

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) CASE NO. 1:23-cr-00241-TSC
)
CINDY YOUNG,)
)
Defendant.)
_____)

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE G. MICHAEL HARVEY, U.S. MAGISTRATE JUDGE
Thursday - November 21, 2024
9:35 a.m. - 1:03 p.m.
Washington, DC

FOR THE GOVERNMENT:

Office of the United States Attorney
BY: REBEKAH LEDERER and PAVAN S. KRISHNAMURTHY
601 D Street, NW
Washington DC 20001

FOR THE DEFENDANT:

Law Office of Jonathan Gross
BY: JONATHAN GROSS
2833 Smith Avenue, Suite 331
Baltimore, Maryland 21209

Probation Officer: Sherry Baker

SONJA L. REEVES
Registered Diplomat Reporter
Certified Realtime Reporter
Federal Official Court Reporter

333 Constitution Avenue, NW
Washington, DC 20001
Transcript Produced from the Stenographic Record

1 (Call to Order of the Court at 9:35 a.m.)

2 DEPUTY CLERK: Your Honor, we have 23-cr-241, the
3 *United States of America versus Cindy Young*. This matter is
4 set for sentencing.

5 Parties, please introduce yourselves for the record
6 starting with the government.

7 MS. LEDERER: Good morning, Your Honor. AUSAs Rebekah
8 Lederer and Pavan Krishnamurthy on behalf of the United States.

9 MR. GROSS: Good morning, Your Honor. Jonathan Gross
10 on behalf of Defendant Cindy Young, who is with me at the
11 table.

12 PROBATION OFFICER: Good morning, Your Honor. Sherry
13 Baker on behalf of the probation office.

14 THE COURT: Good morning. Before we do sentencing, I
15 wanted to address issues with respect to the motion to seal.
16 There was some litigation over that. I dismissed the motions
17 that were pending, asked the parties to meet and confer. It
18 appears they have done that.

19 I guess my question for each side is whether or not
20 they have considered the possibility of redacted versions of
21 the two documents, two or three documents that are at issue,
22 and placing those on the record.

23 So I understand there were -- have been objections
24 filed with respect to a witness who ultimately did not testify
25 and to the use at trial of a particular report related to that

1 witness, which was not introduced at trial.

2 So I guess that's my question. I guess first for the
3 government is, is that something that can resolve this issue,
4 that is can the government provide a redacted version of
5 whatever it is on the record and resolve the issue that way,
6 and then I'll hear from Mr. Gross if that would be
7 satisfactory.

8 MR. KRISHNAMURTHY: Your Honor, unfortunately, we
9 don't think it would be appropriate to place a document and a
10 witness name that weren't introduced at trial into the record.

11 THE COURT: Why can't that be redacted?

12 MR. KRISHNAMURTHY: Your Honor, first of all, the only
13 reason to unseal these items is so that they can be kind of
14 pushed out to the public, and that process does not meet the
15 legal standard to begin with.

16 I mean, the policy implications of allowing such a
17 strategy would essentially allow a defendant to try to unmask
18 confidential human sources knowing that they wouldn't be
19 unmasked, and then moving to unseal the litigation surrounding
20 that motion. That would be just an end-run around the
21 privilege the government has to establish confidential human
22 sources or undercover officers.

23 Now, in terms of the actual law, *Leopold* and *Hubbard*,
24 these items are not even part of the judicial record, which is
25 the first step of the analysis. They weren't introduced at

1 trial and they weren't utilized. Either the witness --

2 THE COURT: We have got a lot to do today, so I'm not
3 going to hear -- I'm not really trying to hear argument. I'm
4 going to allow the parties to brief it. It sounds like my
5 proposal the government is not interested in doing. I won't
6 even ask Mr. Gross if it's acceptable because the government
7 doesn't want to do it.

8 I'm going to ask then to rebrief the issues, but
9 briefing needs to be focusing on the actual documents that are
10 in issue, not the broader issues that have already been
11 resolved that were in part part of those motions. I mean, the
12 person did not testify. No exhibit related to his or her
13 testimony was admitted at trial. And so that's what the motion
14 needs to address too, Mr. Gross, and address this threshold
15 issue, whether or not they are even judicial records, given
16 what I have just said, and then actually addressing the *Hubbard*
17 factors, focusing on that specific material.

18 MR. KRISHNAMURTHY: Understood, Your Honor.

19 THE COURT: Tell me what schedule makes sense. When
20 will be the parties be prepared to brief up this issue?
21 Mr. Gross, I assume you still want to pursue it?

22 MR. GROSS: Correct.

23 THE COURT: It was your motion, wasn't it?

24 MR. GROSS: Yes, Your Honor.

25 THE COURT: When will you be prepared to file a new

1 motion?

2 MR. GROSS: Your Honor, my motion simply -- it was
3 very short and it just said that if the government wants to
4 keep these under seal, then they need to do better than they
5 did. So I believe that the ball is in their court to explain
6 why --

7 THE COURT: You think they should go first?

8 MR. GROSS: I think they should go first.

9 THE COURT: That's fine.

10 When will the government be ready to go first?

11 MR. KRISHNAMURTHY: Your Honor, two weeks, I think.

12 THE COURT: Two weeks from today. I'll give a week to
13 Mr. Gross, and then a week for reply. So specifically, the
14 motion will be due December 5th, opposition due December 12th,
15 any reply due December 19th.

16 Cindy Young is before the Court for sentencing here
17 today after having been convicted by the jury as to Counts 1
18 through 4 of the Information. Count 1 was for entering and
19 remaining in a restricted building or grounds in violation of
20 18 U.S.C. Section 1752(a)(1). Count 2 was to disorderly and
21 disruptive conduct in a restricted building or grounds in
22 violation of 18 U.S.C. Section 1752(a)(2). Count 3 was to
23 violent entry and disorderly conduct in a Capitol building or
24 grounds in violation of 40 U.S.C. Section 5104(e)(2)(D). And
25 finally, Count 4 was to parading, demonstrating or picketing in

1 a Capitol building in violation of 40 U.S.C. Section
2 5104(e) (2) (D).

3 Do any of the parties have any objection to proceeding
4 with sentencing here today. Government?

5 MS. LEDERER: No, Your Honor.

6 THE COURT: Defense?

7 MR. GROSS: No, Your Honor.

8 THE COURT: All right. For the record, Counts 1 and 2
9 carry a statutory maximum of one year in jail, a fine of up to
10 \$100,000, and up to one year supervised release to follow any
11 term of incarceration.

12 Counts 3 and 4 carry a statutory maximum six years in
13 jail, a fine of up to \$100,000. Both of these are deemed petty
14 offenses, no term of supervised release is applicable. The
15 Court is also permitted to sentence the defendant placing her
16 on up to five years of probation. As for a fine, the maximum
17 fine on Counts 1 and 2 is \$100,000, and on Counts 3 and 4, it's
18 \$5,000.

19 I think I might have just misstated that. \$5,000 on
20 each of those counts. As for the special assessment, as I
21 understand it, under 18 U.S.C. Section 3103 for Counts 1 and 2,
22 it's \$25 per count. That is mandatory. And as for Counts 3
23 and 4, it's \$10 per count. That would be total \$70.

24 The government seemed to have a different calculation.
25 I don't understand it. Isn't it just \$70? Just add it up.

1 MS. LEDERER: That is correct, Your Honor. I
2 apologize for the error in our memory, and we will, for the
3 record, amend that to \$70.

4 THE COURT: Do you have any objection to any of the
5 other maximum penalties I could impose in this case?

6 MS. LEDERER: No, Your Honor.

7 THE COURT: From the defense, any objection to what I
8 have said so far?

9 MR. GROSS: No, Your Honor.

10 THE COURT: I have received the following documents
11 which were submitted to me in advance of the sentencing here
12 today: The presentence investigation report, sentencing
13 memorandum from the government, and the defendant supplement
14 sentencing memorandum I received I think yesterday from the
15 defendant.

16 And I have also received many letters from the
17 community in support of Ms. Young. I have read them all. My
18 chambers did receive a letter directly from Ms. Young as well
19 some time ago, six weeks ago, something like that, along with a
20 copy of the book that she wrote. I did not review that
21 material because I determined the book to be a thing of
22 value -- and, I mean, you didn't know that, Ms. Young, I'm not
23 being critical -- that I could not accept, and that the letter
24 appeared to have been sent without knowledge or input from her
25 counsel. I may have been wrong about that. So that material

1 was returned to defense counsel.

2 Ms. Young, I'm prepared to hear from you today. You
3 can address me if you wish, tell me anything you want. You can
4 read me that letter if you wish, assuming your counsel has no
5 objection to me reviewing it.

6 Does either party have any other documents for the
7 Court to consider? Government?

8 MS. LEDERER: Not at this time, Your Honor. There is
9 just one factual correction to make in the memo. There was a
10 typo that we can make during argument, or I can make it at this
11 time.

12 THE COURT: What's that?

13 MS. LEDERER: Your Honor, apologies.

14 Your Honor, on page 5 of the government's sentencing
15 memorandum, it reads "1:55 p.m." That should be "12:55 p.m."
16 That was a typo. That was in reference to the MPD officers
17 arriving on the west side and cutting up through west plaza
18 lawn.

19 THE COURT: Should have been --

20 MS. LEDERER: "12:55 p.m." In the memo there was a
21 typo. It says "1:55 p.m."

22 THE COURT: Understood.

23 Mr. Gross, any additional documents you want me to
24 review here today?

25 MR. GROSS: Only that pursuant to the Court's request,

1 I believe I submitted a spreadsheet that I was asked to submit
2 based on her GiveSendGo account.

3 THE COURT: Oh, yes. Thank you very much. Thank you.
4 I did direct the defense to provide me with an accounting of
5 that GoSendGo [sic] account. I have received that. I have
6 reviewed it. Thank you.

7 All right. So first, I'm going to address objections
8 to the presentence report and the guidelines calculation
9 therein. Then we'll move to allocution and then sentencing.
10 So that's the outline here today.

11 Let me first focus on restitution though. I just want
12 a side issue, but it's unclear to me whether restitution is
13 appropriate because the defense is one against property or
14 because there is an identifiable victim that suffered a loss
15 here. But in either case, the defendant, it would seem shall
16 be ordered to make restitution.

17 The probation office recommends restitution of \$500
18 without further calculation of loss amounts. That
19 recommendation is made presumably pursuant to Section
20 5E1.1(b)(2), which allows restitution in an amount less than
21 the full amount of the potential loss when the underlying
22 offense is against property and determining complex issues of
23 fact relating to the cause or amount of the victim's losses
24 would complicate a prolonged sentencing process to a degree,
25 that the need to provide restitution to any victim is

1 outweighed by the burden on the sentencing process.

2 So that is all a long way of saying probation has
3 recommended \$500 in restitution. Government, I take it you
4 concur in that recommendation; is that correct?

5 MS. LEDERER: That is correct, Your Honor. And the
6 government did brief the issue of restitution on pages 32
7 through 34 of the government's memorandum. And it is a request
8 that we make across the board in January 6 cases based off of
9 the estimates from the Capitol based on the damage done to the
10 Capitol on January 6, 2021, and \$500 is the standard amount
11 that we seek in misdemeanor cases.

12 THE COURT: What are courts doing? What have other
13 judges done on this court?

14 MS. LEDERER: The majority of judges have ordered
15 restitution in cases. There have been certain judges that have
16 declined here and there to order restitution, but the majority
17 of the time, restitution is ordered.

18 And for felony cases, the amount that is requested
19 across the board with all defendants is \$2,000 in restitution.
20 Now, in both misdemeanor and felony cases, if there is
21 additional damage that can be attributed specifically to a
22 defendant, whether that be damage to the Capitol or based off
23 of injuries caused to an individual and medical bills that have
24 been incurred since then, additional restitution is ordered on
25 top of that baseline amount.

1 THE COURT: You don't have that here?

2 MS. LEDERER: No, Your Honor; therefore, we're seeking
3 the baseline amount, which is \$500, which again is shared
4 across the board by January 6 defendants.

5 THE COURT: Okay. Mr. Gross, do you want to be heard
6 on that restitution amount? I know it's a smaller issue,
7 but --

8 MR. GROSS: No, Your Honor. Thank you, Your Honor.
9 No, Your Honor.

10 THE COURT: Okay. Now, let's move to objections with
11 respect to probation's guideline calculation, final presentence
12 report.

13 Mr. Gross, have you and your client had an opportunity
14 to review and discuss the presentence report?

15 MR. GROSS: Yes, we have, Your Honor.

16 THE COURT: All right. Probation issued its draft
17 presentence report on September 26th of this year. Both
18 parties objected to parts of the draft. As relevant here, the
19 defendant objected to the application of the United States
20 sentencing guideline Section 2A2.4, the defendant's conviction
21 for violating 18 U.S.C. Section 1752(a)(2), which was the count
22 related to -- or relates to disorderly or disruptive conduct in
23 a restricted building and grounds.

24 For its part, as I understand it, the government
25 objects to application of Section 4C1.1, provision of the

1 guidelines that would afford the defendant a two-point offense
2 level reduction for certain -- well, for certain defendants,
3 assuming they have zero criminal history points and otherwise
4 meet the requirements of that provision.

5 It's the government who believes that the defendant
6 has not met the requirements for that provision. It further
7 requests though that if the Court does find that Section 4C1.1
8 is applicable, that is that two-point reduction is applied to
9 the defendant's offense level in this case, that the Court
10 apply an upward variance to account for the unprecedented
11 nature of the crime and the defendant's involvement in it on
12 January 6th.

13 So I'm going to hear first any argument with respect
14 to the application of 2A2.4 and then the application of 4C1.1,
15 and then we'll address that potential two-point variance if we
16 need to.

17 Focusing first on the application of Section 2A2.4,
18 and this is the section where it is the defense that is
19 objecting to application of that section to the defendant's
20 violation of 18 U.S.C. Section 1752(a) (2).

21 Mr. Gross, I'll hear from you on that if you have any
22 additional argument with respect to the application of that
23 section.

24 MR. GROSS: Yes, Your Honor. I don't want to be
25 duplicative of what's in the brief, so I'm just going to read

1 it quickly, and I may just rest on my brief. I want to read it
2 to myself.

3 THE COURT: Sure, go ahead.

4 (Pause)

5 THE COURT: Yes, sir.

6 MR. GROSS: Just to summarize, there are two
7 provisions; one is assault and one is trespass. She's a
8 trespasser. I think, if I didn't mention in my brief, just the
9 idea that there is a little bit of an absurdity that under
10 certain provisions had she actually assaulted somebody, she
11 would actually be at seven points. For her to be at ten points
12 for just trespassing I think doesn't jibe with what I think the
13 intent of the guidelines would be.

14 And finally, the government, when I made this argument
15 before, will bring up the *Nassif* case. What I would say in
16 regard to that is it's distinguishable in two ways. One way is
17 that *Nassif* was -- and once again the government has never
18 corrected me on this issue -- that he was accused of violence
19 and things that would probably fall under the assault. My
20 second point on that is that the Court of Appeals did not say
21 that you must apply the assault section. It said that it was
22 appropriate in that particular case, but if they are
23 distinguishable, then I think that the Court could have
24 discretion to go either way. That's my argument.

25 THE COURT: Thank you.

1 Government?

2 MR. KRISHNAMURTHY: Your Honor, *Nassif* is controlling
3 here. I appreciate defense counsel trying to distinguish here,
4 but I just want to read briefly a quote from that ruling on
5 page 983. It states, "Section 2B2.3 is a mismatch for the
6 Section 1752(a)(2) violation... Section 2A2.4 is a more natural
7 fit. Although Count 2 does not specifically charge *Nassif* with
8 obstructing or impeding officers, such obstruction is implicit
9 in the charge that *Nassif* did in fact impede and disrupt the
10 orderly conduct of government business in a restricted
11 building.

12 "Indeed it is hard to see how someone could impede the
13 orderly conduct of government business in a building
14 temporarily restricted for a visit by a Secret Service
15 protectee without at least obstructing or impeding the work of
16 the officers who restrict the space and guard the protectee."

17 It is true that *Nassif* was accused of assault, but he
18 was also charged accordingly under 18 U.S.C. 111(a). Here in
19 the *Nassif* analysis of 1752(a)(2), the DC Circuit clearly
20 identifies 2A2.4(a) as the appropriate guideline.

21 Finally, I just want to clarify one thing. The
22 defense is articulating this guideline as, quote, "assault."
23 It is not an assault guideline. It is obstructing or impeding
24 officers. The defendant's presence went beyond mere trespass.
25 The evidence bore that out, and she was convicted on more than

1 1752(a)(1), where the trespass guideline is appropriate.

2 Here, in 1752(a)(2), the 2A2.4(a) guideline is
3 appropriate. Based on information believed, the government has
4 not identified a case post *Nassif* where the trespass guideline
5 was applied to 1752(a)(2).

6 THE COURT: Okay. So as I understand it here, the
7 defendant objects to the application of this guideline section,
8 the defendant's conviction for violating Section 1752(a)(2).
9 Application of Section 2A2 would impose a base offense level of
10 10 for that count. Defendant argues instead for the
11 application of 2B2.3, which applies to trespassing offenses
12 and has a base offense level of 4, to which two points would be
13 added if the trespass occurred at a restricted building or
14 grounds, so that would bring the offense level to a 6 under the
15 defendant's calculation, and the government's calculation it
16 would be a 10.

17 The Court finds that defendant's argument is
18 foreclosed by the DC Circuit's decision in *Nassif*, which as I
19 read it, held that 2A2.4 is the appropriate guideline, those
20 convicted of violating Section 1752(a)(2). Even prior to
21 *Nassif*, the overwhelming view of the judges of this court
22 supported the use of Section 2A2.2 to Section 1752(a)(2)
23 offenses arising from January 6, and certainly that is the
24 practice of judges on this court after the DC Circuit's
25 decision in *Nassif*.

1 *Nassif* establishes, I think fairly clearly, that
2 Section 2A2.4 is the appropriate guidelines for defendants who
3 are convicted of, as Ms. Young was here, in fact impeding and
4 disrupting the orderly conduct of government business in a
5 restricted building. That's what she was charged with in Count
6 2 of the Information, and that's what the jury found her guilty
7 of.

8 Even if *Nassif* could be read to allow that in some
9 convictions under 1752(a)(2) might appropriately use Section
10 2B2.3 to calculate the base offense level, I don't believe that
11 would help the defendant here, given the facts of this case.

12 For reasons I will continue to outline as this hearing
13 proceeds, the Court finds that the defendant's conduct
14 described in *Nassif* is not materially more serious or
15 assaultive than the conduct defendant engaged in on
16 January 6th. So, therefore, I think section 2A2.4 was
17 appropriate for the defendant's criminal conduct in this case
18 and that's what I will apply to that count.

19 Let's move now to the application of Section 4C1.1.
20 It's the government who has requested that that two-point
21 reduction not be applied. My understanding is that because
22 it's a reduction, a sentencing reduction rather than a
23 sentencing enhancement, it's the defendant who bears the burden
24 of proof, must provide facts relevant to that issue by
25 preponderance of the evidence.

1 So I'll hear from you first, Mr. Gross, on that issue.
2 You bear the burden. I'm not saying you've got to produce
3 evidence here today. We all know the evidence at trial. But I
4 see you as bearing the burden on this issue, so I'll let you
5 speak first.

6 MR. GROSS: I rest on what's been written on this
7 issue, and we respect the Court's decision at this point.

8 THE COURT: I haven't made a decision yet.

9 MR. GROSS: Whatever -- it should be based on what's
10 before you.

11 THE COURT: Okay. Government?

12 MR. KRISHNAMURTHY: So, Your Honor, just to frame the
13 issue, I think we can all agree that actual physical violence
14 is not required for this 4C1.1 reduction to not apply. I think
15 there is often sometimes some confusion on that. It's never
16 been the contention that the defendant directly touched or
17 assaulted an officer.

18 In the *Andrulonis* case, at sentencing, Judge Howell
19 was very clear when she stated, "So the fact that the defendant
20 is not personally charged with attacking or assaulting officers
21 is therefore not sufficient to make him eligible for the zero
22 criminal history score offense level reduction." The context
23 matters here.

24 And the government marshalled in quite a bit of
25 evidence to show that the defendant did pose credible threats

1 of violence. There is four kind of buckets of this evidence
2 that I'll briefly highlight.

3 First is that the defendant's and the mob's presence
4 at both the House main doors and then the speaker's lobby
5 proved a credible threat of violence. We know this because
6 guns were drawn and police officers were overrun.

7 Second, the defendant stood outside the House chamber
8 as the crowd chanted, "Break it down." That's a clear
9 reference to the doors behind which lawmakers -- you saw the
10 video of this -- they are cowering.

11 THE COURT: It's barricaded.

12 MR. KRISHNAMURTHY: Exactly. Yes, Your Honor. And
13 third, when it was made known to the defendant that there were
14 evacuations occurring inside of the House --

15 THE COURT: How did that become -- finish your
16 sentence, and then I'm going to ask you how do you know that.
17 Finish your sentence though.

18 MR. KRISHNAMURTHY: When it was made known, she runs
19 to the speaker lobby. How do we know?

20 THE COURT: One of the points where it's not -- I
21 don't remember that from the trial.

22 MR. KRISHNAMURTHY: And we're happy to provide the
23 video of that, but essentially, another member of the mob
24 indicates that to the defendant.

25 THE COURT: Indicates what?

1 MR. KRISHNAMURTHY: Indicates that they are moving.

2 And at that point --

3 THE COURT: "They" meaning, you think the House
4 members and staff.

5 MR. KRISHNAMURTHY: Yes. You know, and the standard
6 here is preponderance of the evidence. I think that's a fairly
7 logical leap there.

8 THE COURT: But where did they -- maybe I'll need to
9 see it.

10 MR. KRISHNAMURTHY: Your Honor, it might have been a
11 game of telephone. There is a lot of rioters there. There is
12 a sea basically from the House main doors all the way to the
13 speaker lobby. At the speaker's lobby you can see in the video
14 evacuation.

15 THE COURT: I thought you were saying that as she was
16 standing at the House main doors and she's part of that group
17 for a number of minutes and the group is chanting "break it
18 down," I remember her then walking down the hallway and
19 ultimately ending up in front of the speaker's lobby. The
20 government has suggested that somewhere at that moment, someone
21 at that moment, as I understood your representation, said,
22 "They are moving," and some sort of indication that it's down
23 the hall, it's around the corner, come with me. I just don't
24 remember that.

25 MR. KRISHNAMURTHY: Your Honor, we could play the

1 video for you right now.

2 THE COURT: Sure.

3 MR. KRISHNAMURTHY: We, of course, won't know how that
4 other rioter found out. Our speculation is that because there
5 is so many people there, it's kind of like a game of telephone.

6 THE COURT: Sure. Are you going to be able to quickly
7 pull it up or should he move it up?

8 MS. LEDERER: I have it right here on the PowerPoint.
9 I can play it as soon as I can connect.

10 THE COURT: Was this admitted at trial?

11 MR. KRISHNAMURTHY: It was, Your Honor.

12 (Exhibit 424A playing in open court.)

13 THE COURT: What did they say?

14 MR. KRISHNAMURTHY: "The Senate is being emergency
15 evacuated right now." Of course, this is the House. And then
16 you can see the defendant running towards the speaker's lobby.

17 THE COURT: Can I hear it again?

18 (Exhibit 424A playing in open court.)

19 THE COURT: Before we move away from this, you said
20 guns were pointed. Just focusing on this main House doors
21 event, I saw a flash that, at least photo, if not video, of the
22 guns out the window. Can I see that again? This is out the
23 window of the main House doors.

24 (Exhibit 426 playing in open court.)

25 THE COURT: Now, when was that?

1 MR. KRISHNAMURTHY: That is when the defendant is
2 crowding around the House.

3 THE COURT: You know that?

4 MR. KRISHNAMURTHY: Yes, Your Honor.

5 THE COURT: Because how do you know that?

6 MR. KRISHNAMURTHY: We know that because we can see
7 rioters on the other side who are also present in the exhibits
8 the government presented.

9 THE COURT: Okay.

10 MR. KRISHNAMURTHY: There is one last point that we
11 believe the zero point reduction shouldn't apply, and that
12 relates to testimony elicited from Deputy Chief Loyd where he
13 indicated that he believed the threats were credible such that
14 he prepared the evacuation of the house itself. And the
15 presentence report --

16 THE COURT: He ordered it. When the police line
17 breached, he ordered it. He first prepared for it, he scouted
18 out, and then seeing that line breach, my recollection of the
19 testimony, is that's when he said get them out.

20 MR. KRISHNAMURTHY: Absolutely, Your Honor.

21 THE COURT: And she was still there at that time.

22 MR. KRISHNAMURTHY: She was basically at the front
23 line of that police line.

24 THE COURT: Of the breach.

25 MR. KRISHNAMURTHY: Yeah.

1 THE COURT: I saw a moment ago you had video of her
2 coming into the building. Can you show that?

3 This is Exhibit 302?

4 MR. KRISHNAMURTHY: Yes, Your Honor.

5 (Exhibit 302 playing in open court.)

6 THE COURT: Back it up like five seconds and let it
7 run now that I know when she's coming.

8 MS. LEDERER: Your Honor, I apologize. I couldn't
9 clip it any smaller, so I might have to let it play when she
10 comes in about 20 seconds in.

11 THE COURT: Thank you. Go ahead.

12 (Exhibit 302 continues playing in open court.)

13 THE COURT: Okay. I mean, somewhere, I don't know if
14 it's her statement to the FBI, there was some suggestion that
15 there was someone waving her into the building or someone had
16 let her into the building or alternatively that she was pushed
17 or would have been trampled had she not gotten into the
18 building, so that's why I wanted to see that.

19 MR. KRISHNAMURTHY: Understood, Your Honor.

20 THE COURT: I want to go back to -- and then I'm going
21 to let you finish your argument.

22 MR. KRISHNAMURTHY: I am done.

23 THE COURT: Now that she's working the video, I want
24 to go back to the police line that formed outside of the House
25 main doors. I haven't seen that yet. There has been -- again,

1 I think it was somewhere. I think it was in her statement to
2 the FBI, that there was some member of law enforcement who was
3 essentially saying something to the extent of if everyone calms
4 down or gets quiet, we'll let you into the hearing room.

5 I don't recall that from what I saw at trial, but I do
6 recall somewhat appeared to be a member of the riot saying
7 something, trying to shout, maybe trying to get the crowd to
8 calm down. Do you have that video?

9 MS. LEDERER: I do, Your Honor. It's not specifically
10 in this clip here. The clip that we have included in the
11 PowerPoint is of the actual overrunning of the line.

12 If Your Honor would give me some time, I can bring up
13 that video, and it should be in my notes located where within
14 Exhibit 421A that occurs.

15 THE COURT: Okay.

16 MR. KRISHNAMURTHY: We do agree with your
17 recollection. It's a fellow rioter who make those statements.
18 It is not law enforcement.

19 THE COURT: Okay. Mr. Gross, while she's pulling that
20 up, I'll hear from you if you have any reply or rebuttal you
21 want to make.

22 MR. GROSS: No reply, no rebuttal.

23 (Pause)

24 THE COURT: Let me ask you a question, government, not
25 Ms. Lederer though, she's busy. I saw those House doors again.

1 Obviously, the final set of House doors was barricaded, but as
2 I just saw the other video, there are at least one other set of
3 House doors, but I don't know if they were forced open or if
4 they were just not locked.

5 So the crowd, they literally just had to press them
6 open, meaning did they breach the doors or did they just press
7 them open?

8 MR. KRISHNAMURTHY: Your Honor, we don't know one way
9 or the other, and there was no evidence entered in trial that
10 shows that. I will say just because a door is unlocked doesn't
11 mean you have the right to open it.

12 THE COURT: I know, it's what maybe she would have
13 perceived, they pushed on the door, it was open. Obviously,
14 the last door was not open, it was barricaded and there was
15 broken glass and guns being pointed out of it.

16 MR. KRISHNAMURTHY: Understood.

17 (Pause)

18 MS. LEDERER: Your Honor, for the record, we are 6
19 minutes and 52 seconds into Government's Exhibit 421A.

20 (Exhibit 421A playing in open court.)

21 MS. LEDERER: Unfortunately, we don't have sound.

22 (Exhibit 421A playing in open court.)

23 MS. LEDERER: For the record, paused here 7 minutes
24 in, and I think we paused here somewhere along the trial, if my
25 recollection serves me, and I think we had pointed out this

1 individual in the gray hoody.

2 THE COURT: I see the defendant just beyond him.

3 MS. LEDERER: Yes, Your Honor.

4 (Exhibit 421A continues playing in open court.)

5 MS. LEDERER: For the record, we're paused 7 minutes
6 and 20 seconds in. You can clearly see the individual with the
7 gray hoody with "Trump" marked clearly across his hat,
8 instructing the crowd that if they remain quiet, then hopefully
9 they can get in.

10 When she then asks the crowd for a response, you can
11 clearly see the defendant nod and say something along the lines
12 of yes. And now he's turning back to the very clearly marked
13 police line.

14 THE COURT: Okay. Mr. Gross, anything further on this
15 issue or any of these issues?

16 MR. GROSS: Yeah, if I may, only because I have to
17 point out what we just saw. What we saw was one of the rioters
18 standing, the police are standing, they don't look like they
19 are drawing guns. I didn't see any guns in that picture. He
20 calls out very loudly, "They might let us in." And we don't
21 see the police say, "No, no, you can't do that," or say,
22 "That's incorrect." We see the police standing there. We see
23 another, quote-unquote, rioter, an elderly man standing behind
24 the police line. We see another man tap a police officer on
25 the back.

1 And they are saying that they see the defendant nod
2 when she was told that if we calm down then they will let us
3 in. I just want to point out what was seen on the video.

4 The other thing I wanted to point out is their
5 telephone theory of one person to the other I think was also --
6 was at least contradicted by the very video that they showed
7 where the man taking the video said, "They are telling us go
8 over there, I don't know why."

9 So somehow she knew what was going on behind, as the
10 Court pointed out there is no evidence of that, so I think
11 their telephone theory is not correct.

12 THE COURT: Okay. Does the government have the video
13 of the police line being breached in front of the House main
14 doors? Can I see that again?

15 MS. LEDERER: Apologies, Your Honor. Every time I
16 plug it in, it automatically mutes my computer for some reason.

17 (Exhibit 421A playing in open court.)

18 THE COURT: Don't you have the angle from the other
19 side?

20 MS. LEDERER: Your Honor, in the PowerPoint
21 presentation, Exhibit 425B, there is some gap in time. This
22 does show the side with Ms. Young. What's not embedded in this
23 PowerPoint is the CCTV that also from far away catches the
24 crowd overrunning the officers, Ms. Young dropping a flag,
25 picking the flag back up, and then entering back into that

1 group. This is where Exhibit 425B catches the later end of her
2 going back into the mob outside the door.

3 (425B playing in open court.)

4 THE COURT: Okay. Well, my recollection is that there
5 is a video that shows the police line being broken and the
6 defendant being one of the first through the line.

7 MS. LEDERER: Your Honor, that would most likely be
8 the CCTV. There is two different angles. There is the angle
9 from above where we can see the ball of her knit cap going
10 forward with the police line, and then there is the side angle
11 of CCTV, which shows the police line fall and you can see
12 Ms. Young move to the side of the crowd, collect herself for a
13 moment, then pick up her flag and then go back into the crowd.
14 And I believe there is also open-source that briefly shows her
15 coughing in that area right after the line falls.

16 THE COURT: You don't have that though?

17 MS. LEDERER: I do. I just have to find the number to
18 pull up that video.

19 THE COURT: I'm going to take a break and give the
20 reporter a break and you can find that.

21 (Recessed from 10:25 a.m. to 10:40 a.m.)

22 THE COURT: Okay. Government find the video?

23 MS. LEDERER: Yes, Your Honor. Thank you for your
24 patience and giving us that time. Your Honor, this is
25 Exhibit 425A, which is open source. For the record, we are

1 43 seconds into 425A.

2 (Exhibit 425A playing in open court.)

3 MS. LEDERER: Your Honor, I believe that is the video
4 that you were speaking of that shows the other side of the
5 line.

6 THE COURT: When do they say "break it down"?

7 MS. LEDERER: Your Honor, they say "break it down"
8 kind of over the entire course of being outside the House main
9 doors. I believe it's captured in 421A as they are there for
10 those eight minutes before the police line is overrun.

11 We can bring back up 425B, which is a continuation of
12 this video where I believe it also -- they might chant "break
13 it down," but they are also chanting "stop the steal" at that
14 point in time, including the defendant is caught on camera
15 chanting "stop the steal." It's also memorialized in our memo
16 where they chant "break it down."

17 MR. GROSS: Your Honor, I would like to see where it
18 shows her saying "break it down."

19 THE COURT: Did she say "break it down"?

20 MS. LEDERER: We do not have her on camera saying
21 "break it down." I believe in 425B she is captured saying
22 "stop the steal."

23 THE COURT: That's my recollection too. I remember
24 her saying "stop the steal." I don't remember her saying
25 "break it down."

1 What the government is saying is the crowd that she
2 was part of was saying "break it down." They will play that
3 video. If you want to see it, they will play it.

4 MR. GROSS: No. I thought they said she was saying
5 "break it down."

6 THE COURT: I don't believe they ever said that. I
7 don't recall that either.

8 MS. LEDERER: No, Your Honor. We don't have her on
9 camera chanting "break it down," so we cannot definitively say.
10 However, she was a part of the crowd that was saying it. We do
11 have her on camera chanting "USA," making other statements,
12 like "we own you, we own the house." That's a paraphrase. The
13 direct quote is in our memo, and "stop the steal," which we
14 earlier played in 425B.

15 THE COURT: One last video you in your sentencing memo
16 suggest, and I'm asking this, I don't remember this from the
17 trial, that after she left what was happening outside the
18 speaker's lobby doors, that she didn't immediately exit at that
19 point, that she went back towards the House main doors and it
20 was only seen that that hallway now had smoke or gas in it,
21 that she then turned and found her way out. Do you know what
22 I'm referring to?

23 MS. LEDERER: Yes, Your Honor. That is captured in
24 Exhibit 309. I do apologize. Our computers are running a
25 little bit slow right now. I'm going to attempt as quickly as

1 possible to bring us about 10 minutes and 35 seconds into
2 Exhibit 309, and then at around 11:20 into Exhibit 309, you can
3 see Ms. Young come back on camera and spin back around and exit
4 around 11 minutes and 25 seconds into Exhibit 309.

5 You can also see her in Exhibit 310A. She comes in
6 around 1 minute and 26 seconds in. She's in the corner, and
7 then turns back around around 1:47, so it's in either of those.

8 Unfortunately, I can't tee up multiple videos at one
9 time.

10 THE COURT: Whichever one you want to show me.

11 (Pause)

12 MS. LEDERER: Your Honor, we first have up
13 Exhibit 309. We're 10 minutes and 38 seconds in. Back here
14 are the House main doors, and you can already kind of see a
15 plume of smoke. Because the computers are running somewhat
16 slow, I'm just going to let this play out. We're going to have
17 about a minute of dead time if no -- she's going to appear at
18 about 11 minutes and 20 seconds in.

19 THE COURT: At the bottom of the screen or the top?

20 MS. LEDERER: Yes, right around here she appears. I'm
21 fearful if I jump ahead, we're going to mess everything up.
22 We're going to play it out and switch over to AUSA
23 Krishnamurthy's computer. Together you get her movements.

24 THE COURT: Just orient me. Is the speaker's lobby
25 toward the foreground?

1 MS. LEDERER: Where these two officers in the masks
2 are, in the left corner of the screen, if you go around this
3 corner, which will also be clear in 310A, go down that stretch
4 that is leading toward the final hallway to the speaker's
5 lobby, going down that stretch, you then have to make a right
6 and then that brings you to the final lobby area to the
7 speaker's lobby.

8 THE COURT: With your pointer, can you show me where
9 the House main doors are in this frame?

10 MS. LEDERER: It's back here. For the record, we're
11 kind of like center left.

12 THE COURT: Where the smoke or whatever it is appears
13 to be?

14 MS. LEDERER: Yes. And I believe, if my recollection
15 serves me, is that Deputy Chief Loyd did testify there was some
16 type of smoke; however, he did not know specifically what it
17 was.

18 THE COURT: This is no sound with this, right?

19 MS. LEDERER: This is the CCTV. It is buffering.
20 This is not me pausing it. I don't know what's going on with
21 our computers today. They are very slow.

22 (Exhibit 309 playing in open court.)

23 THE COURT: What time does she enter?

24 MS. LEDERER: She's going to enter about 10 seconds
25 from now, if we ever get there. You see her start to head down

1 towards the House chamber doors, and it's either in 309 or 310A
2 there is this kind of grimace of a face that's made. Ms. Young
3 turns back around, engages with an officer, who points her down
4 the steps, and then she takes the steps back down to the first
5 floor and exits.

6 Should be the top of her head right here. You can see
7 there is a bigger plume. It's kind of paused right here.
8 She's making that face, and then she turns back around.

9 THE COURT: Well, that's all I need to see. I had
10 forgotten that.

11 Mr. Gross, anything you want to say?

12 MR. GROSS: No, Your Honor.

13 THE COURT: I'm about to make some findings with
14 respect to 4C1.1, so here is your chance.

15 MR. GROSS: Thank you, Your Honor. Nothing to say.

16 THE COURT: All right. The application of sentencing
17 guideline Section 4C1.1(a)(3) is fact bound. Application of
18 that section would provide a two-point reduction in the
19 defendant's base offense level if she had no criminal history
20 points, which she does not, and if, as relevant here, she did
21 not, quote, "use violence or credible threats of violence in
22 connection with the offense."

23 The probation office found that that was not shown
24 here and applied that two-point reduction to its sentencing
25 guideline calculation. The defendant agrees with that

1 conclusion. Probation acknowledged however that, as the Court
2 presided over the trial and was privy to evidence presented by
3 both sides in the case, it appears that the Court would be in a
4 better position to determine the accuracy of the information
5 asserted by both parties, and, therefore, the proper
6 application of Section 4C1.1's two-point reduction. The
7 government believes that Section 4C1.1 does not apply here.

8 In resolving that dispute, because it is a sentencing
9 reduction, as I indicated before, it is the defendant who bears
10 the burden of proof and must prove facts relevant to that issue
11 by a preponderance of the evidence. That's the *Williams* case,
12 21-cr-618, 2024 WL 1239989 at page 2, March 22, 2024 case from
13 Amy Berman Jackson.

14 This Court finds that the defendant has not met her
15 burden here and the two-point reduction found in Section 4C1.1
16 should not be applied to her guidelines calculation.

17 Again, no one contends that the defendant actually
18 engaged in direct violence on January 6th, but to get that
19 two-point reduction, there also must not be a credible threat
20 of violence from the defendant's conduct that day. Because the
21 guidelines do not define that phrase, courts have turned to
22 dictionaries to fill the gap that define credible threat of
23 violence as, quote, "a believable expression of an intention to
24 use physical force to inflict harm." That's the *Bauer* case,
25 714 F.Supp 3rd, pages 5 and 6. That's a Judge McFadden case.

1 " That expression need not be explicit and may be
2 implied." *Bauer* held that as well. Defendant's argument is in
3 part founded on the fact that she was charged only with a
4 violation of 1752(a) (2) rather than a violation of Section
5 231(a) (3) or Section 111(a) or (b), both of which criminalize
6 obstructive or assaultive conduct directed at law enforcement
7 officers.

8 That is not required for a violation of Section
9 1752(a) (2), for which the defendant stands convicted. That
10 section requires, among other things, only a finding that the
11 defendant engaged in disorderly or disruptive conduct in any
12 restricted building or grounds with the intent to impede or
13 disrupt the orderly conduct of government business or official
14 functions.

15 But defendant's argument that no element of her
16 offense of conviction involves obstruction or assaultive
17 conduct directed at law enforcement officer ignores that the
18 conduct to be taken into account for the purposes of
19 application of Section 4C1.1 is not limited to that which
20 constitutes an element of the offense of conviction, but under
21 the guidelines, also, quote, "includes all acts, omissions,
22 committed, aided, abetted, counseled, demanded, induced,
23 produced or willfully caused by the defendant." That's Section
24 1B1.3(a) (1) of the guidelines.

25 Similarly, as government has argued here today, other

1 judges of this court have explained that when determining
2 whether a defendant made credible threats of violence on
3 January 6th, thus earning that two-point reduction under 4C1.1,
4 context matters.

5 As Judge Howell observed during her sentencing in
6 *United States versus Andrulonis*, it's Case Number
7 23-criminal-85, quote, "In evaluating whether credible threats
8 of violence were posed by a defendant's offense conduct, the
9 context matters very critically. In other words, evaluating
10 defendant's offense conduct requires examination of all the
11 factors of the offense, including what the particular defendant
12 being sentenced did, where he was, what he was seeing, what a
13 person would reasonably understand was the volatility of that
14 situation, the threat that whole situation would pose to
15 others, the foreseeable harm of the situation and the
16 consequences of the specific defendant's individualized
17 actions. So the fact that this defendant is not personally
18 charged with assaulting or attacking officers is, therefore,
19 not sufficient to make him eligible for the zero criminal
20 history score offense level reduction under 4C1.1," end quote.
21 That is what Judge Howell said, and there is other cases as
22 well that have agreed with that analysis, the *Bauer* case as
23 well.

24 Instead, courts will look to contextual evidence to
25 determine whether a threat was credible, a threat of violence

1 that is. That said, as judges from this court have also
2 recognized, inquiry under 4C1.1 remains individualized and must
3 consider the actions of the defendant herself. It's not enough
4 to say then that the entirety of the events of January 6th, the
5 riot, the riot was violent or manifested credible threats of
6 violence, and to conclude from that that every January 6
7 defendant was by definition violent without consideration of
8 what the defendant actually did during the riot.

9 That would lead to the conclusion that Section 4C1.1's
10 two-point reduction should never be applied to any criminal
11 conduct on that day. I certainly don't agree with that. The
12 government at points makes that sort of argument in its
13 sentencing memoranda, not here today, but suggested as much.

14 That sort of argument has been rightfully rejected by
15 judges on this court in the January 6th cases. Judge Bates did
16 in *United States versus Yang*, 23-criminal-100. He did it in a
17 sentencing decision of his 2024 WL 519962, February 9, 2024
18 decision.

19 But in this case, to its credit, the government goes
20 farther, and this Court's review of the evidence goes farther
21 than that as well. Focusing on what the defendant did on
22 January 6th, the Court has no trouble finding that when her
23 conduct is viewed in context and when considering all of her
24 acts and omissions, committed, aided, abetted, counseled,
25 commanded, induced, produced, or willfully caused by her on

1 that day, as the guidelines require, that it represented a
2 credible threat of violence on January 6th, meaning that the
3 two-point reduction under Section 4C1.1 should not be applied
4 to her guidelines calculation.

5 What follows then is the Court's assessment of what
6 the evidence presented at trial, and, again, some of it
7 presented here today, demonstrate with respect to the 4C1.1
8 question.

9 Ms. Young entered the Capitol through the Senate wing
10 emergency exit doors at 2:22 p.m., only ten minutes after the
11 first rioter had breached the building, meaning that in the
12 event -- in an event that lasted hours, she was among that
13 initial crowd of rioters who entered into the building.

14 She didn't breach the Senate wing doors herself. That
15 is certainly true, but she was among that first group of
16 rioters who stepped over broken glass, ignored the sirens that
17 were blaring, and entered the Capitol. Video evidence of her
18 entry into the Capitol shows, as we saw again here today, that
19 there was no law enforcement officer waving her into the
20 building when she entered and she wasn't pushed into the
21 Capitol by other rioters, she walked in, and at a time,
22 2:22 p.m., when the evidence at trial showed the vice president
23 and his family were still inside the Capitol. Law enforcement
24 was still in the process of trying to figure out how to
25 evacuate them safely, as the rioters were quickly surging into

1 the Capitol.

2 Minutes after entering the building, Ms. Young walked
3 through the Rotunda, Statuary Hall, remaining between the
4 velvet ropes, taking pictures and chanting "we own it, we own
5 you." Now, had she exited the Capitol at that point, this
6 Court would have viewed her conduct differently for purposes of
7 application 4C1.1. That actually is a fair description of what
8 a significant number of January 6 misdemeanor defendants did
9 that day; they quickly walked through the Capitol, took a few
10 photos and exited. Those individuals, in my view, should get
11 the benefit of 4C1.1, if its other requirements are met.

12 But that is not what Ms. Young did. What the video
13 evidence at trial showed was that rather than exiting the
14 building after walk through the Rotunda, Statuary Hall,
15 Ms. Young joined the group of rioters outside the main doors of
16 the House chamber. Together they faced off with the last line
17 of Capitol Police officers who were protecting those doors
18 leading into the House of Representatives.

19 Beyond those doors, the House was still in session.
20 Members of Congress were inside doing their jobs working to
21 certify the vote from the 2020 election. Because security in
22 the building had broken down so rapidly, those Congressmen and
23 women had not been evacuated.

24 The evidence at trial was there was not yet an order
25 to evacuate the House when Ms. Young joined the group of

1 rioters outside the House doors. Indeed, the evidence at trial
2 was that it was that group of rioters, with Ms. Young up near
3 its front, who caused the order to evacuate the House to be
4 given. It was to be given because of the threat law
5 enforcement reasonably believed, in this Court's judgment,
6 those rioters outside the House doors posed to members of the
7 House and staff inside the House chamber.

8 Trying to stop the advance of that group of rioters
9 into the House was only seven or eight Capitol Police officers
10 who formed a loose line in front of the House main doors. That
11 is what the video evidence shows, seven or eight officers
12 standing off between the House of Representatives and the group
13 of rioters outside the House main doors, which included
14 Ms. Young.

15 I don't believe there was testimony at trial about the
16 number of rioters that had congregated at that point outside
17 the House doors, but it is clear from my memory, and even the
18 videos we saw here today, that those seven or eight officers
19 were far outnumbered by the rioters.

20 Deputy Chief Loyd of the Capitol Police was one of
21 those officers, part of that line briefly. He testified at
22 trial, credibly, in my view, that seeing all of those rioters,
23 he viewed them as posing a direct threat to the House members
24 and staff inside the House chamber. That was clear to this
25 Court as well when viewing the video evidence in the case. The

1 rioters outside the House doors were confrontational, they were
2 angry, and they were aggressive. They were chanting. They
3 were yelling. They were demanding to enter the House to stop
4 the steal.

5 An objective officer would reasonably view those
6 rioters, that mob, including Ms. Young, as a threat to the
7 physical safety of the House members and staff just beyond the
8 doors in the House chamber. Deputy Chief Loyd certainly
9 believed that. That is what he testified to at trial. It's
10 for that reason that he left that police line, quickly went
11 down the hallway, around the corner to scout out an evacuation
12 route for the House members out the back of the chamber through
13 the speaker's lobby.

14 Only a few minutes later, the police line in front of
15 the House doors was overrun by that mob, and it was at that
16 point that Deputy Chief Loyd testified that he ordered the
17 evacuation of the House out the back, out of the speaker's
18 lobby.

19 It is this Court's view that demonstrates the credible
20 threat of violence the mob in front of the House doors posed to
21 the House members and staff inside. A reasonable officer would
22 have concluded, as Deputy Chief Loyd did conclude, that it
23 posed an implied declaration of intent to inflict loss or pain
24 and a believable expression of intent to use physical force to
25 inflict harm on the House members and staff inside.

1 The defendant was an active member of that group of
2 rioters. The video evidence shows that she was one of the
3 first to approach the house doors, she was near the front of
4 the group of rioters during its confrontation with the police
5 line outside those doors, chanting along with the other
6 rioters. And as the police line broke and the rioters surged
7 forward past it, Ms. Young was right there right at the front.

8 Video evidence shows that she was one of the first
9 rioters to surge past the overwhelmed officers. It doesn't
10 appear to me that she was an unwilling participant in what was
11 happening. Indeed, had she felt that way, had it been her
12 intent to only engage in peaceful protests and not to overwhelm
13 police lines, she could have left right at that point as the
14 rioters surged past the police line. She could have walked
15 down the hallway and out an exit. It was right down the
16 hallway to her left.

17 But she did not disengage at that point. The video
18 evidence shows that Ms. Young remained with the rioters as they
19 pressed forward past the police line and into those House
20 doors. The crowd was shouting "stop the steal," and later,
21 "break it down," referring to the House doors themselves.

22 Ms. Young was part of that group of rioters for five
23 minutes or so as it pressed into the final set of House doors,
24 which had been barricaded from inside the House chamber.

25 It is also significant to the Court's assessment the

1 threat of violence posed by Ms. Young and that mob of rioters
2 she joined, that is, what did law enforcement inside the
3 chamber do when confronted by the mob outside the House doors.
4 The evidence shows that they barricaded the House doors from
5 inside with furniture in an attempt to keep the rioters out.

6 Those officers plainly felt threatened, as any
7 reasonable officer in those circumstances would have. More,
8 some of the officers inside the House chamber drew their guns,
9 pointed them at the rioters on the other side of the doors from
10 a broken window pane on the House doors. Again, the Court
11 finds that is compelling evidence that the specific group of
12 rioters that Ms. Young had joined posed a believable expression
13 of an intent to use physical force to inflict harm to the law
14 enforcement officers, House members and staff inside the
15 chamber who were still in the process of evacuating out the
16 back.

17 Even at that point, Ms. Young did not leave the
18 Capitol. Deputy Chief Loyd testified at trial about the
19 speaker's lobby, which is a long open corridor behind the House
20 chamber. After he left the police line in front of the House
21 doors, he went to help evacuate House members through the back
22 of the chamber through the speaker's lobby. The evacuation of
23 the House members through the speaker's lobby was particularly
24 precarious, because, as Deputy Chief Loyd testified, unlike the
25 House main doors, the doors leading to the speaker's lobby were

1 made mostly of glass.

2 And that's where Ms. Young headed next. She left the
3 rioters stuck in front of the barricaded House main doors and
4 followed a group of rioters down the hall and around the corner
5 leading to the glass speaker's lobby doors, beyond which House
6 members and staff could be seen evacuating.

7 I noticed as she was headed toward those doors,
8 Ms. Young passed by a way out of the building; she didn't take
9 it. Instead, she joined the group of rioters outside the
10 speaker's lobby glass doors, this time towards the back of that
11 group. At that point, there was only three or so Capitol
12 Police officers standing between those rioters and the glass
13 speaker's lobby doors.

14 Far outnumbered, that last line of officers quickly
15 retreated leaving the speaker's lobby doors exposed. A chair
16 was passed forward from the back to the front of the mob.
17 Ms. Young told the FBI that she remembered seeing a chair being
18 passed forward. At the same time another rioter at the front
19 of the mob used a helmet to smash out the glass on the side of
20 the speaker's lobby doors, and then yet another rioter
21 attempted to climb through that broken window, and, as she did
22 so, as she was entering the area where members of the House and
23 staff were still evacuating, she was shot. Unfortunately, she
24 died.

25 Again, in assessing the credibility of the threat

1 posed by the second group of rioters that Ms. Young joined,
2 it's significant that a gun was drawn by an officer, and in
3 this case it was used to defend against the threat of violence
4 that officer perceived rioters as posing who were breaching the
5 last barrier standing between the mob and evacuating the House
6 members and staff.

7 A minute after that shooting, the evidence shows that
8 Ms. Young walked away from that group of rioters. Even then,
9 though, in the video that was just shown to the Court, did not
10 immediately leave the Capitol. Rather, she went back down the
11 hallway toward the House main doors, and then, finding that
12 hallway filled with smoke or gas, she then turned and walked
13 out of the Capitol after being inside for 26 minutes.

14 So in my view, that's too late to view her actions as
15 peaceful that day. When considering the context of what
16 happened in full and all of Ms. Young's acts and omissions that
17 she committed, that she aided and abetted, including those the
18 mob she join outside the House main doors and the speaker's
19 lobby doors, the Court finds the evidence to be a credible
20 threat of violence, that is, a believable expression of
21 intention to use physical force to inflict harm.

22 Certainly clearly defendant has not proven otherwise,
23 which is her burden at this point, and, thus, the Court finds
24 that the two-point reduction under Section 4C1.1 should not be
25 applied to her guidelines calculation.

1 The government has also suggested that if the Court
2 were not to apply the two-point reduction, it would seek a
3 two-point variance upwards to account for, call it the
4 unprecedented nature of the crime on January 6th.

5 Government, now that I have not applied that two-point
6 reduction, is it still your request that I apply an upward
7 variance of two points? You're not trying to say her offense
8 level is a 12, are you?

9 MS. LEDERER: No, Your Honor. That was there in case
10 Your Honor actually did apply a 4C1.1. There is also in the
11 cases where, which is not the case here to be clear, but just
12 as comparison sometimes we ask the Court, especially in a case
13 where the 1512 charge has been dismissed or vacated, we ask for
14 an application under 5K2.7.

15 We also ask the Court, in the alternative, if they do
16 not apply that upward variance -- that departure, to still find
17 under 3553(a) factors that an upward variance should occur.
18 Because you have applied the -- or you have declined to reduce
19 by two points, we're not asking to then tack on another two.
20 We're simply asking the guidelines --

21 THE COURT: The guidelines are going to be a 10. I'm
22 not going to vary up by two points, but I'm also not going to
23 find that I would have varied up by two points if I hadn't
24 reduced by two points.

25 I tend to agree with Judge Bates in the *Yang* case who

1 said that that would not be appropriate to just do an increase
2 because the defendant had earned a decrease through the zero
3 point offender reduction under 4C1.1.

4 In any event, we end up with her having an offense
5 level of 10. Let me just put on the record then -- I'm going
6 to state what her guideline calculation is. I'll hear from
7 you, Mr. Gross, do you have any other objections? Obviously,
8 you have heard my rulings on the others. I don't think there
9 are any other objections you have had to probation's
10 calculation.

11 MR. GROSS: That's correct, Your Honor.

12 THE COURT: So not applying that two-point reduction
13 under C1.1, and applying Section 2A2.4 to Count 2 for the
14 violation of 18 U.S.C. Section 1752, the defendant's guidelines
15 calculation is as follows, and I would note that this
16 calculation differs from that found in the final presentence
17 report.

18 Pursuant to Section 1B1.9, the sentencing guidelines
19 do not apply to any count of conviction that is a Class B or
20 Class C misdemeanor or an infraction. Accordingly, the
21 guidelines do not apply to Counts 3 and 4. The guidelines do
22 apply to the Class A misdemeanor convictions, and that is
23 Counts 1 and 2.

24 For Count 1, the violation of Section 1752(a)(1), the
25 base offense level is found in Section 2B2.3(a). That's an

1 offense level four. Specific offense characteristic adjustment
2 found in Section 2B2.3(b)(1)(a) is applicable because the
3 trespass occurred at a restricted building or grounds resulting
4 in a two-point increase to the offense level for that count.
5 Thus, the total offense level for Count 1 is 6.

6 For Count 2, which is the violation of 1752(a)(2), the
7 base offense level, as I have already determined, is Section
8 2A2.4(a). That is a level 10. There are no other adjustments.
9 Thus, the total offense level for Count 2 is 10.

10 Under Section 3D1.3 of the guidelines, Counts 1 and 2
11 are grouped for guideline calculation purposes because they
12 involve the same victim, that is, Congress. Pursuant to
13 Section 3D1.3(a), the offense level for that group is, quote,
14 "The highest offense level of the counts in the group," end
15 quote. Here the offense level for that offense level is the
16 one for Count 2, which is a level 10. So the base offense
17 level for the group is 10.

18 There are no other adjustments for specific offense
19 characteristics, victim-related adjustments, adjustments for
20 the defendant's role in the offense or for obstruction of
21 justice for this offense level; nor is there any adjustment for
22 acceptance of responsibility.

23 Finally, for the reasons stated previously, the Court
24 finds the defendant does not meet the criteria for the
25 two-level reduction under 4C1.1(a). So that means that the

1 total offense level is 10.

2 Defendant has zero criminal history points, so her
3 criminal history category is I.

4 Offense level 10 with a criminal history score
5 category of I, puts her in zone B, and equates to a guidelines
6 range of 6 to 12 months.

7 Finally, the guidelines fine range for a defendant
8 with a total offense level of 10 is \$4,000 to \$40,000. So that
9 is the defendant's guidelines calculation.

10 The only other objection to probation's presentence
11 report is an objection to paragraph 62. I think there was a
12 passage in the probation report that says that the defendant is
13 seen standing with members of the Proud Boys, and then that
14 paragraph goes on to describe the Proud Boys as a domestic
15 terrorist organization.

16 I find that the objection need not be resolved, as its
17 resolution will not be material to my sentencing determination.
18 It will not be taken into account at sentencing, so no findings
19 necessary.

20 I believe that resolves all of the objections to the
21 presentence report. Are there any other objections for the
22 record to the presentence report other than those that have
23 already been noted? Government?

24 MR. KRISHNAMURTHY: No, Your Honor.

25 THE COURT: From the defense?

1 MR. GROSS: No, Your Honor.

2 THE COURT: So other than as described above, I accept
3 the undisputed portions of the presentence report as findings
4 of fact and have considered those findings as part of my
5 sentencing determination.

6 It's now time for allocution. I'll hear from first
7 from the government, then I'll hear from defense counsel, and
8 then from Ms. Young if she wishes to address the Court.

9 Ms. Young, during allocution, you have the absolute
10 right to address the Court today if you wish. You don't have
11 to, but you do have that right. I'll certainly hear from your
12 attorney as well.

13 Government?

14 MS. LEDERER: May I, Your Honor?

15 THE COURT: Go right ahead.

16 MS. LEDERER: Your Honor, it's been said many times in
17 general, but also here on the record today, that January 6,
18 2021 was an unprecedented event. Ms. Young was a part of that
19 event. She wasn't some bystander or some mere participant.
20 She was a very active participant, and, as it's been noted, her
21 actions and her conduct and her presence ended up posing a
22 credible threat of violence to officers, to members of
23 Congress, and to staff.

24 That is why the government, when looking at all the
25 3553(a) factors and the guidelines and everything that must be

1 considered and should be considered, is asking that Ms. Young
2 be sentenced to 10 months incarceration, followed by one year
3 supervised release; a fine, if the Court finds it so
4 appropriate, based on the amount raised by GiveSendGo; \$500 in
5 restitution; and the \$70 special assessment.

6 THE COURT: I don't want you to lose that point. I
7 just want to focus on that GoSendGo [sic] issue. I did receive
8 an accounting. The accounting suggests that all of her money
9 raised to date has gone to paying for a defense attorney or
10 related costs.

11 Is that -- why is that a problem? Why shouldn't she
12 be allowed to raise money for her own defense? Why should I
13 make that part of any fine to recoup that money?

14 MS. LEDERER: Your Honor, I just want to put on the
15 record that we would ask for a copy of that accounting if you
16 find it appropriate. We have not received that yet.

17 THE COURT: You have not seen it?

18 MS. LEDERER: No, we have not seen it. And Your Honor
19 is saying it has all gone to legal defenses, then the issue is
20 moot and we'll move on from there.

21 THE COURT: I don't know how they didn't get it.

22 MR. GROSS: It's on the docket.

23 MS. LEDERER: If it was filed under seal, we might not
24 have received a copy.

25 THE COURT: You don't have any objection to me showing

1 that to the government, right?

2 MR. GROSS: No.

3 THE COURT: We'll move on. I'll bring out a copy so
4 you can see it before you're done. I have looked at it. In
5 fact, it shows she's like 50 bucks in the red or something like
6 that.

7 MS. LEDERER: Your Honor is also making the finding,
8 and that moots the issue completely. The only reason I brought
9 it up was because we had yet to receive that accounting, so I
10 thought it was still a live issue, it's clearly mooted at this
11 point in time.

12 Your Honor, starting with the first and foremost
13 3553(a) factor, the nature and circumstances of the conduct
14 that Ms. Young is charged with. We have already gone over it
15 at length today, but just to recap her movements both on
16 January 6th and throughout the Capitol to highlight how severe
17 her conduct was.

18 I don't want to belabor any points, so you can tell me
19 to move forward, but just to walk it back and cover the ground
20 that we haven't walked over yet.

21 Ms. Young came down to Washington, which, to be clear,
22 was her right. She went to a rally, which, to be clear, was
23 her right. But from there, she went down to the Capitol, which
24 was her right. But then she crossed over that restricted
25 perimeter, which wasn't some imaginary line. The entire west

1 plaza was littered with evidence of not just that outer
2 perimeter, but the inner perimeter as well.

3 Any confusion that she could have argued goes away
4 when she used one of those barriers to help scale the northwest
5 step ledge, where she stood above that sea of rioters with
6 non-lethal weapons being pointed down at her, and her decision
7 made at that time was, hey, I'm going to stay, I'm going to
8 stick this out.

9 So she climbed back into the crowd, remained, ran away
10 from MPD officers, being assaulted when they first responded --
11 and I apologize. At this time, I have a correction to my
12 correction. They did show up at 1:55 p.m. 12:55 was stuck in
13 my head because Mr. Gross and I had a case earlier this week
14 where that timing kind of played in.

15 She scurried away from that violence and continued to
16 chant in that crowd. She also would have had to go underneath
17 the scaffolding. We know from CCTV, she would have had to
18 scale under the scaffolding to go up onto the upper west
19 terrace, the north side, where she went by officers in CDU
20 outfits. MPD officers were also in CDU outfits, which is riot
21 gear.

22 There was also an immense amount of violence on the
23 west plaza down below, pepper spray being deployed, loud bangs,
24 and she decided to carry on past officers on the lower plaza
25 and also officers on the upper west terrace. We see her in

1 open source peeking in windows before, as Your Honor has put on
2 the record, she entered the Capitol, past the broken glass,
3 past the blaring alarms, and into the building at approximately
4 2:22, going on 2:23, when the vice president was still inside,
5 the same man that Ms. Young would later call a pedophile for
6 simply upholding the Constitution.

7 She marched in through the first floor. And at this
8 point defense wants Your Honor to give Ms. Young credit for not
9 going into the Crypt, where admittedly there was a lot of
10 violence in the Crypt with officers being overrun, but she
11 doesn't get that credit because she went up to the second
12 floor, where Your Honor noted she could have just remained and
13 then left and it would be a different story. It would still be
14 wrong conduct, but it wouldn't have leveled up to what she did.

15 She went through the Rotunda chanting, carried on
16 through the Statuary Hall, and as we have now covered in great
17 length, ended up at the House main doors where the House was
18 still in session.

19 And this is where the defense's sentencing memo stops.
20 Ms. Young continues to ignore that this whole entire portion of
21 her conduct doesn't exist. I believe that's two part; first,
22 because it gets to advance her theory that what she did on
23 January 6th was peaceful, and, second, having to admit to what
24 she did is a hard pill to swallow for both her conscience and
25 probably to have to explain to her friends what she was truly a

1 part of.

2 And now, as already established, the House was still
3 in session, creating a viable threat, every single one of those
4 people in the riot posed for those inside. And Your Honor
5 talked about the doors earlier. I believe Deputy Chief Loyd
6 had testified at trial that those doors are the ceremonial
7 doors that the vice president uses to walk through onto the
8 House floor to kick off the certification process, and that's a
9 process that our government has seen through peacefully for now
10 nearly 250 years.

11 But January 6 was a completely different story, and it
12 was a one-off situation. We hope we leave it as a one-off
13 situation, but it was a riot that made us look weak in the eyes
14 of our enemies and it damaged our country's credibility in the
15 eyes of our allies. We have a lot of work to do from here.
16 Ms. Young has a lot of work to do from here because she was
17 involved at those House main doors. She was there at the
18 front. She was there when those officers were overrun.

19 We know there was pepper spray. We could see in 425A
20 she's coughing, others are coughing. What does she do? She
21 picks up her flag and gets right back into that crowd.

22 As we wrote in our memo, other officers are pulled
23 out, and like Your Honor noted today, at no point did she walk
24 away from this. Instead, when an individual said they are
25 fleeing or they are evacuating, you can also hear a whistle,

1 and also in Exhibit 309 I believe we had played at trial,
2 people were waving down members of the riot down to the
3 speaker's lobby.

4 Ms. Young ran down towards it. And we know from
5 everything put on the record today the violence that occurred,
6 and we also know from the evidence that the members were
7 actively fleeing at the time that members of the riot,
8 including Ms. Young, arrived. We know that the actions of
9 everyone in that crowd, some more than others, were the direct
10 result of a rioter being shot and killed.

11 And only then is when Ms. Young decided to leave the
12 building. That flag that she carried so carefully and made
13 sure to pick up, she abandons it. She is trying to get out of
14 dodge, because she doesn't want to be a part of her actions,
15 she needs to separate herself immediately, which is why she
16 still denies it to this day, how far she got, what she was a
17 part of.

18 She does eventually exit, and then begins the
19 revisionist history as we have outlined in both of her
20 interviews. At that time, over the course of those two
21 interviews, she does admit that what she did was wrong, and
22 then gives her different versions of events that help downplay
23 what truly happened that day.

24 But as the evidence showed time and time again, her
25 theories, her falsities, her misinformation that she continues

1 to put out has been refuted. I'll also briefly bring up we're
2 not asking for obstruction or anything, but there was multiple
3 times that Ms. Young told the FBI, "I didn't take any video
4 inside that building." However, she is on CCTV appearing to
5 film from the moment that she hits the second floor to the
6 House main doors. When shown her phone to the FBI, there was
7 only photographs from the rally.

8 Now, when looking at Ms. Young's history and
9 characteristics, it's somewhat hard to understand what brought
10 her here. By all accounts, from the majority of the letters
11 that Your Honor received and the information that Ms. Young was
12 willing to share with the presentencing report, she had been a
13 good person all of her life, and it's not to say that she's
14 still not a good person, but she's going to have to answer for
15 her actions on January 6th.

16 She's been sober for decades, which is an amazing
17 achievement, and that's not lost on the government. That is
18 every day waking up and choosing life, so that is something
19 that should be accounted for to a certain extent.

20 She also clearly has a caring family, caring friends,
21 but now she has chosen to go down a rabbit hole, to put away
22 education, to put away history, to ignore common sense, to
23 ignore history, to ignore whatever she has learned in life, and
24 deny what happened on January 6.

25 She has yet to accept responsibility since she told

1 those agents years ago, "Yeah, what I did was wrong." Instead,
2 now, the person she presents to be is someone who is willing to
3 cover up her actions and cover up what January 6th was. That
4 was made evident by the extent of testimony. I know that
5 Ms. Young did not testify. Her witness got on the stand and
6 completely tried to twist what January 6th was.

7 And then Ms. Young later cosigned a lot of those
8 theories. The government has walked Your Honor through a
9 significant amount of social media posts that Ms. Young has
10 made, podcasts that Ms. Young has been a part of, which shows
11 that she not only cosigns what Mr. Sumrall testified about at
12 trial, but that she herself is also putting out falsities about
13 January 6th and her conduct herself.

14 So that is -- there is layers of Ms. Young who is
15 before you today, but that is who she is currently holding
16 herself out to be is some type of political victim, but it's
17 not. She's here to simply answer for her actions, which was
18 going into the Capitol on January 6th and being a credible
19 threat of violence to actually humans in there, but also a
20 threat to democracy as well.

21 Your Honor, that is why a sentence of 10 months of
22 incarceration also serves the purpose of respecting the law,
23 promoting the law, and it also serves a purpose of deterrence,
24 both general and specific.

25 This country has had a long history, as I have

1 indicated, almost 250 years, and we all hope it continues to
2 have 250-plus more. It's not every four years that Americans
3 go to vote and that there is going to be winners and losers and
4 people happy or unhappy, but every day there are decisions made
5 and issues brought up, not just in a political spectrum, but
6 just every day you leave the house and you encounter someone
7 and there is a decorum of how we engage with others, how we
8 respond in the face of something happening that we do not like.
9 That's going to happen every single day.

10 When you cross that line and you do not show civility,
11 especially in a criminal context, there are consequences, and
12 sentences that are issued are shown as an example to others
13 that you cannot cross that line.

14 Specifically, Ms. Young clearly also is still in need
15 of specific deterrence. As I already stated, she has yet to
16 accept responsibility and is continuing to spread falsities on
17 the internet. We also included social media posts where it
18 shows she's even being retributive. We showed YouTube footage
19 with her in a photo with two other individuals, but on that
20 shirt we're asking you to specifically look at what is on her
21 shirt. In that photograph, moving on from the individuals that
22 are in it, specifically her shirt says something along the
23 lines of "J6 was a setup." She also filmed herself singing
24 along to "We're Not Going To Take It," and on the left-hand
25 side of that video was a screenshot that indicated that

1 January 6 defendants were suing Capitol Police officers. And
2 on her sweatshirt in that video it said, "Indicted We Stand,"
3 and it was a photograph of her on the sweatshirt.

4 She also posted a meem mocking two Capitol Police
5 officers, and the contents of the statements again indicated
6 that the actions of everyone on January 6th were peaceful and
7 that these officers were somehow crying just because their
8 faces -- where they had gotten yelled out in their face. Those
9 two officers in that meem were subject to an immense amount of
10 violence, not at the area that Ms. Young was in, but those two
11 officers were at critical points, and not only were injured
12 physically, but emotionally for what they experienced.

13 Ms. Young, as we have established, might not have
14 personally put her hands on anyone, but the threat of violence
15 that was posed at both the House main doors and around the back
16 of the speaker's lobby sticks with all of those officers, and
17 especially at the speaker's lobby there was violence, actual
18 violence in the case of Zachary Alam, who smashed out those
19 windows to the speaker's lobby. During that trial, two of
20 those officers from that front line, one had cried on the
21 stand, the other said that it was the worst day of his life.
22 Yet Ms. Young not only mocks what was inflicted upon those
23 officers, but she celebrates those going after the officers for
24 simply doing their job, and what a job that they had that day.

25 Ms. Young has also suggested that others, we already

1 know the names, that she called the former vice president, but
2 she's also endorsed tweets calling for the jailing of those
3 also attempting to uphold the law.

4 Your Honor has received letters. There was a lot of
5 letters in support of Ms. Young, but there was also a lot of
6 letters from Ms. Young's community that attempted to sane wash
7 January 6th and continued to push the same falsities of what
8 had occurred or what they thought Ms. Young had simply done
9 that day. And just like Mr. Sumrall had suggested in his
10 podcast when Ms. Young was hosted on that jurors, FBI agents,
11 prosecutors and judges should all be written to and reminded
12 that there will be consequences for simply upholding the law
13 and pointing out the criminality that happened on January 6th.
14 Your Honor received such a letter that urged you to educate
15 yourself on military tribunals, because if you continued to
16 proceed over this case, there would be consequences.

17 That's exactly the reason that we need both general
18 deterrence and specific deterrence, because there is a lot of
19 people in this room and those that are listed in Mr. Sumrall's
20 list. Jurors take an oath. The vice president took an oath.
21 The officers who take the stand take an oath, not only to be
22 officers to uphold the Constitution and laws, but they took an
23 oath when they testified. Prosecutors and judges, we all take
24 oaths to uphold the Constitution. And that is what being done,
25 and to uphold the laws. And we cannot ignore when a person

1 breaks the laws. That's what Cindy Young did on January 6th in
2 a very grave manner.

3 We also look when we uphold the laws and in sentencing
4 we don't create large sentencing disparities. Both defense and
5 the government provided Your Honor a snippet of --

6 THE COURT: So many cases even beyond that. I have
7 looked at cases beyond the ones. I mean, gosh.

8 MS. LEDERER: The government and I'm sure defense did
9 as well, we all try our best to narrow down, because it's a
10 unique circumstance. Not only is sentencing individual for a
11 person, but in the context of January 6th, we also have
12 thousands of people who engaged in the overall big-picture
13 conduct but also had their own very specific conduct. And
14 every scenario and -- not scenario -- case is unique because
15 there are very similar conduct and actions that occurred, but
16 there are also ones that set them apart.

17 If Your Honor would like I can dive into any of them,
18 but I will point broad picture that the majority of cases that
19 the defense cited were guilty pleas to the 5104 charges, which
20 guidelines, as Your Honor has stated, do not apply.

21 THE COURT: Petty offense, Class B misdemeanors.

22 MS. LEDERER: Correct, Your Honor. The government
23 instead provided you with examples of defendants who went to
24 trial and were found guilty of all of the misdemeanors.

25 Defense did also point out two cases, one of which the

1 government pointed out, that do have misdemeanors. And in both
2 of those cases, Ms. Young's conduct is set aside by the fact
3 she made it to both the House main door and the speaker's
4 lobby, where she posed a credible threat to those inside and
5 the officers.

6 So we would ask you to disregard the majority of the
7 defense's comparisons, because they actually do not compare
8 because of the charges. We respect the decision of the other
9 judges obviously, but the government had still been consistent
10 in what was recommended, and the conduct here is supported by
11 12 months of incarceration.

12 THE COURT: Ten?

13 MS. LEDERER: Thank you, 10 months of incarceration.
14 I can get into any of the specific comparators if you would
15 like.

16 THE COURT: I'm going to make findings about those
17 cases. You have made your argument in writing.

18 MS. LEDERER: Yes, Your Honor, and we'll rest on that.

19 THE COURT: Okay.

20 MS. LEDERER: I'll just leave it here that 10 months
21 is more than fit to cover the conduct, and that Ms. Young will
22 get up here and have the opportunity to address Your Honor, and
23 I hope that she does accept responsibility for what happened on
24 January 6th, but there is a chance that she might not, that she
25 might come up here and say that she has somehow been validated

1 or vindicated.

2 When the dust settles and all that is left is the
3 evidence and the black and the white, history will remember
4 those who had sworn an oath to uphold the Constitution who
5 followed it through, and history will remember Ms. Young as a
6 traitor not only to her own morals, but to this country if she
7 does not accept responsibility. Thank you, Your Honor.

8 THE COURT: Mr. Gross?

9 MR. GROSS: Thank you, Your Honor. I'm not here
10 before you today to talk about the -- even -- certainly not
11 about the Constitution, not here to litigate January 6th writ
12 large, not here to litigate even the facts of this case in
13 particular.

14 I just want to talk briefly about prison as a
15 punishment in general. If we want to get into the length, just
16 briefly on that, Your Honor, pointed out that in the JNIS [sic]
17 database that the average is six to seven months. That's
18 13 percent --

19 THE COURT: That's right, yeah.

20 MR. GROSS: Six to seven months. Just in January 6th
21 cases, I could show data from 439 misdemeanor cases where the
22 average is .14 years, which is about 50 days. So I think that
23 obviously we have created enough of a corpus of law regarding
24 to January 6th that that should really be the comparators. And
25 I think that even given the characterization that's been made

1 here today, even if accepted as true, if you want to put her at
2 the high end of that, I think the JSIN, that seems about right,
3 maybe a little excessive.

4 But that said, the Court does have, I believe, the
5 ability now to do whatever variance is necessary to give home
6 incarceration instead of prison. And I want to argue against
7 prison in this court. In fact, the appellate court in *SEC v.*
8 *Diversified Group*, 595 F.Supp 1159, the Court concludes at the
9 end that, quote, "Imprisonment should be a" -- I can't read my
10 handwriting. I apologize, but "should be a last resort."

11 And the reason I think the Court said that is because
12 prison is hell. And just a mile from here there is the DC
13 Jail, the CDF, within the January 6th context in 2021, the
14 marshals themselves found that the CDF, this was in 2021, was
15 inadequate. The findings of that, I can provide it to the
16 Court if you want, but --

17 THE COURT: I'm aware of it.

18 MR. GROSS: It was terrible, devastating findings.
19 There is no record that anything has been done about that to
20 date. And there have been claims on the record from January 6
21 defendants and from others that the conditions persist and --

22 THE COURT: I don't know if she will be held in DC
23 Jail.

24 MR. GROSS: I understand that.

25 THE COURT: This will be a federal, some period of

1 time, and then they will move her out. Go on.

2 MR. GROSS: Understood. But the point is that the
3 government continues to send them to a jail that's one mile
4 from this court that has these conditions. And I think that if
5 you look at their own data in the -- I'm not going to cite
6 anything that's not from, let's say, the National Institute of
7 Justice, which is from the Department of Justice or
8 alternatively the National Institute of Health, that there is a
9 big problem in this country with prisons, and I don't think
10 that's in reasonable dispute at all.

11 Specifically though, I want to refer to the NIH, which
12 I put in my sentencing memo, without belaboring it, but just
13 saying how prison is not the same sentence for a 30-year-old as
14 it is for somebody who is almost 70 years old. And I
15 specifically in the sentencing memorandum separated individuals
16 who were 55 years and older.

17 And the defendant here, Ms. Young, is, like I said,
18 70 years old. She is a cancer survivor, which has its own
19 unique medical needs, and she is also, as the government noted,
20 she is recovering from drug addiction, which never ends.

21 And this wasn't in my sentencing memorandum, so I'm
22 going to mention this for the record, that the NIH talks about,
23 for specifically older people, the problems with prison.
24 Number one is the health deterioration, which is easily
25 observable. You can see the difference between when people go

1 in and when they come out.

2 Then there is the cognitive decline. There are
3 physical challenges that exist within the prison, because many
4 of the facilities are designed for people who are more able
5 bodied. There is the mental health issues that arise in prison
6 or are exacerbated in prison. There is anxiety. There is
7 depression.

8 And then the NIH talks about the vulnerability to
9 exploitation and abuse by other inmates that, of course, is,
10 obvious. And I would add that sometimes the guards, which
11 there is abuse in the prisons that is undisputed as well that
12 exists, maybe less than the inmates, but certainly a
13 possibility.

14 And then the NIH goes on and on about the lack of
15 specialized healthcare that exists. I also mention the risk of
16 recidivism in terms of drug addiction. And in fact, the PSR
17 report noted that she should join the RDAP program, because
18 drugs are a problem in the jails. That is also undisputed.
19 Drugs are in the jails, and there is all kinds of
20 vulnerabilities to relapse because of that or because when they
21 come out of jail afterwards based on the impact of that.

22 So no more on that, but all I want to say is that
23 whatever length of time the Court suggests, I think that, given
24 that this is a misdemeanor case, the Court made clear that the
25 Court feels it's a very severe misdemeanor case, it's still a

1 misdemeanor case, and whatever length of time is given to the
2 defendant, that should be the end of the punishment, if the
3 punishment is fair.

4 But to put the defendant -- to incarcerate the
5 defendant so that there is a risk that the lingering effects of
6 the punishment will continue for the rest of her life, I
7 believe is unfair and that's excessive in this case.

8 And in terms of the reasons for incarceration to begin
9 with, starting with incapacitation, certainly I don't think
10 that we have to be worried about that. And this goes also to
11 deterrence as well, because the government has made it clear
12 that this was an unprecedented event, this very unique set of
13 circumstances, so I don't think that there is any concern that
14 Ms. Young is going to go out onto the streets and commit
15 some kind of -- she's not going to rob a liquor store or
16 something of that nature.

17 The chances of the confluence of events that would
18 occur that would allow her to be able to be in this situation
19 again, there is so many variables that make that so highly
20 improbable that I think that specific deterrence in her case is
21 not going to be an issue per se.

22 She's also, as I mentioned, almost 70 years old. I
23 mean --

24 THE COURT: How old is she? I have read 71. I have
25 read 67.

1 MR. GROSS: I have wrote 71.

2 THE COURT: Maybe one of her friends thinks she's 71.

3 MR. GROSS: She is 67 years old. If I say "almost
4 70," it's because I'm her attorney.

5 THE COURT: That's fine. I read somewhere she is 71.

6 MR. GROSS: 67 years old. And that said, just the
7 percent chance that this is going to happen again is so low, as
8 she said, once in a 250-year opportunity that occurred, I think
9 that it's safe to say that that's what the case is going to be.

10 You know, and in terms of general deterrence, I think
11 the government has made its point, and the Court could make its
12 point too by giving her a lengthy sentence for a misdemeanor,
13 which we didn't see in other protests and riots.

14 The \$500 fine is ten times what she would have
15 received if she had broken into the Cannon Office Building to
16 protest the transfer of power from one Supreme Court justice to
17 another. There is certainly general deterrence for
18 January 6th. I think everybody can agree to that, and I think
19 that the Court doesn't even have to modify in terms of the
20 length of sentence, but what we ask is for the judge to do
21 whatever is possible to make sure that she does not have to be
22 incarcerated in the federal prison system.

23 I just want to, before I conclude, just make a couple
24 of points that are very important to note for the record, and I
25 hope that the Court takes into consideration. It's not only

1 the conditions of the prisons themselves, the bureaucracy of
2 the prisons is so difficult to navigate. The Bureau of
3 Prisons, there is -- it's not like there is a number that you
4 can call. In the end of the day, she is a misdemeanor convict
5 who will be in the system.

6 If she has a healthcare problem, she can't get
7 healthcare right away. That shouldn't be part of the
8 punishment. And it's even difficult for her to be able to
9 communicate. I know from firsthand, she can communicate it to
10 her lawyers, and then it's me trying to get in touch with the
11 right people, trying to figure it out. That shouldn't be part
12 of this punishment.

13 She could get the same punishment, strict conditions
14 with ankle monitors and whatever it is, but within the habitat
15 that she has established for herself over the last 37 years to
16 maintain her sobriety with her support system that you see that
17 she has around her, her daughter who can help her, with her
18 granddaughter who can be around, and with her friends who are
19 able to maintain that. I think you can achieve -- the Court
20 can achieve all of the goals that the Court needs to achieve
21 without incarceration.

22 So I'm not arguing about any of the other aspects of
23 the sentence, and I would make the same thing if I was standing
24 here if they were bringing in misdemeanors for Black Lives
25 Matter protests or for anything else. Misdemeanors, especially

1 people who are senior citizens, should not be sent into the
2 federal prison system for any amount of time.

3 We can figure out a way that we can achieve all of the
4 punitive, deterrence, rehabilitation, incapacitation goals,
5 with other alternative methods that have been suggested by the
6 NIH and the NIJ. Thank you, Your Honor.

7 THE COURT: Ms. Young, do you want to address the
8 Court?

9 She nodded her head no, just for the record. She
10 shook her head no, I should have said.

11 THE COURT: All right. Then I'm going to take a break
12 and then I'll come out and we'll do sentencing.

13 (Recessed from 11:55 a.m. to 12:09 p.m.)

14 THE COURT: So the formal sentencing will be in a few
15 minutes. I'm just going to discuss various information that I
16 have taken into consideration in crafting my sentence here
17 today.

18 First, with respect to Ms. Young's ability to pay a
19 fine, she's not shown that she's unable to pay one, which is
20 her burden, in part because of her refusal to provide her
21 federal tax returns to the probation office. In reviewing her
22 available financial information, the presentence report
23 concludes that she has a net worth, positive net worth and a
24 positive monthly cash flow of over \$2,000.

25 Further, in assessing the defendant's income and

1 earning capacity, the Court can consider whether the defendant
2 can or has sought to capitalize on the crime that intrigues the
3 American public. That's why I ordered up the accounting.

4 It was brought to my attention that she had set up a
5 GiveSendGo account. Having reviewed the information provided
6 by the defense, I do find that the money that she's collected
7 to date, which is a little over \$14,000, all of it has gone
8 towards her defense and costs associated with this case.
9 That's not inappropriate, so I'm not considering that money,
10 the money than she's generated through that GiveSendGo account
11 as part of the funds that this Court should then find to seek
12 to recoup.

13 Nevertheless, because of her positive net worth and
14 monthly cash flow, I concur with probation's conclusion that
15 she has the ability to pay a small fine. More generally, with
16 respect to her sentence, federal law requires the Court to
17 consider not only the advisory sentencing guidelines, but also
18 the factors set out in 18 U.S.C. Section 3553(a) to determine a
19 fair, just, and appropriate sentence.

20 Those factors include the nature and circumstances of
21 the offense, history and characteristics of the defendant, the
22 need for the sentence imposed to reflect the seriousness of the
23 offense, to promote respect for the law, to provide a just
24 punishment, to afford adequate deterrence to criminal conduct,
25 and to protect the public from further crimes of the defendant,

1 and, finally, the need to avoid unwarranted sentencing
2 disparities among defendants with similar records who have been
3 found guilty of similar conduct.

4 I have considered all of those factors in forming my
5 sentence for Ms. Young. Regarding the nature and circumstances
6 of the instant offense, the Court has considered that Ms. Young
7 did not commit any direct acts of violence or property
8 destruction while in the Capitol as other January 6 defendants
9 did.

10 Moreover, for the reasons stated when assessing the
11 application of Section 4C1.1, the Court sees a distinction
12 between her conduct, joining those two mobs of rioters who
13 overran law enforcement outside the House main doors and the
14 speaker's lobby doors, and that of other misdemeanor defendants
15 who walked into the Capitol, took some photos and quickly
16 walked out without overrunning police lines, entering or
17 attempting to enter or forcing the evacuation of any secured
18 spaces. That's in fact what Ms. Young did.

19 She joined two groups of rioters who overwhelmed
20 police lines, both the House main doors and then at the
21 speaker's lobby, causing the evacuation of the House at one
22 location and the shooting of a rioter at the other.

23 Their concerted actions created a risk of safety to
24 those officers, as well as to House members and staff in the
25 chamber and those who were seeking to evacuate in the speaker's

1 lobby.

2 So the Court believes that the nature and
3 circumstances of the offense warrants a sentence of
4 incarceration. Relatedly, the sentencing factors require the
5 Court to consider the need for the sentence imposed to reflect
6 the seriousness of the offense and to promote respect for the
7 law.

8 For this factor, the Court has considered the broader
9 context of what occurred on January 6th. What occurred that
10 day was very grave. It was one of the darkest days in our
11 nation's history. The riot was an attack, not only on the U.S.
12 Capitol, symbol of our democracy, but on the rule of law
13 itself.

14 The intent of the rioters that day, Ms. Young
15 included, was to stop the certification of the 2020
16 presidential vote and the peaceful transfer of power between
17 administrations. The rioters briefly succeeded in doing just
18 that. They delayed the certification of the vote. Ms. Young
19 was a willing participant in undermining our democracy that
20 day. Indeed, she was at the vanguard of the mob that overran
21 the police line outside the House main doors, which directly
22 caused the evacuation of the House, thereby delaying the
23 certification of the presidential vote.

24 The images from that day should be disturbing to all
25 Americans. The fact that some celebrate what happened that day

1 is troubling. What does it mean for our nation that those who
2 were physically attacking a symbol of our democracy and
3 threatening our elected officials with bodily harm that day,
4 what does it mean for our future that they were engaging in
5 that violence while chanting, "USA, USA." That should be
6 disturbing to all Americans.

7 Needless to say, the Court believes the second factor,
8 that is, the need for the sentence imposed to reflect the
9 seriousness of the offense and promote respect for the law,
10 that that factor plainly supports a sentence of incarceration
11 in this case.

12 Section 3553 also requires the Court to consider the
13 history and characteristics of the defendant. Cindy Young is
14 67 years old, a resident of New Hampshire. She lost her mother
15 in a tragic plane crash, which Ms. Young herself survived, when
16 she was, I think, only 18 months old. Thereafter, her father
17 was not part of her life. She was was raised by her
18 grandparents. She's revealed very little about her upbringing
19 to the probation office, but according to some of the letters
20 I've read from her friends and family, her childhood with her
21 grandparents was less than ideal.

22 She has a high school diploma. She's divorced. She
23 has one adult daughter. She's currently employed part-time at
24 a grocery store and receives Social Security benefits. She
25 rents her home in New Hampshire and lives alone.

1 Ms. Young has an extensive history of drug use dating
2 back to the 1980s, but to her great credit, she has maintained
3 her sobriety since 1987. All of her drug tests during the
4 pendency of this case were negative.

5 The defendant is also an advocate for Alcoholics
6 Anonymous and helped to bring the treatment program to the New
7 Hampshire state prison for women. She also has advised that
8 she has attended meetings all over New Hampshire to advocate
9 for incarcerated women.

10 She denies any mental health diagnosis or treatment.
11 She is a cancer survivor, but is in remission, and she's
12 otherwise in good health.

13 Significantly, Ms. Young has no criminal history. The
14 present case represents her first arrest. She's been on
15 pretrial release for about a year and a half, and she's been
16 compliant with her terms of release the entire time, so I
17 credit all of that.

18 As I indicated a moment ago, I also received numerous
19 letters of support from her family, friends, and community.
20 Each one of them in a different way attests to her being a
21 loving and dedicated parent, grandmother, friend, and community
22 member.

23 Letters describe her as a nonviolent person who spent
24 her life as a healer. She is a talented Native American
25 artist and musician. Her friends say she is not a

1 revolutionary, but on January 6th was just standing up for what
2 she believed.

3 They say that she has already endured significant
4 consequences as a result of this case, including the loss of a
5 business. Her friends are concerned about the impact that
6 incarceration may have on her and her family that depends upon
7 her. One of the letters stated, "Incarceration would remove
8 from society a woman whose life is lived doing good for
9 others." Those are all good letters. I have read all of them.
10 I have considered all of them.

11 You have good family and friends supporting you,
12 Ms. Young. That's good.

13 With respect to deterrence, I believe the need for
14 general deterrence is a very important consideration in this
15 case and the other January 6 cases. As another judge of this
16 court has stated, "Future would be rioters must be deterred."
17 That was Judge Nichols. Or in the words of Judge Walton,
18 "Unfortunately, there are a lot of people out there who have
19 the same mindset that existed on January 6 that caused those
20 events to occur. If people start to get the impression that
21 you can do what happened on January 6, you can associate
22 yourself with that behavior and that there is no real
23 consequence, then people will say, 'Why not do it again.'"

24 So I believe there must be a real consequence. It's
25 for that reason that I believe many January 6 defendants, even

1 those facing misdemeanors, have been sentenced to some period
2 of incarceration. It appears to me the deterrence is working.
3 The Justice Department has brought a large number of January 6
4 cases in an effort to hold accountable those who participated
5 in the attack. Last count, they have brought over 1500 cases.
6 Many of those defendants have been sentenced to some period of
7 incarceration. And fortunately, there have been no repeat of
8 the mass political violence that occurred that day, and indeed
9 our country has just held a free and fair election instead of
10 descending into chaos again like it did on January 6th, so I
11 believe deterrence is working for that reason. Again, there
12 must be a real consequence in a case -- in this case, like in
13 the other January 6th cases.

14 Another sentencing consideration is deterring future
15 criminal conduct from this defendant herself thereby protecting
16 the community. This factor also weighs heavily because, in my
17 mind, even following her conviction, Ms. Young has shown no
18 remorse for her actions of January 6th, nor has she shown any
19 appreciation for the seriousness of her criminal conduct that
20 day. The social media posts are very troubling. The
21 government lays out in its sentencing memo, prior to trial and
22 even after her conviction, Ms. Young has proudly trumpeted as
23 some kind of badge of honor her status as a January 6
24 defendant. She's repeatedly downplayed her and other rioters'
25 actions on January 6th, and blames others for what she did that

1 day, where still she's mocked the dangers that she and other
2 rioters placed law enforcement in on that day.

3 All of that is to say that a serious consequence for
4 her criminal conduct, a sentence involving incarceration, that
5 is, is warranted to deter her from such conduct in the future.

6 In determining a sentence, Section 3553(a), also
7 directs courts to consider the need to avoid unwarranted
8 sentencing disparities with other similarly situated and
9 charged defendants. There are certainly a large number of
10 January 6 cases to consider. Defendant offers six comparator
11 cases, chosen because they involve female January 6 defendants
12 older than 65, and also included one involving a male
13 comparator who is under 65. Those cases are Hemphill,
14 McNicoll, Tagaris, Parks, Kuecken, Mahoney, and Lavrenz. Those
15 cases have been considered, but the Court does not find them to
16 be particularly relevant comparators.

17 In all but one of them, Lavrenz, which I'll discuss in
18 a moment, the defendants were sentenced to probation after
19 pleading guilty only to one or more Class B misdemeanors.
20 Class B misdemeanors are petty offenses, offenses that are by
21 their nature less serious. The federal sentencing guidelines
22 are not even applicable to them.

23 Defendant was found guilty at trial of two such petty
24 offenses, but also was convicted of two Class A misdemeanors.
25 Those are not petty offenses. Each carries up to a year in

1 jail, and they are subject to the federal sentencing
2 guidelines.

3 Moreover, Ms. Young did not plead guilty, but was
4 found guilty at trial, which means she does not get the benefit
5 of the two-point reduction under the sentencing guidelines for
6 acceptance of responsibility, leaving her with a guidelines
7 range of 6 to 12 months.

8 So I do not find the petty offense cases to be
9 comparable to her situation. The Lavrenz case is closer. The
10 defendant there was found guilty at trial, the same four
11 misdemeanors that Ms. Young was convicted of, and Lavrenz also
12 faced an offense level of 10 under the sentencing guidelines
13 like Ms. Young.

14 Moreover, similar to her, Lavrenz promoted herself as
15 the J6 praying grandma and called the prosecution of January 6
16 rioters a corrupt exercise. Lavrenz was sentenced by another
17 judge, not this one, to a probationary sentence, including six
18 months of home detention and a steep fine of \$103,000. I
19 believe that Lavrenz's conduct is distinguishable from this
20 case in that Ms. Young breached the Capitol building for twice
21 as long as Ms. Lavrenz did, and she twice attempted to access
22 the House chamber while members and staff were still present,
23 overrunning a police line in the process, leading to guns being
24 drawn by law enforcement at both locations and one rioter being
25 shot and killed. There are no facts like that in Lavrenz.

1 Lavrenz spent only a total of 10 minutes in the Capitol.
2 Ms. Young was inside for 26 minutes. And only made it as far
3 as the small Senate Rotunda. She was there long after the
4 Senate and House had been evacuated.

5 This is all to say that the Court does not find that
6 the cases identified by the defense particularly helpful
7 comparators. Although, I do take counsel's point that many of
8 those cases involve defendants who are over 65 years old.
9 Those defendants largely avoided incarceration, so I understand
10 that. That's a fair point. I'm certainly considering
11 Ms. Young's advanced age when fashioning her sentence.

12 As far the government's comparators, those cases and a
13 few additional ones the Court has located are somewhat more
14 helpful I think as comparators for Ms. Young. These are cases
15 in which the defendants were convicted of the same four
16 misdemeanors as Ms. Young, and, like her, their guideline was
17 based on Section 2A2.4, and Section 4C1.1 was not applied, and
18 there was no adjustment for acceptance of responsibility or
19 obstruction of justice. So the total offense level then for
20 these defendant comparator cases was the same as Ms. Young,
21 that is a level 10.

22 For the record, the Court does not find two of the
23 government's cases, *U.S. v. Vo* and *U.S. v. Alford* as being good
24 comparators here. Unlike Ms. Young, the defendant in *Vo* had a
25 criminal history that put him in a higher criminal history

1 category, Category II. He also violated his pretrial release
2 conditions when during trial he went to the DC jail to take
3 part in protests happening there. Nothing like that happened
4 in this case.

5 Similarly, the defendant in *Alford* took the stand at
6 trial and lied, thereby increasing her offense level -- maybe
7 his -- her or his offense level to 12, because of the
8 obstruction of justice enhancement. That is higher than
9 Ms. Young's.

10 The other cases the Court did find somewhat more
11 helpful as comparators. *Rivera*, 21-criminal-60; *Hager*,
12 21-criminal-381; and *Niemela*, 21-criminal-623; *Ryals*,
13 21-criminal-244; *MacAndrew*, 21-criminal-730; and *Barron*,
14 22-criminal-89. And every one of those cases though, except
15 one, *Barron*, the defendant was sentenced to a period of
16 incarceration, though the amount of incarceration varied quite
17 a bit from case to case. In *Niemela*, the defendant received
18 11 months of incarceration and 12 months supervised release.

19 There the defendant followed rioters to the upper west
20 terrace and entered the Capitol through the Senate wing doors
21 at 2:24 p.m., so early and around the time Ms. Young entered.
22 Niemela was also toward the back of the mob that overran a
23 police line in the Crypt, was toward the front of the mob that
24 breached a police line at the bottom of the stairs through the
25 speaker's suite and House chamber, and like Ms. Young was in

1 the mob that overran a police line outside the House chamber.

2 Niemela was inside the Capitol building for
3 21 minutes. Ms. Young was in it for 26, so I consider that
4 conduct similar to Ms. Young, and Niemela received 11 months.
5 Significantly, however, Niemela had some criminal history that
6 contained a prior conviction for disorderly conduct that
7 apparently involved some measure of violence, as well as two
8 other arrests. He was also only 35 years old. That's
9 Mr. Gross's point.

10 MacAndrew, the defendant received only three months
11 incarceration, but her conduct was less serious than
12 Ms. Young's. MacAndrew climbed over a pathway wall and bound
13 barricades while on restricted Capitol grounds, filmed herself
14 entering the Capitol building through a door that had been
15 broken down by other rioters, and then she walked through the
16 Capitol while filming rioters, and remained inside the building
17 for only about ten minutes before leaving. She breached no
18 police lines. She triggered no evacuations, no guns were
19 drawn, no one was shot with respect to her conduct. So her
20 conduct was less serious, in my judgment. She received three
21 months. She was 55 at the time.

22 In *Rivera*, the defendant livestreamed the struggle at
23 the police line outside the Capitol, including the filming
24 breaking of the line. He shouted encouraging words to the
25 crowd of rioters, assisted rioters trying to climb a wall and

1 was near the front of the crowd attempting to breach the Senate
2 wing door. Once inside, he roamed around the Capitol for about
3 20 minutes, taking selfies, and then he exited.

4 I think that is how Ms. Young would like to describe
5 her time in the Capitol. It was more than that, as I stated.
6 Nevertheless, Rivera, who also had no criminal history,
7 received eight months incarceration. He was 38 years old,
8 significantly younger than Ms. Young. So again, that's
9 Mr. Gross's point.

10 Ryals, the defendant stood in front of the Senate wing
11 door while others unsuccessfully tried to pull the door off its
12 hinges. Once inside the Capitol, he entered a ransacked
13 office, otherwise secured, nonpublic space. He then exited the
14 Capitol through the parliamentary door, and then reentered the
15 Capitol through a different door, despite being ordered by
16 officers to leave and despite being hit in the shoulder with a
17 pepper ball. While in the Capitol the second time, he went
18 through multiple floors of the Capitol, including the Rotunda
19 and Crypt, all while taking videos and chanting "USA," so
20 conduct I guess somewhat similar to Ms. Young.

21 He was in the Capitol for 48 minutes though, twice as
22 long as her. He received a sentence of six months. He was
23 27 years old.

24 In *Hager*, the defendant was yelling and chanting
25 outside of the Capitol building as he recorded the struggle

1 between the rioters and a police line for approximately
2 30 minutes. Once inside, he walked around the building for
3 about 13 minutes, taking videos and pictures, and then he
4 exited. For the reasons previously stated, his conduct, I
5 think, was less serious than Ms. Young's. He received seven
6 months. He's not as old as Ms. Young, but he's not young
7 either. He's 59.

8 Finally, there is *Barron*. This defendant's conduct in
9 the case does have similarities to Ms. Young. Barron helped
10 others in the crowd while outside the Capitol push past police
11 lines while yelling "charge." She entered the Capitol at 2:39,
12 17 minutes after Ms. Young. Like Ms. Young, Barron made her
13 way through the Rotunda and Statuary Hall and then joined the
14 crowd outside the House main doors.

15 But at that point, the police line outside the doors
16 had already broken, evacuation of the House was already
17 underway. This was 10, 15 minutes after Ms. Young was there.

18 Apparently, Ms. Barron encouraged the rioters outside
19 the House door to keep pushing on those doors, just like
20 Ms. Young did, but instead of pushing at the door and remaining
21 in that location, she moved to a stairwell, went up to the
22 third floor, walked around, and eventually she walked out of
23 building. She received a probationary sentence, six months of
24 home detention, so essentially no incarceration. She was
25 47 years old.

1 So that's quite a range of sentences imposed in these
2 cases from six months of home detention to 11 months of
3 incarceration. As another judge of this court has observed
4 sentences in these cases are all over the map. Based on my
5 review though, it seems clear that most January 6 defendants
6 with guidelines offense level 10 like Ms. Young have received
7 some period of incarceration.

8 In that regard, the *Barron* case, which again imposed
9 only six months of home detention rather than any incarceration
10 appears to be an outlier. Each of the other five cases I have
11 identified imposed terms of incarceration with the average
12 length of incarceration being seven months. Add in *Barron*, it
13 goes down to about six months. Throw in *Lavrenz*, and the
14 average is somewhere between five and six months, somewhere in
15 there.

16 That conclusion is borne out by the data from the
17 judicial sentencing information database that of the 55
18 defendants sentenced in the five years between 2019 and 2023
19 whose primary guideline was 2A2.4 with an offense level of 10
20 and criminal history category of I, all like Ms. Young,
21 87 percent of those defendants were sentenced to jail, received
22 a sentence of incarceration, in whole or in part. And the
23 average length of incarceration was seven months, median length
24 was six months.

25 I do take defense counsel's point that Ms. Young is

1 significantly older than most January 6 defendants, and indeed
2 she's significantly older than most defendants in general of
3 any kind. So I have considered all of that in reaching my
4 sentence.

5 To sum up, the Court believes a sentence including
6 incarceration is necessary, fair and just here to reflect the
7 nature and circumstances of Ms. Young's conduct, to deter her
8 and others who might engage in criminal acts of political
9 obstruction and violence in the future, and to avoid sentencing
10 disparities with other January 6 defendants.

11 The amount of incarceration she should serve is the
12 question. In that regard the Court has considered mitigation,
13 her history and characteristics, including most importantly her
14 advanced age. I credit her counsel's statement that a month of
15 incarceration for a young and healthy individual is not the
16 same as a month of incarceration for a senior citizen.

17 I have also considered that in her long life, she's
18 never before had contact with the criminal justice system.
19 That is significant to me. This was only 26 minutes of her
20 life. One of her friends did the calculation for me. She said
21 that Ms. Young has now lived something like 34 million minutes
22 without issue, without criminality, and the Court is
23 considering here today just 26 of those minutes. That's
24 another good friend, Ms. Young.

25 So I have taken all of that into consideration, but

1 that's all set by the defendant's lack of remorse, her failure
2 to sincerely appreciate and understand the seriousness and
3 wrongfulness of her conduct on January 6th.

4 Ms. Young, had you done so, because of your age, I
5 would have been more likely to have placed you on probation or
6 at least imposed a lesser sentence than what I'm going to
7 impose today, but you didn't. You have demonstrated a lack of
8 respect for the law, and it's nothing to be proud of.

9 The fact that your social media posts suggest that you
10 are proud of what you did and that you view all of this as some
11 sort of joke, that demonstrates to me that you must serve some
12 period of incarceration if, for no other reason, then as a
13 means to deter you from engaging in the same type of political
14 violence in the future.

15 Perhaps a sentence of incarceration will snap you out
16 of this personally destructive path that you are on. By that I
17 don't mean I hope you will change your political views. I
18 don't mean that at all. We must all be allowed the freedom of
19 our conscience. Your sentence today is not about what you
20 think, Ms. Young, but what you did. It's about your criminal
21 conduct that day as determined by the jury.

22 So I hope that you think about your life, think about
23 what it was before all this happened, Ms. Young. Is there not
24 some part of you that wants that old life back? I hope so.
25 That is the part of you, yourself, part of yourself that I hope

1 you focus on going forward.

2 Perhaps the results of the most recent election and
3 witnessing again, thankfully, that hallmark of our democracy,
4 the peaceful transfer of power, perhaps that would allow you
5 that moment of grace and clarity that you need to reflect on
6 what you did and to begin that process of change within
7 yourself. I hope it does.

8 Ms. Young, please come forward with your counsel to be
9 sentenced.

10 (Defendant and defense counsel approach podium.)

11 THE COURT: Pursuant to the Sentencing Reform Act of
12 1984, and in consideration of the provisions of 18 U.S.C.
13 Section 3553, as well as the advisory sentencing guidelines, it
14 is the judgment of this Court that you, Cindy Young, are hereby
15 committed to the custody of the Bureau of Prisons for a term of
16 four months incarceration as to each of Counts 1, 2, 3 and 4,
17 with all terms to run concurrently.

18 You're further sentenced to serve 12 months -- a
19 12-month term of supervised release as to each Counts 1 and 2,
20 with both terms to run concurrently.

21 In addition, you're ordered to pay restitution in the
22 amount of \$500, a fine in the amount of \$4,000.

23 You will also pay special assessments in the amount of
24 \$25 for each of Counts 1 and 2, and \$10 for each of Counts 3
25 and 4, for a total \$70 in special assessments in accordance

1 with 18 U.S.C. Section 3013.

2 Further, there will be a special condition of your
3 supervised release that you will be in home detention for the
4 first two months following your release, so essentially,
5 Ms. Young, that means you will serve four months of
6 incarceration, followed by two months on supervised release in
7 home detention, and then ten months on supervised release, but
8 not in home detention.

9 Pursuant to Section 5C1.1(c) (2) of the guidelines,
10 that sentence is permitted under zone B of the guidelines and
11 satisfies the minimum term of imprisonment of six months
12 specified in the offense level 10, guidelines range of six
13 months.

14 I also note for the record that I would have imposed
15 the same sentence even if the two-point reduction under 4C1.1
16 was found to be applicable to Ms. Young's conduct. In that
17 case, the guidelines range at offense level eight would have
18 been 0 to 6 months under zone A. That guidelines range would
19 have permitted the sentence the Court imposes here today.

20 In that event, the Court in its discretion would have
21 still sentenced her as it has done here today because that's
22 the most appropriate, fair and just sentence, and it is
23 carefully calibrated when considering her specific conduct,
24 circumstances, and all of the 3553 factors.

25 With respect to the rest of your sentence, Ms. Young,

1 while on supervised release, you shall abide by the following
2 mandatory conditions, as well as all discretionary conditions
3 recommended by the probation office in part D sentencing
4 options of the presentence report, which are imposed to
5 establish the basic expectations for your conduct while on
6 supervision.

7 The mandatory conditions include:

8 One, you must not commit another state, federal or
9 local crime.

10 Two, you must not unlawfully possess a controlled
11 substance.

12 Three, you must refrain from any unlawful use of a
13 controlled substance. You must submit to one drug test within
14 15 days of placement on supervision and at least two periodic
15 drug tests thereafter as determined by the Court.

16 Four, you must make restitution in accordance with 18
17 U.S.C. Section 3663 and 3663(a) or any other statute
18 authorizing a sentence of restitution.

19 You shall comply with the following special conditions
20 as well while under supervision:

21 Home detention. You will be in home detention, as I
22 mentioned, for the first two months following your release from
23 incarceration. During home detention, you will be restricted
24 to your residence at all times, except for employment,
25 education, religious services, medical, substance abuse or

1 mental health treatment, attorney visits, court appearance,
2 court obligations, or other activities approved in advanced by
3 your probation officer or supervising officer.

4 Location monitoring, you will be monitored by the form
5 of location monitoring technology indicated herein for a period
6 of 60 days while on home detention. 60 days, by that I mean
7 two months. You must follow the rules and regulations of the
8 location monitoring program. The cost of the program is
9 waived. Location monitoring technology is at the discretion of
10 the probation officer and may include radiofrequency
11 monitoring, GPS monitoring, including hybrid GPS, SmartLink or
12 voice recognition.

13 There will also be a firearm restriction. You must
14 remove all firearms, destructive devices or other dangerous
15 weapons from areas over which you have access or control until
16 the term of supervision expires. That includes removing all
17 such devices from wherever you are residing.

18 There will be a location restriction. You must not
19 knowingly enter the United States Capitol building or onto
20 surrounding grounds known as the Capitol square, consisting of
21 the square block marked bounded by Constitution Avenue,
22 Northwest and Northeast, to First Street, Northeast and
23 Southeast to Independence Avenue, Southeast and Southwest to
24 First Street, Southwest and Northwest, without first obtaining
25 the permission of the probation officer and/or the Court.

1 You must also not knowingly enter the District of
2 Columbia without first obtaining the permission of the
3 probation officer or the Court.

4 You are ordered to make restitution to the Architect
5 of the Capitol in the amount of \$500 with respect to Counts 1
6 and 2. This amount fairly reflects your role in the offense
7 and the damages resulting from your conduct. Moreover, in
8 cases where the parties have entered into a guilty plea, \$500
9 has consistently been the agreed upon amount of restitution,
10 The amount of restitution imposed by judges of this court where
11 the defendant was convicted of only misdemeanors and not
12 directly and personally involved in damaging property.
13 Accordingly, the Court finds that such a restitution amount
14 avoids sentencing disparity.

15 It is determined further that you do not have the
16 ability to pay interest and therefore waive any interest or
17 penalties that may accrue on the restitution balance.

18 Restitution payments shall be paid to the Clerk of
19 Court for the United States District Court for the District of
20 Columbia for disbursement to the following victim:

21 Architect of the Capitol. The amount of loss that you
22 will be paying is \$500. Architect of the Capitol is located at
23 the Office of the Chief Financial Officer, Ford House Office
24 Building, Room H2205B, Washington, DC 20515.

25 You are also ordered to pay a fine in the amount of

1 \$4,000. The Court determines you do not have the ability to
2 pay interest and therefore waives any interest or penalties
3 that may accrue on the balance.

4 Having assessed your ability to pay, payment of the
5 total criminal monetary penalties in this sentence is due as
6 follows:

7 Payment in equal monthly installments of at least \$200
8 until your obligations are complete, to commence 30 days after
9 the date of this judgment. The financial obligations are
10 immediately payable to the Clerk of the Court for the U.S.
11 District Court, 333 Constitution Avenue, Northwest, Washington,
12 DC 2001.

13 Within 30 days of any change of address, you shall
14 notify the Clerk of Court of the change until such time as your
15 financial obligation is paid in full.

16 The probation office shall release the presentence
17 report to all appropriate agencies, which includes the United
18 States Probation Office, in the approved district of residence
19 in order to execute the sentence of this Court.

20 Treatment agencies shall return the presentence report
21 to the probation office upon the defendant's completion or
22 termination from treatment.

23 Ms. Young, you have the following rights with respect
24 to appeal:

25 You have the right to appeal your conviction of guilt

1 to the U.S. Court of Appeals for the DC Circuit. Pursuant to
2 18 U.S.C. Section 3742(a), you also have a statutory right to
3 appeal your sentence to the DC Circuit under certain
4 circumstances, including if you think the sentence was imposed
5 in violation of law or as a result of an incorrect application
6 of the sentencing guidelines, or is more severe than the
7 maximum established in the guidelines range.

8 You may also appeal your sentence if you believe you
9 received ineffective assistance of counsel at sentencing.
10 Pursuant to 28 U.S.C. Section 2255, you also have the right to
11 challenge your conviction entered or sentence imposed to the
12 extent permitted by that statute. Any notice of appeal must be
13 filed within 14 days of the entry of judgment or within 14 days
14 following of a notice of appeal by the government.

15 If you are unable to afford the cost of appeal, you
16 may request permission from the Court to file an appeal without
17 cost to you. On appeal you may also apply for court-appointed
18 counsel.

19 Ms. Young, you can have a seat.

20 (Defendant and defense counsel return to table.)

21 THE COURT: Are there any objections to the sentence
22 imposed not already noted on the record? Government?

23 MS. LEDERER: No, Your Honor.

24 THE COURT: Any objections from the defense that are
25 not already noted on the record?

1 MR. GROSS: No, Your Honor.

2 THE COURT: Let's discuss voluntary surrender. Does
3 the government have any objection to me permitting Ms. Young to
4 voluntarily surrender in this case? She has been compliant
5 with the conditions of release. She appears to be a good
6 candidate for that.

7 MS. LEDERER: No objection, Your Honor, for the
8 reasons you just stated.

9 THE COURT: Well, the judgment will reflect that I'm
10 going to order her and permit her voluntary surrender to the
11 institution as designated by the BOP. I'm not going to specify
12 a particular date. It will indicate "as notified by the United
13 States Marshal Service" or "as notified by the probation
14 officer in this case." I'll have to look into what the
15 appropriate language is, but I'm not going to set a date.

16 She'll be designated, and then either the marshal
17 service or the probation officer will tell her when she needs
18 to report. Any objection with proceeding in that fashion,
19 government?

20 MS. LEDERER: Your Honor, the government would ask for
21 at least a no later than turn in date.

22 THE COURT: Mr. Gross?

23 MR. GROSS: We are satisfied to leave it to the Bureau
24 of Prisons.

25 THE COURT: I don't know how I can -- look, I don't

1 know how long it takes them to designate, so I'm not putting a
2 deadline on the Bureau of Prisons. I assume -- how quickly
3 does it take, do you know, government?

4 MS. LEDERER: Your Honor, AUSA Krishnamurthy in a case
5 that we had actually around the same time as Ms. Young that was
6 a guilty plea took about four months and caused a lot of
7 confusion, but we don't know if there was a breakdown in
8 communication somewhere along the line or if that was just
9 generally how long it took.

10 There was no -- there was a floor, but there was no
11 ceiling, and maybe that's what the issue was. There was no
12 later -- no earlier than cap put on, but no later than was left
13 blank.

14 THE COURT: I'll hear from probation. What can you
15 tell me about how this should be done?

16 PROBATION OFFICER: Good afternoon, Your Honor.
17 Officer Dixon on behalf of U.S. Probation. Typically, the BOP
18 does designations within 30 to 45 days. We're going to send a
19 notification today, and as soon as an available bed -- as soon
20 as they get her designated to an institution and she's squared
21 away, it normally doesn't take any more than 30 to 60 days
22 typically, but we will notify them today. I would ask that the
23 Court just allows the BOP to designate her.

24 THE COURT: Okay. That's what I'm going to do. I
25 don't know how to set a date that is reasonable. So if there

1 is an issue, if you think someone is taking too long or somehow
2 it's fallen through the cracks, the government can, I guess,
3 seek relief from the Court.

4 Anything further from the government?

5 MS. LEDERER: No, Your Honor.

6 THE COURT: From the defense?

7 MR. GROSS: I'm sorry, Your Honor.

8 THE COURT: Anything further?

9 MR. GROSS: Yes, I do have something further. If I
10 can approach quickly.

11 THE COURT: Okay. Sure.

12 MR. GROSS: Just a couple of quick housekeeping
13 matters. Number one, regarding the follow-up hearing regarding
14 the ceiling, I don't know if there is going to be hearing on
15 that or if there is anything further in this case, the
16 defendant just asks that she be able to appear remotely.

17 THE COURT: Oh, sure, I don't think that's a problem.
18 No. For just that hearing, no, that will be fine. Sure, if
19 there is a hearing. I don't know that there will be one, but
20 yes, she'll waive her right to an in-person proceeding?

21 MR. GROSS: Yes, absolutely. So two things that --
22 three things I would like the judgment to reflect, if possible.
23 I have been asked at other sentencings in terms of I guess any
24 requests or preferences in terms of what should be done.

25 We ask that there are statutory limitations or at

1 least regulatory limitations on the distance that the facility
2 can be from the home, and we just ask that that be observed
3 because there is some January 6 cases where it has not been for
4 whatever reason and the people are put in facilities that are
5 in another state, very far from where they are, and if the
6 judgment can reflect that.

7 THE COURT: What is your specific request, that all
8 such rules and laws are followed?

9 MR. GROSS: That preference be given to a facility
10 that is close to where her community is and --

11 THE COURT: Close to --

12 MR. GROSS: Close to where she currently resides. And
13 also just reflecting what I appreciate that the Court has
14 recognized in terms of her advanced age and the difficulty of
15 prison, that she be prioritized in what would be the most
16 appropriate facility, what they call the camps, that she be
17 designated in that area. If there was a discrepancy between a
18 facility that can facilitate her age versus one that's close
19 by, then she would obviously prefer the facility that is --
20 that is appropriate for her age. So I just want to put that on
21 the record, and I hope that that can be reflected in some way
22 in the judgment.

23 The final thing I want to mention is that, and this
24 also has to do with January 6 cases in general, is that
25 January 6 defendants, including Ms. Young, are designated as

1 domestic terrorists by the FBI. This case I think we heard
2 testimony not from one, but two FBI agents. One of them
3 testified in his report that she was peaceful. The other one
4 declined initially to open a case on her. There was extensive
5 reports on her. We saw evidence of what she did that day. We
6 saw evidence of her social media in advance of January 6th.

7 She was cooperative with the FBI, at least initially.
8 And we're not relitigating anything in terms of the factors,
9 but I think what we have not seen is any evidence that she was
10 part of some militia group or domestic terrorist or foreign
11 terrorists that had anything to do with this. That wasn't part
12 of her trial. It wasn't part of her conviction. It wasn't
13 part of her sentencing. And I think that I would request that
14 the Court at least acknowledge that for the record, only
15 because in prison, and outside of prison, there are
16 consequences to that designation, and for her to suffer these
17 adverse consequences for something that she really didn't have
18 due process, especially in the prison context, if she's
19 designated as a domestic terrorist, she's not eligible for
20 certain programs, she might be treated differently by the
21 staff, different security measures might be added to whatever
22 it is. And those are impossible bureaucratic hurdles to
23 overcome.

24 So it would be helpful for the Court to acknowledge
25 that she was not found as a domestic terrorist, and so far, to

1 everybody's knowledge, she has not been accused of that.

2 THE COURT: So it's BOP that's making that
3 designation?

4 MR. GROSS: It's hard to know. The FBI has made that
5 designation.

6 THE COURT: They don't have anything to do with where
7 these individuals are placed -- housed. You think the FBI is
8 telling BOP where to put these people?

9 MR. GROSS: No. I do think that the FBI does include
10 in their file that they are domestic terrorists, and the BOP
11 has access to that file and does apply it to the way they house
12 them. And I think that's unfair. And certainly in this case
13 if the Court could just acknowledge that no evidence has been
14 seen at this trial that -- and she has not been accused of that
15 and she has not had an opportunity to respond to that
16 designation even.

17 THE COURT: Okay. Government?

18 MS. LEDERER: Your Honor, I can only answer so much,
19 because I really do not know what counsel is talking about at
20 the end of the day. I do know that January 6th generally,
21 investigation into January 6th started off as one big umbrella
22 that was designated a domestic terrorism investigation because
23 it was a riot that specifically targeted democracy.

24 So I mean, I would have to go back and look at the
25 file. I don't think that specifically in paperwork Ms. Young

1 herself is designated as a domestic terrorist, nor has the
2 government brought charges specific to terrorism, nor has any
3 type of special offense or characteristic been applied, but due
4 to the fact that she participated in that riot that attacked
5 democracy, she is funneled under that investigation, or her
6 case is filed under domestic terrorism.

7 But the FBI isn't calling up BOP saying house people a
8 specific way. I believe that BOP would be best suited to
9 answer how people are designated.

10 THE COURT: So she's not been charged as a domestic
11 terrorist?

12 MS. LEDERER: No, she's not.

13 THE COURT: She's not been found guilty of being a
14 domestic terrorist?

15 MS. LEDERER: Nor did we ask at sentencing for any
16 type of departure under Chapter 3C1.14 or something, and then
17 there is also note four, we did not ask for that to apply in
18 this case. Also, to even get to that application, there is
19 certain thresholds you have to meet to get there, so I think --

20 THE COURT: You have not sought that in this case?

21 MS. LEDERER: No.

22 THE COURT: I have made no such finding.

23 MS. LEDERER: Nor could we have sought that.

24 THE COURT: There was no evidence about that at trial.
25 Nothing has been presented here at sentencing.

1 MS. LEDERER: Correct. I don't even believe -- at
2 trial government certainly didn't say the buzz words of
3 domestic terrorism, and I don't even think the agents were
4 crossed on it. It's just there was a categorical mark put on
5 initial paperwork when the case was opened because it was
6 opened under the general investigation of a domestic terrorism
7 event.

8 THE COURT: Okay. Well, I'm going to ask you about
9 his first issue in a moment, but Mr. Gross, there you have your
10 record. I don't know what you -- I mean, the government just
11 said it. I agree with what she said.

12 MR. GROSS: And I --

13 THE COURT: I guess an initial investigation was
14 opened and they called it a domestic terrorism investigation
15 that involved January 6. She is a January 6 defendant. Maybe
16 that's where it is coming from, but that is what it is, that
17 means whatever it means to someone out there, but you now have
18 a record right here at this sentencing of what this case was
19 about.

20 MR. GROSS: Your Honor, that is exactly what I was
21 asking for, and if I could also ask the Court's permission just
22 it's easier than submitting a transcript, if I could -- if
23 there is some kind of way that either in a minute order or in
24 the alternative if I can file a consent motion with the
25 government to that effect that would be less than one paragraph

1 long.

2 THE COURT: Whatever you can work out. I'm not
3 putting anything in my judgment at this point. Again, you
4 know, none of those things were issues in this case. But I'm
5 not -- you know, I'm not right now prepared to say I'm going to
6 put in the judgment that she's not a domestic terrorist. I'm
7 not saying one way or the other. It's just not what this case
8 has been about. Nothing has been put in front of me. She
9 hasn't been charged. That wasn't any element of any her
10 offenses. There is no such evidence presented at trial. No
11 such evidence presented here at the sentencing. No
12 enhancements were made to her offense level as a result of any
13 alleged domestic terrorist conduct.

14 That's all I'm going to be prepared to do there. If
15 you can get the government to make some further finding or
16 agreement, you know, I'll consider it when it's in front of me.

17 I want to address the other issue, which seems to be
18 his desire that I somehow direct BOP to follow its rules and
19 make sure that she is housed appropriately for a woman of her
20 age relatively close to her community.

21 What about that, government?

22 MS. LEDERER: Your Honor, we have no issues with you
23 recommending those. However, because the BOP is their own
24 agency, they have to do their own work. I think that it can
25 only be written into the judgment as a recommendation and

1 unfortunately not an order.

2 THE COURT: That's all I would ever do is make a
3 recommendation. You don't object to me making such a
4 recommendation?

5 MS. LEDERER: No, Your Honor.

6 THE COURT: Mr. Gross, I do want you to propose
7 language. Whatever it is you want me to recommend, you talk
8 about regulations, what have you -- yes, probation.

9 PROBATION OFFICER: Your Honor, the AUSA is absolutely
10 correct. I would recommend that he just make a recommendation
11 for a specific institution. That would be an easier way to go
12 about it.

13 THE COURT: I'll join in the recommendation, but they
14 don't have to listen to me, and it's not going to be an order,
15 but fine. I don't have a problem with any of that.

16 MR. GROSS: That's all I asked, Your Honor. I just
17 ask how that should be filed or communicated to the Court.

18 THE COURT: You can just file a notice of filing
19 saying here is the recommendation and I'll enter some minute
20 entry which reflects that I concur in that recommendation, but
21 makes clear that I'm not ordering anyone to do anything,
22 because it's not -- that's within their prerogative, their
23 purview, not mine.

24 Okay. Anything further? You should do that quickly,
25 because I want to put this judgment in quickly, so by the end

1 of the week, which is Friday. I don't even know what day it
2 is. It's tomorrow. Is that tomorrow? All right. By
3 tomorrow.

4 Anything further from the government?

5 MS. LEDERER: No, Your Honor.

6 THE COURT: From the defense?

7 MR. GROSS: No, Your Honor.

8 THE COURT: Thank you. Parties are excused.

9 (Proceedings concluded at 1:03 p.m.)

10 CERTIFICATE

11 I, Sonja L. Reeves, Federal Official Court Reporter in and
12 for the United States District Court of the District of
13 Columbia, do hereby certify that the foregoing transcript is a
14 true and accurate transcript from the original stenographic
15 record in the above-entitled matter and that the transcript
16 page format is in conformance with the regulations of the
17 Judicial Conference of the United States.

18 Dated this 30th day of October, 2025.

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25
/s/ Sonja L. Reeves
SONJA L. REEVES, RDR-CRR
FEDERAL OFFICIAL COURT REPORTER

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'					
'Why [1] - 77:1					
/					
/s [1] - 105:19					
0					
0 [1] - 89:21					
1	1 [14] - 5:18, 5:19, 6:9, 6:18, 6:22, 30:7, 46:23, 46:24, 47:5, 47:10, 88:19, 88:22, 89:2, 92:8 10 [25] - 15:11, 15:17, 30:2, 30:14, 31:25, 45:21, 46:5, 47:8, 47:9, 47:16, 47:17, 48:1, 48:4, 48:8, 50:2, 57:22, 62:15, 62:22, 79:15, 80:4, 80:24, 84:20, 85:9, 85:22, 89:15 10:25 [1] - 27:22 10:40 [1] - 27:22 11 [5] - 30:5, 30:19, 81:21, 82:7, 85:5 111(a [1] - 34:6 111(a) [1] - 14:19 1159 [1] - 64:10 11:20 [1] - 30:3 11:55 [1] - 70:16				
2	2 [18] - 5:21, 6:9, 6:18, 6:22, 14:8, 16:7, 33:13, 46:13, 46:23, 47:6, 47:9, 47:10, 47:16, 88:19, 88:22, 89:2, 89:12, 92:9 20 [4] - 22:11, 25:7, 30:19, 83:6 20001 [2] - 1:15, 1:24 2001 [1] - 93:15 2019 [1] - 85:21 2020 [2] - 38:22, 73:18				
3					
4					
4	4 [9] - 5:19, 6:1, 6:13, 6:18, 6:24, 15:13, 46:21, 88:19, 89:3 40 [2] - 5:25, 6:2 421A [7] - 23:15, 24:20, 24:21, 24:23, 25:5, 26:18, 28:10 424A [2] - 20:13, 20:19 425A [4] - 28:1, 28:2, 28:3, 54:20 425B [6] - 26:22, 27:2, 27:4, 28:12, 28:22, 29:15 426 [1] - 20:25 43 [1] - 28:2 439 [1] - 63:23 45 [1] - 96:21				
5	5 [2] - 8:15, 34:1 50 [2] - 51:5, 63:24 5104 [1] - 61:21 5104(e)(2)(D) [2] - 5:25, 6:3 519962 [1] - 36:18 52 [1] - 24:20 55 [3] - 65:19, 82:24, 85:20 59 [1] - 84:10 595 [1] - 64:10 5C1.1(c)(2 [1] - 89:12 5E1.1(b)(2 [1] - 9:21 5K2.7 [1] - 45:14 5th [1] - 5:15				
6	6 [18] - 10:9, 10:11, 15:15, 24:19, 34:1, 47:5, 48:6, 49:17, 59:2, 76:18, 78:1, 78:13, 78:14, 79:10, 79:18, 86:4, 86:13, 89:21 60 [3] - 91:9, 96:24 601 [1] - 1:14 62 [1] - 48:11 65 [3] - 78:15, 78:16, 80:11 67 [4] - 68:3, 68:6, 68:9, 74:17 6th [55] - 11:5, 12:13, 15:24, 16:17, 33:19, 35:4, 36:5, 36:7, 36:16, 36:23, 37:3, 38:9, 45:4, 51:16, 53:24, 54:12, 56:16, 56:25, 57:4, 57:7, 57:14, 57:19, 59:7, 60:9, 60:15, 61:3, 61:13, 63:1, 63:13, 63:22, 64:1, 64:15,				

64:23, 68:21, 72:11, 73:12, 76:4, 76:22, 76:24, 77:3, 77:7, 77:14, 77:16, 77:21, 78:3, 85:8, 87:6, 98:6, 99:2, 99:3, 99:9, 100:23, 100:24, 102:17	accordance [2] - 89:3, 90:19 according [1] - 74:22 accordingly [3] - 14:19, 46:20, 92:16 account [8] - 9:3, 9:6, 12:11, 34:19, 45:3, 48:18, 71:8, 71:13 accountable [1] - 77:7 accounted [1] - 56:20 accounting [6] - 9:5, 50:8, 50:15, 51:9, 71:6 accounts [1] - 56:11 accrue [2] - 92:20, 93:6 accuracy [1] - 33:5 accurate [1] - 105:14 accused [4] - 13:19, 14:18, 100:4, 100:17 achieve [4] - 69:22, 69:23, 70:6 achievement [1] - 56:18 acknowledge [3] - 99:17, 100:2, 100:16 acknowledged [1] - 33:2 Act [1] - 88:14 actions [14] - 35:18, 36:4, 44:14, 49:21, 55:9, 55:15, 56:16, 57:4, 57:18, 59:7, 61:17, 73:1, 77:21, 78:3 active [2] - 41:2, 49:20 actively [1] - 55:8 activities [1] - 91:5 acts [5] - 34:22, 36:25, 44:16, 72:10, 86:11 actual [5] - 3:23, 4:10, 17:14, 23:12, 59:18 add [3] - 7:1, 66:13, 85:15 added [2] - 15:14, 99:24 addiction [2] - 65:23, 66:19 addition [1] - 88:24 additional [5] - 8:24, 10:22, 10:25, 12:23, 80:16 address [12] - 2:15, 4:15, 8:4, 9:8, 12:16,	49:8, 49:10, 62:24, 70:10, 93:16, 103:19 addressing [1] - 4:17 adequate [1] - 72:2 adjustment [3] - 47:1, 47:21, 80:21 adjustments [4] - 47:8, 47:18, 47:19 administrations [1] - 73:20 admit [2] - 53:24, 55:22 admitted [2] - 4:14, 20:11 admittedly [1] - 53:9 adult [1] - 75:1 advance [4] - 7:12, 39:9, 53:23, 99:9 advanced [4] - 80:14, 86:17, 91:5, 98:17 adverse [1] - 99:20 advised [1] - 75:10 advisory [2] - 71:20, 88:16 advocate [2] - 75:8, 75:11 afford [3] - 12:2, 72:2, 94:18 afternoon [1] - 96:19 afterwards [1] - 66:24 age [7] - 80:14, 86:17, 87:7, 98:17, 98:21, 98:23, 103:22 agencies [2] - 93:20, 93:23 agency [1] - 104:1 agents [4] - 57:2, 60:12, 99:5, 102:6 aggressive [1] - 40:3 ago [5] - 7:20, 22:2, 57:2, 75:21 agree [6] - 17:14, 23:17, 36:12, 45:25, 68:21, 102:13 agreed [2] - 35:23, 92:12 agreement [1] - 103:18 agrees [1] - 33:1 ahead [4] - 13:4, 22:12, 30:22, 49:15 aided [3] - 34:23, 36:25, 44:17 Alam [1] - 59:19 alarms [1] - 53:3 Alcoholics [1] - 75:8 Alford [2] - 81:1, 81:8	alleged [1] - 103:15 allies [1] - 54:16 allocation [3] - 9:10, 49:6, 49:9 allow [5] - 3:17, 4:5, 16:9, 67:21, 88:7 allowed [2] - 50:12, 87:21 allowing [1] - 3:16 allows [2] - 9:21, 97:1 almost [4] - 58:2, 65:17, 67:25, 68:6 alone [1] - 75:3 alternative [3] - 45:15, 70:8, 103:1 alternatively [2] - 22:17, 65:11 amazing [1] - 56:17 amend [1] - 7:4 America [1] - 2:3 AMERICA [1] - 1:3 American [2] - 71:6, 76:2 Americans [3] - 58:3, 74:3, 74:9 amount [25] - 9:21, 9:22, 9:24, 10:11, 10:19, 11:1, 11:4, 11:7, 50:4, 52:22, 57:10, 59:10, 70:5, 81:19, 86:14, 88:25, 89:1, 92:8, 92:9, 92:12, 92:13, 92:16, 92:24, 93:3 amounts [1] - 9:19 Amy [1] - 33:14 analysis [3] - 3:25, 14:20, 35:23 Andrulonis [2] - 17:19, 35:7 angle [3] - 26:19, 27:9, 27:11 angles [1] - 27:9 angry [1] - 40:3 ankle [1] - 69:17 Anonymous [1] - 75:9 answer [4] - 56:15, 57:18, 100:21, 101:12 anxiety [1] - 66:9 apart [1] - 61:18 apologies [2] - 8:14, 26:16 apologize [5] - 7:3, 22:9, 29:25, 52:11, 64:12 appeal [9] - 94:2, 94:3, 94:6, 94:11, 94:15, 94:17, 94:18,	94:19, 94:20 appeals [1] - 13:21 Appeals [1] - 94:4 appear [3] - 30:18, 41:11, 97:19 appearance [1] - 91:4 appeared [2] - 7:25, 23:7 appearing [1] - 56:5 appellate [1] - 64:9 applicable [5] - 6:15, 12:9, 47:2, 78:25, 89:19 application [20] - 11:20, 12:1, 12:15, 12:18, 12:20, 12:23, 15:8, 15:10, 15:12, 16:20, 32:17, 32:18, 33:7, 34:20, 38:8, 45:14, 72:14, 94:8, 101:21 applied [12] - 12:9, 15:6, 16:22, 32:25, 33:17, 36:11, 37:4, 44:24, 45:5, 45:18, 80:20, 101:6 applies [1] - 15:12 apply [17] - 12:11, 13:22, 16:19, 17:15, 21:12, 33:8, 45:2, 45:6, 45:10, 45:16, 46:19, 46:21, 46:22, 61:22, 94:20, 100:14, 101:20 applying [2] - 46:12, 46:13 appointed [1] - 94:20 appreciate [3] - 14:4, 87:5, 98:16 appreciation [1] - 77:22 approach [3] - 41:4, 88:13, 97:13 appropriate [18] - 3:9, 9:14, 13:22, 14:21, 15:2, 15:4, 15:20, 16:3, 16:18, 46:1, 50:4, 50:16, 71:22, 89:25, 93:20, 95:18, 98:19, 98:23 appropriately [2] - 16:10, 103:21 approved [2] - 91:5, 93:21 Architect [1] - 92:7 architect [2] - 92:24, 92:25 area [5] - 27:16, 31:7, 43:23, 59:11,
7	7 [2] - 24:24, 25:6 70 [4] - 65:17, 65:21, 67:25, 68:7 71 [4] - 68:2, 68:4, 68:5, 68:8 714 [1] - 34:1			
8	87 [1] - 85:24 8th [1] - 105:17			
9	9 [1] - 36:18 983 [1] - 14:6 9:35 [2] - 1:11, 2:1			
A	a.m [5] - 1:11, 2:1, 27:22, 70:16 abandons [1] - 55:14 abetted [3] - 34:23, 36:25, 44:17 abide [1] - 90:4 ability [6] - 64:7, 70:21, 71:18, 92:19, 93:4, 93:7 able [6] - 20:7, 66:7, 67:21, 69:11, 69:22, 97:19 above-entitled [1] - 105:15 absolute [1] - 49:9 absolutely [3] - 21:21, 97:24, 104:11 absurdity [1] - 13:10 abuse [3] - 66:12, 66:14, 91:3 accept [6] - 7:24, 49:2, 57:1, 58:17, 62:25, 63:9 acceptable [1] - 4:7 acceptance [3] - 47:22, 79:9, 80:21 accepted [1] - 64:3 access [3] - 79:24, 91:18, 100:14			

98:20 areas [1] - 91:18 argue [1] - 64:8 argued [2] - 35:1, 52:3 argues [1] - 15:11 arguing [1] - 69:25 argument [13] - 4:4, 8:11, 12:14, 12:23, 13:15, 13:25, 15:18, 22:22, 34:3, 34:16, 36:13, 36:15, 62:19 arise [1] - 66:8 arising [1] - 15:24 arrest [1] - 75:17 arrests [1] - 82:11 arrived [1] - 55:9 arriving [1] - 8:18 articulating [1] - 14:23 artist [1] - 76:3 aside [1] - 62:4 aspects [1] - 69:25 assault [6] - 13:8, 13:20, 13:22, 14:18, 14:23, 14:24 assaulted [3] - 13:11, 17:18, 52:10 assaulting [2] - 17:21, 35:19 assaultive [3] - 16:16, 34:7, 34:17 asserted [1] - 33:6 assessed [1] - 93:7 assessing [3] - 43:25, 71:3, 72:13 assessment [4] - 6:21, 37:6, 42:1, 50:5 assessments [2] - 89:1, 89:3 assistance [1] - 94:12 assisted [1] - 83:3 associate [1] - 76:24 associated [1] - 71:11 assume [2] - 4:22, 96:5 assuming [2] - 8:5, 12:4 attack [2] - 73:14, 77:8 attacked [1] - 101:7 attacking [3] - 17:21, 35:19, 74:5 attempt [2] - 30:1, 42:6 attempted [3] - 43:21, 60:8, 79:24 attempting [3] -	60:5, 72:20, 83:4 attended [1] - 75:11 attention [1] - 71:7 attests [1] - 75:23 Attorney [1] - 1:13 attorney [4] - 49:12, 50:9, 68:7, 91:4 attributed [1] - 10:22 AUSA [3] - 30:23, 96:7, 104:11 AUSAs [1] - 2:7 authorizing [1] - 90:21 automatically [1] - 26:17 availability [1] - 70:25 available [1] - 96:22 Avenue [5] - 1:17, 1:24, 91:24, 92:1, 93:14 average [5] - 63:19, 63:24, 85:14, 85:17, 86:1 avoid [3] - 72:4, 78:10, 86:12 avoided [1] - 80:12 avoids [1] - 92:17 aware [1] - 64:19	basic [1] - 90:8 Bates [2] - 36:16, 45:25 Bauer [3] - 33:25, 34:3, 35:23 bear [1] - 17:3 bearing [1] - 17:5 bears [2] - 16:24, 33:10 become [1] - 18:16 bed [1] - 96:22 BEFORE [1] - 1:10 begin [3] - 3:15, 67:11, 88:9 begins [1] - 55:19 behalf [4] - 2:8, 2:10, 2:13, 96:20 behavior [1] - 76:25 behind [4] - 18:10, 25:24, 26:10, 42:20 belabor [1] - 51:18 belaboring [1] - 65:15 believable [4] - 33:24, 40:25, 42:13, 44:20 believes [5] - 12:6, 33:8, 73:5, 74:10, 86:8 below [1] - 52:23 benefit [2] - 38:12, 79:7 benefits [1] - 75:2 Berman [1] - 33:14 best [2] - 61:11, 101:11 better [2] - 5:5, 33:5 between [11] - 38:4, 39:13, 43:13, 44:5, 66:3, 72:15, 73:19, 84:4, 85:17, 85:21, 98:20 beyond [7] - 14:25, 25:3, 38:20, 40:8, 43:6, 61:8, 61:9 big [3] - 61:14, 65:12, 100:24 big-picture [1] - 61:14 bigger [1] - 32:8 bills [1] - 10:24 bit [4] - 13:10, 17:25, 30:1, 81:20 black [1] - 63:5 Black [1] - 70:2 blames [1] - 78:3 blank [1] - 96:16 blaring [2] - 37:18, 53:3 block [1] - 91:24	board [3] - 10:9, 10:20, 11:5 bodied [1] - 66:8 bodily [1] - 74:6 book [2] - 7:21, 7:22 BOP [10] - 95:14, 96:20, 97:1, 100:5, 100:11, 100:13, 101:10, 101:11, 103:20, 103:25 bore [1] - 15:1 borne [1] - 85:19 bottom [2] - 30:20, 82:2 bound [2] - 32:18, 82:15 bounded [1] - 91:24 Boys [2] - 48:13, 48:14 breach [5] - 21:19, 21:25, 24:7, 37:15, 83:4 breached [6] - 21:18, 26:14, 37:12, 79:23, 82:2, 82:20 breaching [1] - 44:4 Break [1] - 18:9 break [16] - 19:18, 27:20, 27:21, 28:7, 28:8, 28:13, 28:17, 28:19, 28:20, 28:22, 29:1, 29:3, 29:6, 29:10, 41:22, 70:14 breakdown [1] - 96:10 breaking [1] - 83:2 breaks [1] - 61:3 brief [6] - 4:5, 4:21, 10:7, 13:1, 13:2, 13:9 briefing [1] - 4:10 briefly [8] - 14:5, 18:3, 27:15, 39:22, 56:2, 63:16, 63:18, 73:20 bring [8] - 13:16, 15:15, 23:13, 28:12, 30:2, 51:3, 56:2, 75:9 bringing [1] - 70:2 brings [1] - 31:7 broad [1] - 61:20 broader [2] - 4:11, 73:11 broke [1] - 41:7 broken [10] - 24:16, 27:6, 37:17, 38:23, 42:11, 43:22, 53:2, 68:18, 82:18, 84:19 brought [7] - 51:8, 56:10, 58:6, 71:7, 77:6, 77:8, 101:5	buckets [1] - 18:2 bucks [1] - 51:5 buffering [1] - 31:20 Building [2] - 68:18, 93:2 building [33] - 5:20, 5:22, 5:24, 6:2, 11:24, 14:12, 14:14, 15:14, 16:6, 22:3, 22:16, 22:17, 22:19, 34:13, 37:12, 37:14, 37:21, 38:3, 38:15, 38:23, 43:9, 47:3, 53:3, 55:13, 56:5, 79:23, 82:5, 82:17, 82:19, 84:3, 84:5, 85:1, 91:22 burden [8] - 10:2, 16:24, 17:3, 17:5, 33:11, 33:16, 44:23, 70:23 Bureau [4] - 69:5, 88:18, 96:1, 96:5 bureaucracy [1] - 69:4 bureaucratic [1] - 99:25 business [5] - 14:11, 14:14, 16:5, 34:14, 76:8 busy [1] - 24:1 buzz [1] - 102:5 BY [2] - 1:14, 1:17 bystander [1] - 49:19
	B			C
	badge [1] - 78:1 Baker [2] - 1:20, 2:13 balance [2] - 92:20, 93:6 ball [3] - 5:6, 27:10, 83:20 Baltimore [1] - 1:18 bangs [1] - 52:23 Baren [7] - 81:16, 81:18, 84:11, 84:16, 84:21, 85:11, 85:15 Barren [1] - 84:13 barricaded [6] - 18:12, 24:2, 24:15, 41:25, 42:5, 43:4 barricades [1] - 82:16 barrier [1] - 44:5 barriers [1] - 52:4 base [7] - 15:10, 15:13, 16:11, 32:20, 46:25, 47:7, 47:16 based [10] - 9:3, 10:9, 10:10, 10:23, 15:4, 17:10, 50:4, 66:24, 80:20, 85:7 baseline [2] - 11:1, 11:4			C1.1 [1] - 46:13 calculate [1] - 16:11 calculation [17] - 6:25, 9:9, 9:19, 11:12, 15:16, 33:1, 33:17, 37:5, 44:25, 46:6, 46:10, 46:15, 46:16, 47:11, 48:9, 86:23 calibrated [1] - 90:1 calm [2] - 23:9, 26:3 calms [1] - 23:4 camera [5] - 28:15, 28:21, 29:10, 29:12, 30:4 camps [1] - 98:19 cancer [2] - 65:21, 75:14 candidate [1] - 95:9 Cannon [1] - 68:18 cannot [3] - 29:10, 58:14, 61:2 cap [2] - 27:10, 96:15 capacity [1] - 71:4

capitalize [1] - 71:5
Capitol [53] - 5:24, 6:2, 10:10, 10:11, 10:23, 37:10, 37:18, 37:19, 37:22, 37:24, 38:2, 38:6, 38:10, 38:18, 39:10, 39:21, 42:19, 43:12, 44:10, 44:13, 51:16, 51:23, 53:2, 57:19, 59:2, 59:5, 72:11, 72:18, 73:15, 79:23, 80:4, 81:23, 82:5, 82:16, 82:17, 82:19, 83:1, 83:5, 83:8, 83:15, 83:17, 83:18, 83:20, 83:21, 83:24, 84:3, 84:13, 84:15, 91:22, 91:23, 92:8, 92:24, 92:25
captured [3] - 28:10, 28:22, 29:24
carefully [2] - 55:13, 90:1
caring [2] - 56:21
carried [2] - 53:16, 55:13
carries [1] - 79:3
carry [3] - 6:10, 6:13, 52:24
Case [1] - 35:7
CASE [1] - 1:5
case [63] - 7:6, 9:16, 12:10, 13:16, 13:23, 15:5, 16:12, 16:18, 17:19, 33:4, 33:12, 33:13, 33:25, 34:1, 35:23, 36:20, 40:1, 44:3, 45:9, 45:11, 45:12, 45:25, 52:13, 59:19, 60:18, 61:16, 63:14, 67:2, 67:3, 67:4, 67:10, 67:23, 68:12, 71:11, 74:14, 75:7, 75:17, 76:7, 76:18, 77:15, 77:16, 79:12, 79:23, 81:7, 81:20, 84:12, 85:11, 89:20, 95:7, 95:17, 96:7, 97:18, 99:4, 99:7, 100:15, 101:9, 101:21, 101:23, 102:8, 102:20, 103:6, 103:9
cases [39] - 10:9, 10:12, 10:16, 10:19, 10:21, 35:22, 36:16, 45:11, 61:8, 61:9, 61:20, 62:2, 62:4, 62:19, 63:23, 76:18,

77:7, 77:9, 77:16, 78:13, 78:14, 78:16, 78:18, 79:11, 80:9, 80:11, 80:15, 80:17, 80:23, 81:1, 81:13, 81:17, 85:5, 85:7, 85:13, 92:11, 98:6, 99:2
cash [2] - 71:2, 71:17
catches [2] - 26:24, 27:2
categorical [1] - 102:7
category [4] - 48:3, 48:5, 81:4, 85:23
Category [1] - 81:4
caught [1] - 28:15
caused [7] - 10:24, 34:24, 37:1, 39:4, 73:25, 76:22, 96:9
causing [1] - 72:24
CCTV [6] - 26:24, 27:9, 27:12, 31:20, 52:17, 56:5
CDF [2] - 64:15, 64:16
CDU [2] - 52:19, 52:20
ceiling [2] - 96:14, 97:17
celebrate [1] - 74:3
celebrates [1] - 59:24
center [1] - 31:12
ceremonial [1] - 54:7
certain [8] - 10:16, 12:3, 13:11, 56:20, 94:6, 99:23, 101:21
certainly [14] - 15:24, 36:12, 37:16, 40:9, 44:22, 49:11, 63:12, 66:15, 67:12, 68:20, 78:12, 80:13, 100:15, 102:5
CERTIFICATE [1] - 105:12
certification [4] - 54:9, 73:18, 73:21, 74:1
Certified [1] - 1:23
certify [2] - 38:22, 105:14
chair [2] - 43:16, 43:18
challenge [1] - 94:14
challenges [1] - 66:6
chamber [17] - 18:8, 32:2, 38:17, 39:8, 39:25, 40:9, 40:13, 41:25, 42:4, 42:9,

42:16, 42:21, 42:23, 73:3, 79:25, 82:3, 82:4
chambers [1] - 7:19
chance [3] - 32:15, 63:1, 68:10
chances [1] - 67:20
change [4] - 87:20, 88:9, 93:16, 93:17
chant [3] - 28:13, 28:17, 52:16
chanted [1] - 18:9
chanting [12] - 19:18, 28:14, 28:16, 29:10, 29:12, 38:5, 40:3, 41:6, 53:16, 74:8, 83:22, 84:2
chaos [1] - 77:13
Chapter [1] - 101:19
characteristic [2] - 47:1, 101:6
characteristics [5] - 47:19, 56:10, 71:24, 74:16, 86:16
characterization [1] - 64:2
charge [4] - 14:8, 14:10, 45:13, 84:14
charged [9] - 14:19, 16:6, 17:21, 34:4, 35:19, 51:14, 78:12, 101:13, 103:11
charges [3] - 61:21, 62:10, 101:5
check [1] - 3:24
Chief [10] - 21:13, 31:16, 39:21, 40:9, 40:17, 40:23, 42:19, 42:25, 54:6, 93:1
childhood [1] - 74:23
choosing [1] - 56:19
chosen [2] - 56:22, 78:14
Cindy [6] - 2:3, 2:10, 5:17, 61:3, 74:16, 88:17
CINDY [1] - 1:6
Circuit [3] - 14:20, 94:4, 94:6
Circuit's [2] - 15:19, 15:25
circumstance [1] - 61:12
circumstances [9] - 42:8, 51:13, 67:16, 71:23, 72:8, 73:6, 86:10, 90:2, 94:7
cite [1] - 65:8
cited [1] - 61:21
citizen [1] - 86:19

citizens [1] - 70:4
civility [1] - 58:11
claims [1] - 64:22
clarify [1] - 14:22
clarity [1] - 88:8
class [1] - 78:23
Class [6] - 46:19, 46:20, 46:22, 61:23, 78:22, 79:2
clear [12] - 17:20, 18:9, 31:4, 39:18, 39:25, 45:11, 51:21, 51:22, 67:2, 67:14, 85:8, 104:23
clearly [9] - 14:20, 16:2, 25:7, 25:8, 25:12, 25:13, 51:10, 56:21, 58:15
clerk [3] - 92:21, 93:13, 93:17
CLERK [1] - 2:2
client [1] - 11:14
climb [2] - 43:22, 83:3
climbed [2] - 52:9, 82:15
clip [3] - 22:10, 23:11
close [5] - 98:13, 98:14, 98:15, 98:21, 103:22
closer [1] - 79:12
Coeken [1] - 78:17
cognitive [1] - 66:5
collect [1] - 27:13
collected [1] - 71:9
COLUMBIA [1] - 1:1
Columbia [3] - 92:5, 92:23, 105:14
coming [3] - 22:3, 22:8, 102:18
commanded [1] - 37:1
commence [1] - 93:11
commit [3] - 67:17, 72:10, 90:11
committed [4] - 34:23, 36:25, 44:17, 88:18
common [1] - 56:23
communicate [2] - 69:12
communicated [1] - 104:19
communication [1] - 96:11
community [7] - 7:18, 60:8, 75:22, 75:24, 77:19, 98:13, 103:22

comparable [1] - 79:12
comparator [3] - 78:13, 78:16, 80:23
comparators [8] - 62:16, 64:1, 78:19, 80:10, 80:15, 80:17, 81:2, 81:14
compare [1] - 62:9
comparison [1] - 45:12
comparisons [1] - 62:9
compelling [1] - 42:12
complete [1] - 93:11
completely [3] - 51:8, 54:12, 57:7
completion [1] - 93:24
complex [1] - 9:23
compliant [2] - 75:19, 95:7
complicate [1] - 9:25
comply [1] - 90:22
computer [2] - 26:17, 30:24
computers [3] - 29:25, 30:16, 31:22
concern [1] - 67:16
concerned [1] - 76:8
concerted [1] - 73:1
conclude [3] - 36:7, 40:23, 69:1
concluded [2] - 40:23, 105:11
concludes [2] - 64:10, 71:1
conclusion [4] - 33:2, 36:10, 71:17, 85:19
concur [3] - 10:5, 71:17, 104:22
concurrently [2] - 88:20, 88:23
condition [1] - 89:5
conditions [10] - 64:23, 65:7, 69:4, 69:16, 81:5, 90:5, 90:10, 90:22, 95:8
conduct [56] - 5:22, 5:24, 11:23, 14:11, 14:14, 16:5, 16:14, 16:16, 16:18, 33:21, 34:7, 34:12, 34:14, 34:18, 34:19, 35:9, 35:11, 36:12, 36:24, 38:7, 49:21, 51:13, 51:17, 53:14, 53:22, 57:14, 61:15, 61:17,

62:4, 62:12, 62:23,
72:2, 72:6, 72:15,
77:18, 77:22, 78:7,
78:8, 79:22, 82:7,
82:9, 82:14, 82:22,
82:23, 83:23, 84:7,
84:12, 86:10, 87:6,
87:24, 89:19, 90:1,
90:8, 92:10, 103:15
confer [1] - 2:17
Conference [1] -
105:16
confidential [2] -
3:18, 3:21
confluence [1] -
67:20
conformance [1] -
105:15
confrontation [1] -
41:5
confrontational [1] -
40:2
confronted [1] - 42:4
confusion [3] -
17:16, 52:3, 96:10
congregated [1] -
39:17
Congress [3] -
38:21, 47:12, 49:23
Congressmen [1] -
38:23
connect [1] - 20:10
connection [1] -
32:23
science [2] -
53:25, 87:22
consent [1] - 103:1
consequence [4] -
77:1, 77:2, 77:15,
78:6
consequences [7] -
35:17, 58:12, 60:14,
60:18, 76:7, 99:19,
99:20
consider [10] - 8:8,
36:4, 71:4, 71:20,
73:8, 74:15, 78:10,
78:13, 82:6, 103:18
consideration [7] -
36:8, 69:3, 70:19,
76:17, 77:17, 87:3,
88:15
considered [12] -
2:20, 49:4, 50:1, 72:7,
72:9, 73:11, 76:13,
78:18, 86:6, 86:15,
86:20
considering [6] -
36:24, 44:15, 71:12,
80:13, 87:1, 90:1

consistent [1] -
62:11
consistently [1] -
92:12
consisting [1] -
91:23
constitutes [1] -
34:21
Constitution [8] -
1:24, 53:6, 60:24,
61:1, 63:6, 63:13,
91:24, 93:14
contact [1] - 86:21
contained [1] - 82:9
contends [1] - 33:18
contention [1] -
17:17
contents [1] - 59:6
context [10] - 17:23,
35:5, 35:10, 36:24,
44:15, 58:12, 61:13,
64:15, 73:12, 99:21
contextual [1] -
35:25
continuation [1] -
28:12
continue [2] - 16:13,
67:9
continued [3] -
52:15, 60:9, 60:17
continues [6] -
22:13, 25:5, 53:21,
56:1, 58:2, 65:6
continuing [1] -
58:17
contradicted [1] -
26:7
control [1] - 91:18
controlled [2] -
90:13, 90:16
controlling [1] - 14:3
convict [1] - 69:7
convicted [9] - 5:18,
15:1, 15:21, 16:4,
34:10, 79:2, 79:14,
80:18, 92:14
conviction [11] -
11:21, 15:9, 34:17,
34:21, 46:19, 77:20,
77:25, 82:9, 94:3,
94:14, 99:15
convictions [2] -
16:10, 46:22
cooperative [1] -
99:10
copy [4] - 7:21,
50:15, 50:24, 51:3
corner [6] - 19:24,
30:7, 31:3, 31:4,
40:12, 43:5

corpus [1] - 63:25
correct [9] - 4:23,
7:2, 10:5, 10:6, 26:12,
46:11, 61:24, 102:4,
104:12
corrected [1] - 13:18
correction [3] - 8:10,
52:11, 52:12
corridor [1] - 42:20
corrupt [1] - 79:19
cosigned [1] - 57:8
cosigns [1] - 57:12
cost [3] - 91:11,
94:18, 94:20
costs [2] - 50:10,
71:11
coughing [3] - 27:16,
54:21
counsel [11] - 8:1,
8:2, 8:5, 14:4, 49:7,
88:11, 88:13, 94:12,
94:21, 94:23, 100:22
counsel's [3] -
80:10, 86:3, 86:17
counseled [2] -
34:23, 36:25
Count [11] - 5:19,
5:23, 6:1, 14:8, 16:6,
46:13, 46:24, 47:5,
47:6, 47:9, 47:16
count [9] - 5:21,
6:23, 6:24, 11:22,
15:11, 16:19, 46:19,
47:4, 77:8
country [4] - 58:1,
63:8, 65:12, 77:12
country's [1] - 54:15
Counts [14] - 5:18,
6:9, 6:18, 6:22, 6:23,
46:21, 46:23, 47:10,
88:19, 88:22, 89:2,
92:8
counts [3] - 6:13,
6:21, 47:14
couple [2] - 69:1,
97:15
course [5] - 20:4,
20:16, 28:9, 55:21,
66:12
Court [82] - 1:23, 2:1,
5:17, 6:16, 8:8, 12:8,
12:10, 13:24, 15:18,
16:14, 26:11, 33:2,
33:4, 33:15, 36:23,
38:7, 40:1, 42:11,
44:9, 44:19, 44:23,
45:1, 45:12, 45:15,
47:23, 49:8, 49:10,
50:3, 64:6, 64:10,
64:13, 64:18, 67:1,

67:2, 67:3, 68:14,
68:19, 68:22, 69:3,
69:22, 69:23, 70:11,
71:4, 71:14, 71:19,
72:9, 72:14, 73:5,
73:8, 73:11, 74:10,
74:15, 78:18, 80:8,
80:16, 80:25, 81:13,
86:8, 86:15, 86:25,
88:17, 89:22, 89:23,
90:18, 92:3, 92:6,
92:16, 92:22, 93:4,
93:14, 93:22, 94:4,
94:19, 97:1, 97:6,
98:16, 99:17, 100:2,
100:16, 104:19,
105:13, 105:13
court [31] - 5:6,
10:14, 13:21, 15:22,
15:25, 20:13, 20:19,
20:25, 22:6, 22:13,
24:21, 24:23, 25:5,
26:18, 27:4, 28:3,
31:23, 35:2, 36:2,
36:16, 64:9, 65:7,
76:19, 91:4, 91:5,
92:13, 92:22, 93:13,
93:17, 94:20
COURT [142] - 1:1,
2:14, 3:11, 4:3, 4:20,
4:24, 5:1, 5:8, 5:10,
5:13, 6:7, 6:9, 7:5,
7:8, 7:11, 8:13, 8:20,
8:23, 9:4, 10:13, 11:2,
11:6, 11:11, 11:17,
13:4, 13:6, 14:1, 15:7,
17:9, 17:12, 18:12,
18:16, 18:21, 19:1,
19:4, 19:9, 19:16,
20:3, 20:7, 20:11,
20:14, 20:18, 20:20,
21:1, 21:4, 21:6,
21:10, 21:17, 21:22,
21:25, 22:2, 22:7,
22:12, 22:14, 22:21,
22:24, 23:16, 23:20,
23:25, 24:13, 25:3,
25:15, 26:13, 26:19,
27:5, 27:17, 27:20,
27:23, 28:7, 28:20,
28:24, 29:7, 29:16,
30:11, 30:20, 30:25,
31:9, 31:13, 31:19,
31:24, 32:10, 32:14,
32:17, 45:21, 46:12,
48:25, 49:2, 49:15,
50:6, 50:17, 50:21,
50:25, 51:3, 61:8,
61:23, 62:14, 62:18,
62:21, 63:10, 63:21,
64:19, 64:25, 65:3,

68:2, 68:5, 68:8,
70:10, 70:14, 70:17,
88:14, 94:24, 95:2,
95:5, 95:12, 95:25,
96:3, 96:17, 97:2,
97:9, 97:11, 97:14,
97:20, 98:10, 98:14,
100:5, 100:9, 100:20,
101:13, 101:16,
101:23, 101:25,
102:2, 102:10,
102:15, 103:4, 104:4,
104:8, 104:15,
104:20, 105:8,
105:10, 105:20
Court's [8] - 9:1,
17:8, 36:21, 37:6,
39:6, 40:20, 42:1,
102:23
court-appointed [1]
- 94:20
courts [4] - 10:13,
33:22, 35:25, 78:10
cover [4] - 51:19,
57:4, 62:23
covered [1] - 53:17
cowering [1] - 18:11
cracks [1] - 97:5
crafting [1] - 70:19
crash [1] - 74:18
create [1] - 61:6
created [2] - 63:25,
73:1
creating [1] - 54:4
credibility [2] -
43:25, 54:15
credible [16] - 18:1,
18:6, 21:14, 32:22,
33:20, 33:23, 35:3,
35:8, 36:1, 36:6, 37:3,
40:20, 44:19, 49:22,
57:19, 62:6
credibly [1] - 39:23
credit [6] - 36:20,
53:8, 53:11, 75:5,
75:20, 86:17
cried [1] - 59:21
crime [4] - 12:12,
45:4, 71:5, 90:12
crimes [1] - 72:3
criminal [24] - 12:4,
16:18, 17:23, 32:20,
35:20, 36:11, 48:2,
48:3, 48:4, 58:12,
72:2, 75:16, 77:18,
77:22, 78:7, 81:3,
82:8, 83:9, 85:23,
86:11, 86:21, 87:23,
93:8
criminality [2] -

60:15, 86:25 criminalize [1] - 34:6 criteria [1] - 47:24 critical [2] - 7:24, 59:12 critically [1] - 35:10 cross [2] - 58:11, 58:14 crossed [2] - 51:24, 102:6 crowd [20] - 18:9, 23:8, 24:6, 25:9, 25:11, 26:25, 27:13, 27:14, 29:2, 29:11, 37:14, 41:21, 52:9, 52:16, 54:22, 55:10, 83:3, 83:4, 84:13, 84:17 crowding [1] - 21:3 CRR [1] - 105:19 crying [1] - 59:8 Crypt [4] - 53:9, 53:10, 82:1, 83:22 custody [1] - 88:18 cutting [1] - 8:18	decades [1] - 56:17 December [3] - 5:15, 5:16 decided [2] - 52:24, 55:12 decision [8] - 15:19, 16:1, 17:8, 17:9, 36:18, 36:19, 52:6, 62:10 decisions [1] - 58:5 declaration [1] - 40:24 decline [1] - 66:5 declined [3] - 10:17, 45:18, 99:7 decorum [1] - 58:8 decrease [1] - 46:2 dedicated [1] - 75:24 deemed [1] - 6:14 defend [1] - 44:3 Defendant [1] - 1:7 defendant [78] - 2:10, 3:17, 6:16, 7:14, 7:16, 9:16, 10:23, 11:20, 12:2, 12:6, 15:8, 15:11, 16:12, 16:16, 16:24, 17:17, 17:20, 18:1, 18:8, 18:14, 18:25, 20:17, 21:2, 25:3, 25:12, 26:2, 27:7, 28:15, 33:1, 33:10, 33:15, 33:18, 34:10, 34:12, 34:24, 35:3, 35:12, 35:18, 36:4, 36:8, 36:9, 36:22, 41:2, 44:22, 46:2, 47:24, 48:2, 48:7, 48:12, 65:20, 67:5, 67:7, 67:8, 71:4, 71:24, 72:3, 74:16, 75:8, 77:18, 78:2, 78:13, 79:1, 79:13, 80:23, 81:2, 81:8, 81:18, 81:20, 81:22, 82:13, 82:25, 83:13, 84:2, 88:13, 92:14, 94:23, 97:19, 102:17 DEFENDANT [1] - 1:16 defendant's [25] - 11:21, 12:10, 12:12, 12:20, 14:25, 15:9, 15:16, 15:18, 16:14, 16:18, 18:4, 32:20, 33:21, 34:3, 34:16, 35:9, 35:11, 35:17, 46:14, 47:20, 48:9, 71:3, 84:11, 87:4, 93:24	defendants [26] - 10:20, 11:5, 12:3, 16:3, 38:9, 59:2, 61:25, 64:23, 72:5, 72:12, 72:17, 77:3, 77:9, 78:12, 78:14, 78:21, 80:11, 80:12, 80:18, 85:8, 85:21, 85:24, 86:4, 86:5, 86:13, 99:3 defense [26] - 6:7, 7:8, 8:2, 9:5, 9:14, 12:19, 14:4, 14:23, 48:25, 49:7, 50:9, 50:12, 53:8, 61:6, 61:10, 61:21, 62:2, 71:9, 71:11, 80:9, 86:3, 88:13, 94:23, 95:2, 97:9, 105:8 defense's [2] - 53:20, 62:9 defenses [1] - 50:19 define [2] - 33:22, 33:23 definition [1] - 36:8 definitively [1] - 29:10 degree [1] - 9:25 delayed [1] - 73:21 delaying [1] - 73:25 demand [1] - 34:23 demanding [1] - 40:4 democracy [7] - 57:21, 73:15, 73:22, 74:5, 88:6, 101:1, 101:8 demonstrate [1] - 37:8 demonstrated [1] - 87:10 demonstrates [2] - 40:20, 87:14 demonstrating [1] - 6:1 denies [2] - 55:17, 75:13 deny [1] - 56:25 Department [2] - 65:10, 77:6 departure [2] - 45:16, 101:19 deployed [1] - 52:23 depression [1] - 66:10 DEPUTY [1] - 2:2 Deputy [9] - 21:13, 31:16, 39:21, 40:9, 40:17, 40:23, 42:19, 42:25, 54:6	descending [1] - 77:13 describe [3] - 48:14, 76:1, 83:7 described [2] - 16:15, 49:2 description [1] - 38:8 designate [2] - 96:4, 97:1 designated [9] - 95:14, 95:19, 96:23, 98:20, 99:3, 99:22, 100:25, 101:4, 101:12 designation [4] - 99:19, 100:6, 100:8, 100:19 designations [1] - 96:21 designed [1] - 66:7 desire [1] - 103:20 despite [2] - 83:18, 83:19 destruction [1] - 72:11 destructive [2] - 87:19, 91:17 detention [11] - 79:21, 85:2, 85:5, 85:12, 89:6, 89:10, 89:11, 90:24, 91:1, 91:9 deter [3] - 78:8, 86:10, 87:16 deterioration [1] - 66:2 determination [2] - 48:17, 49:5 determine [3] - 33:5, 36:1, 71:21 determined [5] - 7:22, 47:7, 87:24, 90:18, 92:18 determines [1] - 93:4 determining [3] - 9:23, 35:2, 78:9 deterred [1] - 76:19 deterrence [14] - 57:24, 58:16, 60:20, 67:14, 67:23, 68:13, 68:20, 70:7, 72:2, 76:16, 76:17, 77:5, 77:14 deterring [1] - 77:17 devastating [1] - 64:20 devices [2] - 91:17, 91:20 diagnosis [1] - 75:13 dictionaries [1] -	33:23 died [1] - 43:24 difference [1] - 66:3 different [8] - 6:25, 27:9, 53:13, 54:12, 55:23, 75:23, 83:18, 99:24 differently [2] - 38:7, 99:23 differs [1] - 46:16 difficult [2] - 69:5, 69:11 difficulty [1] - 98:17 diploma [1] - 74:25 Diplomate [1] - 1:22 direct [7] - 9:5, 29:14, 33:19, 39:24, 55:10, 72:10, 103:20 directed [2] - 34:7, 34:18 directly [4] - 7:19, 17:17, 73:24, 92:15 directs [1] - 78:10 disbursement [1] - 92:23 discrepancy [1] - 98:20 discretion [3] - 13:24, 89:23, 91:12 discretionary [1] - 90:5 discuss [4] - 11:15, 70:18, 78:20, 95:5 disengage [1] - 41:18 dismissed [2] - 2:16, 45:13 disorderly [5] - 5:21, 5:24, 11:23, 34:12, 82:9 disparities [4] - 61:6, 72:5, 78:11, 86:13 disparity [1] - 92:17 dispute [2] - 33:9, 65:13 disregard [1] - 62:8 disrupt [2] - 14:10, 34:14 disrupting [1] - 16:5 disruptive [3] - 5:22, 11:23, 34:12 distance [1] - 98:4 distinction [1] - 72:14 distinguish [1] - 14:4 distinguishable [3] - 13:17, 13:23, 79:22 district [1] - 93:21 DISTRICT [2] - 1:1, 1:1
--	--	---	--	--

District [6] - 92:4, 92:22, 93:14, 105:13 disturbing [2] - 74:2, 74:9 dive [1] - 61:19 diversified [1] - 64:10 divorced [1] - 74:25 Dixon [1] - 96:20 docket [1] - 50:22 document [1] - 3:9 documents [6] - 2:21, 4:10, 7:11, 8:7, 8:24 dodge [1] - 55:15 domestic [16] - 48:14, 99:4, 99:13, 99:22, 100:3, 100:13, 100:25, 101:4, 101:9, 101:13, 101:17, 102:5, 102:9, 102:16, 103:8, 103:15 done [12] - 2:18, 10:10, 10:14, 22:23, 51:4, 60:10, 61:1, 64:21, 87:7, 89:24, 96:18, 98:2 door [13] - 24:11, 24:14, 24:15, 27:3, 62:5, 82:17, 83:5, 83:14, 83:17, 83:18, 84:22, 84:23 doors [69] - 18:5, 18:10, 19:13, 19:17, 20:21, 20:24, 23:1, 24:1, 24:2, 24:4, 24:7, 26:15, 28:10, 29:19, 29:20, 30:15, 31:10, 32:2, 37:11, 37:15, 38:16, 38:18, 38:20, 39:2, 39:7, 39:11, 39:14, 39:18, 40:2, 40:9, 40:16, 40:21, 41:4, 41:6, 41:21, 41:22, 41:24, 42:4, 42:5, 42:10, 42:11, 42:22, 43:1, 43:4, 43:6, 43:8, 43:11, 43:14, 43:16, 43:21, 44:11, 44:18, 44:19, 53:18, 54:6, 54:7, 54:8, 54:18, 56:7, 59:16, 72:16, 72:17, 72:23, 73:24, 81:23, 84:17, 84:18, 84:22 down [41] - 18:9, 19:19, 19:23, 23:5, 23:9, 26:3, 28:7, 28:8, 28:14, 28:17, 28:19, 28:20, 28:22, 29:1,	29:3, 29:6, 29:10, 31:4, 31:6, 32:1, 32:4, 32:5, 38:23, 40:12, 41:16, 41:22, 43:5, 44:10, 51:21, 51:23, 52:6, 52:23, 55:3, 55:5, 56:22, 61:11, 82:18, 85:16 downplay [1] - 55:23 downplayed [1] - 78:2 draft [2] - 11:17, 11:19 drawing [1] - 25:20 drawn [4] - 18:7, 44:2, 80:2, 82:22 drew [1] - 42:9 dropping [1] - 26:25 drug [6] - 65:23, 66:19, 75:4, 75:6, 90:16, 90:18 drugs [2] - 66:21, 66:22 due [6] - 5:15, 5:16, 93:8, 99:21, 101:6 duplicative [1] - 13:1 during [9] - 8:11, 35:6, 36:9, 41:5, 49:9, 59:20, 75:6, 81:5, 91:1 dust [1] - 63:4	elicited [1] - 21:13 eligible [3] - 17:22, 35:20, 99:22 embedded [1] - 26:23 emergency [2] - 20:15, 37:11 emotionally [1] - 59:13 employed [1] - 75:1 employment [1] - 91:2 encounter [1] - 58:7 encouraged [1] - 84:21 encouraging [1] - 83:2 end [11] - 3:20, 27:2, 35:21, 46:4, 47:14, 64:4, 64:11, 67:5, 69:7, 100:23, 105:2 end-run [1] - 3:20 ended [2] - 49:21, 53:18 ending [1] - 19:20 endorsed [1] - 60:4 ends [1] - 65:23 endured [1] - 76:6 enemies [1] - 54:15 enforcement [12] - 23:3, 23:19, 34:7, 34:18, 37:20, 37:24, 39:6, 42:3, 42:15, 72:16, 78:5, 80:2 engage [3] - 41:13, 58:8, 86:11 engaged [4] - 16:16, 33:19, 34:12, 61:14 engages [1] - 32:4 engaging [2] - 74:7, 87:16 enhancement [2] - 16:24, 81:11 enhancements [1] - 103:14 enter [7] - 31:24, 31:25, 40:4, 72:20, 91:22, 92:4, 104:21 entered [12] - 24:10, 37:10, 37:14, 37:18, 37:21, 53:2, 81:23, 81:24, 83:15, 84:14, 92:11, 94:14 entering [6] - 5:19, 27:1, 38:3, 43:23, 72:19, 82:17 entire [4] - 28:9, 51:25, 53:21, 75:19 entirety [1] - 36:5 entitled [1] - 105:15	entry [4] - 5:24, 37:19, 94:16, 104:22 equal [1] - 93:10 equates [1] - 48:5 error [1] - 7:3 especially [5] - 45:12, 58:12, 59:18, 70:4, 99:21 essentially [5] - 3:17, 18:24, 23:4, 85:2, 89:7 establish [2] - 3:21, 90:8 established [4] - 54:3, 59:14, 69:18, 94:10 establishes [1] - 16:2 estimates [1] - 10:10 evacuate [5] - 38:1, 39:1, 39:4, 42:22, 73:3 evacuated [3] - 20:16, 38:24, 80:7 evacuating [5] - 42:16, 43:7, 43:24, 44:5, 55:1 evacuation [9] - 19:15, 21:15, 40:12, 40:18, 42:23, 72:20, 72:24, 73:25, 84:19 evacuations [2] - 18:15, 82:21 evaluating [2] - 35:8, 35:10 event [9] - 20:22, 37:13, 46:4, 49:18, 49:19, 67:15, 89:23, 102:9 events [4] - 36:5, 55:23, 67:20, 76:23 eventually [2] - 55:19, 84:25 evidence [39] - 15:1, 17:1, 17:4, 18:1, 18:2, 19:7, 24:10, 26:11, 33:3, 33:12, 35:25, 36:21, 37:7, 37:18, 37:23, 38:14, 38:25, 39:2, 39:12, 40:1, 41:3, 41:9, 41:19, 42:5, 42:12, 44:7, 44:19, 52:1, 55:7, 55:25, 63:5, 99:8, 99:9, 99:12, 100:16, 102:2, 103:12, 103:13 evident [1] - 57:5 exacerbated [1] - 66:9 exactly [3] - 18:13,	60:19, 102:22 examination [1] - 35:11 example [1] - 58:13 examples [1] - 61:25 except [2] - 81:18, 91:2 excessive [2] - 64:5, 67:10 excused [1] - 105:10 execute [1] - 93:22 exercise [1] - 79:19 exhibit [1] - 4:13 Exhibit [24] - 20:13, 20:19, 20:25, 22:4, 22:6, 22:13, 23:15, 24:20, 24:21, 24:23, 25:5, 26:18, 26:22, 27:2, 28:1, 28:3, 29:25, 30:3, 30:5, 30:6, 30:14, 31:23, 55:2 exhibits [1] - 21:8 exist [2] - 53:22, 66:6 existed [1] - 76:22 exists [2] - 66:15, 66:18 exit [5] - 29:19, 30:4, 37:11, 41:16, 55:19 exited [5] - 38:6, 38:11, 83:6, 83:16, 84:7 exiting [1] - 38:14 exits [1] - 32:6 expectations [1] - 90:8 experienced [1] - 59:13 expires [1] - 91:19 explain [2] - 5:6, 54:1 explained [1] - 35:2 explicit [1] - 34:2 exploitation [1] - 66:12 exposed [1] - 43:16 expression [5] - 33:24, 34:2, 40:25, 42:13, 44:20 extensive [2] - 75:4, 99:7 extent [4] - 23:4, 56:20, 57:5, 94:15 eyes [2] - 54:14, 54:16
E				
early [1] - 81:24 earned [1] - 46:2 earning [2] - 35:4, 71:4 easier [2] - 102:24, 104:13 easily [1] - 66:2 educate [1] - 60:16 education [2] - 56:23, 91:3 effect [1] - 103:2 effects [1] - 67:8 effort [1] - 77:7 eight [6] - 28:11, 39:10, 39:12, 39:19, 83:10, 89:20 either [10] - 4:1, 8:7, 9:16, 13:24, 29:8, 30:8, 32:2, 84:10, 95:19, 102:25 elderly [1] - 25:24 elected [1] - 74:6 election [3] - 38:22, 77:13, 88:5 element [3] - 34:16, 34:21, 103:11				
F				
F.Supp [2] - 34:1, 64:10				

face [4] - 32:3, 32:9, 58:9, 59:9 faced [2] - 38:17, 79:15 faces [1] - 59:9 facilitate [1] - 98:21 facilities [2] - 66:7, 98:7 facility [5] - 98:4, 98:12, 98:19, 98:21, 98:22 facing [1] - 77:4 fact [16] - 9:24, 14:10, 16:4, 17:20, 32:18, 34:4, 35:18, 49:4, 51:5, 62:4, 64:9, 66:19, 72:21, 74:3, 87:12, 101:7 factor [5] - 51:13, 73:11, 74:10, 74:13, 77:19 factors [10] - 4:18, 35:12, 45:17, 49:25, 71:21, 71:23, 72:7, 73:7, 90:2, 99:11 facts [5] - 16:12, 16:25, 33:11, 63:14, 80:3 factual [1] - 8:10 failure [1] - 87:4 fair [7] - 38:8, 67:6, 71:22, 77:12, 80:13, 86:9, 89:25 fairly [3] - 16:2, 19:7, 92:9 fall [2] - 13:20, 27:12 fallen [1] - 97:5 falls [1] - 27:16 falsities [4] - 56:1, 57:13, 58:17, 60:9 family [6] - 37:24, 56:21, 74:23, 75:22, 76:9, 76:14 far [9] - 7:9, 26:24, 39:20, 43:15, 55:17, 80:5, 80:15, 98:8, 100:3 fashion [1] - 95:21 fashioning [1] - 80:14 father [1] - 74:19 FBI [13] - 22:15, 23:3, 43:18, 56:4, 56:7, 60:12, 99:4, 99:5, 99:10, 100:7, 100:10, 100:12, 101:10 fearful [1] - 30:22 February [1] - 36:18 Federal [1] - 105:13	federal [9] - 1:23, 65:3, 68:25, 70:5, 70:24, 71:19, 78:24, 79:4, 90:11 FEDERAL [1] - 105:20 fellow [1] - 23:18 felony [2] - 10:19, 10:21 felt [2] - 41:12, 42:7 female [1] - 78:14 few [4] - 38:10, 40:15, 70:17, 80:16 figure [3] - 37:25, 69:14, 70:6 file [7] - 5:1, 94:19, 100:13, 100:14, 101:3, 103:1, 104:20 filed [5] - 2:24, 50:23, 94:16, 101:9, 104:19 filing [1] - 104:20 fill [1] - 33:23 filled [1] - 44:12 film [1] - 56:6 filmed [2] - 58:24, 82:16 filming [2] - 82:19, 83:1 final [7] - 11:12, 24:2, 31:5, 31:7, 41:24, 46:16, 99:1 finally [7] - 6:1, 13:15, 14:22, 47:23, 48:7, 72:4, 84:11 financial [3] - 70:25, 93:12, 93:18 Financial [1] - 93:1 findings [7] - 32:14, 48:18, 49:3, 49:4, 62:18, 64:17, 64:20 fine [17] - 5:10, 6:10, 6:14, 6:17, 6:18, 48:7, 50:3, 50:13, 68:8, 68:17, 70:22, 71:18, 79:21, 88:25, 93:3, 97:21, 104:17 finish [3] - 18:16, 18:18, 22:22 firearm [1] - 91:16 firearms [1] - 91:17 first [33] - 3:2, 3:12, 3:25, 5:8, 5:9, 5:11, 9:8, 9:12, 12:14, 12:18, 17:2, 17:6, 18:4, 21:18, 27:7, 30:13, 32:5, 37:12, 37:16, 41:4, 41:9, 49:6, 51:12, 52:10, 53:7, 53:22, 70:21,	75:17, 89:7, 90:25, 92:2, 92:5, 102:11 First [2] - 91:25, 92:2 firsthand [1] - 69:12 fit [2] - 14:8, 62:23 five [6] - 6:17, 22:7, 41:23, 85:13, 85:17, 85:21 flag [5] - 26:25, 27:1, 27:14, 54:22, 55:13 flash [1] - 20:22 fleeing [2] - 55:1, 55:8 floor [7] - 32:6, 53:7, 53:12, 54:9, 56:6, 84:25, 96:13 floors [1] - 83:21 flow [2] - 71:2, 71:17 focus [3] - 9:12, 50:7, 88:4 focusing [5] - 4:10, 4:18, 12:18, 20:21, 36:22 follow [4] - 6:11, 91:10, 97:16, 103:20 follow-up [1] - 97:16 followed [6] - 43:5, 50:2, 63:7, 81:22, 89:9, 98:11 following [9] - 7:11, 77:20, 89:7, 90:4, 90:22, 90:25, 92:23, 94:1, 94:17 follows [3] - 37:6, 46:15, 93:9 footage [1] - 58:19 FOR [3] - 1:1, 1:13, 1:16 force [4] - 33:25, 40:25, 42:14, 44:21 forced [1] - 24:4 forcing [1] - 72:20 Ford [1] - 93:1 foreclosed [1] - 15:19 foregoing [1] - 105:14 foreground [1] - 31:1 foreign [1] - 99:13 foremost [1] - 51:12 foreseeable [1] - 35:16 forgotten [1] - 32:11 form [1] - 91:7 format [1] - 70:17 format [1] - 105:15 formed [2] - 22:25, 39:11 former [1] - 60:3 forming [1] - 72:7	fortunately [1] - 77:10 forward [8] - 27:11, 41:8, 41:20, 43:17, 43:19, 51:19, 88:4, 88:11 founded [1] - 34:4 four [10] - 18:2, 47:1, 58:3, 79:13, 80:18, 88:19, 89:8, 90:19, 96:9, 101:20 frame [2] - 17:13, 31:10 free [1] - 77:12 freedom [1] - 87:21 Friday [1] - 105:3 friend [2] - 75:24, 87:2 friends [10] - 54:1, 56:21, 68:5, 69:21, 74:23, 75:22, 76:3, 76:8, 76:14, 86:23 front [20] - 19:20, 21:23, 26:14, 39:4, 39:11, 40:15, 40:21, 41:4, 41:8, 42:21, 43:4, 43:17, 43:19, 54:19, 59:21, 82:1, 83:4, 83:13, 103:10, 103:18 full [3] - 9:22, 44:16, 93:18 functions [1] - 34:15 funds [1] - 71:14 funneled [1] - 101:8 furniture [1] - 42:6 Future [1] - 76:19 future [5] - 74:7, 77:17, 78:8, 86:12, 87:17	9:3, 50:4, 71:8, 71:13 givin [1] - 67:1 glass [8] - 24:16, 37:17, 43:2, 43:6, 43:11, 43:13, 43:20, 53:2 goals [2] - 69:23, 70:7 GoSendGo [2] - 9:6, 50:7 gosh [1] - 61:9 government [73] - 2:6, 3:3, 3:4, 3:21, 4:6, 4:7, 5:4, 5:11, 6:5, 6:25, 7:14, 8:8, 10:4, 10:7, 11:25, 12:6, 13:15, 13:18, 14:2, 14:11, 14:14, 15:4, 16:5, 16:21, 17:12, 17:25, 19:21, 21:9, 23:25, 26:13, 27:23, 29:2, 33:8, 34:14, 35:1, 36:13, 36:20, 45:1, 45:5, 48:23, 49:7, 49:13, 49:24, 51:1, 54:10, 56:18, 57:9, 61:7, 61:10, 61:24, 62:3, 62:11, 65:6, 65:22, 67:14, 68:14, 77:24, 94:17, 94:25, 95:6, 95:22, 95:23, 96:6, 97:5, 97:7, 100:20, 101:5, 102:5, 102:12, 103:2, 103:17, 103:23, 105:6 GOVERNMENT [1] - 1:13 government's [5] - 8:15, 10:8, 15:16, 80:15, 81:1 Government's [1] - 24:20 GPS [2] - 91:14 grace [1] - 88:8 granddaughter [1] - 69:21 grandma [1] - 79:18 grandmother [1] - 75:24 grandparents [2] - 74:21, 74:24 grave [2] - 61:4, 73:13 gray [2] - 25:2, 25:8 great [2] - 53:17, 75:5 grimace [1] - 32:3 grocery [1] - 75:2 Gross [21] - 1:16,
G				
game [2] - 19:12, 20:6 gap [2] - 26:22, 33:23 gas [2] - 29:21, 44:12 gear [1] - 52:21 general [10] - 49:17, 57:25, 60:19, 63:17, 68:13, 68:20, 76:17, 86:5, 99:2, 102:9 generally [3] - 71:18, 96:12, 100:23 generated [1] - 71:13 given [7] - 4:16, 16:12, 39:5, 64:2, 67:4, 98:12 GiveSendGo [4] -				

2:9, 3:6, 4:7, 4:15,
4:22, 5:14, 8:24, 11:6,
11:14, 12:22, 17:2,
23:20, 25:15, 32:12,
46:7, 52:13, 63:10,
95:25, 102:11, 104:8

GROSS [47] - 1:17,
2:9, 4:23, 4:25, 5:3,
5:9, 6:8, 7:10, 9:1,
11:9, 11:16, 12:25,
13:7, 17:7, 17:10,
23:23, 25:17, 28:18,
29:5, 32:13, 32:16,
46:11, 49:1, 50:22,
51:2, 63:11, 63:22,
64:20, 65:2, 65:5,
68:4, 68:6, 68:9, 95:4,
96:1, 97:10, 97:12,
97:15, 97:24, 98:12,
98:15, 100:7, 100:12,
102:14, 102:22,
104:18, 105:9

Gross's [2] - 82:12,
83:12

ground [1] - 51:20

grounds [9] - 5:20,
5:22, 5:25, 11:24,
15:15, 34:13, 47:3,
82:16, 91:23

Group [1] - 64:10
group [22] - 19:17,
19:18, 27:2, 37:16,

38:16, 39:1, 39:3,
39:9, 39:13, 41:2,
41:5, 41:23, 42:12,
43:5, 43:10, 43:12,
44:1, 44:8, 47:13,
47:14, 47:17, 99:13
grouped [1] - 47:11
groups [1] - 72:22
guard [1] - 14:17
guards [1] - 66:13
guess [7] - 2:19, 3:2,
83:23, 97:5, 98:1,
102:15

guideline [16] -
11:12, 11:21, 14:21,
14:23, 14:24, 15:2,
15:3, 15:5, 15:8,
15:20, 32:18, 33:1,
46:6, 47:11, 80:19,
85:22

guidelines [38] - 9:9,
12:2, 13:14, 16:3,
33:17, 33:22, 34:22,
34:25, 37:2, 37:5,
44:25, 45:20, 45:21,
46:14, 46:18, 46:21,
47:10, 48:5, 48:7,
48:9, 49:25, 61:22,

71:20, 78:24, 79:5,
79:8, 79:9, 79:15,
85:9, 88:16, 89:12,
89:13, 89:15, 89:20,
89:21, 94:9, 94:10

guilt [1] - 94:3

guilty [12] - 16:7,

61:21, 62:1, 72:6,
78:22, 79:1, 79:6,
79:7, 79:13, 92:11,
96:9, 101:16

gun [1] - 44:2

guns [9] - 18:7,
20:21, 20:23, 24:16,
25:20, 42:9, 80:1,
82:21

H

H2205B [1] - 93:2

habitat [1] - 69:17

Hager [2] - 81:14,

84:2

half [1] - 75:18

hall [2] - 19:24, 43:5

Hall [4] - 38:4, 38:15,

53:17, 84:16

hallmark [1] - 88:6

hallway [8] - 19:19,

29:21, 31:5, 40:12,
41:16, 41:17, 44:11,
44:12

Hampshire [4] -

74:17, 75:3, 75:10,
75:11

hand [1] - 58:25

hands [1] - 59:15

handwriting [1] -

64:12

happy [2] - 18:23,

58:5

hard [4] - 14:13,

53:25, 56:10, 100:7

harm [6] - 33:25,

35:16, 41:1, 42:14,
44:21, 74:6

HARVEY [1] - 1:10

hat [1] - 25:8

head [5] - 32:1, 32:7,

52:13, 70:12, 70:13

headed [2] - 43:3,

43:8

healer [1] - 76:2

Health [1] - 65:11

health [5] - 66:2,

66:8, 75:13, 75:15,
91:4

healthcare [3] -

66:18, 69:9, 69:10

healthy [1] - 86:18

hear [15] - 3:6, 4:4,
8:3, 12:14, 12:22,
17:2, 20:18, 23:21,
46:6, 49:6, 49:7,
49:11, 55:1, 96:17

heard [3] - 11:6,

46:8, 99:4

hearing [6] - 16:13,

23:5, 97:16, 97:17,
97:21, 97:22

heavily [1] - 77:19

held [4] - 15:20,

34:3, 64:25, 77:12

hell [1] - 64:14

helmet [1] - 43:20

help [5] - 16:12,

42:22, 52:4, 55:23,
69:20

helped [2] - 75:9,

84:13

helpful [4] - 80:9,

80:17, 81:14, 100:2

Hempmill [1] - 78:16

hereby [2] - 88:17,

105:14

herein [1] - 91:8

herself [14] - 27:13,

36:4, 37:15, 55:16,

57:13, 57:14, 57:17,

58:24, 69:18, 74:18,

77:18, 79:17, 82:16,
101:4

high [2] - 64:4, 74:25

higher [2] - 81:3,

81:11

highest [1] - 47:14

highlight [2] - 18:3,

51:16

highly [1] - 67:22

hinges [1] - 83:15

history [25] - 12:4,

17:23, 32:20, 35:21,

48:2, 48:3, 48:4,

55:20, 56:9, 56:23,

56:24, 58:1, 63:5,

63:7, 71:24, 73:14,

74:16, 75:4, 75:16,

81:3, 82:8, 83:9,

85:23, 86:16

hit [1] - 83:19

hits [1] - 56:6

hold [1] - 77:7

holding [1] - 57:16

hole [1] - 56:22

home [14] - 64:7,

75:3, 79:21, 85:2,

85:5, 85:12, 89:6,

89:10, 89:11, 90:24,

91:1, 91:9, 98:5

honor [1] - 78:1

Honor [101] - 2:2,
2:7, 2:9, 2:12, 3:8,
3:12, 4:19, 4:25, 5:3,
5:12, 6:6, 6:8, 7:2,
7:7, 7:10, 8:9, 8:14,
8:15, 10:6, 11:3, 11:9,
11:10, 11:16, 12:25,
14:3, 17:13, 18:13,
19:11, 20:1, 20:12,
21:5, 21:21, 22:5,
22:9, 22:20, 23:10,
23:13, 24:9, 24:19,
25:4, 26:16, 26:21,
27:8, 27:24, 27:25,
28:4, 28:8, 28:18,
29:9, 29:24, 30:13,
32:13, 32:16, 45:9,
45:10, 46:11, 48:24,
49:1, 49:14, 49:16,
50:14, 50:18, 51:7,
51:12, 53:1, 53:8,
53:12, 54:5, 54:24,
56:12, 57:9, 57:22,
60:6, 60:16, 61:7,
61:19, 61:22, 61:24,
62:20, 62:24, 63:9,
63:11, 63:18, 70:9,
95:1, 95:4, 95:10,
95:23, 96:7, 96:19,
97:8, 97:10, 100:21,
102:22, 103:24,
104:7, 104:11,
104:18, 105:7, 105:9

HONORABLE [1] -

1:10

hoody [2] - 25:2,

25:8

hope [10] - 54:13,

58:2, 62:25, 69:3,

87:20, 87:25, 88:2,

88:3, 88:10, 98:24

hopefully [1] - 25:9

hosted [1] - 60:12

hours [1] - 37:13

house [6] - 21:15,

29:13, 41:4, 58:7,

100:14, 101:10

House [88] - 18:5,

18:8, 18:15, 19:4,

19:13, 19:17, 20:16,

20:21, 20:24, 21:3,

22:25, 24:1, 24:2,

24:4, 26:14, 28:9,

29:20, 30:15, 31:10,

32:2, 38:17, 38:19,

38:20, 39:1, 39:2,

39:4, 39:7, 39:8,

39:10, 39:11, 39:13,

39:14, 39:18, 39:24,

39:25, 40:2, 40:4,

40:8, 40:9, 40:13,
40:16, 40:18, 40:21,
40:22, 41:1, 41:20,
41:22, 41:24, 41:25,
42:4, 42:5, 42:9,
42:11, 42:15, 42:20,
42:21, 42:22, 42:24,
43:1, 43:4, 43:6,
43:23, 44:5, 44:11,
44:18, 53:18, 54:3,
54:9, 54:18, 56:7,
59:16, 62:5, 72:16,
72:23, 72:24, 73:2,
73:24, 73:25, 79:25,
80:7, 82:3, 82:4,
84:17, 84:19, 84:22,
93:1

housed [2] - 100:10,
103:21

housekeeping [1] -
97:15

Howell [3] - 17:19,

35:6, 35:22

Hubbard [2] - 3:23,
4:17

human [2] - 3:18,

3:21

humans [1] - 57:20

hurdles [1] - 99:25

hybrid [1] - 91:14

I

idea [1] - 13:10

ideal [1] - 74:24

identifiable [1] - 9:15

identified [3] - 15:5,

80:9, 85:14

identifies [1] - 14:21

ignore [5] - 53:21,

56:23, 56:24, 61:2

ignored [1] - 37:17

ignores [1] - 34:18

II [1] - 81:4

images [1] - 74:2

imaginary [1] - 51:25

immediately [4] -

29:19, 44:10, 55:16,

93:13

immense [2] - 52:22,

59:10

impact [2] - 66:24,

76:8

impede [3] - 14:10,

14:13, 34:13

impeding [4] - 14:9,

14:16, 14:24, 16:4

implications [1] -

3:16

implicit [1] - 14:9

implied [2] - 34:3, 40:24 important [2] - 69:2, 76:17 importantly [1] - 86:16 impose [3] - 7:6, 15:10, 87:10 imposed [13] - 71:25, 73:8, 74:11, 85:4, 85:11, 85:14, 87:9, 89:17, 90:7, 92:13, 94:7, 94:14, 94:25 imposes [1] - 89:22 impossible [1] - 99:25 impression [1] - 76:23 Imprisonment [1] - 64:11 imprisonment [1] - 89:14 improbable [1] - 67:23 in-person [1] - 97:23 inadequate [1] - 64:17 inappropriate [1] - 71:12 incapacitation [2] - 67:12, 70:7 incarcerate [1] - 67:7 incarcerated [2] - 68:25, 75:12 incarceration [37] - 6:12, 50:2, 57:23, 62:13, 62:15, 64:8, 67:11, 69:24, 73:7, 74:13, 76:9, 77:5, 77:10, 78:7, 80:12, 81:19, 81:21, 82:14, 83:10, 85:2, 85:6, 85:10, 85:12, 85:14, 85:15, 85:25, 86:1, 86:9, 86:14, 86:18, 86:19, 87:15, 87:18, 88:19, 89:9, 91:1 Incarceration [1] - 76:10 include [4] - 71:23, 90:10, 91:13, 100:12 included [5] - 23:11, 39:14, 58:18, 73:18, 78:15 includes [3] - 34:22, 91:19, 93:20 including [14] - 28:15, 35:12, 40:7, 44:17, 55:9, 76:7,	79:20, 83:1, 83:21, 86:8, 86:16, 91:14, 94:7, 99:3 income [1] - 71:3 incorrect [2] - 25:23, 94:8 increase [2] - 46:1, 47:4 increasing [1] - 81:9 incurred [1] - 10:25 indeed [6] - 14:13, 39:2, 41:12, 73:23, 77:12, 86:4 Independence [1] - 92:1 indicate [1] - 95:15 indicated [7] - 21:14, 33:10, 58:2, 59:1, 59:6, 75:21, 91:8 indicates [3] - 18:25, 19:1, 19:2 indication [1] - 19:23 Indicted [1] - 59:3 individual [6] - 10:24, 25:2, 25:7, 54:25, 61:12, 86:18 individualized [2] - 35:17, 36:3 individuals [5] - 38:11, 58:20, 58:22, 65:18, 100:10 induced [2] - 34:23, 37:1 ineffective [1] - 94:12 inflict [5] - 33:25, 40:24, 41:1, 42:14, 44:21 inflicted [1] - 59:23 Information [2] - 5:19, 16:7 information [7] - 15:4, 33:5, 56:12, 70:18, 70:25, 71:8, 85:20 infraction [1] - 46:20 initial [3] - 37:14, 102:7, 102:15 injured [1] - 59:12 injuries [1] - 10:24 inmates [2] - 66:12, 66:15 inner [1] - 52:2 input [1] - 7:25 inquiry [1] - 36:3 inside [23] - 18:15, 37:24, 38:21, 39:8, 39:25, 40:22, 41:1, 41:25, 42:3, 42:6, 42:9, 42:15, 44:13,	53:4, 54:5, 56:5, 62:6, 80:5, 82:5, 82:19, 83:5, 83:15, 84:5 installments [1] - 93:10 instant [1] - 72:9 instead [9] - 15:11, 35:25, 43:10, 54:25, 57:2, 61:25, 64:8, 77:13, 84:23 Institute [2] - 65:9, 65:11 institution [3] - 95:14, 96:23, 104:13 instructing [1] - 25:9 intent [7] - 13:14, 34:13, 40:24, 40:25, 41:13, 42:14, 73:17 intention [2] - 33:24, 44:21 interest [4] - 92:19, 93:5 interested [1] - 4:6 internet [1] - 58:18 interviews [2] - 55:21, 55:22 intrigues [1] - 71:5 introduce [1] - 2:5 introduced [3] - 3:1, 3:10, 4:1 investigation [7] - 7:13, 100:24, 100:25, 101:8, 102:9, 102:15, 102:16 involve [3] - 47:12, 78:14, 80:11 involved [4] - 54:18, 82:10, 92:15, 102:17 involvement [1] - 12:12 involves [1] - 34:17 involving [2] - 78:7, 78:15 issue [27] - 2:21, 3:3, 3:5, 4:11, 4:16, 4:21, 9:13, 10:7, 11:7, 13:19, 16:25, 17:2, 17:5, 17:8, 17:14, 25:16, 33:11, 50:7, 50:19, 51:8, 51:10, 67:24, 86:25, 96:14, 97:4, 102:11, 103:19 issued [2] - 11:17, 58:13 issues [9] - 2:15, 4:9, 4:11, 9:23, 25:16, 58:6, 66:8, 103:6, 103:24 items [2] - 3:13, 3:24 itself [2] - 21:15,	73:16 J J6 [2] - 58:24, 79:18 Jackson [1] - 33:14 jail [7] - 6:10, 6:14, 65:6, 66:24, 79:4, 81:5, 85:24 Jail [2] - 64:15, 65:1 jailing [1] - 60:4 jails [2] - 66:21, 66:22 January [66] - 10:9, 10:11, 11:5, 12:13, 15:24, 16:17, 33:19, 35:4, 36:5, 36:7, 36:16, 36:23, 37:3, 38:9, 45:4, 49:17, 51:16, 53:24, 54:12, 56:16, 56:25, 57:4, 57:7, 57:14, 57:19, 59:2, 59:7, 60:9, 60:15, 61:3, 61:13, 63:1, 63:13, 63:22, 64:1, 64:15, 64:23, 68:21, 72:11, 73:12, 76:4, 76:18, 76:22, 76:24, 77:3, 77:7, 77:14, 77:16, 77:21, 78:1, 78:3, 78:13, 78:14, 79:18, 85:8, 86:4, 86:13, 87:6, 98:6, 99:2, 99:3, 99:9, 100:23, 100:24, 102:17 jibe [1] - 13:13 JNIS [1] - 63:18 job [2] - 59:25 jobs [1] - 38:21 join [3] - 44:18, 66:20, 104:15 joined [8] - 38:16, 39:1, 42:3, 42:13, 43:10, 44:1, 72:22, 84:17 joining [1] - 72:15 joke [1] - 87:14 Jonathan [2] - 1:16, 2:9 JONATHAN [1] - 1:17 JSIN [1] - 64:4 judge [4] - 68:23, 76:18, 79:20, 85:6 JUDGE [1] - 1:10 Judge [8] - 17:19, 34:1, 35:6, 35:22, 36:16, 45:25, 76:20 judges [12] - 10:14,	10:15, 10:16, 15:22, 15:25, 35:2, 36:2, 36:16, 60:13, 60:25, 62:11, 92:13 judgment [13] - 39:6, 82:23, 88:17, 93:12, 94:16, 95:12, 97:25, 98:9, 98:25, 103:5, 103:8, 104:2, 105:2 Judicial [1] - 105:16 judicial [3] - 3:24, 4:16, 85:20 jump [1] - 30:22 jurors [2] - 60:12, 60:22 jury [3] - 5:18, 16:7, 87:24 Justice [3] - 65:10, 77:6 justice [5] - 47:21, 68:19, 80:22, 81:11, 86:21 K keep [3] - 5:5, 42:6, 84:22 kick [1] - 54:9 killed [2] - 55:11, 80:3 kind [13] - 3:13, 18:2, 20:6, 28:9, 30:15, 31:12, 32:3, 32:8, 52:14, 67:18, 78:1, 86:6, 102:25 kinds [1] - 66:22 knit [1] - 27:10 knowing [1] - 3:18 knowingly [2] - 91:22, 92:4 knowledge [2] - 7:25, 100:4 known [3] - 18:14, 18:19, 91:23 Krishnamurthy [2] - 2:8, 96:7 KRISHNAMURTHY [31] - 1:14, 3:8, 3:12, 4:19, 5:12, 14:3, 17:13, 18:13, 18:19, 18:23, 19:2, 19:6, 19:11, 20:1, 20:4, 20:12, 20:15, 21:2, 21:5, 21:7, 21:11, 21:21, 21:23, 22:1, 22:5, 22:20, 22:23, 23:17, 24:9, 24:17, 48:24 Krishnamurthy's [1] - 30:24
---	--	--	---	---

L				
lack [3] - 66:17, 87:4, 87:10 language [2] - 95:18, 104:9 large [4] - 61:6, 63:14, 77:6, 78:12 largely [1] - 80:12 last [9] - 21:11, 24:15, 29:16, 38:17, 43:15, 44:5, 64:12, 69:18, 77:8 lasted [1] - 37:13 late [1] - 44:14 Lavrenz [10] - 78:18, 78:20, 79:12, 79:14, 79:17, 79:19, 79:24, 80:3, 80:4, 85:16 Lavrenz's [1] - 79:22 Law [1] - 1:16 law [25] - 3:23, 23:3, 23:19, 34:7, 34:18, 37:20, 37:24, 39:5, 42:3, 42:14, 57:23, 57:24, 60:5, 60:14, 63:25, 71:19, 72:1, 72:16, 73:10, 73:15, 74:12, 78:5, 80:2, 87:11, 94:8 lawmakers [1] - 18:10 lawn [1] - 8:19 laws [5] - 60:24, 61:2, 61:3, 61:5, 98:11 lawyers [1] - 69:13 layers [1] - 57:15 lays [1] - 77:24 lead [1] - 36:10 leading [5] - 31:5, 38:19, 43:1, 43:6, 80:1 leap [1] - 19:8 learned [1] - 56:24 least [11] - 14:16, 20:22, 24:3, 26:7, 87:9, 90:17, 93:10, 95:24, 98:4, 99:10, 99:17 leave [8] - 42:18, 44:10, 54:13, 55:12, 58:7, 62:22, 83:19, 96:1 leaving [3] - 43:16, 79:9, 82:20 LEDERER [62] - 1:14, 2:7, 6:6, 7:2, 7:7, 8:9, 8:14, 8:21, 10:6, 10:15, 11:3,	20:9, 22:9, 23:10, 24:19, 24:22, 24:24, 25:4, 25:6, 26:16, 26:21, 27:8, 27:18, 27:24, 28:4, 28:8, 28:21, 29:9, 29:24, 30:13, 30:21, 31:2, 31:11, 31:15, 31:20, 31:25, 45:9, 49:14, 49:16, 50:14, 50:18, 50:23, 51:7, 61:10, 61:24, 62:15, 62:20, 62:22, 95:1, 95:10, 95:23, 96:7, 97:8, 100:21, 101:15, 101:18, 101:24, 102:1, 102:4, 103:24, 104:7, 105:7 Lederer [2] - 2:8, 24:1 ledge [1] - 52:5 left [12] - 29:18, 31:3, 31:12, 40:11, 41:14, 41:17, 42:21, 43:3, 53:13, 58:25, 63:4, 96:15 left-hand [1] - 58:25 legal [2] - 3:15, 50:19 length [9] - 51:15, 53:18, 63:17, 67:1, 67:4, 68:23, 85:15, 86:1 lengthy [1] - 68:15 Leopold [1] - 3:23 less [8] - 9:21, 66:15, 74:24, 78:24, 82:14, 82:23, 84:8, 103:2 lesser [1] - 87:9 lethal [1] - 52:6 letter [4] - 7:19, 7:24, 8:5, 60:16 letters [10] - 7:17, 56:11, 60:6, 60:7, 60:8, 74:22, 75:22, 76:1, 76:10, 76:12 level [39] - 12:3, 12:10, 15:10, 15:13, 15:15, 16:11, 17:23, 32:20, 35:21, 45:8, 46:5, 46:25, 47:1, 47:4, 47:5, 47:7, 47:8, 47:9, 47:13, 47:14, 47:15, 47:16, 47:17, 47:21, 47:25, 48:1, 48:4, 48:8, 79:15, 80:22, 80:24, 81:9, 81:10, 85:9, 85:22, 89:15, 89:20, 103:14 leveled [1] - 53:14 lied [1] - 81:9	life [12] - 56:14, 56:19, 56:24, 59:22, 67:9, 74:20, 76:2, 76:11, 86:20, 86:23, 87:25, 88:2 likely [2] - 27:8, 87:8 limitations [2] - 98:3, 98:4 limited [1] - 34:20 line [41] - 21:17, 21:19, 21:24, 22:25, 23:12, 25:14, 25:25, 26:14, 27:6, 27:7, 27:11, 27:12, 27:16, 28:6, 28:11, 38:17, 39:11, 39:22, 40:11, 40:15, 41:6, 41:7, 41:15, 41:20, 42:21, 43:15, 51:25, 58:11, 58:14, 59:21, 73:24, 80:1, 82:1, 82:2, 82:4, 83:1, 83:2, 84:4, 84:18, 96:11 lines [7] - 25:12, 41:14, 58:24, 72:19, 72:23, 82:21, 84:14 lingering [1] - 67:8 liquor [1] - 67:18 list [1] - 60:22 listed [1] - 60:21 listen [1] - 104:16 literally [1] - 24:6 litigate [2] - 63:13, 63:14 litigation [2] - 2:16, 3:19 littered [1] - 52:1 live [1] - 51:10 lived [2] - 76:11, 86:24 Lives [1] - 70:3 lives [1] - 75:3 livestreamed [1] - 82:25 lobby [31] - 18:5, 18:20, 19:14, 19:20, 20:17, 29:19, 30:25, 31:6, 31:7, 31:8, 40:14, 40:19, 42:20, 42:23, 42:24, 43:1, 43:6, 43:11, 43:14, 43:16, 43:21, 44:19, 55:4, 59:17, 59:18, 59:20, 62:6, 72:17, 72:24, 73:4 local [1] - 90:12 located [3] - 23:14, 80:16, 92:25 location [7] - 72:25, 84:24, 91:7, 91:8,	91:11, 91:12, 91:21 locations [1] - 80:2 locked [1] - 24:5 logical [1] - 19:8 look [9] - 25:19, 35:25, 54:14, 58:21, 61:5, 65:8, 95:17, 96:3, 101:2 looked [2] - 51:4, 61:9 looking [2] - 49:24, 56:9 loose [1] - 39:11 lose [1] - 50:6 losers [1] - 58:4 loss [6] - 9:15, 9:19, 9:22, 40:24, 76:7, 92:24 losses [1] - 9:24 lost [2] - 56:18, 74:17 loud [1] - 52:23 loudly [1] - 25:21 loving [1] - 75:24 low [1] - 68:10 lower [1] - 52:24 Loyd [9] - 21:13, 31:16, 39:21, 40:9, 40:17, 40:23, 42:19, 42:25, 54:6	map [1] - 85:7 March [1] - 33:13 marched [1] - 53:7 mark [1] - 102:7 marked [3] - 25:8, 25:13, 91:24 Marshal [1] - 95:16 marshal [1] - 95:19 marshalled [1] - 17:25 marshals [1] - 64:16 Maryland [1] - 1:18 masks [1] - 31:2 mass [1] - 77:11 material [4] - 4:18, 7:22, 8:1, 48:17 materially [1] - 16:15 Matter [1] - 70:3 matter [2] - 2:3, 105:15 matters [4] - 17:24, 35:5, 35:10, 97:16 maximum [5] - 6:10, 6:13, 6:17, 7:6, 94:10 McAndrew [3] - 81:16, 82:13, 82:15 McFadden [1] - 34:1 mean [14] - 3:16, 4:12, 7:23, 22:14, 24:12, 61:9, 68:1, 74:4, 74:7, 87:20, 87:21, 91:9, 101:2, 102:12 meaning [4] - 19:4, 24:7, 37:3, 37:12 means [6] - 47:25, 79:7, 87:16, 89:8, 102:19 measure [1] - 82:10 measures [1] - 99:24 media [5] - 57:10, 58:18, 77:23, 87:12, 99:9 median [1] - 86:1 medical [3] - 10:24, 65:22, 91:3 meem [2] - 59:5, 59:10 meet [5] - 2:17, 3:14, 12:5, 47:24, 101:22 meetings [1] - 75:11 member [5] - 18:24, 23:3, 23:7, 41:2, 75:25 members [21] - 19:5, 38:21, 39:7, 39:24, 40:8, 40:13, 40:22, 41:1, 42:15, 42:22, 42:24, 43:7, 43:23, 44:6, 48:13, 49:22,
M				
			MAGISTRATE [1] - 1:10 Mahoney [1] - 78:17 main [27] - 18:5, 19:13, 19:17, 20:21, 20:24, 23:1, 26:14, 28:9, 29:20, 30:15, 31:10, 38:16, 39:11, 39:14, 43:1, 43:4, 44:11, 44:18, 53:18, 54:18, 56:7, 59:16, 62:5, 72:16, 72:23, 73:24, 84:17 maintain [2] - 69:19, 69:22 maintained [1] - 75:5 majority [5] - 10:15, 10:17, 56:11, 61:20, 62:8 male [1] - 78:15 malitia [1] - 99:13 man [4] - 25:24, 25:25, 26:8, 53:5 mandatory [3] - 6:23, 90:5, 90:10 manifested [1] - 36:6 manner [1] - 61:4	

55:3, 55:7, 55:8, 73:2, 79:25
memo [9] - 8:10, 8:21, 28:16, 29:14, 29:16, 53:20, 54:23, 65:15, 77:24
memoranda [1] - 36:14
memorandum [6] - 7:14, 7:15, 8:16, 10:8, 65:18, 65:24
memorialized [1] - 28:16
memory [2] - 7:3, 39:18
mental [3] - 66:8, 75:13, 91:4
mention [4] - 13:9, 65:25, 66:18, 99:1
mentioned [2] - 67:25, 90:25
mere [2] - 14:25, 49:19
mess [1] - 30:22
met [3] - 12:7, 33:15, 38:12
methods [1] - 70:8
MICHAEL [1] - 1:10
might [13] - 6:20, 16:10, 19:11, 22:10, 25:21, 28:13, 50:23, 59:14, 63:1, 63:2, 86:11, 99:23, 99:24
mile [2] - 64:14, 65:6
military [1] - 60:17
million [1] - 86:24
mind [1] - 77:20
mindset [1] - 76:22
mine [1] - 104:25
minimum [1] - 89:14
minute [5] - 30:7, 30:18, 44:7, 102:25, 104:21
minutes [28] - 19:18, 24:20, 24:24, 25:6, 28:11, 30:2, 30:5, 30:14, 30:19, 37:11, 38:3, 40:15, 41:24, 44:13, 70:18, 80:4, 80:5, 82:6, 82:20, 83:6, 83:24, 84:5, 84:6, 84:15, 84:20, 86:22, 86:24, 87:1
misdealer [1] - 46:20
misdemeanor [11] - 10:12, 10:21, 38:9, 46:22, 63:23, 67:2, 67:3, 67:4, 68:15, 69:7, 72:17
misdemeanors [12] -

61:23, 62:1, 62:3, 70:2, 70:3, 77:4, 78:22, 78:23, 79:2, 79:14, 80:19, 92:14
misinformation [1] - 56:1
mismatch [1] - 14:6
misstated [1] - 6:20
mitigation [1] - 86:15
mob [15] - 18:24, 27:3, 40:7, 40:16, 40:21, 42:2, 42:4, 43:17, 43:20, 44:5, 44:18, 73:23, 81:25, 82:1, 82:4
mob's [1] - 18:4
mobs [1] - 72:15
mocked [1] - 78:4
mocking [1] - 59:5
mocks [1] - 59:23
modify [1] - 68:22
moment [9] - 19:21, 19:22, 22:2, 27:14, 56:6, 75:21, 78:21, 88:8, 102:11
monetary [1] - 93:8
money [6] - 50:8, 50:12, 50:13, 71:9, 71:12, 71:13
monitored [1] - 91:7
monitoring [6] - 91:7, 91:8, 91:11, 91:12, 91:14
monitors [1] - 69:17
month [2] - 86:17, 86:19
monthly [3] - 71:2, 71:17, 93:10
months [40] - 48:6, 50:2, 57:22, 62:13, 62:15, 62:22, 63:19, 63:22, 74:19, 79:10, 79:21, 81:21, 82:7, 82:13, 82:24, 83:10, 83:25, 84:9, 85:1, 85:5, 85:12, 85:15, 85:16, 85:17, 86:1, 86:2, 88:19, 88:21, 89:7, 89:8, 89:9, 89:10, 89:14, 89:16, 89:21, 90:25, 91:10, 96:9
moot [1] - 50:20
mooted [1] - 51:10
moots [1] - 51:8
morals [1] - 63:8
Moreover [1] - 92:10
moreover [3] - 72:13, 79:6, 79:17
morning [4] - 2:7,

2:9, 2:12, 2:14
most [8] - 27:8, 85:8, 86:4, 86:5, 86:16, 88:5, 89:25, 98:18
mostly [1] - 43:2
mother [1] - 74:17
motion [8] - 2:15, 3:20, 4:14, 4:24, 5:2, 5:3, 5:15, 103:1
motions [2] - 2:16, 4:12
move [10] - 9:10, 11:11, 16:20, 20:8, 20:20, 27:13, 50:20, 51:3, 51:19, 65:4
moved [1] - 84:24
movements [2] - 30:24, 51:15
moving [4] - 3:19, 19:2, 19:23, 58:22
MPD [3] - 8:17, 52:10, 52:20
MR [76] - 2:9, 3:8, 3:12, 4:19, 4:23, 4:25, 5:3, 5:9, 5:12, 6:8, 7:10, 9:1, 11:9, 11:16, 12:25, 13:7, 14:3, 17:7, 17:10, 17:13, 18:13, 18:19, 18:23, 19:2, 19:6, 19:11, 20:1, 20:4, 20:12, 20:15, 21:2, 21:5, 21:7, 21:11, 21:21, 21:23, 22:1, 22:5, 22:20, 22:23, 23:17, 23:23, 24:9, 24:17, 25:17, 28:18, 29:5, 32:13, 32:16, 46:11, 48:24, 49:1, 50:22, 51:2, 63:11, 63:22, 64:20, 65:2, 65:5, 68:4, 68:6, 68:9, 95:4, 96:1, 97:10, 97:12, 97:15, 97:24, 98:12, 98:15, 100:7, 100:12, 102:14, 102:22, 104:18, 105:9
MS [61] - 2:7, 6:6, 7:2, 7:7, 8:9, 8:14, 8:21, 10:6, 10:15, 11:3, 20:9, 22:9, 23:10, 24:19, 24:22, 24:24, 25:4, 25:6, 26:16, 26:21, 27:8, 27:18, 27:24, 28:4, 28:8, 28:21, 29:9, 29:24, 30:13, 30:21, 31:2, 31:11, 31:15, 31:20, 31:25, 45:9, 49:14, 49:16, 50:14,

50:18, 50:23, 51:7, 61:10, 61:24, 62:15, 62:20, 62:22, 95:1, 95:10, 95:23, 96:7, 97:8, 100:21, 101:15, 101:18, 101:24, 102:1, 102:4, 103:24, 104:7, 105:7
multiple [3] - 30:9, 56:3, 83:21
musician [1] - 76:3
must [21] - 13:21, 16:25, 33:11, 33:20, 36:3, 49:25, 76:19, 77:2, 77:15, 87:14, 87:21, 90:11, 90:13, 90:15, 90:16, 90:19, 91:10, 91:16, 91:21, 92:4, 94:15
mutts [1] - 26:17

N

name [1] - 3:10
names [1] - 60:3
narrow [1] - 61:11
Nassif [14] - 13:16, 13:18, 14:3, 14:8, 14:10, 14:18, 14:20, 15:5, 15:19, 15:22, 16:1, 16:2, 16:9, 16:15
nation [1] - 74:4
nation's [1] - 73:14
National [2] - 65:9, 65:11
Native [1] - 76:2
natural [1] - 14:7
nature [9] - 12:12, 45:4, 51:13, 67:19, 71:23, 72:8, 73:5, 78:24, 86:10
navigate [1] - 69:5
near [3] - 39:3, 41:4, 83:4
nearly [1] - 54:11
necessary [3] - 48:19, 64:7, 86:9
need [16] - 5:5, 10:1, 12:17, 19:9, 32:10, 34:2, 48:16, 58:15, 60:19, 71:25, 72:4, 73:8, 74:11, 76:16, 78:10, 88:8
needless [1] - 74:10
needs [6] - 4:10, 4:15, 55:16, 65:22, 69:23, 95:20
negative [1] - 75:7
net [3] - 71:1, 71:16

never [5] - 13:18, 17:16, 36:11, 65:23, 86:21
nevertheless [2] - 71:16, 83:9
New [4] - 74:17, 75:3, 75:9, 75:11
new [1] - 5:1
next [1] - 43:3
Nichols [2] - 76:20, 78:17
Niemela [6] - 81:15, 81:20, 81:25, 82:5, 82:7, 82:8
NIH [5] - 65:14, 65:25, 66:11, 66:17, 70:9
NIJ [1] - 70:9
NO [1] - 1:5
non [1] - 52:6
non-lethal [1] - 52:6
none [1] - 103:6
nonpublic [1] - 83:16
nonviolent [1] - 76:1
normally [1] - 96:24
north [1] - 52:19
Northeast [2] - 91:25
northwest [1] - 52:4
Northwest [3] - 91:25, 92:2, 93:14
note [4] - 46:15, 69:2, 89:17, 101:20
noted [8] - 48:23, 49:20, 53:12, 54:24, 65:22, 66:20, 94:25, 95:3
notes [1] - 23:14
nothing [5] - 32:16, 81:6, 87:11, 102:3, 103:10
notice [4] - 43:8, 94:15, 94:17, 104:20
notification [1] - 96:22
notified [2] - 95:15, 95:16
notify [2] - 93:17, 96:25
November [1] - 1:11
Number [1] - 35:7
number [9] - 19:18, 27:18, 38:9, 39:17, 66:2, 69:6, 77:6, 78:12, 97:16
numerous [1] - 75:21
NW [2] - 1:14, 1:24

O

oath [5] - 60:22, 60:23, 60:25, 63:6
oaths [1] - 61:1
object [1] - 104:5
objected [2] - 11:19, 11:20
objecting [1] - 12:20
objection [11] - 6:4, 7:5, 7:8, 8:6, 48:10, 48:11, 48:16, 50:25, 95:6, 95:10, 95:21
objections [9] - 2:23, 9:8, 11:11, 46:7, 46:9, 48:20, 48:21, 94:24, 95:2
objective [1] - 40:6
objects [2] - 12:1, 15:8
obligation [1] - 93:18
obligations [3] - 91:5, 93:11, 93:12
observable [1] - 66:3
observed [3] - 35:6, 85:6, 98:5
obstructing [3] - 14:9, 14:16, 14:24
obstruction [7] - 14:9, 34:17, 47:20, 56:3, 80:22, 81:11, 86:12
obstructive [1] - 34:7
obtaining [2] - 92:2, 92:5
obviously [7] - 24:2, 24:14, 46:7, 62:11, 63:25, 66:13, 98:22
occur [3] - 45:17, 67:21, 76:23
occurred [9] - 15:14, 47:3, 55:6, 60:10, 61:17, 68:11, 73:12, 77:11
occurring [1] - 18:15
occurs [1] - 23:15
October [1] - 105:17
OF [3] - 1:1, 1:3, 1:10
offender [1] - 46:3
offense [55] - 9:23, 12:2, 12:10, 15:10, 15:13, 15:15, 16:11, 17:23, 32:20, 32:23, 34:17, 34:21, 35:9, 35:11, 35:12, 35:21, 45:7, 46:4, 46:25, 47:1, 47:4, 47:5, 47:7, 47:9, 47:13, 47:14, 47:15, 47:16, 47:18,

47:20, 47:21, 48:1, 48:4, 48:8, 61:23, 71:24, 72:1, 72:9, 73:6, 73:9, 74:12, 79:11, 79:15, 80:22, 81:9, 81:10, 85:9, 85:22, 89:15, 89:20, 92:9, 101:6, 103:14
offenses [8] - 6:15, 15:12, 15:24, 78:23, 79:2, 79:3, 103:12
offers [1] - 78:13
office [9] - 2:13, 9:18, 32:24, 70:24, 74:22, 83:16, 90:6, 93:19, 93:24
Office [6] - 1:13, 1:16, 68:18, 93:1, 93:21
officer [18] - 17:18, 25:25, 32:4, 34:18, 37:20, 40:6, 40:22, 42:8, 44:2, 44:4, 91:6, 91:13, 92:3, 92:6, 95:17, 95:20, 96:20
Officer [2] - 1:20, 93:1
OFFICER [3] - 2:12, 96:19, 104:11
officers [45] - 3:22, 8:17, 14:9, 14:17, 14:25, 17:21, 18:7, 26:25, 31:2, 34:8, 35:19, 38:18, 39:10, 39:12, 39:19, 39:22, 41:10, 42:7, 42:9, 42:15, 43:13, 43:15, 49:22, 52:10, 52:19, 52:20, 52:24, 52:25, 53:10, 54:19, 54:23, 59:2, 59:6, 59:8, 59:10, 59:12, 59:17, 59:21, 59:24, 60:23, 60:24, 62:7, 73:2, 83:19
official [1] - 34:14
OFFICIAL [1] - 105:20
Official [2] - 1:23, 105:13
officials [1] - 74:6
often [1] - 17:16
old [15] - 65:17, 65:21, 67:25, 68:2, 68:6, 68:9, 74:17, 74:19, 80:11, 82:11, 83:10, 84:1, 84:9, 85:3, 88:2
older [5] - 65:19, 66:1, 78:15, 86:4,

86:5
omissions [3] - 34:22, 36:25, 44:16
once [5] - 13:18, 68:11, 83:5, 83:15, 84:5
one [60] - 6:10, 6:11, 8:10, 9:14, 13:8, 13:17, 14:22, 18:21, 21:11, 24:3, 24:9, 25:18, 26:6, 27:7, 29:16, 30:9, 30:11, 33:18, 39:21, 41:3, 41:9, 47:16, 50:2, 52:4, 54:4, 54:13, 59:21, 62:2, 65:6, 66:2, 68:5, 68:19, 70:22, 72:24, 73:13, 75:1, 75:23, 76:10, 78:15, 78:20, 78:22, 79:20, 80:2, 81:17, 81:18, 82:22, 86:23, 90:11, 90:16, 97:16, 97:22, 98:21, 99:5, 99:6, 100:24, 103:2, 103:9
one-off [2] - 54:13
ones [3] - 61:9, 61:18, 80:16
open [23] - 20:13, 20:19, 20:25, 22:6, 22:13, 24:4, 24:7, 24:8, 24:12, 24:14, 24:15, 24:21, 24:23, 25:5, 26:18, 27:4, 27:15, 28:1, 28:3, 31:23, 42:20, 52:25, 99:7
open-source [1] - 27:15
opened [3] - 102:8, 102:16
opportunity [4] - 11:14, 62:24, 68:11, 100:18
opposition [1] - 5:15
options [1] - 90:7
order [8] - 10:17, 38:25, 39:4, 93:22, 95:13, 102:25, 104:3, 104:16
Order [1] - 2:1
ordered [12] - 9:17, 10:15, 10:18, 10:25, 21:17, 21:18, 40:17, 71:6, 83:18, 88:24, 92:7, 93:3
ordering [1] - 104:23
orderly [4] - 14:11, 14:14, 16:5, 34:14

organization [1] - 48:15
orient [1] - 30:25
original [1] - 105:14
otherwise [4] - 12:4, 44:22, 75:15, 83:16
outer [1] - 52:1
outfits [2] - 52:20
outlier [1] - 85:13
outline [2] - 9:11, 16:13
outlined [1] - 55:20
outnumbered [2] - 39:20, 43:15
outside [25] - 18:8, 22:25, 27:3, 28:9, 29:18, 38:16, 39:2, 39:7, 39:14, 39:17, 40:2, 41:6, 42:4, 43:10, 44:18, 72:16, 73:24, 82:4, 83:1, 84:3, 84:13, 84:17, 84:18, 84:21, 99:18
outweighed [1] - 10:2
overall [1] - 61:14
overcome [1] - 100:7
overran [4] - 72:16, 73:23, 81:25, 82:4
overrun [5] - 18:7, 28:11, 40:16, 53:10, 54:19
overrunning [4] - 23:12, 26:25, 72:19, 80:1
overwhelm [1] - 41:13
overwhelmed [2] - 41:10, 72:22
overwhelming [1] - 15:22
own [11] - 29:13, 38:5, 50:12, 61:15, 63:8, 65:8, 65:21, 103:25, 104:1

P

p.m [11] - 1:11, 8:16, 8:21, 8:22, 37:11, 37:23, 52:12, 70:16, 81:24, 105:11
page [4] - 8:15, 14:6, 33:13, 105:15
pages [2] - 10:7, 34:1
paid [2] - 92:21, 93:18
pain [1] - 40:24
pane [1] - 42:11

paperwork [2] - 101:3, 102:8
parading [1] - 6:1
paragraph [3] - 48:11, 48:14, 103:2
paraphrase [1] - 29:13
parent [1] - 75:24
Parks [1] - 78:17
parliamentary [1] - 83:17
part [34] - 3:24, 4:12, 11:25, 19:17, 29:3, 29:11, 34:4, 39:22, 41:23, 49:4, 49:18, 50:13, 53:22, 54:2, 55:15, 55:18, 57:11, 69:10, 69:14, 70:23, 71:14, 74:20, 75:1, 81:6, 85:25, 88:2, 88:3, 90:6, 99:13, 99:14, 99:15, 99:16
part-time [1] - 75:1
participant [4] - 41:11, 49:19, 49:20, 73:22
participated [2] - 77:8, 101:7
particular [5] - 2:25, 13:23, 35:12, 63:15, 95:15
particularly [3] - 42:24, 78:19, 80:9
parties [9] - 2:5, 2:17, 4:5, 4:21, 6:4, 11:19, 33:6, 92:11, 105:10
parts [1] - 11:19
party [1] - 8:7
passage [1] - 48:12
passed [2] - 43:9, 43:19
past [9] - 41:8, 41:10, 41:15, 41:20, 43:17, 52:24, 53:2, 84:14
path [1] - 87:19
pathway [1] - 82:15
patience [1] - 27:25
Pause [4] - 13:5, 23:24, 24:18, 30:12
paused [4] - 24:24, 24:25, 25:6, 32:8
pausing [1] - 31:21
Pavan [1] - 2:8
PAVAN [1] - 1:14
pay [9] - 70:21, 70:22, 71:18, 88:24, 89:1, 92:19, 93:3, 93:5, 93:7

payable [1] - 93:13 paying [2] - 50:9, 92:25 payment [2] - 93:7, 93:10 payments [1] - 92:21 peaceful [7] - 41:13, 44:15, 53:24, 59:7, 73:19, 88:7, 99:6 peacefully [1] - 54:10 pedophile [1] - 53:5 peeking [1] - 53:1 penalties [4] - 7:6, 92:20, 93:5, 93:8 pendency [1] - 75:7 pending [1] - 2:17 people [18] - 20:6, 54:5, 55:3, 58:5, 60:21, 61:14, 66:1, 66:3, 66:7, 69:14, 70:4, 76:21, 76:23, 77:1, 98:7, 100:11, 101:10, 101:12 pepper [3] - 52:23, 54:20, 83:20 per [3] - 6:23, 6:24, 67:24 perceived [2] - 24:14, 44:4 percent [3] - 63:20, 68:10, 85:24 perhaps [3] - 87:18, 88:5, 88:7 perimeter [3] - 51:25, 52:2 period [7] - 65:3, 77:5, 77:10, 81:18, 85:10, 87:15, 91:8 periodic [1] - 90:17 permission [4] - 92:3, 92:5, 94:19, 102:23 permit [1] - 95:13 permitted [4] - 6:16, 89:13, 89:22, 94:15 permitting [1] - 95:6 persist [1] - 64:24 person [10] - 4:13, 26:6, 35:14, 56:14, 56:15, 57:3, 61:2, 61:13, 76:1, 97:23 personally [5] - 17:21, 35:18, 59:15, 87:19, 92:15 petty [6] - 6:14, 61:23, 78:23, 79:1, 79:3, 79:11 ph [8] - 78:16, 78:17, 81:14, 81:16, 81:17,	84:2 ph [1] - 84:11 phone [1] - 56:7 photo [2] - 20:22, 58:20 photograph [2] - 58:22, 59:4 photographs [1] - 56:8 photos [2] - 38:11, 72:18 phrase [1] - 33:22 physical [7] - 17:14, 33:25, 40:8, 40:25, 42:14, 44:21, 66:6 physically [2] - 59:13, 74:5 pick [2] - 27:14, 55:14 picketing [1] - 6:1 picking [1] - 27:1 picks [1] - 54:22 picture [3] - 25:20, 61:14, 61:20 pictures [2] - 38:5, 84:6 pill [1] - 53:25 place [1] - 3:9 placed [3] - 78:5, 87:8, 100:10 placement [1] - 90:17 placing [2] - 2:22, 6:16 plainly [2] - 42:7, 74:13 Plaintiff [1] - 1:4 plane [1] - 74:18 play [7] - 20:1, 20:10, 22:10, 29:3, 29:4, 30:17, 30:23 played [3] - 29:15, 52:14, 55:2 playing [12] - 20:13, 20:19, 20:25, 22:6, 22:13, 24:21, 24:23, 25:5, 26:18, 27:4, 28:3, 31:23 plaza [4] - 8:18, 52:1, 52:23, 52:24 plea [2] - 92:11, 96:9 plead [1] - 79:6 pleading [1] - 78:22 pleas [1] - 61:21 plug [1] - 26:17 plume [2] - 30:16, 32:8 plus [1] - 58:3 podcast [1] - 60:12 podcasts [1] - 57:11	podium [1] - 88:13 point [55] - 12:2, 12:9, 12:16, 13:20, 16:21, 17:8, 19:3, 21:11, 21:12, 25:18, 26:4, 26:5, 28:15, 29:20, 32:19, 32:25, 33:7, 33:16, 33:20, 35:4, 36:11, 37:4, 38:6, 39:17, 40:17, 41:14, 41:18, 42:18, 43:12, 44:23, 44:24, 45:2, 45:3, 45:5, 46:3, 46:12, 47:4, 50:6, 51:11, 53:8, 54:24, 61:20, 62:2, 65:5, 68:14, 68:15, 79:8, 80:10, 80:13, 82:12, 83:12, 84:18, 86:3, 89:18, 103:5 pointed [8] - 20:21, 24:16, 25:1, 26:11, 42:10, 52:6, 62:3, 63:18 pointer [1] - 31:9 pointing [1] - 60:15 points [17] - 12:4, 13:12, 15:13, 18:21, 32:4, 32:21, 36:13, 45:7, 45:19, 45:22, 45:23, 45:24, 48:2, 51:18, 59:12, 69:2 police [35] - 18:7, 21:17, 21:24, 22:25, 25:14, 25:19, 25:22, 25:23, 25:25, 26:14, 27:6, 27:11, 27:12, 28:11, 40:11, 40:15, 41:5, 41:7, 41:14, 41:15, 41:20, 42:21, 72:19, 72:23, 73:24, 80:1, 82:1, 82:2, 82:4, 82:21, 83:1, 84:4, 84:14, 84:18 Police [6] - 38:18, 39:10, 39:21, 43:13, 59:2, 59:5 policy [1] - 3:16 political [6] - 57:17, 58:6, 77:11, 86:11, 87:16, 87:20 portion [1] - 53:21 portions [1] - 49:3 pose [2] - 18:1, 35:15 posed [10] - 35:9, 39:7, 40:21, 40:24, 42:2, 42:13, 44:1, 54:5, 59:16, 62:6 posing [3] - 39:24,	44:4, 49:21 position [1] - 33:5 positive [3] - 71:1, 71:2, 71:16 possess [1] - 90:13 possibility [2] - 2:20, 66:16 possible [3] - 30:2, 68:24, 97:25 post [1] - 15:5 posted [1] - 59:5 posts [4] - 57:10, 58:18, 77:23, 87:12 potential [2] - 9:22, 12:16 power [3] - 68:19, 73:19, 88:7 PowerPoint [4] - 20:9, 23:12, 26:21, 26:24 practice [1] - 15:25 praying [1] - 79:18 precarious [1] - 42:25 prefer [1] - 98:22 preference [1] - 98:12 preferences [1] - 98:2 prepared [7] - 4:21, 5:1, 8:3, 21:15, 21:18, 103:7, 103:16 preponderance [3] - 17:1, 19:7, 33:12 prerogative [1] - 104:24 presence [3] - 14:25, 18:4, 49:21 present [3] - 21:8, 75:17, 79:25 presentation [1] - 26:22 presented [7] - 21:9, 33:3, 37:7, 37:8, 102:3, 103:12, 103:13 presentence [15] - 7:13, 9:9, 11:12, 11:15, 11:18, 21:16, 46:16, 48:10, 48:21, 48:22, 49:3, 70:25, 90:7, 93:19, 93:23 presentencing [1] - 56:13 presents [1] - 57:3 presided [1] - 33:3 president [4] - 37:23, 54:8, 60:3, 60:22 President [1] - 53:4 presidential [2] - 73:19, 74:1	press [2] - 24:6, 24:7 pressed [2] - 41:20, 41:24 presumably [1] - 9:20 pretrial [2] - 75:18, 81:4 previously [2] - 47:23, 84:7 primary [1] - 85:22 prioritized [1] - 98:18 prison [16] - 63:16, 64:8, 64:9, 64:14, 65:16, 66:1, 66:6, 66:8, 66:9, 68:25, 70:5, 75:10, 98:18, 99:18, 99:21 Prisons [4] - 69:6, 88:18, 96:2, 96:5 prisons [4] - 65:12, 66:14, 69:4, 69:5 privilege [1] - 3:21 privy [1] - 33:3 Probation [3] - 1:20, 93:21, 96:20 PROBATION [3] - 2:12, 96:19, 104:11 probation [23] - 2:13, 6:17, 9:18, 10:3, 11:17, 32:24, 33:2, 48:12, 70:24, 74:22, 78:21, 87:8, 90:6, 91:6, 91:13, 92:3, 92:6, 93:19, 93:24, 95:16, 95:20, 96:17, 104:10 probation's [4] - 11:12, 46:9, 48:10, 71:17 probationary [2] - 79:20, 85:1 problem [6] - 50:11, 65:12, 66:21, 69:9, 97:20, 104:17 problems [1] - 66:1 proceed [1] - 60:18 proceeding [3] - 6:4, 95:21, 97:23 Proceedings [1] - 105:11 proceeds [1] - 16:14 process [10] - 3:14, 9:25, 10:2, 37:25, 42:16, 54:9, 54:10, 80:1, 88:9, 99:21 produce [1] - 17:3 Produced [1] - 1:25 produced [2] - 34:24, 37:1
---	--	--	--	---

program [4] - 66:20, 75:9, 91:11 programs [1] - 99:23 prolonged [1] - 9:25 promote [3] - 72:1, 73:9, 74:12 promoted [1] - 79:17 promoting [1] - 57:24 proof [2] - 16:25, 33:11 proper [1] - 33:6 property [4] - 9:14, 9:23, 72:10, 92:15 proposal [1] - 4:6 propose [1] - 104:8 prosecution [1] - 79:18 prosecutors [2] - 60:13, 60:25 protect [1] - 72:3 protectee [2] - 14:16, 14:17 protecting [2] - 38:18, 77:18 protest [1] - 68:19 protests [4] - 41:13, 68:16, 70:3, 81:6 Proud [2] - 48:13, 48:14 proud [2] - 87:11, 87:13 proudly [1] - 77:25 prove [1] - 33:11 proved [1] - 18:6 proven [1] - 44:22 provide [9] - 3:4, 9:5, 10:1, 16:25, 18:23, 32:19, 64:17, 70:23, 72:1 provided [3] - 61:7, 61:25, 71:8 provision [3] - 12:1, 12:5, 12:7 provisions [3] - 13:8, 13:11, 88:15 PSR [1] - 66:19 public [3] - 3:14, 71:6, 72:3 pull [3] - 20:8, 27:19, 83:14 pulled [1] - 54:23 pulling [1] - 23:20 punishment [8] - 63:17, 67:5, 67:6, 67:9, 69:11, 69:15, 69:16, 72:2 punitive [1] - 70:7 purpose [2] - 57:23, 57:24	purposes [3] - 34:19, 38:7, 47:11 pursuant [8] - 9:1, 9:20, 46:18, 47:12, 88:14, 89:12, 94:4, 94:13 pursue [1] - 4:22 purview [1] - 104:25 push [2] - 60:9, 84:14 pushed [4] - 3:14, 22:17, 24:14, 37:21 pushing [2] - 84:22, 84:23 put [20] - 46:5, 50:14, 53:1, 55:6, 56:2, 56:22, 56:23, 59:15, 64:3, 65:15, 67:7, 81:3, 96:15, 98:7, 98:23, 100:11, 102:7, 103:8, 103:10, 105:2 puts [1] - 48:5 putting [3] - 57:13, 96:4, 103:5	rapidly [1] - 38:23 rather [5] - 16:23, 34:5, 38:14, 44:10, 85:12 RDAP [1] - 66:20 RDR [1] - 105:19 RDR-CRR [1] - 105:19 reaching [1] - 86:6 read [13] - 7:18, 8:5, 13:1, 13:2, 14:5, 15:20, 16:9, 64:11, 68:2, 68:3, 68:8, 74:23, 76:12 reads [1] - 8:16 ready [1] - 5:11 real [3] - 76:25, 77:2, 77:15 really [4] - 4:4, 64:1, 99:20, 100:22 Realtime [1] - 1:23 reason [10] - 3:13, 26:17, 40:11, 51:8, 60:19, 64:13, 77:3, 77:15, 87:15, 98:7 reasonable [4] - 40:22, 42:8, 65:13, 97:3 reasonably [3] - 35:14, 39:6, 40:6 reasons [6] - 16:13, 47:23, 67:11, 72:13, 84:7, 95:11 REBEKAH [1] - 1:14 Rebekah [1] - 2:7 rebrief [1] - 4:9 rebuttal [2] - 23:21, 23:23 recap [1] - 51:15 receive [3] - 7:19, 50:7, 51:9 received [22] - 7:11, 7:15, 7:17, 9:6, 50:16, 50:24, 56:12, 60:6, 60:16, 68:18, 75:21, 81:20, 82:7, 82:13, 82:23, 83:10, 83:25, 84:8, 85:1, 85:9, 85:24, 94:12 receives [1] - 75:2 recent [1] - 88:5 Recessed [2] - 27:22, 70:16 recidivism [1] - 66:19 recognition [1] - 91:15 recognized [2] - 36:3, 98:17 recollection [6] -	21:19, 23:18, 25:1, 27:5, 28:24, 31:15 recommend [2] - 104:9, 104:12 recommendation [9] - 9:20, 10:5, 104:2, 104:5, 104:6, 104:12, 104:15, 104:21, 104:22 recommended [3] - 10:4, 62:12, 90:6 recommending [1] - 103:25 recommends [1] - 9:18 Record [1] - 1:25 record [32] - 2:5, 2:22, 3:5, 3:10, 3:24, 6:9, 7:4, 24:19, 24:24, 25:6, 28:1, 31:11, 46:5, 48:22, 49:17, 50:15, 53:2, 55:6, 64:21, 64:22, 65:25, 69:2, 70:12, 80:25, 89:17, 94:25, 95:3, 98:24, 99:17, 102:12, 102:20, 105:15 recorded [1] - 84:3 records [2] - 4:16, 72:5 recoup [2] - 50:13, 71:15 recovering [1] - 65:23 red [1] - 51:5 redacted [3] - 2:20, 3:4, 3:11 reduce [1] - 45:19 reduced [1] - 45:24 reduction [26] - 12:3, 12:9, 16:22, 16:23, 17:15, 17:23, 21:12, 32:19, 32:25, 33:7, 33:10, 33:16, 33:20, 35:4, 35:21, 36:11, 37:4, 44:24, 45:2, 45:6, 46:3, 46:12, 47:25, 79:8, 89:18 reentered [1] - 83:17 REEVES [2] - 1:22, 105:19 Reeves [2] - 105:13, 105:19 refer [1] - 65:14 reference [2] - 8:17, 18:10 referring [2] - 29:23, 41:22 reflect [8] - 71:25, 73:8, 74:11, 86:9,	88:8, 95:12, 97:25, 98:9 reflected [1] - 98:24 reflecting [1] - 98:16 reflects [2] - 92:9, 104:22 Reform [1] - 88:14 refrain [1] - 90:15 refusal [1] - 70:23 refuted [1] - 56:2 regard [3] - 13:16, 85:11, 86:15 regarding [4] - 63:25, 72:8, 97:16 Registered [1] - 1:22 regulations [3] - 91:10, 104:10, 105:15 regulatory [1] - 98:4 rehabilitation [1] - 70:7 rejected [1] - 36:15 relapse [1] - 66:23 related [5] - 2:25, 4:13, 11:23, 47:19, 50:10 relatedly [1] - 73:7 relates [2] - 11:23, 21:13 relating [1] - 9:24 relatively [1] - 103:22 release [16] - 6:11, 6:15, 50:3, 75:18, 75:19, 81:4, 81:21, 88:22, 89:6, 89:7, 89:9, 89:10, 90:4, 90:25, 93:19, 95:8 relevant [5] - 11:19, 16:25, 32:21, 33:11, 78:19 relief [1] - 97:6 religious [1] - 91:3 relitigating [1] - 99:11 remain [1] - 25:9 remained [4] - 41:19, 52:9, 53:12, 82:19 remaining [3] - 5:20, 38:4, 84:23 remains [1] - 36:3 remember [8] - 18:22, 19:19, 19:25, 28:24, 28:25, 29:17, 63:5, 63:7 remembered [1] - 43:18 reminded [1] - 60:13 remission [1] - 75:14 remorse [2] - 77:21, 87:4
Q				
quick [1] - 97:15 quickly [12] - 13:2, 20:7, 30:1, 38:1, 38:10, 40:11, 43:15, 72:18, 96:5, 97:13, 105:1, 105:2 quiet [2] - 23:5, 25:9 quite [3] - 17:25, 81:19, 85:4 quote [12] - 14:5, 14:23, 25:24, 29:14, 32:22, 33:24, 34:22, 35:8, 35:21, 47:13, 47:15, 64:11 quote-unquote [1] - 25:24				
R				
rabbit [1] - 56:22 radiofrequency [1] - 91:13 raise [1] - 50:12 raised [3] - 50:4, 50:9, 74:20 rally [2] - 51:22, 56:8 ran [2] - 52:9, 55:5 range [8] - 48:6, 48:7, 79:10, 85:4, 89:15, 89:20, 89:21, 94:10 ransacked [1] - 83:15				

remotely [1] - 97:19 remove [2] - 76:10, 91:17 removing [1] - 91:19 rents [1] - 75:3 repeat [1] - 77:11 repeatedly [1] - 78:2 reply [4] - 5:14, 5:16, 23:21, 23:23 report [22] - 2:25, 7:13, 9:9, 11:13, 11:15, 11:18, 21:16, 46:17, 48:11, 48:12, 48:21, 48:22, 49:3, 56:13, 66:20, 70:25, 90:7, 93:20, 93:23, 95:21, 99:6 Reporter [4] - 1:22, 1:23, 1:23, 105:13 reporter [1] - 27:21 REPORTER [1] - 105:20 reports [1] - 99:8 representation [1] - 19:22 Representatives [2] - 38:19, 39:13 represented [1] - 37:2 represents [1] - 75:17 request [6] - 9:1, 10:8, 45:6, 94:19, 98:10, 99:16 requested [2] - 10:19, 16:21 requests [2] - 12:8, 98:2 require [2] - 37:2, 73:7 required [2] - 17:15, 34:9 requirements [3] - 12:5, 12:7, 38:12 requires [4] - 34:11, 35:11, 71:19, 74:15 residence [2] - 91:2, 93:21 resident [1] - 74:17 resides [1] - 98:15 residing [1] - 91:20 resolution [1] - 48:17 resolve [2] - 3:3, 3:5 resolved [2] - 4:12, 48:16 resolves [1] - 48:20 resolving [1] - 33:9 resort [1] - 64:12 respect [20] - 2:15,	2:24, 11:12, 12:14, 12:23, 17:8, 32:15, 37:8, 62:10, 70:21, 71:19, 72:1, 73:9, 74:12, 76:16, 82:22, 87:11, 90:3, 92:8, 94:1 respecting [1] - 57:23 respond [2] - 58:9, 100:18 responded [1] - 52:10 response [1] - 25:11 responsibility [7] - 47:22, 57:1, 58:17, 62:25, 63:9, 79:9, 80:21 rest [5] - 13:2, 17:7, 62:20, 67:9, 90:3 restitution [24] - 9:12, 9:13, 9:17, 9:18, 9:21, 10:1, 10:4, 10:7, 10:16, 10:17, 10:18, 10:20, 10:25, 11:7, 50:5, 88:24, 90:19, 90:21, 92:7, 92:12, 92:13, 92:16, 92:20, 92:21 restrict [1] - 14:17 restricted [12] - 5:20, 5:22, 11:24, 14:11, 14:15, 15:14, 16:6, 34:13, 47:3, 51:24, 82:16, 91:1 restriction [2] - 91:16, 91:21 result [4] - 55:11, 76:7, 94:8, 103:14 resulting [2] - 47:3, 92:10 results [1] - 88:5 retreated [1] - 43:16 retributive [1] - 58:19 return [2] - 93:23, 94:23 returned [1] - 8:2 returns [1] - 70:24 revealed [1] - 74:21 review [5] - 7:21, 8:25, 11:15, 36:21, 85:7 reviewed [2] - 9:7, 71:8 reviewing [2] - 8:6, 70:24 revisionist [1] - 55:20 revolutionary [1] -	76:4 rightfully [1] - 36:15 rights [1] - 94:1 riot [12] - 23:7, 36:6, 36:9, 52:20, 54:5, 54:14, 55:3, 55:8, 73:14, 101:1, 101:7 rioter [9] - 20:5, 23:18, 25:24, 37:12, 43:19, 43:21, 55:11, 72:25, 80:2 rioters [52] - 19:12, 21:8, 25:18, 37:14, 37:17, 37:22, 38:1, 38:16, 39:2, 39:3, 39:7, 39:9, 39:14, 39:17, 39:20, 39:23, 40:2, 40:7, 41:3, 41:5, 41:7, 41:10, 41:15, 41:19, 41:23, 42:2, 42:6, 42:10, 42:12, 43:4, 43:5, 43:10, 43:13, 44:1, 44:4, 44:8, 52:5, 72:15, 72:22, 73:17, 73:20, 76:19, 78:5, 79:19, 81:22, 82:18, 82:19, 83:3, 84:4, 84:21 rioters' [1] - 78:2 riots [1] - 68:16 risk [3] - 66:18, 67:8, 73:1 Rivera [3] - 81:14, 82:25, 83:9 roamed [1] - 83:5 rob [1] - 67:18 role [2] - 47:20, 92:9 Room [1] - 93:2 room [2] - 23:5, 60:21 ropes [1] - 38:5 Rotunda [6] - 38:4, 38:15, 53:16, 80:6, 83:21, 84:16 route [1] - 40:13 rule [1] - 73:15 rules [3] - 91:10, 98:11, 103:20 ruling [1] - 14:5 rulings [1] - 46:8 run [4] - 3:20, 22:8, 88:20, 88:23 running [3] - 20:17, 29:25, 30:16 runs [1] - 18:19 Ryals [2] - 81:15, 83:13	S safe [1] - 68:12 safely [1] - 38:1 safety [2] - 40:8, 73:1 sane [1] - 60:8 satisfactory [1] - 3:7 satisfied [1] - 96:1 satisfies [1] - 89:14 saw [12] - 18:10, 20:22, 22:2, 23:6, 24:1, 24:3, 25:18, 37:19, 39:19, 99:8, 99:9 scaffolding [2] - 52:17, 52:18 scale [2] - 52:4, 52:18 scenario [2] - 61:16 schedule [1] - 4:20 school [1] - 74:25 score [3] - 17:23, 35:21, 48:4 scout [1] - 40:12 scouted [1] - 21:18 screen [2] - 30:20, 31:3 screenshot [1] - 59:1 scurried [1] - 52:15 se [1] - 67:24 sea [2] - 19:13, 52:5 seal [3] - 2:15, 5:5, 50:23 seat [1] - 94:22 SEC [1] - 64:9 second [8] - 13:20, 18:8, 44:1, 53:11, 53:24, 56:6, 74:10, 83:20 seconds [11] - 22:7, 22:11, 24:20, 25:7, 28:2, 30:2, 30:5, 30:7, 30:14, 30:19, 31:25 Secret [1] - 14:15 Section [55] - 5:21, 5:23, 5:25, 6:2, 6:22, 9:20, 11:21, 11:22, 12:1, 12:8, 12:18, 12:21, 14:6, 14:7, 15:9, 15:10, 15:21, 15:23, 16:3, 16:10, 16:20, 32:18, 33:7, 33:8, 33:16, 34:5, 34:6, 34:9, 34:20, 34:24, 36:10, 37:4, 44:24, 46:13, 46:14, 46:18, 46:24, 46:25, 47:2, 47:7, 47:10, 47:13, 71:21, 72:14, 78:9, 80:20, 88:16,	89:4, 89:12, 90:20, 94:5, 94:13 section [9] - 12:19, 12:20, 12:24, 13:22, 15:8, 16:17, 32:19, 34:11, 74:15 secured [2] - 72:20, 83:16 Security [1] - 75:2 security [2] - 38:22, 99:24 see [33] - 14:13, 17:5, 19:10, 19:14, 20:17, 20:23, 21:7, 22:19, 25:3, 25:7, 25:12, 25:20, 25:22, 25:23, 25:25, 26:2, 26:15, 27:10, 27:12, 28:18, 29:4, 30:4, 30:6, 30:15, 32:1, 32:7, 32:10, 51:4, 52:25, 54:20, 66:3, 68:16, 69:19 seeing [4] - 21:19, 35:13, 39:23, 43:18 seek [4] - 10:12, 45:2, 71:14, 97:6 seeking [2] - 11:3, 73:3 seem [1] - 9:16 sees [1] - 72:14 selfies [1] - 83:6 Senate [8] - 20:15, 37:10, 37:15, 80:6, 80:7, 81:23, 83:4, 83:13 send [2] - 65:6, 96:21 senior [2] - 70:4, 86:19 sense [2] - 4:20, 56:23 sent [2] - 7:25, 70:4 sentence [42] - 6:16, 18:17, 18:18, 57:22, 65:16, 68:15, 68:23, 70:1, 70:19, 71:19, 71:22, 71:25, 72:8, 73:6, 73:8, 74:11, 74:13, 78:7, 78:9, 79:20, 80:14, 83:25, 85:1, 85:25, 86:7, 86:8, 87:9, 87:18, 87:22, 89:13, 89:18, 89:22, 89:25, 90:3, 90:21, 93:8, 93:22, 94:6, 94:7, 94:11, 94:14, 94:24 sentenced [12] - 35:13, 50:2, 77:4,
---	---	--	---	---

77:9, 78:21, 79:19, 81:18, 85:21, 85:24, 88:12, 88:21, 89:24 sentences [3] - 58:13, 85:4, 85:6 sentencing [57] - 2:4, 2:14, 5:17, 6:5, 7:12, 7:13, 7:15, 8:15, 9:10, 9:25, 10:2, 11:21, 16:23, 16:24, 17:19, 29:16, 32:17, 32:25, 33:9, 35:6, 36:14, 36:18, 46:18, 48:17, 48:18, 49:5, 53:20, 61:5, 61:6, 61:12, 65:15, 65:18, 65:24, 70:15, 70:17, 71:20, 72:4, 73:7, 77:17, 77:24, 78:11, 78:24, 79:4, 79:8, 79:15, 85:20, 86:12, 88:16, 90:6, 92:17, 94:9, 94:12, 99:16, 101:18, 102:3, 102:20, 103:13 Sentencing [1] - 88:14 SENTENCING [1] - 1:10 sentencings [1] - 98:1 separate [1] - 55:16 separated [1] - 65:18 September [1] - 11:18 serious [6] - 16:15, 78:6, 78:24, 82:14, 82:23, 84:8 seriousness [5] - 71:25, 73:9, 74:12, 77:22, 87:5 serve [4] - 86:14, 87:14, 88:21, 89:8 serves [4] - 25:1, 31:16, 57:23, 57:24 Service [2] - 14:15, 95:16 service [1] - 95:20 services [1] - 91:3 session [3] - 38:20, 53:19, 54:4 set [13] - 2:4, 24:2, 24:3, 41:24, 58:24, 61:18, 62:4, 67:15, 71:7, 71:21, 87:4, 95:18, 97:3 settles [1] - 63:4 seven [9] - 13:12, 39:10, 39:12, 39:19, 63:19, 63:22, 84:8,	85:15, 86:1 severe [3] - 51:16, 67:3, 94:9 shall [7] - 9:16, 90:4, 90:22, 92:21, 93:16, 93:19, 93:23 share [1] - 56:13 shared [1] - 11:4 Sherry [2] - 1:20, 2:12 shirt [3] - 58:21, 58:22, 58:23 shook [1] - 70:13 shooting [2] - 44:7, 72:25 short [1] - 5:4 shot [4] - 43:24, 55:11, 80:3, 82:22 shoulder [1] - 83:19 shout [1] - 23:8 shouted [1] - 83:2 shouting [1] - 41:21 show [8] - 18:1, 22:3, 26:23, 30:11, 31:9, 52:12, 58:11, 63:23 showed [5] - 26:7, 37:23, 38:14, 55:25, 58:19 showing [1] - 50:25 shown [7] - 32:24, 44:9, 56:7, 58:13, 70:22, 77:20, 77:21 shows [16] - 24:11, 27:6, 27:12, 27:15, 28:5, 28:19, 37:19, 39:12, 41:3, 41:9, 41:19, 42:5, 44:7, 51:5, 57:11, 58:19 sic [3] - 9:6, 50:7, 63:18 side [13] - 2:19, 8:18, 9:13, 21:8, 26:20, 26:23, 27:11, 27:13, 28:5, 42:10, 43:20, 52:19, 59:1 sides [1] - 33:4 significant [6] - 38:9, 42:1, 44:2, 57:10, 76:6, 86:22 significantly [5] - 75:16, 82:8, 83:11, 86:4, 86:5 similar [6] - 61:17, 72:5, 72:6, 79:17, 82:7, 83:23 similarities [1] - 84:12 similarly [3] - 35:1, 78:11, 81:8 simply [7] - 5:3,	45:20, 53:6, 57:18, 59:25, 60:10, 60:14 sincerely [1] - 87:5 singing [1] - 58:24 single [2] - 54:4, 58:10 sirens [1] - 37:17 situated [1] - 78:11 situation [7] - 35:15, 35:16, 54:13, 54:14, 67:21, 79:12 six [15] - 6:13, 7:20, 63:19, 63:22, 78:13, 79:20, 83:25, 85:1, 85:5, 85:12, 85:16, 85:17, 86:2, 89:14, 89:15 slow [3] - 30:1, 30:17, 31:22 small [2] - 71:18, 80:6 smaller [2] - 11:7, 22:10 SmartLink [1] - 91:14 smash [1] - 43:20 smashed [1] - 59:19 Smith [1] - 1:17 smoke [5] - 29:21, 30:16, 31:13, 31:17, 44:12 snap [1] - 87:18 snippet [1] - 61:7 sober [1] - 56:17 sobriety [2] - 69:19, 75:6 social [5] - 57:10, 58:18, 77:23, 87:12, 99:9 Social [1] - 75:2 society [1] - 76:11 someone [8] - 14:13, 19:21, 22:16, 57:3, 58:7, 97:4, 102:19 sometimes [3] - 17:16, 45:12, 66:13 somewhat [6] - 23:7, 30:16, 56:10, 80:16, 81:13, 83:23 somewhere [8] - 19:21, 22:14, 23:2, 24:25, 68:8, 85:17, 96:11 Sonja [2] - 105:13, 105:19 SONJA [2] - 1:22, 105:19 soon [3] - 20:10, 96:22 sorry [1] - 97:10	sort [4] - 19:23, 36:13, 36:15, 87:14 sought [3] - 71:5, 101:23, 102:1 sound [2] - 24:22, 31:19 sounds [1] - 4:5 source [3] - 27:15, 28:1, 53:1 sources [2] - 3:18, 3:22 Southeast [2] - 92:1 Southwest [2] - 92:1, 92:2 space [2] - 14:17, 83:16 spaces [1] - 72:21 speaker [2] - 18:20, 19:14 speaker's [29] - 18:5, 19:14, 19:20, 20:17, 29:19, 30:25, 31:5, 31:8, 40:14, 40:18, 42:20, 42:23, 42:24, 43:1, 43:6, 43:11, 43:14, 43:16, 43:21, 44:18, 55:4, 59:17, 59:18, 59:20, 62:5, 72:17, 72:24, 73:3, 82:3 speaking [1] - 28:5 special [7] - 6:21, 50:5, 89:1, 89:3, 89:5, 90:22, 101:6 specialized [1] - 66:18 specific [16] - 4:18, 35:17, 42:12, 47:1, 47:18, 57:25, 58:16, 60:20, 61:15, 62:16, 67:23, 90:1, 98:10, 101:5, 101:11, 104:13 specifically [13] - 5:14, 10:22, 14:8, 23:10, 31:17, 58:15, 58:21, 58:23, 65:14, 65:18, 66:1, 101:1, 101:3 specified [1] - 89:15 specify [1] - 95:14 spectrum [1] - 58:6 speculation [1] - 20:5 spent [2] - 76:1, 80:4 spin [1] - 30:4 spray [2] - 52:23, 54:20 spread [1] - 58:17 spreadsheet [1] - 9:2 square [2] - 91:23,	91:24 squared [1] - 96:23 staff [14] - 19:5, 39:8, 39:25, 40:8, 40:22, 41:1, 42:15, 43:7, 43:23, 44:6, 49:23, 73:2, 79:25, 99:24 stairs [1] - 82:2 stairwell [1] - 84:24 stand [4] - 57:6, 59:22, 60:23, 81:8 Stand [1] - 59:3 standard [3] - 3:15, 10:11, 19:6 standing [11] - 19:17, 25:19, 25:23, 25:24, 39:13, 43:13, 44:5, 48:13, 70:2, 76:4 stands [1] - 34:10 start [2] - 32:1, 76:23 started [1] - 100:24 starting [3] - 2:6, 51:12, 67:12 state [4] - 46:6, 75:10, 90:11, 98:8 statement [3] - 22:15, 23:2, 86:17 statements [3] - 23:18, 29:12, 59:6 states [1] - 14:6 STATES [2] - 1:1, 1:3 States [12] - 1:13, 2:3, 2:8, 11:20, 35:7, 36:17, 91:22, 92:22, 93:21, 95:16, 105:13, 105:16 Statuary [4] - 38:4, 38:15, 53:17, 84:16 status [1] - 78:1 statute [2] - 90:20, 94:15 statutory [4] - 6:10, 6:13, 94:5, 98:3 stay [1] - 52:7 steal [7] - 28:14, 28:16, 28:23, 28:25, 29:14, 40:5, 41:21 steep [1] - 79:21 Stenographic [1] - 1:25 stenographic [1] - 105:14 step [2] - 3:25, 52:5 stepped [1] - 37:17 steps [2] - 32:5 stick [1] - 52:8 sticks [1] - 59:17 still [22] - 4:22, 21:22, 37:24, 37:25,
---	--	--	---	---

38:20, 42:16, 43:24,
45:6, 45:16, 51:10,
53:4, 53:13, 53:19,
54:3, 55:17, 56:15,
58:15, 62:11, 67:3,
78:4, 79:25, 89:24
stood [3] - 18:8,
52:5, 83:13
stop [9] - 28:14,
28:16, 28:23, 28:25,
29:14, 39:9, 40:4,
41:21, 73:18
stops [1] - 53:20
store [2] - 67:18,
75:2
story [2] - 53:13,
54:12
strategy [1] - 3:17
Street [3] - 1:14,
91:25, 92:2
streets [1] - 67:17
stretch [2] - 31:4,
31:6
strict [1] - 69:16
struggle [2] - 82:25,
84:3
stuck [2] - 43:4,
52:12
subject [2] - 59:10,
79:4
submit [2] - 9:2,
90:16
submitted [2] - 7:12,
9:2
submitting [1] -
102:24
substance [3] -
90:14, 90:16, 91:3
succeeded [1] -
73:20
suffer [1] - 99:19
suffered [1] - 9:15
sufficient [2] - 17:22,
35:20
suggest [2] - 29:17,
87:12
suggested [6] -
19:21, 36:14, 45:1,
60:2, 60:11, 70:8
suggestion [1] -
22:15
suggests [2] - 50:8,
67:1
suing [1] - 59:2
Suite [1] - 1:17
suite [1] - 82:3
suited [1] - 101:11
sum [1] - 86:8
summarize [1] - 13:7
Sumrall [1] - 60:11

sumrall [1] - 57:12
Sumrall's [1] - 60:21
supervised [9] -
6:11, 6:15, 50:3,
81:21, 88:22, 89:6,
89:9, 89:10, 90:4
supervising [1] -
91:6
supervision [4] -
90:9, 90:17, 90:23,
91:19
supplement [1] -
7:14
support [4] - 7:18,
60:7, 69:19, 75:22
supported [2] -
15:23, 62:12
supporting [1] -
76:14
supports [1] - 74:13
Supreme [1] - 68:19
surge [1] - 41:10
surged [2] - 41:7,
41:15
surging [1] - 38:1
surrender [3] - 95:5,
95:7, 95:13
surrounding [2] -
3:19, 91:23
survived [1] - 74:18
survivor [2] - 65:21,
75:14
swallow [1] - 53:25
sweatshirt [2] - 59:3,
59:4
switch [1] - 30:23
sworn [1] - 63:6
symbol [2] - 73:15,
74:5
system [5] - 68:25,
69:8, 69:19, 70:5,
86:21

T

table [2] - 2:11,
94:23
tack [1] - 45:19
talented [1] - 76:2
talks [2] - 65:25,
66:11
tap [1] - 25:25
targeted [1] - 101:1
tax [1] - 70:24
technology [2] -
91:8, 91:12
tee [1] - 30:9
Tegaras [1] - 78:17
telephone [4] -
19:12, 20:6, 26:6,

26:12
temporarily [1] -
14:15
ten [6] - 13:12,
37:11, 62:14, 68:17,
82:20, 89:10
tend [1] - 45:25
term [6] - 6:12, 6:15,
88:18, 88:22, 89:14,
91:19
termination [1] -
93:25
terms [13] - 3:23,
66:19, 67:11, 68:13,
68:22, 75:19, 85:14,
88:20, 88:23, 98:1,
98:2, 98:17, 99:11
terrace [3] - 52:19,
52:25, 81:23
terrible [1] - 64:20
terrorism [6] -
100:25, 101:5, 101:9,
102:6, 102:9, 102:16
terrorist [9] - 48:15,
99:13, 99:22, 100:3,
101:4, 101:14,
101:17, 103:8, 103:15
terrorists [3] - 99:4,
99:14, 100:13
test [1] - 90:16
testified [9] - 39:22,
40:10, 40:17, 42:19,
42:25, 54:7, 57:12,
60:25, 99:6
testify [4] - 2:24,
4:13, 31:16, 57:6
testimony [6] - 4:14,
21:13, 21:20, 39:16,
57:5, 99:5
tests [2] - 75:6,
90:18
thankfully [1] - 88:6
THE [144] - 1:1, 1:10,
1:13, 1:16, 2:14, 3:11,
4:3, 4:20, 4:24, 5:1,
5:8, 5:10, 5:13, 6:7,
6:9, 7:5, 7:8, 7:11,
8:13, 8:20, 8:23, 9:4,
10:13, 11:2, 11:6,
11:11, 11:17, 13:4,
13:6, 14:1, 15:7, 17:9,
17:12, 18:12, 18:16,
18:21, 19:1, 19:4,
19:9, 19:16, 20:3,
20:7, 20:11, 20:14,
20:18, 20:20, 21:1,
21:4, 21:6, 21:10,
21:17, 21:22, 21:25,
22:2, 22:7, 22:12,
22:14, 22:21, 22:24,

23:16, 23:20, 23:25,
24:13, 25:3, 25:15,
26:13, 26:19, 27:5,
27:17, 27:20, 27:23,
28:7, 28:20, 28:24,
29:7, 29:16, 30:11,
30:20, 30:25, 31:9,
31:13, 31:19, 31:24,
32:10, 32:14, 32:17,
45:21, 46:12, 48:25,
49:2, 49:15, 50:6,
50:17, 50:21, 50:25,
51:3, 61:8, 61:23,
62:14, 62:18, 62:21,
63:10, 63:21, 64:19,
64:25, 65:3, 68:2,
68:5, 68:8, 70:10,
70:14, 70:17, 88:14,
94:24, 95:2, 95:5,
95:12, 95:25, 96:3,
96:17, 97:2, 97:9,
97:11, 97:14, 97:20,
98:10, 98:14, 100:5,
100:9, 100:20,
101:13, 101:16,
101:23, 101:25,
102:2, 102:10,
102:15, 103:4, 104:4,
104:8, 104:15,
104:20, 105:8, 105:10
themselves [3] -
41:22, 64:16, 69:4
theories [2] - 56:1,
57:9
theory [3] - 26:6,
26:12, 53:23
thereafter [2] -
74:19, 90:18
thereby [3] - 73:25,
77:18, 81:9
therefore [7] - 11:3,
16:17, 17:22, 33:6,
35:19, 92:19, 93:5
therein [1] - 9:10
thinks [1] - 68:5
third [2] - 18:14,
84:25
thousands [1] -
61:14
threat [21] - 18:6,
33:20, 33:23, 35:15,
36:1, 37:3, 39:5,
39:24, 40:7, 40:21,
42:2, 43:25, 44:3,
44:20, 49:22, 54:4,
57:20, 57:21, 59:15,
62:6
threatened [1] - 42:7
threatening [1] -
74:6

threats [6] - 18:1,
21:14, 32:22, 35:3,
35:8, 36:6
three [6] - 2:21,
43:12, 82:13, 82:23,
90:15, 97:25
threshold [1] - 4:15
thresholds [1] -
101:22
throughout [1] -
51:16
Throw [1] - 85:16
Thursday [1] - 1:11
timing [1] - 52:14
today [31] - 4:3, 5:13,
5:18, 6:5, 7:13, 8:3,
8:25, 9:11, 17:4,
31:22, 35:1, 36:14,
37:8, 37:19, 39:19,
49:10, 49:17, 51:15,
54:24, 55:6, 57:16,
63:12, 64:3, 70:20,
87:1, 87:10, 87:22,
89:22, 89:24, 96:22,
96:25
together [2] - 30:24,
38:17
tomorrow [3] -
105:4, 105:5
took [7] - 38:10,
60:22, 60:24, 72:18,
81:8, 96:9, 96:12
top [3] - 11:1, 30:20,
32:7
total [9] - 6:24, 47:5,
47:9, 48:1, 48:8, 80:4,
80:22, 89:3, 93:8
touch [1] - 69:13
touched [1] - 17:17
toward [6] - 31:1,
31:5, 43:8, 44:11,
81:25, 82:1
towards [6] - 20:17,
29:20, 32:2, 43:11,
55:5, 71:11
tragic [1] - 74:18
traitor [1] - 63:8
trampled [1] - 22:18
Transcript [1] - 1:25
transcript [4] -
102:24, 105:14,
105:14, 105:15
TRANSCRIPT [1] -
1:10
transfer [3] - 68:19,
73:19, 88:7
treated [1] - 99:23
treatment [5] - 75:9,
75:13, 91:4, 93:23,
93:25

trespass [6] - 13:8, 14:25, 15:2, 15:5, 15:14, 47:3 trespasser [1] - 13:9 trespassing [2] - 13:13, 15:12 trial [38] - 2:25, 3:1, 3:10, 4:1, 4:14, 17:4, 18:22, 20:11, 23:6, 24:10, 24:25, 29:18, 33:3, 37:7, 37:23, 38:14, 38:25, 39:2, 39:16, 39:23, 40:10, 42:19, 54:7, 55:2, 57:13, 59:20, 62:1, 77:24, 79:1, 79:7, 79:13, 81:5, 81:9, 99:15, 100:17, 102:2, 102:4, 103:12 tribunals [1] - 60:17 tried [2] - 57:7, 83:14 triggered [1] - 82:21 trouble [1] - 36:23 troubling [2] - 74:4, 77:23 true [4] - 14:18, 37:16, 64:3, 105:14 truly [2] - 54:1, 55:24 Trump [1] - 25:8 trumpeted [1] - 77:25 try [2] - 3:17, 61:11 trying [11] - 4:4, 14:4, 23:8, 37:25, 39:9, 45:7, 55:14, 69:13, 69:14, 83:3 turn [1] - 95:24 turned [3] - 29:22, 33:22, 44:12 turning [1] - 25:13 turns [3] - 30:8, 32:4, 32:9 tweets [1] - 60:4 twice [3] - 79:23, 79:24, 83:24 twist [1] - 57:7 two [58] - 2:21, 5:12, 5:13, 12:2, 12:9, 12:16, 13:7, 13:17, 15:13, 16:21, 27:9, 31:2, 32:19, 32:25, 33:7, 33:16, 33:20, 35:4, 36:11, 37:4, 44:24, 45:2, 45:3, 45:5, 45:7, 45:19, 45:20, 45:22, 45:23, 45:24, 46:12, 47:4, 47:25, 53:22, 55:21, 58:20, 59:5, 59:10, 59:11, 59:20, 62:2,	72:15, 72:22, 79:1, 79:2, 79:8, 80:25, 82:10, 89:7, 89:9, 89:18, 90:13, 90:17, 90:25, 91:10, 97:24, 99:5 two-level [1] - 47:25 two-point [20] - 12:2, 12:9, 12:16, 16:21, 32:19, 32:25, 33:7, 33:16, 33:20, 35:4, 36:11, 37:4, 44:24, 45:2, 45:3, 45:5, 46:12, 47:4, 79:8, 89:18 type [5] - 31:17, 57:17, 87:16, 101:6, 101:19 typically [2] - 96:20, 96:25 typo [3] - 8:11, 8:17, 8:22	4:19, 8:23, 19:22, 22:20, 24:17, 65:5 underway [1] - 84:20 undisputed [3] - 49:3, 66:14, 66:21 unfair [2] - 67:10, 100:15 unfortunately [5] - 3:8, 24:22, 30:9, 43:24, 104:3 Unfortunately [1] - 76:21 unhappy [1] - 58:5 unique [4] - 61:12, 61:16, 65:22, 67:15 UNITED [2] - 1:1, 1:3 United [12] - 1:13, 2:3, 2:8, 11:20, 35:7, 36:17, 91:22, 92:22, 93:20, 95:15, 105:13, 105:16 unlawful [1] - 90:15 unlawfully [1] - 90:13 unlike [2] - 42:25, 81:2 unlocked [1] - 24:11 unmask [1] - 3:17 unmasked [1] - 3:19 unprecedented [4] - 12:11, 45:4, 49:18, 67:15 unquote [1] - 25:24 unseal [2] - 3:13, 3:19 unsuccessfully [1] - 83:14 unwarranted [2] - 72:4, 78:10 unwilling [1] - 41:11 up [50] - 4:21, 6:10, 6:11, 6:14, 6:17, 7:1, 8:18, 13:16, 19:20, 20:8, 22:7, 23:13, 23:21, 27:1, 27:14, 27:19, 28:12, 30:9, 30:13, 30:22, 39:3, 45:22, 45:23, 46:4, 49:21, 51:9, 52:12, 52:18, 53:11, 53:14, 53:18, 54:22, 55:14, 56:2, 56:19, 57:4, 58:6, 58:24, 62:24, 63:2, 71:6, 71:7, 76:4, 79:3, 84:24, 86:8, 97:16, 101:10 upbringing [1] - 74:21 uphold [6] - 60:5, 60:24, 61:1, 61:2,	61:5, 63:6 upholding [2] - 53:6, 60:14 upper [3] - 52:18, 52:25, 81:22 upward [4] - 12:11, 45:6, 45:16, 45:17 upwards [1] - 45:3 urged [1] - 60:16 USA [4] - 29:12, 74:8, 83:22 uses [1] - 54:8 utilized [1] - 4:1	viewed [3] - 36:24, 38:7, 39:24 viewing [1] - 40:1 views [1] - 87:20 vindicated [1] - 63:3 violated [1] - 81:4 violating [3] - 11:22, 15:9, 15:21 violation [12] - 5:20, 5:23, 5:25, 6:2, 12:21, 34:5, 34:9, 46:14, 46:24, 47:6, 94:8 violation.. [1] - 14:7 violence [34] - 13:19, 17:14, 18:2, 18:6, 32:22, 33:19, 33:21, 33:24, 35:3, 35:9, 36:1, 36:7, 37:3, 40:21, 42:2, 44:3, 44:20, 49:22, 52:15, 52:22, 53:10, 55:6, 57:20, 59:11, 59:15, 59:18, 59:19, 72:10, 74:8, 77:11, 82:10, 86:12, 87:17 violent [3] - 5:24, 36:6, 36:8 visit [1] - 14:15 visits [1] - 91:4 Vo [2] - 81:1, 81:2 voice [1] - 91:15 volatility [1] - 35:14 voluntarily [1] - 95:7 voluntary [2] - 95:5, 95:13 vote [5] - 38:22, 58:4, 73:19, 73:21, 74:1 vs [1] - 1:5 vulnerabilities [1] - 66:23 vulnerability [1] - 66:11	
	U		V	vacated [1] - 45:13 validated [1] - 63:2 value [1] - 7:23 vanguard [1] - 73:23 variables [1] - 67:22 variance [7] - 12:11, 12:16, 45:3, 45:7, 45:16, 45:17, 64:7 varied [2] - 45:23, 81:19 various [1] - 70:18 vary [1] - 45:22 velvet [1] - 38:5 version [1] - 3:4 versions [2] - 2:20, 55:23 versus [4] - 2:3, 35:7, 36:17, 98:21 viable [1] - 54:4 vice [4] - 37:23, 54:8, 60:3, 60:22 Vice [1] - 53:4 victim [6] - 9:15, 10:1, 47:12, 47:19, 57:17, 92:23 victim's [1] - 9:24 victim-related [1] - 47:19 video [32] - 18:11, 18:24, 19:14, 20:2, 20:22, 22:2, 22:24, 23:9, 23:14, 24:3, 26:4, 26:7, 26:8, 26:13, 27:6, 27:19, 27:23, 28:4, 28:13, 29:4, 29:16, 37:18, 38:13, 39:12, 40:1, 41:3, 41:9, 41:18, 44:9, 56:4, 59:1, 59:3 videos [4] - 30:9, 39:19, 83:22, 84:6 view [8] - 15:22, 38:11, 39:23, 40:6, 40:20, 44:14, 87:13	
				W	
				waive [2] - 92:19, 97:23 waived [1] - 91:12 waives [1] - 93:5 waking [1] - 56:19 walk [4] - 38:15, 51:19, 54:8, 54:24 walked [14] - 37:22, 38:3, 38:10, 41:15, 44:8, 44:12, 51:20, 57:9, 72:18, 72:19, 82:18, 84:5, 84:25 walking [1] - 19:19 wall [2] - 82:15, 83:3	

Walton ^[1] - 76:20 wants ^[3] - 5:4, 53:8, 88:2 warranted ^[1] - 78:8 warrants ^[1] - 73:6 wash ^[1] - 60:8 Washington ^[6] - 1:12, 1:15, 1:24, 51:21, 93:2, 93:14 waving ^[3] - 22:16, 37:20, 55:3 ways ^[1] - 13:17 weak ^[1] - 54:14 weapons ^[2] - 52:6, 91:18 week ^[4] - 5:13, 5:14, 52:13, 105:3 weeks ^[3] - 5:12, 5:13, 7:20 weighs ^[1] - 77:19 west ^[7] - 8:18, 51:25, 52:18, 52:22, 52:25, 81:22 whichever ^[1] - 30:11 whistle ^[1] - 55:1 white ^[1] - 63:5 whole ^[3] - 35:15, 53:21, 85:25 willfully ^[2] - 34:24, 37:1 Williams ^[1] - 33:12 willing ^[3] - 56:13, 57:3, 73:22 window ^[4] - 20:23, 20:24, 42:11, 43:22 windows ^[2] - 53:1, 59:20 wing ^[5] - 37:10, 37:15, 81:23, 83:5, 83:13 winners ^[1] - 58:4 wish ^[3] - 8:4, 8:5, 49:10 wishes ^[1] - 49:8 witness ^[5] - 2:24, 3:1, 3:10, 4:2, 57:6 witnessing ^[1] - 88:6 WL ^[2] - 33:13, 36:18 woman ^[2] - 76:11, 103:21 women ^[3] - 38:24, 75:10, 75:12 words ^[4] - 35:10, 76:20, 83:2, 102:5 worried ^[1] - 67:13 worst ^[1] - 59:22 worth ^[3] - 71:1, 71:16 writ ^[1] - 63:13	writing ^[1] - 62:19 written ^[3] - 17:7, 60:13, 104:2 wrongfulness ^[1] - 87:6 wrote ^[3] - 7:21, 54:23, 68:4 Y Yang ^[2] - 36:17, 45:25 year ^[6] - 6:10, 6:11, 11:18, 50:2, 75:18, 79:3 years ^[21] - 6:13, 6:17, 54:11, 57:2, 58:2, 58:3, 63:24, 65:17, 65:19, 65:21, 67:25, 68:6, 68:9, 69:18, 74:17, 80:11, 82:11, 83:10, 84:1, 85:3, 85:21 yelled ^[1] - 59:9 yelling ^[3] - 40:4, 84:2, 84:14 yesterday ^[1] - 7:15 YOUNG ^[1] - 1:6 Young ^[118] - 2:3, 2:10, 5:17, 7:18, 7:19, 7:23, 8:3, 16:4, 26:23, 26:25, 27:13, 30:4, 32:3, 37:10, 38:3, 38:13, 38:16, 39:1, 39:3, 39:15, 40:7, 41:8, 41:19, 41:23, 42:2, 42:13, 42:18, 43:3, 43:9, 43:18, 44:1, 44:8, 49:8, 49:9, 49:18, 50:1, 51:14, 51:21, 53:5, 53:8, 53:21, 54:17, 55:5, 55:9, 55:12, 56:4, 56:12, 57:6, 57:8, 57:10, 57:11, 57:15, 58:15, 59:11, 59:14, 59:23, 60:2, 60:7, 60:10, 60:12, 61:3, 62:23, 63:7, 65:20, 67:17, 70:10, 72:8, 72:9, 72:21, 73:17, 73:21, 74:16, 74:18, 75:4, 75:16, 76:15, 77:20, 77:25, 79:6, 79:14, 79:16, 79:23, 80:5, 80:17, 80:19, 80:23, 81:2, 81:24, 82:3, 82:6, 82:7, 83:7, 83:11, 83:23, 84:9, 84:12, 84:15, 84:20,	84:23, 85:9, 85:23, 86:3, 86:24, 87:2, 87:7, 87:23, 88:1, 88:11, 88:17, 89:8, 90:3, 94:1, 94:22, 95:6, 96:8, 99:3, 101:3 young ^[2] - 84:9, 86:18 Young's ^[11] - 44:16, 56:9, 60:8, 62:4, 70:21, 80:14, 81:12, 82:15, 84:8, 86:10, 89:19 younger ^[1] - 83:11 yourself ^[5] - 60:17, 76:25, 88:3, 88:10 yourselves ^[1] - 2:5 YouTube ^[1] - 58:19 Z Zachary ^[1] - 59:19 zero ^[6] - 12:4, 17:22, 21:12, 35:20, 46:2, 48:2 zone ^[3] - 48:5, 89:13, 89:21
---	--	--