Sayville threatening to shoot people being transported to a Pride event on Fire Island, New York. PSR ¶ 11.<sup>6</sup> The investigation revealed that the defendant drove to the Sayville ferry terminal several times per year for several years and parked at the terminal with a custom-designed "Straight Pride" flag on his car.<sup>7</sup> The owner of the ferry service informed the FBI that from the defendant's position, the defendant could have easily fired a weapon at the ferry. *Id.* The fact that the defendant sent his threats and then appeared at the above-described locations while he was the owner of multiple firearms and ammunition is particularly serious. He did not merely make threats but took steps to enhance the seriousness of the threats that he made. Furthermore, the defendant's criminal conduct required local law enforcement to devote officers to guard against the defendant's threats—in addition to the significant law enforcement resources required to investigate the defendant's conduct. This diversion of limited government resources deserves additional punishment.

Second, a Guidelines sentence is necessary considering the history and characteristics of the defendant, to deter him from committing future crimes, and to protect the public. The defendant is 74 years old, which means that he began the charged criminal conduct when he was approximately 66 years old. The defendant's conduct cannot be blamed on the impulsiveness or immaturity associated with youth. Nor is it mitigated by a tragic upbringing. To the contrary, the defendant self-reported an unremarkable and generally positive childhood and

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<sup>6</sup> This letter caused the New York State Police, Suffolk County Police Department, the National Guard, and United States Coast Guard to respond to the ferry service. The nature of the threats necessitated a response by a SWAT unit, as well as an explosives-detecting canine.

<sup>7</sup> The FBI found replicas of this flag in the defendant's home.

that his family enjoyed a middle-income lifestyle devoid of financial hardships. PSR ¶ 66.<sup>8</sup> The defendant also earned bachelors and masters degrees, enjoyed a long career, and was able to raise and maintain close contact with his now-adult children. PSR ¶ 66.

Tellingly, the defendant has not put forth any facts indicating that the eight months since his arrest have changed him in any meaningful way. The defendant has informed the Probation Department that “he feels he could not physically tolerate conditions inimical to incarceration,” which has resulted in panic attacks and depression. The government does not doubt that the defendant fears incarceration but notes that he has not mentioned the panic, fear, and other similar emotions that he caused his victims over an extended period. For example, a victim associated with the New York City Pride Parade describes that the defendant’s letters made him “afraid to come to work” and caused his employer to “hire[] private security to guard the office every day following receipt of this letter.” See PSR Addendum. The victim remains concerned for his safety to this very day. Another victim associated with a Long Island Chamber of Commerce describes that she could not be in her office alone and that she was always looking over her shoulder because she feared being attacked. *Id.* Multiple victims have reported that the specific threats and vitriol in the defendant’s letters went well beyond the harassment that the LGBTQ+ community has unfortunately received on a regular basis. The owner of the LGBTQ+ barbershop stated that he was used to being harassed for being gay and African American but felt so unnerved by the defendant’s letter that he immediately walked it to the local police precinct, rather than wait for the police to arrive. The letter made this victim skip a wedding due to anxiety, invest in a security system, and question his decision to open a LGBTQ+ barber shop.

The government recognizes the defendant’s advanced age and the fact that he suffers from some chronic medical conditions. However, neither his advanced age nor his medical conditions prevented the defendant from carrying out an eight-year long threats campaign. These conditions did not prevent him from stealing 20 LGBTQ+ flags that were placed beyond the defendant’s physical reach. Nor did his age or medical condition prevent him from running into a room with a loaded firearm in defiance of lawful orders from federal agents. The defendant simply has not earned the benefit of the doubt. He has not earned the trust necessary for this Court to grant him a below-Guidelines sentence.

Third, a Guidelines sentence is appropriate in this case for purposes of general deterrence. The government respectfully submits that, in sentencing this defendant, the Court should heavily weigh the extent to which the sentence it imposes will deter those in the future who seek to threaten individuals, including threatening individuals based on their sexual orientation, particularly while in possession of firearms and ammunition. The sentence imposed by the Court must make clear that the threats prohibited by Section 876(c) are not protected speech, and that

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<sup>8</sup> Since his arrest, the defendant has claimed—for this first time—that a family member forced him to engage in a homosexual sexual act when he was a child. PSR ¶ 67; PSR Addendum. The defendant appears to believe that this incident triggered his criminal conduct. *Id.* The defendant’s claim—even if true—does not mitigate his criminal conduct. Rather it shows that the defendant understood victimhood but nevertheless chose to threaten death and/or bodily harm to other people who had never harmed him.

threatening to murder people and carry out violence against the community will be met with significant punishment.

IV. Conclusion

For the foregoing reasons, the government respectfully submits that the Court should impose a term of 51 months' imprisonment, which is within the applicable advisory United States Sentencing Guidelines range to provide just punishment for this serious offense, to promote respect for the law, to deter the defendant from future criminal conduct, to protect the public from further crimes of the defendant, and to deter others from engaging in similar conduct in the future.

The government also respectfully informs the Court that at least six victims intend to address the Court in person at sentencing.

Respectfully submitted,

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