

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	Case No. 1:21-cr-00235 (RC)
v.	:	
	:	
RICHARD FRANKLIN BARNARD and,	:	
JEFFREY SHANE WITCHER	:	
	:	
Defendants.	:	

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this sentencing memorandum in connection with the above-captioned matter. For the reasons set forth herein, the government requests that this Court sentence Richard Franklin Barnard to thirty days home detention, 36 months’ probation, 60 hours of community service and \$500 in restitution.

I. Introduction

The defendant, Richard Franklin Barnard (“Barnard”), and his close friend and co-defendant Jeffrey Shane Witcher (“Witcher”) participated in the January 6, 2021 attack on the United States Capitol—a violent attack that forced an interruption of the certification of the 2020 Electoral College vote count, threatened the peaceful transfer of power after the 2020 Presidential election, injured more than one hundred law enforcement officers, and resulted in more than one million dollars’ of property damage.

Barnard pleaded guilty to one count of 40 U.S.C. § 5104(e)(2)(G): Parading, Demonstrating, or Picketing in the Capitol Building. As explained herein, a sentence of thirty days’ home confinement is appropriate in this case because: (1) he entered the U.S. Capitol building with a large crowd of rioters; (2) he was aware of the fact that he was not authorized to

be inside the building, evidenced by witnessing other rioters forcibly entering the building, despite law enforcement efforts to keep them out; (3) he penetrated into the Crypt portion of the U.S. Capitol, where violence between rioters and law enforcement was occurring around him, and; (4) he admitted to deleting evidence from his phone after being notified by his wife that individuals had died during the riots. To be clear, in coming to this sentencing recommendation the government considered several mitigating factors as well, to include the defendant's cooperation with law enforcement¹, his entering into a plea agreement at the first available opportunity, and his coming to the aid of a law enforcement officer inside the U.S. Capitol building when the scene turned violent inside the Crypt.

Even if Barnard didn't personally engage in violence or property destruction during the riot, he was part of a mob of rioters who unlawfully entered the U.S. Capitol and made their way into the Crypt, where a line of officers was quickly outnumbered by the crowd. Not surprisingly, this chaotic scene in the Crypt quickly turned violent, putting law enforcement officers in danger while staring down a large and angry crowd of rioters.

The Court must also consider that the defendant's conduct on January 6, like the conduct of scores of other defendants, took place in the context of a large and violent riot that relied on numbers to overwhelm law enforcement, breach the Capitol, and disrupt the proceedings. But for his actions alongside so many others, the riot likely would have failed. *See United States v. Matthew Mazzocco*, 1:21-cr-00054 (TSC), Tr. 10/4/2021 at 25 ("A mob isn't a mob without the numbers. The people who were committing those violent acts did so because they had the safety of numbers.") (statement of Judge Chutkan). Here, the defendant's participation in a riot that actually succeeded in halting the Congressional certification combined with his actions inside the

¹ The defendant cooperated with law enforcement from the beginning of this investigation, to include providing a voluntary and fulsome interview on January 25, 2021.

building that fueled an already contentious environment, renders a term of home detention both necessary and appropriate in this case.

II. Factual and Procedural Background

The January 6, 2021 Attack on the Capitol

To avoid exposition, the government refers to the general summary of the attack on the U.S. Capitol. *See* ECF 21 (Statement of Offense), at 1-7. As this Court knows, a riot cannot occur without rioters, and each rioter's actions – from the most mundane to the most violent – contributed, directly and indirectly, to the violence and destruction of that day. With that backdrop we turn to the defendant's conduct and behavior on January 6.

Richard Barnard's Role in the January 6, 2021 Attack on the Capitol

On January 5, 2021, Barnard and Witcher traveled to Washington, D.C. from their homes in Texas to attend the "Stop the Steal" rally and stayed at the Moxy hotel in the District that evening. The next day (January 6th), they attended the "Stop the Steal Rally" and then joined the large crowds of people walking to the Capitol. At the time the U.S. Capitol building was initially breached, Barnard was approximately 300 yards away from the building. Shortly thereafter, at approximately 2:19 p.m., Barnard and Witcher joined a large crowd of rioters making entry into the U.S. Capitol near the Rotunda portion of the building, ultimately making their way to the Crypt (image below).



*Figure 1 Witcher (right) – Barnard (left) with timestamp
Retrieved from Witcher’s Cellphone*

Once inside the building, Witcher began recording video. In one of these videos Witcher stated “[. . .] I’m out here with my brother Richard Barnard [. . .] let’s go! It’s our house (repeated) Hey family, we did it. We came, and we did it.” A short time later violence erupted in the Crypt, where Barnard and Witcher were at the time. Shortly after this both Witcher and Barnard came to the aid of a U.S. Capitol Police Officer who was caught in the mob of rioters, which at this point

had turned violent. Witcher and Barnard then moved towards an exit and exited the U.S. Capitol building, spending roughly 15-20 minutes inside total.

Richard Barnard's Interview

On January 25, 2021 Barnard was contacted by the FBI after Witcher provided his contact information. Barnard agreed to come in and provide a voluntary interview that same day. During the interview Barnard stated that he flew with Witcher to the District on January 5th. The next day they attended then President Trump's speech before moving to the U.S. Capitol building. Barnard stated that when they arrived at the Capitol he believed there were already people attempting to make forcible entry into the building. A short time later, Barnard stated he and Witcher entered the building and entered a large Rotunda where they encountered multiple law enforcement officers. Finally, Barnard stated that as the crowd began to push against the crowd and turn violent, he and Witcher shielded the officers. They both then exited the Capitol building. Barnard acknowledged during the interview that he had previously deleted photos and videos from his phone. Barnard allowed law enforcement to access his phone, however no relevant photos or videos were found.

The Charges and Plea Agreement

On February 24, 2021, Richard Franklin Barnard was charged by complaint with violating 18 U.S.C. 1752 §§ (a)(1) and (2), 40 U.S.C. §§ 5104(e)(2)(D) and (G). On February 25, 2021, he was arrested at his home in Texas. On March 19, 2021, Barnard was charged by four-count indictment with 18 U.S.C. §§ 1752(a)(1) and (2) and 40 U.S.C. §§ 5104(e)(2)(D) and (G). On October 20, 2021, he pleaded guilty to Count Five of the Indictment, charging him with a violation of 40 U.S.C. § 5104(e)(2)(G), Parading, Demonstrating, or Picketing in the Capitol Building. By plea agreement, Barnard agreed to pay \$500 in restitution to the Department of the Treasury.

III. Statutory Penalties

The defendant now faces sentencing on a single count of 40 U.S.C. § 5104(e)(2)(G). As noted by the plea agreement, the defendant faces up to six months of imprisonment and a fine of up to \$5,000. The defendant must also pay restitution under the terms of his or her plea agreement. *See* 18 U.S.C. § 3663(a)(3); *United States v. Anderson*, 545 F.3d 1072, 1078-79 (D.C. Cir. 2008). As this offense is a Class B Misdemeanor, the Sentencing Guidelines do not apply to it. 18 U.S.C. § 3559; U.S.S.G. §1B1.9.

IV. Sentencing Factors Under 18 U.S.C. § 3553(a)

In this misdemeanor case, sentencing is also guided by 18 U.S.C. § 3553(a), which identifies the factors a court must consider in formulating the sentence. Some of those factors include: the nature and circumstances of the offense, § 3553(a)(1); the history and characteristics of the defendant, *id.*; the need for the sentence to reflect the seriousness of the offense and promote respect for the law, § 3553(a)(2)(A); the need for the sentence to afford adequate deterrence, § 3553(a)(2)(B); and the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct. § 3553(a)(6). In this case, as described below, the Section 3553(a) factors weigh in favor of home detention.

A. The Nature and Circumstances of the Offense

The attack on the U.S. Capitol, on January 6, 2021 is a criminal offense unparalleled in American history. It represented a grave threat to our democratic norms; indeed, it was the one of the only times in our history when the building was literally occupied by hostile participants. By its very nature, the attack defies comparison to other events.

While each defendant should be sentenced based on their individual conduct, as we now discuss, this Court should note that each person who entered the Capitol on January 6 without authorization did so under the most extreme of circumstances. As they entered the Capitol, they would—at a minimum—have crossed through numerous barriers and barricades and heard the throes of a mob. Depending on the timing and location of their approach, they also may have observed extensive fighting with law enforcement officials and smelled chemical irritants in the air. No rioter was a mere tourist that day.

Additionally, while looking at the defendant's individual conduct, we must assess such conduct on a spectrum. This Court, in determining a fair and just sentence on this spectrum, should look to a number of critical factors, to include: (1) whether, when, how the defendant entered the Capitol building; (2) whether the defendant encouraged violence; (3) whether the defendant encouraged property destruction; (4) the defendant's reaction to acts of violence or destruction; (5) whether during or after the riot, the defendant destroyed evidence; (6) the length of the defendant's time inside of the building, and exactly where the defendant traveled; (7) the defendant's statements in person or on social media; (8) whether the defendant cooperated with, or ignored commands from law enforcement officials; and (9) whether the defendant demonstrated sincere remorse or contrition. While these factors are not exhaustive nor dispositive, they help to place each defendant on a spectrum as to their fair and just punishment.

To be clear, had the defendant personally engaged in violence or destruction, he or she would be facing additional charges and/or penalties associated with that conduct. The absence of violent or destructive acts on the part of the defendant is therefore not a mitigating factor in misdemeanor cases, nor does it meaningfully distinguish the defendant from most other misdemeanor defendants.

Barnard entered the building, with a large group of rioters, at approximately 2:19 p.m., close in time to when the original breach of the building occurred and remained inside the building for roughly 15-20 minutes. Although Barnard did not partake in the violence or destruction of property that enabled rioters to breach the building, he was close enough to the initial breach that he would have seen the forcible entry, and law enforcement's attempts to prevent the rioters from entering. Moreover, Barnard approached the building after acknowledging that he believed other rioters were attempting to forcibly enter the building. Finally, Barnard acknowledged that he deleted photos and/or videos from his phone the same day as the riots, after his wife notified him that individuals had died during the riots.

To be clear, Barnard did come to the aid of law enforcement when it appeared the rioters inside the building were becoming violent. Additionally, Barnard was cooperative and forthright with the FBI during this investigation, gave the FBI access to his phone, and expressed sincere contrition during the plea hearing. Accordingly, the nature and the circumstances of this offense establish the clear need for a sentence of home detention, as opposed to incarceration, in this matter.

B. The History and Characteristics of the Defendant

As set forth in the PSR, Richard Barnard's has no previous criminal convictions. PSR at ¶¶ 34. Barnard reported to the PSR writer that he enlisted in the U.S. Marine Corps Reserve and was administratively discharged in 1994. It appears the defendant has maintained relatively consistent employment and is currently employed.

While Barnard's military service is laudable, it renders his conduct on January 6 all the more troubling. His voluntary decision to storm a guarded government building is particularly problematic in light of his former military service and training.

C. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense and Promote Respect for the Law

The attack on the U.S. Capitol building and grounds was an attack on the rule of law. “The violence and destruction of property at the U.S. Capitol on January 6 showed a blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process.”² As with the nature and circumstances of the offense, this factor supports a sentence of incarceration, as it will in most cases, including misdemeanor cases, arising out of the January 6 riot. *See United States v. Joshua Bustle and Jessica Bustle*, 21-cr-238-TFH, Tr. 08/24/21 at 3 (“As to probation, I don't think anyone should start off in these cases with any presumption of probation. I think the presumption should be that these offenses were an attack on our democracy and that jail time is usually -- should be expected”) (statement of Judge Hogan).

D. The Need for the Sentence to Afford Adequate Deterrence

Deterrence encompasses two goals: general deterrence, or the need to deter crime generally, and specific deterrence, or the need to protect the public from further crimes by this defendant. 18 U.S.C. § 3553(a)(2)(B-C), *United States v. Russell*, 600 F.3d 631, 637 (D.C. Cir. 2010).

General Deterrence

The demands of general deterrence weigh in favor of incarceration, as they will for nearly every case arising out of the violent riot at the Capitol. Indeed, general deterrence may be the most compelling reason to impose a sentence of incarceration. For the violence at the Capitol on January 6 was cultivated to interfere, and did interfere, with one of the most important democratic processes

² Federal Bureau of Investigation Director Christopher Wray, Statement before the House Oversight and Reform Committee (June 15, 2021), available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Wray%20Testimony.pdf>

we have: the peaceful transfer of power to a newly elected President. As noted by Judge Moss during sentencing, in *United States v. Paul Hodgkins*, 21-cr-188-RDM:

[D]emocracy requires the cooperation of the governed. When a mob is prepared to attack the Capitol to prevent our elected officials from both parties from performing their constitutional and statutory duty, democracy is in trouble. The damage that [the defendant] and others caused that day goes way beyond the several-hour delay in the certification. It is a damage that will persist in this country for decades.

Tr. at 69-70. Indeed, the attack on the Capitol means “that it will be harder today than it was seven months ago for the United States and our diplomats to convince other nations to pursue democracy. It means that it will be harder for all of us to convince our children and our grandchildren that democracy stands as the immutable foundation of this nation.” *Id.* at 70; *see United States v. Thomas Gallagher*, 1:21-CR-00041 Tr. 10/13/2021 at 37 (“As other judges on this court have recognized, democracy requires the cooperation of the citizenry. Protesting in the Capitol, in a manner that delays the certification of the election, throws our entire system of government into disarray, and it undermines the stability of our society. Future would-be rioters must be deterred.”) (statement of Judge Nichols at sentencing).

The gravity of these offenses demands deterrence. This was not a protest. *See United States v. Paul Hodgkins*, 21-cr-188-RDM, Tr. at 46 (“I don’t think that any plausible argument can be made defending what happened in the Capitol on January 6th as the exercise of First Amendment rights.”) (statement of Judge Moss). And it is important to convey to future potential rioters—especially those who intend to improperly influence the democratic process—that their actions will have consequences. There is possibly no greater factor that this Court must consider.

Specific Deterrence

Richard Barnard’s actions on January 6th demonstrate a need for specific deterrence, however the government believes that end can be achieved with a sentence of home confinement,

rather than active incarceration. As stated above, the defendant's actions on January 6th were inexcusable, however the surrounding circumstances, to include the lack of physical violence or destruction of property, the defendant's cooperation during the investigation, and the defendant's early acceptance of responsibility, all assure the government that a sentence of home detention is appropriate.

E. The Need to Avoid Unwarranted Sentencing Disparities

As the Court is aware, the government has charged hundreds of individuals for their roles in this one-of-a-kind assault on the Capitol, ranging from unlawful entry misdemeanors, such as in this case, to assault on law enforcement officers, to conspiracy to corruptly interfere with Congress.³ Each offender must be sentenced based on their individual circumstances, but with the backdrop of the January 6 riot in mind. Moreover, each offender's case will exist on a spectrum that ranges from conduct meriting a probationary sentence to crimes necessitating years of imprisonment. The misdemeanor defendants will generally fall on the lower end of that spectrum, but misdemeanor breaches of the Capitol on January 6, 2021 were not minor crimes. A probationary sentence should not necessarily become the default.⁴ Indeed, the government invites

³ Attached to this supplemental sentencing memorandum is a table providing additional information about the sentences imposed on other Capitol breach defendants. That table also shows that the requested sentence here would not result in unwarranted sentencing disparities.

⁴ Early in this investigation, the Government made a very limited number of plea offers in misdemeanor cases that included an agreement to recommend probation in *United States v. Anna Morgan-Lloyd*, 1:21-cr-00164(RCL); *United States v. Valerie Elaine Ehrke*, 1:21-cr-00097(PFF); *United States v. Donna Sue Bissey*, 1:21-cr-00165(TSC), *United States v. Douglas K. Wangler*, 1:21-cr-00365(DLF), and *United States v. Bruce J. Harrison*, 1:21-cr-00365(DLF). The government is abiding by its agreements in those cases, but has made no such agreement in this case. *Cf. United States v. Rosales-Gonzales*, 801 F.3d 1177, 1183 (9th Cir. 2015) (no unwarranted sentencing disparities under 18 U.S.C. § 3553(a)(6) between defendants who plead guilty under a "fast-track" program and those who do not given the "benefits gained by the government when defendants plead guilty early in criminal proceedings") (citation omitted).

the Court to join Judge Lamberth's admonition that "I don't want to create the impression that probation is the automatic outcome here because it's not going to be." *United States v. Anna Morgan-Lloyd*, 1:21-cr-00164 (RCL), Tr. 6/23/2021 at 19; *see also United States v. Valerie Ehrke*, 1:21-cr-00097 (PFF), Tr. 9/17/2021 at 13 ("Judge Lamberth said something to the effect . . . 'I don't want to create the impression that probation is the automatic outcome here, because it's not going to be.' And I agree with that. Judge Hogan said something similar.") (statement of Judge Friedman).

The government and the sentencing courts have already begun to make meaningful distinctions between offenders. Those who engaged in felonious conduct are generally more dangerous, and thus, treated more severely in terms of their conduct and subsequent punishment. Those who trespassed, but engaged in aggravating factors, merit serious consideration of institutional incarceration. Those who trespassed, but engaged in less serious aggravating factors, deserve a sentence more in line with minor incarceration or home detention.

For one thing, although all the other defendants discussed below participated in the Capitol breach on January 6, 2021, many salient differences—such as how a defendant entered the Capitol, how long she remained inside, the nature of any statements she made (on social media or otherwise), whether she destroyed evidence of his participation in the breach, etc.—help explain the differing recommendations and sentences. And as that discussion illustrates, avoiding unwarranted disparities requires the courts to consider not only a defendant's "records" and "conduct" but other relevant sentencing criteria, such as a defendant's expression of remorse or cooperation with law enforcement. *See United States v. Hemphill*, 514 F.3d 1350, 1365 (D.C. Cir. 2008) (no unwarranted disparity regarding lower sentence of codefendant who, unlike defendant, pleaded guilty and cooperated with the government).

Moreover, assessing disparities, and whether they are unwarranted, requires a sufficient pool of comparators. In considering disparity, a judge cannot “consider all of the sentences not yet imposed.” *United States v. Godines*, 433 F.3d 68, 69–71 (D.C. Cir. 2006). “The most a judge can do is consider those other sentences that do exist,” and “[t]he comparable sentences will be much smaller in the early days of any sentencing regime than in the later.” *Id.*; see generally *United States v. Accardi*, 669 F.3d 340, 346 (D.C. Cir. 2012) (“Without more, two allegedly similar cases constitute too small a sample size to support a finding of an ‘unwarranted disparity’ in sentences.”). In cases for which the Sentencing Guidelines apply, “[t]he best way to curtail ‘unwarranted’ disparities is to follow the Guidelines, which are designed to treat similar offenses and offenders similarly.” *United States v. Bartlett*, 567 F.3d 901, 908 (7th Cir. 2009). See *id.* (“A sentence within a Guideline range ‘necessarily’ complies with § 3553(a)(6).”).

Sentencing courts are permitted to consider sentences imposed on co-defendants in assessing disparity. *E.g.*, *United States v. Knight*, 824 F.3d 1105, 1111 (D.C. Cir. 2016); *United States v. Mejia*, 597 F.3d 1329, 1343-44 (D.C. Cir. 2010); *United States v. Bras*, 483 F.3d 103, 114 (D.C. Cir. 2007). The Capitol breach was *sui generis*: a mass crime with significant distinguishing features, including the historic assault on the seat of legislative branch of federal government, the vast size of the mob, the goal of impeding if not preventing the peaceful transfer of Presidential power, the use of violence by a substantial number of rioters against law enforcement officials, and large number of victims. Thus, even though many of the defendants were not charged as conspirators or as codefendants, the sentences handed down for Capitol breach offenses is an appropriate group for purposes of measuring disparity of any future sentence.

As the number of sentences in the Capitol breach misdemeanor cases increase and the pool of comparators grows, the effect on sentences of obviously aggravating considerations should

become more apparent. The same is true for obviously mitigating factors, such as a defendant's efforts to prevent assaults on police.

To start, it is worth briefly discussing Barnard's conduct balanced against that of his co-defendant (Witcher). As discussed previously, Barnard and Witcher traveled together from Texas in order to attend the "Stop the Steal" rally on January 6th. They then traveled together to the U.S. Capitol, where Barnard acknowledged knowing that rioters were already attempting to forcibly enter the building. Barnard and Witcher then entered the building together, ultimately entering the Crypt portion of the U.S. Capitol. One notable distinction is Witcher's conduct once inside the building. As discussed above, Witcher is captured on video where he can be heard chanting with the crowd and screaming at law enforcement, to include telling them not to be "traitors," contributing to the chaos and unrest unfolding inside the building. These actions are particularly problematic when balanced against the fact that law enforcement was severely outnumbered, and the mob of rioters were growing particularly agitated. Not surprisingly, violence erupted shortly thereafter, putting several law enforcement officers in danger.

While no previously sentenced case contains the same balance of aggravating and mitigating factors present here, the Court may also consider the sentence imposed on Thomas Gallagher for reference, a case with similar facts. *See United States v. Thomas Gallagher*, 1:21-CR-0041 (CJN). In that case, Gallagher pleaded guilty to one count of 40 U.S.C. § 5104(e)(2)(G) for Parading, Demonstrating, or Picketing in a Capitol Building, the government requested a sentence of 1 month home detention, three years' probation, sixty hours of community service, and \$500 restitution, and he was sentenced to 24 months' probation, 60 hours community service, \$500 restitution

In that case Gallagher traveled to Washington D.C. and attended the rally at the ellipse. Gallagher then arrived at the Capitol, entered the building, and remained inside the building for approximately ten minutes. Finally, Gallagher was confronted several times by law enforcement inside the building but was not alleged to have committed any violence or destroyed any property. Moreover, Gallagher was seen attempting to calm other rioters down who were growing increasingly agitated towards law enforcement. These facts are similar to Barnard, who did unlawfully enter the building, however, did not commit any violence, destroy any property, show any animus towards law enforcement, and came to the aid of a law enforcement officer in danger of being overrun by the crowd.

In any event, the goal of minimizing unwarranted sentencing disparities in § 3553(a)(6) is “only one of several factors that must be weighted and balanced,” and the degree of weight is “firmly committed to the discretion of the sentencing judge.” *United States v. Coppola*, 671 F.3d 220, 254 (2d Cir. 2012). The § 3553(a) factors that this Court assesses are “open-ended,” with the result that “different district courts may have distinct sentencing philosophies and may emphasize and weigh the individual § 3553(a) factors differently; and every sentencing decision involves its own set of facts and circumstances regarding the offense and the offender.” *United States v. Gardellini*, 545 F.3d 1089, 1093 (D.C. Cir. 2008). “[D]ifferent district courts can and will sentence differently—differently from the Sentencing Guidelines range, differently from the sentence an appellate court might have imposed, and differently from how other district courts might have sentenced that defendant.” *Id.* at 1095.

V. Conclusion

Sentencing requires the Court to carefully balance the § 3553(a) factors. As explained herein, some of those factors support a sentence of incarceration and some support a more lenient

Table 1: Cases in which the government recommended a probation sentence without home detention¹

Defendant Name	Case Number	Offense of Conviction	Government Recommendation	Sentence Imposed
Morgan-Lloyd, Anna	1:21-CR-00164-RCL	40 U.S.C. § 5104(e)(2)(G)	36 months' probation, 40 hours community service, \$500 restitution	36 months' probation, 120 community service hours, \$500 restitution
Ehrke, Valerie	1:21-CR-00097-PLF	40 U.S.C. § 5104(e)(2)(G)	36 months' probation, 40 hours community service, \$500 restitution	36 months' probation, \$500 restitution
Bissey, Donna	1:21-CR-00165-TSC	40 U.S.C. § 5104(e)(2)(G)	36 months' probation, 40 hours community service, \$500 restitution	14 days incarceration, 60 hours community service, \$500 restitution
Hiles, Jacob	1:21-CR-00155-ABJ	40 U.S.C. § 5104(e)(2)(G)	36 months' probation, 60 hours community service, \$500 restitution	24 months' probation, 60 hours community service, \$500 restitution
Wangler, Douglas	1:21-CR-00365-DLF	40 U.S.C. § 5104(e)(2)(G)	36 months' probation, 40 hours community service, \$500 restitution	24 months' probation, 60 hours of community service, \$500 restitution
Harrison, Bruce	1:21-CR-00365-DLF	40 U.S.C. § 5104(e)(2)(G)	48 months' probation, 40 hours community service, \$500 restitution	24 months' probation, 60 hours of community service, \$500 restitution

Table 2: Cases in which the government recommended a probation sentence with home detention

Defendant Name	Case Number	Offense of Conviction	Government Recommendation	Sentence Imposed
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¹ Early in this investigation, the Government made a very limited number of plea offers in misdemeanor cases that included an agreement to recommend probation in *United States v. Anna Morgan-Lloyd*, 1:21-cr-00164(RCL); *United States v. Valerie Elaine Ehrke*, 1:21-cr-00097(PFF); *United States v. Donna Sue Bissey*, 1:21-cr-00165(TSC), *United States v. Douglas K. Wangler*, 1:21-cr-00365(DLF), and *United States v. Bruce J. Harrison*, 1:21-cr-00365(DLF). The government is abiding by its agreements in those cases, but has made no such agreement in this case. Cf. *United States v. Rosales-Gonzales*, 801 F.3d 1177, 1183 (9th Cir. 2015) (no unwarranted sentencing disparities under 18 U.S.C. § 3553(a)(6) between defendants who plead guilty under a “fast-track” program and those who do not given the “benefits gained by the government when defendants plead guilty early in criminal proceedings”) (citation omitted).

Bustle, Jessica	1:21-CR-00238-TFH	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 40 hours community service, \$500 restitution	2 months of home detention, 24 months' probation, 40 hours community service, \$500 restitution
Bustle, Joshua	1:21-CR-00238-TFH	40 U.S.C. § 5104(e)(2)(G)	1 month home detention, 36 months' probation, 40 hours community service, \$500 restitution	1 month home detention, 24 months' probation, 40 hours community service, \$500 restitution
Doyle, Danielle	1:21-CR-00324-TNM	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 probation	2 months' probation, \$3,000 fine, \$500 restitution
Bennett, Andrew	1:21-CR-00227-JEB	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	3 months of home detention, 24 months' probation, 80 hours community service, \$500 restitution
Mazzocco, Matthew	1:21-CR-00054-TSC	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	45 days incarceration, 60 hours community service ² , \$500 restitution
Rosa, Eliel	1:21-CR-00068-TNM	40 U.S.C. § 5104(e)(2)(G)	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution	12 months' probation, 100 hours community service, \$500 restitution
Gallagher, Thomas	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	1 month home detention, 36 months' probation, 60 hours community service, a fine, and \$500 restitution	24 months' probation, 60 hours community service, \$500 restitution
Vinson, Thomas	1:21-CR-00355-RBW	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 3 years' probation, 60 hours community service, \$500 restitution	5 years' probation, \$5,000 fine, \$500 restitution, 120 hours community service

² The government believes the Court's 10/4/2021 minute entry in this case is incorrect and the sentence requires 60 *hours* of community service, not 60 *months*.

Dillon, Brittiany	1:21-CR-00360-DLF	40 U.S.C. § 5104(e)(2)(D)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	2 months home detention, 3 years' probation, \$500 restitution
Sanders, Jonathan	1:21-CR-00384-CJN	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	36 months' probation, 60 hours community service, \$500 restitution
Fitchett, Cindy	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution
Sweet, Douglas	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution
Cordon, Sean	1:21-CR-00269-TNM	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	2 months' probation, \$4000 fine
Wilkerson, John IV	1:21-CR-00302-CRC	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	36 months' probation, \$2500 fine, 60 hours community service, \$500 restitution
Jones, Caleb	1:21-CR-00321-JEB	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	2 months home detention, 24 months' probation, \$500 restitution, 100 hours community service
Brown, Terry	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	45 days home detention, 36 months' probation, 60 hours community service, \$500 restitution	1 month home detention, 36 months' probation, \$500 restitution, 60 hours community service
Wrigley, Andrew	1:21-CR-00042-ABJ	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	18 months' probation, \$2000 fine, \$500 restitution, 60 hours community service

Parks, Jennifer	1:21-CR-00363-CJN	40 U.S.C. § 5104(e)(2)(G)	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution	24 months' probation, \$500 restitution, 60 hours community service
Reimler, Nicholas	1:21-CR-00239-RDM	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution
Miller, Brandon	1:21-CR-00266-TSC	40 U.S.C. § 5104(e)(2)(G)	3 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	20 days incarceration, 60 hours community service, \$500 restitution
Miller, Stephanie	1:21-CR-00266-TSC	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	14 days incarceration, 60 hours community service, \$500 restitution
Hatley, Andrew	1:21-CR-00098-TFH	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	36 months' probation, \$500 restitution
Pert, Rachael	1:21-CR-00139-TNM	18 U.S.C. § 1752(a)(1)	3 months home detention, 24 months' probation, 40 hours community service, \$500 restitution	24 months' probation, 100 hours community service, \$500 restitution
Winn, Dana	1:21-CR-00139-TNM	18 U.S.C. § 1752(a)(1)	3 months home detention, 24 months' probation, 40 hours community service, \$500 restitution	10 days incarceration (weekends), 12 months' probation, 100 hours community service, \$500 restitution
Wickersham, Gary	1:21-CR-00606-RCL	40 U.S.C. § 5104(e)(2)(G)	4 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	3 months home detention, 36 months' probation, \$2000 fine, \$500 restitution
Schwemmer, Esther	1:21-CR-00364-DLF	40 U.S.C. § 5104(e)(2)(G)	1 month home detention, 36 months' probation, 60 hours community service, \$500 restitution	24 months' probation, 60 hours community service, \$500 restitution

Kelly, Kenneth	1:21-CR-00331-CKK	40 U.S.C. § 5104(e)(2)(G)	2 months home detention, 36 months' probation, 60 hours community service, \$500 restitution	2 months home detention, 12 months' probation, 60 hours community service, \$500 restitution
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Table 3: Cases in which the government recommended a sentence of incarceration

Defendant Name	Case Number	Offense of Conviction	Government Recommendation	Sentence Imposed
Curzio, Michael	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	Not applicable	6 months incarceration (time served), \$500 restitution
Hodgkins, Paul	1:21-CR-00188-RDM	18 U.S.C. § 1512(c)(2)	18 months incarceration	8 months incarceration, 24 months' supervised release, \$2000 restitution
Dresch, Karl	1:21-CR-00071-ABJ	40 U.S.C. § 5104(e)(2)(G)	6 months incarceration (time served), \$500 restitution	6 months incarceration (time served), \$500 restitution
Jancart, Derek	1:21-CR-00148-JEB	40 U.S.C. § 5104(e)(2)(D)	4 months incarceration, \$500 restitution	45 days incarceration, \$500 restitution
Rau, Erik	1:21-CR-00467-JEB	40 U.S.C. § 5104(e)(2)(D)	4 months incarceration, \$500 restitution	45 days incarceration, \$500 restitution
Hemenway, Edward	1:21-CR-00049-TSC	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	45 days incarceration, 60 hours community service, \$500 restitution
Reeder, Robert	1:21-CR-00166-TFH	40 U.S.C. § 5104(e)(2)(G)	6 months incarceration, \$500 restitution	3 months incarceration, \$500 restitution
Bauer, Robert	1:21-CR-00049-TSC	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	45 days incarceration, 60 hours community service, \$500 restitution
Smocks, Troy	1:21-CR-00198-TSC	18 U.S.C. § 875(c)	Low end of sentencing guidelines as determined by the court, 36 months supervised release	14 months incarceration, 36 months supervised release
Vinson, Lori	1:21-CR-00355-RBW	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	5 years' probation, \$5,000 fine, \$500 restitution, 120 hours community service
Griffith, Jack	1:21-CR-00204-BAH	40 U.S.C. § 5104(e)(2)(G)	3 months incarceration, \$500 restitution	90 days home detention, 36 months' probation, \$500 restitution

Torrens, Eric	1:21-CR-00204-BAH	40 U.S.C. § 5104(e)(2)(G)	2 weeks incarceration, \$500 restitution	90 days home detention, 36 months' probation, \$500 restitution
Gruppo, Leonard	1:21-CR-00391-BAH	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	90 days home detention, 24 months' probation, \$3,000 fine, \$500 restitution
Ryan, Jenna	1:21-CR-00050-CRC	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	60 days incarceration, \$1000 fine, \$500 restitution
Croy, Glenn	1:21-CR-00162-BAH	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	90 days home detention, 14 days community correctional facility, 36 months' probation, \$500 restitution
Stotts, Jordan	1:21-CR-00272-TJK	40 U.S.C. § 5104(e)(2)(G)	45 days incarceration, \$500 restitution	60 days home detention, 24 months' probation, \$500 restitution, 60 hours community service
Fairlamb, Scott	1:21-CR-00120-RCL	18 U.S.C. § 1512(c)(2), 18 U.S.C. § 111(a)(1)	44 months incarceration, 36 months' supervised release, \$2000 fine	41 months incarceration, 36 months supervised release, \$2000 restitution
Camper, John	1:21-CR-00325-CKK	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	60 days incarceration, \$500 restitution, 60 hours community service
Rukstales, Bradley	1:21-CR-00041-CJN	40 U.S.C. § 5104(e)(2)(G)	45 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Cordon, Kevin	1:21-CR-00277-TNM	18 U.S.C. § 1752(a)(1)	30 days incarceration, 12 months supervised release, \$500 restitution	12 months' probation, 100 hours community service, \$4000 fine, \$500 restitution
Chansley, Jacob	1:21-CR-00003-RCL	18 U.S.C. § 1512(c)(2)	51 months incarceration, 36 months supervised release, \$2000 restitution	41 months incarceration, 36 months supervised release, \$2000 restitution
Mish, David	1:21-CR-00112-CJN	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Lolos, John	1:21-CR-00243-APM	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	14 days incarceration, \$500 restitution
Scavo, Frank	1:21-CR-00254-RCL	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, \$500 restitution	60 days incarceration, \$5000 fine, \$500 restitution
Abual-Ragheb, Rasha	1:21-CR-00043-CJN	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	60 days home detention, 36 months' probation, 60 hours community service, \$500 restitution

Peterson, Russell	1:21-CR-00309-ABJ	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Simon, Mark	1:21-CR-00067-ABJ	40 U.S.C. § 5104(e)(2)(G)	45 days incarceration, \$500 restitution	35 days incarceration, \$500 restitution
Ericson, Andrew	1:21-CR-00506-TNM	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	20 days incarceration (consecutive weekends), 24 months' probation, \$500 restitution
Pham, Tam Dinh	1:21-CR-00109-TJK	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	45 days incarceration, \$1000 fine, \$500 restitution
Nelson, Brandon	1:21-CR-00344-JDB	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, \$500 restitution	24 months' probation, \$2500 fine, \$500 restitution, 50 hours community service
Markofski, Abram	1:21-CR-00344-JDB	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, \$500 restitution	24 months' probation, \$1000 fine, \$500 restitution, 50 hours community service
Marquez, Felipe	1:21-CR-00136-RC	18 U.S.C. § 1752(a)(2)	4 months incarceration, 1 year supervised release, \$500 restitution	3 months home detention, 18 months' probation, \$500 restitution
Meredith, Cleveland	1:21-CR-00159-ABJ	18 U.S.C. § 875(c)	Midrange of 37-46 months incarceration	28 months incarceration, 36 months supervised release
Sorvisto, Jeremy	1:21-CR-00320-ABJ	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Mariotto, Anthony	1:21-CR-00094-RBW	40 U.S.C. § 5104(e)(2)(G)	4 months incarceration, 36 months' probation, \$500 restitution	36 months' probation, 250 hours community service, \$5000 fine, \$500
Courtright, Gracyn	1:21-CR-00072-CRC	18 U.S.C. § 1752(a)(1)	6 months incarceration, 12 months' supervised release, 60 hours community service, \$500 restitution	1 month incarceration, 12 months' supervised release, 60 hours community service, \$500 restitution
Palmer, Robert	1:21-CR-00328-TSC	18 U.S.C. § 111(a) and (b)	63 months incarceration, 36 months supervised release, \$2000 restitution	63 months incarceration, 36 months supervised release, \$2000 restitution,
Thompson, Devlin	1:21-CR-00461-RCL	18 U.S.C. § 111(a) and (b)	48 months incarceration, 36 months supervised release, \$2000 restitution	46 months incarceration, 36 months supervised release, \$2000 restitution

Edwards, Gary	1:21-CR-00366-JEB	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, 24 months' probation, \$500 restitution	12 months' probation, \$2500 fine, 200 hours of community service, \$500 restitution
Tutrow, Israel	1:21-CR-00310-ABJ	40 U.S.C. § 5104(e)(2)(G)	60 days incarceration, \$500 restitution	2 months home detention, 36 months' probation, \$500 restitution
Ridge IV, Leonard	1:21-CR-00406-JEB	18 U.S.C. § 1752(a)(1)	45 days incarceration, \$500 restitution	14 days consecutive incarceration, \$1000 fine, 1 year supervised release, 100 hours community service, \$500 restitution
Perretta, Nicholas	1:21-CR-00539-TSC	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Vukich, Mitchell	1:21-CR-00539-TSC	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	30 days incarceration, \$500 restitution
Spencer, Virginia	1:21-CR-00147-CKK	40 U.S.C. § 5104(e)(2)(G)	3 months incarceration, 36 months' probation, \$500 restitution	90 days incarceration, \$500 restitution
Kostolsky, Jackson	1:21-CR-00197-DLF	40 U.S.C. § 5104(e)(2)(G)	30 days incarceration, \$500 restitution	30 days home detention, 36 months' probation, \$500 restitution
Rusyn, Michael	1:21-CR-00303-ABJ	40 U.S.C. § 5104(e)(2)(G)	45 days incarceration, \$500 restitution	60 days home detention, 24 months' probation, \$2000 fine
Tryon, William	1:21-CR-00420-RBW	18 U.S.C. § 1752(a)(1)	30 days incarceration, 12 months supervised release, \$500 restitution	50 days incarceration, 12 months supervised release, \$1000 fine, \$500 restitution
Sells, Tanner	1:21-CR-00549-ABJ	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration, 36 months' probation, 60 hours community service, \$500 restitution	90 days home detention, 24 months' probation, 50 hours community service, \$1500 fine, \$500 restitution
Walden, Jon	1:21-CR-00548-DLF	40 U.S.C. § 5104(e)(2)(G)	At least two weeks incarceration, 60 hours community service, \$500 restitution	30 days home detention, 36 months' probation, 60 hours community service, \$500 restitution

Wiedrich, Jacob	1:21-CR-00581-TFH	40 U.S.C. § 5104(e)(2)(G)	3 months incarceration, 36 months' probation, \$500 restitution	3 months home detention, 36 months' probation, 100 hours community service, \$500 restitution
Stepakoff, Michael	1:21-CR-00096-RC	40 U.S.C. § 5104(e)(2)(G)	14 days incarceration	2 months home detention 12 months probation; \$500 restitution; \$742 fine
Scirica, Anthony	1:21-CR-00457-CRC	40 U.S.C. § 5104(e)(2)(G)	15 days incarceration; 4 months' home detention	15 days incarceration \$500 restitutio; \$500 fine