



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

VIA EMAIL

The Honorable Amit P. Mehta
District Court Judge
United States District Court for the District of Columbia
333 Constitution Avenue NW
Washington, D.C. 20001

May 22, 2023

Re: Sentencing of Elmer Stewart Rhodes

Dear Judge Mehta,

I am the Executive Director of Georgetown University Law Center's Institute for Constitutional Advocacy and Protection (ICAP), a non-partisan institute that uses litigation, strategic policy development, and constitutional scholarship to vindicate constitutional rights, protect democratic processes, and defend the rule of law. Since bringing successful litigation in 2017 against private paramilitary organizations that participated in the Unite the Right rally in Charlottesville, Virginia,¹ we have developed an expertise in the regulation of public protests in a manner that protects public safety while still respecting individuals' constitutional rights.² As part of that work, I have had the opportunity to present oral and written testimony to Congress about the threat posed by anti-government militia extremists and other paramilitary groups, as they have more boldly entered into the public square and targeted their perceived ideological opponents in a way that is contrary to democratic self-governance.³ In 2022, I was asked to submit an expert statement to the House Select Committee to Investigate the January 6th Attack on the United States Capitol that traced the alarming evolution of the militia movement into a driving force of violent extremism.⁴

I am writing to you today to rebut the dangerous mischaracterizations that Elmer Stewart Rhodes, leader of the Oath Keepers, has made to you in a recent filing asking for leniency in sentencing.⁵ Mr. Rhodes, who was convicted of seditious conspiracy along with other Oath Keepers

¹ See Inst. for Const. Advoc. & Prot., *City of Charlottesville v. Pa. Light Foot Militia*, <https://www.law.georgetown.edu/icap/our-work/addressing-the-rise-of-unlawful-private-militias/city-of-charlottesville-v-pennsylvania-light-foot-militia/>.

² See Inst. for Const. Advoc. & Prot., *Protests & Public Safety: A Guide for Cities and Citizens*, <https://constitutionalprotestguide.org/>.

³ Mary B. McCord, *Testimony for Hearing Before the House Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties* (Dec. 13, 2022), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/12/12.13.22.House-Oversight-Subcommittee-CRCL-McCord-testimony-FINAL-1.pdf>.

⁴ Mary B. McCord, *Expert Statement for the House Select Committee to Investigate the January 6th Attack on the United States Capitol* (Mar. 31, 2022) [hereinafter "Select Committee Expert Statement"], <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/04/House-Select-Committee-ICAP-expert-statement-FINAL.pdf>.

⁵ See Defendant's Sentencing Memorandum, *United States v. Elmer Stewart Rhodes, III*, No. 1:22-cr-15 (D.D.C. May 8, 2023), ECF No. 570 [hereinafter "Rhodes Memo"].

for their role in the attack on the Capitol on January 6, 2021, asks you to look favorably upon his leadership of this private paramilitary organization when considering his sentence. In his sentencing memorandum, Mr. Rhodes argues that it is “imperative that the Court give great deference to [him] for the 12 years of service and dedication of the Oath Keepers, as evinced through the organizations’ [sic] history of community involvement and volunteerism in times of natural disasters and civil unrest.”⁶ In fact, Mr. Rhodes contends that his role founding the Oath Keepers is one of the *most important* factors weighing in favor of a lighter sentence.⁷

In order to back up this argument, Mr. Rhodes contends that the Oath Keepers is not an “extremist” organization, but one that is quintessentially “American” in its focus on mutual aid in times of crisis and upholding the United States Constitution.⁸ This characterization ignores the many instances of illegal, dangerous, and insurrectionist activity that has been the hallmark of the Oath Keepers since its founding.

Mr. Rhodes molded the Oath Keepers into central players in a coalition of anti-government extremists that has grown into one of the most significant threats to U.S. national security.⁹ Contrary to the revisionist history offered by Mr. Rhodes, under his leadership the Oath Keepers joined in several high-profile standoffs between a newly re-energized militia movement and the federal government, which were fueled by often violent conspiracy theories about the perceived tyranny of the federal government under the leadership of then-President Barack Obama.¹⁰ Following the election of former President Donald Trump, Mr. Rhodes increasingly aligned himself with the most violent and militant figures on the far-right, and began to threaten President Trump’s opponents with civil war years before the insurrection on January 6th.¹¹

Given this history, Mr. Rhodes’s tenure as the leader of the Oath Keepers should be seen as an indispensable building block toward his seditious conspiracy to assault Congress and disrupt the peaceful transfer of power—not counted as the centerpiece of a record of public service.

Mr. Rhodes Led a Decade of Mobilization Against Constitutional Democracy

The premise of the Oath Keepers as an organization is, at its core, anti-constitutional. Mr. Rhodes has declared that the group was founded under the supposed authority of the Second Amendment’s call for a “well regulated militia” in order to “prevent the destruction of American liberty.”¹² However, it is well established by the Supreme Court that the Second Amendment does *not*

⁶ *Id.* at 9.

⁷ *Id.*

⁸ *Id.*

⁹ See Fed. Bureau of Investigation & Dep’t of Homeland Sec., *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022), https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf.

¹⁰ See, e.g., Michael Mechanic, *Obama-Hating Oath Keepers Aim to Form Paramilitary Units*, Mother Jones (Oct. 13, 2013), <https://www.motherjones.com/politics/2013/10/oath-keepers-paramilitary-units-default/>.

¹¹ Mary B. McCord, *Armed Militias Are Taking Trump’s Civil War Tweets Seriously*, Lawfare (Oct. 2, 2019), <https://www.lawfareblog.com/armed-militias-are-taking-trumps-civil-war-tweets-seriously>.

¹² Mike Levine, *How a Standoff in Nevada Years Ago Set the Militia Movement on a Crash Course with the US Capitol*, ABC News (Jan. 5, 2022), <https://abcnews.go.com/US/standoff-nevada-years-ago-set-militia-movement-crash/story?id=82051940>.

protect paramilitary activity by private, unaccountable militia groups.¹³ History before and after the Constitution’s adoption rejected the notion that private militias serve as a bulwark against a tyrannical government, making clear that the only authorized militias are those that are established by, and answerable to, the government.¹⁴ Today, every state bars paramilitary activity by such groups through constitutional provisions, statutes, or both.¹⁵

Contrary to history, constitutional text, and Supreme Court interpretation, Mr. Rhodes has deployed an insurrectionist view of the Second Amendment as the justification for the Oath Keepers’ repeated disregard for the rule of law. And, contrary to the assertions made in his sentencing memorandum, at no point under Mr. Rhodes’s leadership did the Oath Keepers function as a nexus of civic responsibility or patriotic service. Since the Oath Keepers’ inception in 2009, its members have engaged in a string of criminal activity—including illegal possession of firearms and threats against public officials—which foreshadowed the militia’s move toward open political violence; at the same time, the Oath Keepers’ organizational focus has been defined by an escalating series of confrontations with the federal government that established it as a leading militia extremist group.¹⁶

In 2014, Mr. Rhodes led the Oath Keepers to the heavily armed standoff between federal agents and anti-government militia extremists who had gathered in support of Cliven Bundy at his ranch in Bunkerville, Nevada.¹⁷ The standoff ended when federal agents—faced with assault-style weapons trained at them and the prospect of mass casualties—abandoned their efforts to remove Bundy’s cattle from illegally grazing on federal lands.¹⁸

The Oath Keepers took center stage at another dispute with federal agents at the Sugar Pine Mine in Oregon in 2015.¹⁹ There, the Oath Keepers launched a heavily armed “security operation” to defend two gold miners after the Bureau of Land Management (BLM) sent a notice that their mining was not an allowed use of the property.²⁰ They defensively encircled the mine and created a 5-acre logistical area and basecamp, recruiting other private militias to the cause and risking turning an administrative issue into another armed standoff like Bunkerville.²¹

¹³ *Presser v. Illinois*, 116 U.S. 252, 267 (1886). In 2008, the Supreme Court restated what it had made clear in *Presser*—that the Second Amendment “does not prevent the prohibition of private paramilitary organizations.” *District of Columbia v. Heller*, 554 U.S. 570, 621 (2008).

¹⁴ Mary B. McCord, *Dispelling the Myth of the Second Amendment*, Brennan Ctr. (June 29, 2021), <https://www.brennancenter.org/our-work/research-reports/dispelling-myth-second-amendment>.

¹⁵ Inst. for Const. Advoc. & Prot., *Prohibiting Private Armies at Public Rallies: A Catalog of Relevant State Constitutional and Statutory Provisions*, (Sept. 2020), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2018/04/Prohibiting-Private-Armies-at-Public-Rallies.pdf>.

¹⁶ Matthew Kriner & Jon Lewis, *The Oath Keepers and Their Role in the January 6 Insurrection*, CTC Sentinel, Dec. 2021, at 1, <https://ctc.westpoint.edu/wp-content/uploads/2021/12/CTC-SENTINEL-102021.pdf>.

¹⁷ Jeff German & Briana Erickson, *The Rise and Fall of the Oath Keepers, Born in Las Vegas*, Las Vegas Rev.-J. (Sept. 23, 2022), <https://www.reviewjournal.com/investigations/the-rise-and-fall-of-the-oath-keepers-born-in-las-vegas-2645040/>.

¹⁸ Andrew Prokop, *The 2014 Controversy Over Nevada Rancher Cliven Bundy, Explained*, Vox (May 14, 2015), <https://www.vox.com/2014/8/14/18080508/nevada-rancher-cliven-bundy-explained>.

¹⁹ David Neiwert, *Oath Keepers Descend Upon Oregon with Dreams of Armed Confrontation Over Mining Dispute* (Apr. 23, 2015), S. Poverty Law Ctr. (Apr. 23, 2015), <https://www.splcenter.org/hatewatch/2015/04/23/oath-keepers-descend-upon-oregon-dreams-armed-confrontation-over-mining-dispute>.

²⁰ James Pogue, *The Oath Keepers Are Ready for War With the Federal Government*, Vice (Sept. 14, 2015), <https://www.vice.com/en/article/exq8en/miner-threat-0000747-v22n9>; Rob Davis, *Months Before Malheur Occupation, Another Oregon Land Dispute Galvanized Militants*, The Oregonian (Jan. 13, 2016), <https://www.oregonlive.com/oregon-standoff/2016/01/months-before-malheur-occupati.html>.

²¹ Pogue, *supra* note 20.

Just a few months later, armed Oath Keepers mobilized to confront federal agents at the White Hope Mine in Montana.²² They called on other private militias to travel there to help guard against what they deemed “unlawful action” by the U.S. Forest Service.²³ A BLM office closed rather than expose its employees to the threat from the armed militias.²⁴

In 2016, the Oath Keepers were involved in the armed occupation of the Malheur National Wildlife Refuge’s headquarters in Oregon, which lasted 41 days and resulted in the death of one of the leaders of the occupation.²⁵ After initially expressing disapproval of the takeover, the Oath Keepers later supported the standoff on the ground, including by threatening the government to “[t]reat this with kid gloves or risk a civil war.”²⁶

In addition to leading the Oath Keepers into offensive actions against the government, Mr. Rhodes also led them to what his sentencing memorandum refers to as providing “assistance and protection of others during times of civil unrest.”²⁷ This ostensible security work included sending patrols into Ferguson, Missouri, during protests after the decision not to indict police for the killing of a Black teenager, Michael Brown. Although Mr. Rhodes asserts that the Oath Keepers were “asked by local residents”²⁸ to provide protection, local authorities were forced to intervene and demand that the Oath Keepers stop their unlawful security operations, since they had begun “walking the rooftops of businesses” with “semi-automatic rifles,” in violation of county ordinances.²⁹ When the Oath Keepers returned to Ferguson in 2015 for protests to mark the one-year anniversary of Mr. Brown’s

²² Marshall Swearingen, *Dispatch from White Hope Mine Dispute in Montana*, High Country News (Aug. 12, 2015), <https://www.hcn.org/articles/dispatch-from-oath-keepers-security-op-in-montana>; Catherine Thompson, *Armed Militia Converges on Montana Gold Mine, and the Feds Are Stepping In*, Talking Points Memo (Aug. 13, 2015), <https://talkingpointsmemo.com/muckraker/oath-keepers-white-hope-mine>.

²³ *Oath Keepers’ Declare Mission Accomplished at Lincoln Mine Operation*, Mont. Pub. Radio (Aug. 12, 2015), <https://www.mtpr.org/montana-news/2015-08-12/oath-keepers-declare-mission-accomplished-at-lincoln-mine-operation>. As the leader of the Oath Keepers, Mr. Rhodes was deeply involved in the overall mission of the organization. He was known to play a significant role in high-profile events and recruitment efforts at the local and national level. See Armed Conflict Location & Event Data Proj., *Actor Profiles: Oath Keepers* (June 23, 2021), <https://acleddata.com/2021/06/23/actor-profile-oath-keepers/>.

²⁴ Jim Urquhart, *Oregon Mine That Summoned Armed Guards in Land Dispute Files Appeal*, Reuters (Apr. 23, 2015), <https://www.reuters.com/article/us-usa-miners-oregon/oregon-mine-that-summoned-armed-guards-in-land-dispute-files-appeal-idUSKBN0NE16020150424>.

²⁵ *Oregon Standoff Timeline: 41 Days of the Malheur Refuge Occupation and the Aftermath*, The Oregonian (Feb. 14, 2017), <https://www.oregonlive.com/portland/2017/02/oregon-standoff-timeline-41-da.html>. Mr. Rhodes would go on to quote the rancher who was killed—Robert “LaVoy” Finicum—in telling supporters in mid-November 2020 to go to a “Stop the Steal” event in Washington, D.C.: “As the late, great cowboy patriot LaVoy Finicum said: ‘It doesn’t matter how it ends, It Matters How You Stand.’” Levine, *supra* note 12.

²⁶ *Appendix: Response to the Malheur Occupation*, Rural Organizing Project, <https://rop.org/uia/section-i/appendix-response-malheur-occupation/> (last visited May 16, 2023).

²⁷ Rhodes Memo, *supra* note 5, at 11.

²⁸ *Id.* at 12.

²⁹ Ryan Lenz, *Oath Keepers Ordered to Stop Providing Security For Ferguson Businesses*, S. Poverty Law Ctr. (Dec. 3, 2014), <https://www.splcenter.org/hatewatch/2014/12/03/oath-keepers-ordered-stop-providing-security-ferguson-businesses%C2%A0>; see also Jesse Bogan, *Police Shut Down Mysterious ‘Oath Keepers’ Guarding Rooftops in Downtown Ferguson*, St. Louis Post-Dispatch (Nov. 30, 2014), https://www.stltoday.com/news/local/crime-and-courts/police-shut-down-mysterious-oath-keepers-guarding-rooftops-in-downtown/article_f90b6edd-acf8-52e3-a020-3a78db286194.html.

death, contemporaneous accounts suggest that their presence in largely Black neighborhoods was threatening to residents, while law enforcement called it “unnecessary and inflammatory.”³⁰

The election of Donald Trump shifted the Oath Keepers’ focus. Mr. Rhodes began to direct his vigilante efforts against perceived enemies on the left, rather than federal agents who were seen as more sympathetic actors under the Trump Administration.³¹ Throughout this shift, however, Mr. Rhodes continued to encourage unlawful, armed paramilitary activity that undermined lawful government authority. This included a call for Oath Keepers to monitor polls to prevent the 2016 election from being stolen from then-candidate Trump; private security operations with the broader militia movement to protect the 2017 inauguration from alleged threats from leftists; and vigilante activity by paramilitary groups at the Southern border meant to prevent an “invasion” of “illegals.”³² During this time, the Oath Keepers also began to provide private security at political events often attended by other extremist organizations, and confronted protesters who they associated with left-wing causes.³³ Long before January 6th, these so-called private security operations by the Oath Keepers were entangled with armed vigilantism and political violence.

Mr. Rhodes also used the Oath Keepers’ national platform to spread increasingly explicit calls for violence in *support* of President Trump. By 2018, he had launched a “Spartan Training Group program,” to create “a pool of trained, organized volunteers who will be able to serve as the local militia under the command of a patriotic governor loyal to the Constitution, or if called upon by President Trump to serve the nation.”³⁴

This was no empty threat. In 2019, in the midst of the former President’s first impeachment, he warned on Twitter that the country was “on the verge of a HOT civil war,” like “in 1859.”³⁵ The Oath Keepers also sent out messages hinting at violence and urging invocation of the Insurrection Act by President Trump, saying: “All he has to do is call us up. We WILL answer the call.”³⁶ Mr. Rhodes made clear that the Oath Keepers were uninterested in defending the legitimacy of the U.S. Constitution, which provides the process for the impeachment of a president for high crimes and misdemeanors.³⁷

³⁰ Scott Malone, *Heavily Armed ‘Oath Keepers’ Inject Disquieting Element in Ferguson*, Reuters (Aug. 11, 2015), <https://www.reuters.com/article/us-usa-ferguson-oath-keepers-idUSKCN0QG0SG20150811>.

³¹ See Josh Lederman, *The Founder of a Far-Right Militia Once Warned of Federal Tyranny. Then Came Trump.*, NBC News (Feb. 2, 2021), <https://www.nbcnews.com/politics/politics-news/founder-far-right-militia-once-warned-federal-tyranny-then-came-n1256546>.

³² *Oath Keepers*, S. Poverty Law Ctr., <https://www.splcenter.org/fighting-hate/extremist-files/group/oath-keepers> (last visited May 16, 2023).

³³ Eric McQueen, *Examining Extremism: The Oath Keepers*, Ctr. for Strategic & Int’l Studies (June 17, 2021), <https://www.csis.org/blogs/examining-extremism/examining-extremism-oath-keepers>; Doug Brown, *Multnomah County Republicans Formally Allow Militia Groups to Run Security*, Portland Mercury (June 30, 2017), <https://www.portlandmercury.com/news/2017/06/30/19130461/multnomah-county-republicans-formally-allow-militia-groups-to-run-security>; Paige St. John, *21 Arrested as Hundreds of Trump Supporters and Counter-Protesters Clash at Berkeley Rally*, L.A. Times (Apr. 15, 2017), <https://www.latimes.com/local/lanow/la-me-ln-berkeley-trump-rally-20170415-story.html>; see also Jane Coaston, *The Pro-Trump, Anti-Left Patriot Prayer Group, Explained*, Vox (Sept. 8, 2020), <https://www.vox.com/2020/9/8/21417403/patriot-prayer-explained-portland>.

³⁴ Dan Griffiths, *Help Us Launch the Oath Keepers Spartan Training Group Program*, Oath Keepers (Aug. 20, 2018), <https://web.archive.org/web/20211010073207/https://oathkeepers.org/2018/08/help-us-launch-the-oath-keepers-spartan-training-group-program/> (emphasis omitted);

³⁵ McCord, *supra* note 11.

³⁶ *Id.*

³⁷ U.S. Const. art. I, §§ 2-3.

For years, Mr. Rhodes oversaw the development of the Oath Keepers into an organization that was not only comfortable with the use of armed force against its enemies, but in fact anticipated that such force would be necessary to avert an imminent crisis point. His claims of volunteerism and public service belie the consistent radicalism of the Oath Keepers throughout its history, as the organization repeatedly claimed lawful authority to preserve order when no such authority exists under the Constitution Mr. Rhodes claims to defend.

And when this crisis appeared to arrive in 2020, Mr. Rhodes did not hesitate to activate his followers once again, this time to engage in a frontal assault on our system of government.

In 2020, Mr. Rhodes Saw an Opportunity to Mainstream Violent Extremism

In the months leading up to the 2020 election, Mr. Rhodes saw an opportunity to exploit the chaotic events of that year to further his own extremist agenda, which sought to elevate the Oath Keepers as an unofficial paramilitary guard for President Trump and his supporters as they struggled against their supposed enemies. Although Mr. Rhodes claims that the Oath Keepers sought to protect fellow citizens “when under siege from rioters” and defend the Constitution,³⁸ the events of 2020 provide incontrovertible evidence to the contrary.

At the beginning of the year, Mr. Rhodes brought the Oath Keepers to Richmond, Virginia, to protest proposed firearms regulations. This event was in keeping with Mr. Rhodes’s years-long history of using the Oath Keepers to advance an anti-constitutional worldview where his militia became the sole arbiter of power; on a radio show, he urged Virginia counties to decide that no gun-safety proposals passed by the Democratic legislature were legitimate and to declare independence.³⁹

While on the ground in Richmond, Oath Keepers openly carried weapons and mingled with the Proud Boys.⁴⁰ This early instance of a burgeoning, *de facto* alliance between the Oath Keepers and the Proud Boys, a “Western chauvinist” neo-fascist street gang that has been identified as an extremist hate group by several world governments,⁴¹ is a powerful rejoinder to Mr. Rhodes’s assertion that his organization “refused to tolerate racism or those who were willing to associate with others who tolerated or promoted racism.”⁴²

Mr. Rhodes sought to capitalize on this moment of armed resistance to gun regulations by announcing that the Oath Keepers would “deploy” to Virginia to help sheriffs “raise and train an official armed posse in each county” in order to resist the allegedly unconstitutional actions of the Democratic governor.⁴³ The idea of turning the firepower of the Oath Keepers against ideological enemies of President Trump was an enduring obsession for Mr. Rhodes.

³⁸ Rhodes Memo, *supra* note 5, at 9.

³⁹ Brett Barrouquere, *Animated by Conspiracy Theories, Far-Right Extremists Seize Opportunity to Rally Around Guns in Virginia*, S. Poverty Law Ctr. (Jan. 24, 2020), <https://www.splcenter.org/hatewatch/2020/01/24/animated-conspiracy-theories-far-right-extremists-seize-opportunity-rally-around-guns>.

⁴⁰ *Id.*

⁴¹ *Proud Boys*, Anti-Defamation League, <https://www.adl.org/resources/backgrounders/proud-boys-0> (last visited May 16, 2023); *New Zealand Declares Proud Boys a Terrorist Organization*, PBS News Hour (June 30, 2022), <https://www.pbs.org/newshour/politics/new-zealand-declares-proud-boys-a-terrorist-organization>.

⁴² Rhodes Memo, *supra* note 5, at 10.

⁴³ Select Committee Expert Statement, *supra* note 4, at 12–13.

The Oath Keepers' rhetoric became even more extreme with the onset of the COVID-19 pandemic, as Mr. Rhodes and his organization spread disinformation⁴⁴ about the disease and sought to help businesses defy local public safety measures.⁴⁵ Following the murder of George Floyd in May 2020, Mr. Rhodes posted on Facebook that the Oath Keepers had an obligation to combat protesters, writing, "Once these thugs turned to burning, killing and looting, they became domestic enemies."⁴⁶

Just as they had in Ferguson, Oath Keepers repeatedly appeared at racial justice protests, in some cases confronting protesters while armed.⁴⁷ Contrary to Mr. Rhodes's assertion that the Oath Keepers were simply trying to keep the peace, it is clear that he viewed the civil unrest during the summer months as an opportunity to elevate his status as the leader of a private militia. He testified to the House Select Committee to Investigate the January 6th Attack on the U.S. Capitol that he wanted President Trump to invoke the Insurrection Act and empower the Oath Keepers to suppress the demonstrations and take individuals into custody.⁴⁸

Mr. Rhodes's longtime fixation on the Insurrection Act was not part of a constitutionalist devotion to the powers of the presidency. As former Oath Keepers spokesman Jason Van Tatenhove testified, Mr. Rhodes had a "fantasy notion" that a "great conservative leader would come in and want a paramilitary wing" to enforce his vision law and order.⁴⁹ This baldly authoritarian vision contravenes the core tenets of our Constitution. Yet Mr. Rhodes's leadership of the Oath Keepers lends credence to this testimony, as he again and again seized on moments of political instability to advance his militant agenda.

Ultimately, Mr. Rhodes was successful in commanding the attention of the American public as the Oath Keepers mobilized to overturn President Trump's 2020 loss by force. Rather than respect the peaceful elections and transfer of power at the cornerstone of American democracy, Mr. Rhodes again urged President Trump to invoke the Insurrection Act even before Election Day, declared any victory by then-former Vice President Joe Biden presumptively illegitimate, and said that he had sent out "battle-hardened" Oath Keepers to kill "street soldiers" of the "radical left" and protect Trump

⁴⁴ Alex Newhouse & Sean Kitson, Ctr. on Terrorism, Extremism & Counterterrorism, *The Oath Keepers Are Spreading COVID-19 Conspiracy Theories* (Apr. 22, 2020),

https://www.middlebury.edu/institute/sites/www.middlebury.edu.institute/files/2020-04/oathkeepers_brief%20%282%29.pdf?fv=VJ9hctq1.

⁴⁵ *Oath Keepers*, S. Poverty Law Ctr., *supra* note 32; *see, e.g.*, Lina Wu, *Tattoo Shop Reopens to Defy State Law*, Times Hudson Valley (June 3, 2020), <https://www.timeshudsonvalley.com/stories/tattoo-shop-reopens-to-defy-state-law.17657>.

⁴⁶ Freddy Cruz, *The Year in Antigovernment Extremism Part 2*, S. Poverty Law Ctr. (Feb. 8, 2021), <https://www.splcenter.org/news/2021/02/08/year-antigovernment-extremism-part-2>.

⁴⁷ Mara Hvistendahl & Alleen Brown, *Armed Vigilantes Antagonizing Protesters Have Received a Warm Reception from Police*, The Intercept (June 19, 2020), <https://theintercept.com/2020/06/19/militia-vigilantes-police-brutality-protests/>; Robert Klemko, *Behind the Armor: Men Seek 'Purpose' in Protecting Property Despite Charges of Racism*, Wash. Post (Oct. 5, 2020), https://www.washingtonpost.com/national/behind-the-armor-men-seek-purpose-in-protecting-property-despite-charges-of-racism/2020/10/05/b8496fec-001e-11eb-9ceb-061d646d9c67_story.html.

⁴⁸ Jacob Glick, *The Long Descent to Insurrection*, Lawfare (Feb. 15, 2023), <https://www.lawfareblog.com/long-descent-insurrection>.

⁴⁹ Mary B. McCord & Jacob Glick, *January 6th Report Exposes Ongoing, Converging Threat of Anti-Democracy Schemes and Paramilitary Violence*, Just Security (Jan. 6, 2023), <https://www.justsecurity.org/84669/the-january-6th-report-exposes-the-ongoing-converging-threat-of-anti-democracy-schemes-and-paramilitary-violence/>.

voters at the polls.⁵⁰ Following the election, Mr. Rhodes dove headlong into the “Stop the Steal” Movement and again made common cause with the overtly racist, anti-Semitic, and white supremacist figures in an extremist coalition that supported efforts to prevent the peaceful transition of presidential power.⁵¹

Seen in this light, Mr. Rhodes’s seditious conspiracy against the U.S. Government is the logical extension of his leadership of the Oath Keepers for over a decade prior to January 6, 2021. The history of the Oath Keepers renders hollow Mr. Rhodes’s claims of its public spiritedness. Mr. Rhodes used the Oath Keepers as a means to aggrandize himself as a key leader of the modern militia movement and to push for a profoundly dystopian future in which private combatants would be empowered to impose their vision of public order. He should not be permitted distort this history now that he faces the prospect of punishment for his crimes.

Sincerely,



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⁵⁰ Timothy Johnson, *Militia Leader Stewart Rhodes Says That His Group Will Be at Polling Locations and Is Ready to Kill Democrats*, Media Matters (Oct. 28, 2020), <https://www.mediamatters.org/infowars/militia-leader-stewart-rhodes-says-his-group-will-be-polling-locations-and-ready-kill>.

⁵¹ McCord & Glick, *supra* note 49.