

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

UNITED STATES OF AMERICA :
 :
 :
 v. : **Case No.: 21-CR-508 (BAH)**
 :
LUKE WESSLEY BENDER and :
LONDON BRYCE MITCHELL, :
Defendants. :

**PRELIMINARY SENTENCING GUIDELINES CALCULATION
FOR STIPULATED TRIAL**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits a preliminary Sentencing Guidelines calculation for each defendant in response to the Court’s November 22, 2022 Minute Order.¹ No constitutional provision, statute, Rule of Criminal of Procedure, or other authority of which the government is aware requires a defendant to be apprised of the applicable Sentencing Guidelines before trial (including a stipulated trial). However, the government provides the following preliminary calculations to assist the defendants and the Court.

For defendant Luke Bender, the anticipated total combined offense level would be 19, the anticipated criminal history category is III, and his estimated sentencing Guidelines Range is 37 to 46 months’ imprisonment.² For defendant Landon Mitchell, the anticipated total combined offense level would be 17, the anticipated criminal history category is IV, and his estimated sentencing Guidelines Range is 37 to 46 months’ imprisonment.³

¹ This calculation is preliminary, does not include any criminal history points accrued in the last year, and may differ from the calculations undertaken by the United States Probation Office.

² If acceptance of responsibility under § 3E1.1(a) & (b) is applied, the resulting Guidelines range would be 27-33 months.

³ If acceptance of responsibility under § 3E1.1(a) & (b) is applied, the resulting Guidelines range would be 27-33 months.

This is how the preliminary estimates were reached:

Count One: Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2).

The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for **Bender** for this charge are as follows:

U.S.S.G. § 2J1.2	Base Offense Level	14
U.S.S.G. § 2J1.2(b)(2)	Substantial Interference	+3
U.S.S.G. § 3C1.1	Obstruction of Justice	<u>+2</u>
	Total	19

Count One: Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2).

The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for **Mitchell** for this charge are as follows:

U.S.S.G. § 2J1.2	Base Offense Level	14
U.S.S.G. § 2J1.2(b)(2)	Substantial Interference	<u>+3</u>
	Total	17

Count Two: Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1). The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for this charge for **Bender** are as follows:

U.S.S.G. § 2B2.3(a)	Base Offense Level	4
U.S.S.G. § 2B2.3(b)(1)(A)(vii)	Restricted Building or Grounds	+2
U.S.S.G. § 2B2.3(c)(1)	§ 2X1.1(a) Cross Reference, <i>Adjusted Base</i> ⁴	17
U.S.S.G. § 3C1.1	Obstruction of Justice	<u>+2</u>
	Total	19

Count Two: Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1). The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for this charge for **Mitchell** are as follows:

U.S.S.G. § 2B2.3(a)	Base Offense Level	4
U.S.S.G. § 2B2.3(b)(1)(A)(vii)	Restricted Building or Grounds	+2
U.S.S.G. § 2B2.3(c)(1)	§ 2X1.1(a) Cross Reference, <i>Adjusted Base</i> ⁵	17
	Total	17

⁴ Adjusted base derived from Count One.

⁵ Adjusted base derived from Count One.

Count Three: Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2). The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for this charge for **Bender** are as follows:

U.S.S.G. § 2A2.4(a)	Base Offense Level	10
U.S.S.G. § 3C1.1	Obstruction of Justice	<u>+2</u>
	Total	12

Count Three: Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2). The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for this charge for **Mitchell** are as follows:

U.S.S.G. § 2A2.4(a)	Base Offense Level	<u>10</u>
	Total	10

Counts Four, Five, and Six: The Sentencing Guidelines do not apply to Class B misdemeanors.

Grouping: The three counts group under U.S.S.G. § 3D1.2 because each count involves the same victim: Congress.

Departures: These preliminary Guidelines calculations do not consider any potentially applicable departures, including those under U.S.S.G. § 3A1.4 n.4 or U.S.S.G. § 5K2.7.

Respectfully submitted,

MATTHEW M. GRAVES
 United States Attorney
 D.C. Bar No. 481052

By: /s/ Samantha R. Miller
 SAMANTHA R. MILLER
 Assistant United States Attorney
 New York Bar No. 5342175
 United States Attorney's Office
 For the District of Columbia
 601 D Street, NW 20001
 Samantha.Miller@usdoj.gov

/s/ Michael M. Gordon
 MICHAEL M. GORDON
 Assistant United States Attorney
 Florida State Bar No. 1026025

400 N. Tampa St., Suite 3200
Tampa, Florida 33602
Michael.Gordon3@usdoj.gov
Tel.: 813-274-6370

/s/ Jordan A. Konig

JORDAN A. KONIG
Supervisory Trial Attorney, Tax Division,
U.S. Department of Justice
Detailed to the U.S. Attorney's Office
For the District of Columbia
P.O. Box 55, Washington, D.C. 20044
Jordan.A.Konig@usdoj.gov
Tel.: 202-305-7917