

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

UNITED STATES OF AMERICA	:	
	:	Case No. 21-cr-575 (JDB)
v.	:	
	:	
DAVID JOHN LESPERANCE,	:	
CASEY CUSICK, and	:	
JAMES VARNELL CUSICK, JR.	:	
	:	
Defendants	:	

**UNITED STATES' NOTICE
OF SUPPLEMENTAL SENTENCING MATERIALS**

In their sentencing memoranda (ECF Nos. 134, 135, 136), defendants contend, among other things, that (1) Guideline § 2B2.3 – not § 2A2.4 – governs their respective convictions for knowingly engaging in disorderly or disruptive conduct in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(2) (Count Two), *see, e.g.*, ECF No. 134 at 3-7; and (2) that restitution is “inapplicable” because “[m]erely seeing property destruction is insufficient for an assessment of restitution,” *id.* at 8.

In response to these claims, at sentencing, the government expects to rely on the following materials, which the government hereby submits to the Court:

1. Exhibit 1: The transcript of the sentencing hearing in *United States v. Vargas*, No. 21-cr-47-RDM (D.D.C. Apr. 21, 2023), in which Judge Moss carefully considered and rejected another January 6 defendant’s argument for applying Guideline § 2B2.3 to convictions under 18 U.S.C. § 1752(a)(2). *See United States v. Vargas*, No. 21-cr-47-RDM, Sent Tr. 6-24 (D.D.C. Apr. 21, 2023).¹

¹ Access to the *Vargas* transcript is currently restricted on Pacer. Accordingly, the government will provide the transcript to the Court and defense counsel by email.

2. Exhibit 2: A supplemental brief submitted by the government in *Vargas* addressing the same question. See *United States v. Vargas*, No. 21-cr-47-RDM, ECF No. 85 at 1-6 (D.D.C. Apr. 6, 2023).
3. Exhibit 3: Documents supporting the PSRs’ determination (see, e.g., ECF No. 126 at ¶¶ 31, 125-126) that Congress sustained a loss of approximately \$2,923,080.05 as a result of the January 6 attack:

Damages to the Capitol Building and Grounds

Architect of the Capitol	\$1,177,254.03
House Chief Administrative Officer	\$547,411.27
Secretary of the Senate	\$32,075.00
Senate Sargent at Arms	\$79,490.05
Total	\$1,836,230.35

Damages Incurred by the United States Capitol Police Department

Continuation of Pay (COP)/Workers Comp and Medical Treatment; Lost and Damaged Property	\$1,086,849.70
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Total

Total for both groups	\$2,923,080.05
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October 11, 2023

Respectfully submitted,

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