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 UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
 12 Plaintiff,  
 13 v.  
 14 JERMAINE WRIGHT,  
 15 Defendant.

ED CR No. 17-229-JGB

PLAINTIFF'S RESPONSE TO  
PRESENTENCE REPORT AND SENTENCING  
POSITION FOR DEFENDANT JERMAINE  
WRIGHT

Hearing Date: October 3, 2022  
 Hearing Time: 2:00 p.m.  
 Location: Courtroom of the  
 Hon. Jesus G. Bernal

18  
 19 Plaintiff United States of America, by and through its counsel  
 20 of record, the United States Attorney for the Central District of  
 21 California and Assistant United States Attorney Sean D. Peterson,  
 22 hereby files its response to presentence report and sentencing  
 23 position for defendant Jermaine Wright.

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1 This filing is based upon the attached memorandum of points and  
2 authorities, the files and records in this case, and such further  
3 evidence and argument as the Court may permit.

4 Dated: September 19, 2022

Respectfully submitted,

5 E. MARTIN ESTRADA  
United States Attorney

6  
7 SCOTT M. GARRINGER  
Assistant United States Attorney  
Chief, Criminal Division

8  
9 /s/

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11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Following a six-day trial, defendant, a former Adelanto City Council Member and Mayor Pro Tem, as well as an owner/operator of a Restaurant, Fat Boyz Grill, stands convicted of (i) bribery of programs receiving federal funds, in violation of 18 U.S.C. § 666(a)(1)(B), and (ii) attempted arson of a building affecting interstate commerce, in violation of 18 U.S.C. §§ 844(i), 2(b). The latter conviction carries a five-year mandatory minimum sentence. 18 U.S.C. § 844(i).

The evidence submitted at trial showed that defendant betrayed the trust placed in him as a public official by accepting a bribe payment to expand a marijuana business zone and to intercede with code enforcement. It showed that he attempted to burn down his restaurant by, among other things, hiring a person he thought was an arsonist to burn down his restaurant, and paying the supposed arsonist \$1,500. It also showed that defendant obstructed justice. After the FBI approached defendant and told defendant that the FBI knew about his attempted arson, and wanted his assistance in a broader investigation into allegations of corruption in Adelanto, defendant hatched two new schemes to avoid liability for his conduct. In the first, defendant told a person working as a Confidential Human Source for the FBI ("CHS") to make the supposed arsonist disappear. In the second, defendant planned to hire someone to assault him so that he would have a basis to claim a loss of memory, and fear of reprisal for cooperating with law enforcement. As part of his second scheme, defendant ultimately convinced an unknowing third party to

1 destroy a law enforcement owned recording device that the FBI had  
2 loaned to defendant.

3 Defendant's serious criminal conduct, his willingness to commit  
4 other crimes, and his various attempts to obstruct justice, all  
5 gravitate in favor of the imposition of a serious sentence in this  
6 case. This needs to be weighed against mitigating information in  
7 defendant's PSR, such as his role as a foster parent.

8 Considering all of the aggravating and mitigating information  
9 present, an appropriate sentence in this case is a 79-month term of  
10 imprisonment, a fine of \$25,000, a special assessment of \$200, and  
11 the imposition of a 3-year term of supervised release.

12 **II. STATEMENT OF FACTS<sup>1</sup>**

13 **A. Investigation Initiated**

14 In early 2017, the FBI opened an investigation into allegations  
15 of public corruption in the City of Adelanto, California, involving  
16 defendant, then a City Council Member and also Mayor Pro Tem of the  
17 City of Adelanto. At that time, defendant operated a restaurant  
18 known as Fat Boyz Grill, located in Suite 1 of a building located at  
19 11619 Rancho Road, in Adelanto, California (where defendant also had  
20 access to Suite 3). During the investigation, the FBI identified a  
21 witness who already worked in Adelanto and who was familiar with  
22 defendant, among other people involved in City government. That  
23 witness agreed to assist the FBI in its investigation, and the FBI  
24 designated that person as a CHS.

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<sup>1</sup> The Facts referenced here are based on the trial testimony and  
exhibits that were accepted into evidence, as well as the factual  
recitation of the PSR at PSR ¶¶ 6-31.

1           **B.     June 15, 2017 Meeting Between Defendant, "Steve," and CHS**

2           On or about June 15, 2017, the CHS introduced an undercover FBI  
3 employee (UCE5360) who went by the name of "Steve" to defendant at  
4 defendant's restaurant, Fat Boyz Grill, in Adelanto, California.  
5 Among other things, during that meeting Steve told defendant that  
6 Steve was interested in moving his marijuana cultivation business to  
7 Adelanto. Steve also asked about the best way to get permits,  
8 licenses, and other approvals necessary for operation, and told  
9 defendant that he was interested in purchasing a commercial property  
10 outside of the approved zone for marijuana cultivation at a reduced  
11 price, and then attempting to have the land re-zoned by the City  
12 Council.

13           **C.     June 20, 2017 Conversation Between Defendant and Steve**  
14           **Concerning the Price for Defendant's Vote**

15           On or about June 20, 2017, Steve placed a recorded telephone  
16 call to defendant. During that call Steve and defendant returned to  
17 part of their discussion from the previous meeting, specifically, the  
18 price for each City Council Member to vote to extend the zone for  
19 cultivating marijuana. Steve confirmed with defendant the price that  
20 defendant had mentioned for each vote, including the price for  
21 defendant's vote ("20," meaning \$20,000).

22           **D.     July 26, 2017 Meeting Between Defendant and Steve**

23           On or about July 26, 2017, Steve met with defendant at Fat Boyz  
24 Grill, where they had a recorded conversation. A couple of weeks  
25 before that meeting, the City Council had voted to expand the  
26 cultivation zone for marijuana, but Steve had not yet bought or  
27 leased a location within the newly rezoned area prior to the vote by  
28 the City Council. Defendant told Steve that defendant tried to warn



1 Steve before the vote, but Steve did not receive any message from  
2 defendant. During this meeting, defendant told Steve to obtain a  
3 location within the expanded cultivation zone, and defendant said  
4 that he would assist Steve with "pushing" (that is, facilitating  
5 procurement of) permits. Defendant spoke about a "donation" by Steve  
6 of \$15,000 as part of the package for pushing the permits.

7 **E. August 2017: Defendant Asked CHS to Find an Arsonist**

8 In August 2017, the CHS had a conversation with defendant in  
9 which defendant requested, among other things, assistance finding  
10 someone who can help burn down defendant's business, Fat Boyz Grill,  
11 so that defendant could collect the insurance money.

12 **F. August 31, 2017 Conversation Between Defendant and CHS  
13 Concerning Payment by a Dispensary Applicant and Steve**

14 On or about August 31, 2017, in a recorded conversation,  
15 defendant explained to the CHS that defendant was in contact with a  
16 marijuana business that would pay defendant and the CHS a total of  
17 \$20,000, for engineering a vote to select that business as one of  
18 four to receive a marijuana dispensary permit in the City of  
19 Adelanto. Defendant explained how the \$20,000 needed to go to a non-  
20 profit that defendant established to conceal what he and the CHS were  
21 doing, and defendant said that he would put the CHS on the board of  
22 defendant's non-profit so that the CHS could receive money as well.  
23 During that conversation the CHS told defendant that Steve wanted to  
24 rent a corner lot that the CHS owned in Adelanto to operate a  
25 marijuana transportation company. Defendant told the CHS that Steve  
26 would need an exemption, and that defendant wanted "ten," meaning  
27 \$10,000, for Steve to receive his exemption.

28

1           **G.     September 26, 2017 Conversation Between Defendant and CHS**  
2           **About Electrician and Steve's Lease**

3           On or about September 26, 2017, in a recorded conversation,  
4           defendant gave permission for the CHS to pass defendant's cellular  
5           telephone number to the "electrician," i.e., the arsonist whom  
6           defendant had previously discussed with the CHS.

7           During that September 26 conversation, the CHS told defendant  
8           that Steve had signed a lease to rent a property from the CHS and  
9           operate a marijuana transportation business outside of the approved  
10          zone. Defendant said the business could not operate out of the zone,  
11          and said he would talk to a third party about using that third  
12          party's address, which was in the zone.

13           **H.     September 28, 2017 Conversation Between Defendant and**  
14           **UCE5001, Acting as Arsonist**

15          On or about September 28, 2017, an FBI employee acting in an  
16          undercover capacity as a would-be arsonist, or UCE5001 as the  
17          employee was designated for purposes of the investigation, placed a  
18          recorded telephone call to defendant's telephone number. UCE5001 did  
19          not identify himself, but UCE5001 told defendant that he (UCE5001)  
20          had heard defendant needed some work done at his restaurant.  
21          Defendant affirmed the need for work and defendant agreed to meeting  
22          with UCE5001 on October 3, 2017.

23           **I.     October 3, 2017 Meeting Between Defendant and UCE5001 at**  
24           **Restaurant**

25          On or about October 3, 2017, UCE5001 parked outside of  
26          defendant's restaurant, Fat Boyz Grill, and called defendant on his  
27          cellular telephone. Defendant spoke with UCE5001 and defendant then  
28          exited the restaurant to meet with UCE5001 inside UCE5001's vehicle.

1 While in UCE5001's vehicle, defendant agreed that he and UCE5001 did  
2 not "need to do a lot of knowing each other," defendant explained  
3 that the video surveillance cameras at the restaurant did not work,  
4 and that if the waitress or anyone asked, UCE5001 was "a repair man  
5 looking at stuff." Defendant said he needed "it" done Saturday, and  
6 explained that he would be heading out to Las Vegas when it happened.

7 Defendant and UCE5001 then exited UCE5001's vehicle and entered  
8 Fat Boyz Grill. Defendant explained that he had two out of five  
9 units in the building. UCE5001 asked if defendant wanted to burn  
10 "this whole thing, or you just want it localized[?]" Defendant  
11 responded "the less it looks like it's just me, that's fine," adding  
12 "so the three go, the three go," referring to three of the units in  
13 the building, including a suite that had been occupied by a Bail Bond  
14 Agency, that was located between the two units defendant utilized.

15 As the conversation continued, defendant explained that he  
16 wanted the damage to be "total," and he explained that the landlord  
17 would be turning off the water, and that the sprinklers would be down  
18 over the weekend. When UCE5001 asked if something should not burn  
19 because it was not covered by defendant's insurance policy, defendant  
20 replied that the policy covered everything. In response to UCE5001's  
21 questions, defendant confirmed that there had been a homeless person  
22 in the space he utilized, and there had also been rodents, providing  
23 potential false explanations for the cause of the planned arson.  
24 Defendant said one of the suites housed a church, and another had  
25 housed a bail bonds agency, but the unit with the bail bonds agency  
26 was now empty. Defendant and UCE5001 also spoke about having a  
27 planned event for the restaurant following the anticipated date of  
28 the arson, as well as the fact that defendant had "updated" the

1 appliances inside, to deflect suspicion concerning whether the fire  
2 was purposely set.

3 Defendant said that his insurance policy provided \$300,000 in  
4 coverage. UCE5001 said the cost of the arson would be up to \$1,500.  
5 Defendant explained that the fire would have to burn quickly because  
6 the fire department was just down the street from his restaurant and  
7 the fire department would probably arrive within five minutes of the  
8 fire starting. Defendant added that he can leave a gas line open and  
9 turn off the alarms, making it look like "staff" made a mistake.

10 **J. October 4, 2017 Conversation Between Defendant and CHS**  
11 **Concerning Defendant's Previous Meeting with UCE5001 and a**  
**Plan to Meet Steve**

12 The following day, on or about October 4, 2017, defendant spoke  
13 with the CHS, and confirmed the details for arson, explaining that  
14 the "electrician" was supposed to do the job on Saturday, and that  
15 the fee was \$1,500.

16 The CHS also told defendant that Steve would stop by the CHS's  
17 shop on Friday (October 6), to drop off the rent money for  
18 defendant's unit. Defendant said he would go to the shop to meet  
19 with Steve.

20 **K. October 5, 2017 Conversation Between Defendant and UCE5001**  
21 **Setting Up Next Meeting**

22 On or about October 5, 2017, defendant and UCE5001 spoke by  
23 telephone, using code words to refer to a "site survey," and  
24 coordinating for the next meeting the following day, October 6.

25 **L. October 6, 2017 Meeting Between Defendant, the CHS, and**  
26 **Steve at the CHS's Shop in Adelanto**

27 On or about October 6, 2017, Steve, the CHS and defendant met at  
28 a shop owned by the CHS in Adelanto. During that meeting the three

1 discussed Steve's plan to operate a marijuana transportation business  
2 from a property owned by the defendant—which was also outside of any  
3 currently approved zone. Defendant said Steve could operate the  
4 business so long as the business did not have any marijuana at the  
5 location. However, defendant also said that he would take care of  
6 any problems with code enforcement in exchange for an additional  
7 payment each time. Steve told defendant that Steve wanted to make  
8 sure that defendant would ensure that the votes would be in place for  
9 a future expansion of the marijuana business zone to include the  
10 location Steve was renting from the CHS, and defendant responded,  
11 "yes." Steve then placed \$10,000 on a box and said to defendant,  
12 "that's for you, or your non-profit." Steve again confirmed that the  
13 payment was for votes and for protection from code enforcement.  
14 Defendant took the money and confirmed that the cost for him to  
15 intervene with code enforcement would be "a stack," or \$2,000. He  
16 added that code enforcement "raids" once a month.

17 Defendant also told Steve that in order to get Steve's marijuana  
18 transportation business up and running as soon as possible, Steve  
19 should falsely claim in an application for a permit that the business  
20 would run out of the location where the three were meeting, which was  
21 up to code, rather than the actual location that Steve had agreed to  
22 rent from the CHS, which needed to be fixed before it could pass an  
23 inspection for a permit.

24 **M. October 6, 2017 Meeting Between Defendant and UCE5001 at**  
25 **Restaurant; Defendant Pays UCE5001**

26 Also that day, on or about October 6, 2017, UCE5001 called  
27 defendant by telephone and asked him to place a ladder or chair in  
28 the back alley behind the restaurant. UCE5001 explained that he

1 wanted to check something out, and then he would talk with defendant  
2 once he finished. UCE5001 arrived at the restaurant location in his  
3 vehicle. He exited the vehicle and approached the back of the  
4 building, and as he did so, he saw defendant place the ladder outside  
5 of the backdoor to the building. UCE5001 then took the ladder and  
6 inspected suite 3 and suite 1 of the building.

7 Afterwards, defendant met with UCE5001 in UCE5001's vehicle in  
8 front of the restaurant. UCE5001 explained that he had a plan, but  
9 UCE5001 needed more time to do the job and defendant responded by  
10 saying, "Shit, um I don't, I don't have no excuse to be gone next  
11 week." Defendant then asked UCE5001 to do it "this weekend,"  
12 explaining that defendant would be out of town, and that he already  
13 had a guy who was "pumping gas" in the restaurant. UCE5001 asked for  
14 more time to do the job right, and defendant agreed, not wanting the  
15 fire to look "suspicious." Defendant then provided UCE5001 with a  
16 black wristband with a small zipper, explaining "there's 15 right  
17 there." In the wristband, there was \$1,500 in cash.

18 **N. October 13, 2017 Conversation Between UCE5001 and Defendant**  
19 **in Which They Agree the Arson will Occur on Tuesday,**  
20 **October 17, 2017**

21 On or about October 13, 2017, UCE5001 called defendant by  
22 telephone, confirmed that defendant was ready for the arson to go  
23 forward on "Tuesday" (October 17), and asked what time defendant  
24 usually left the restaurant on Tuesdays. Defendant replied "seven."  
25 UCE5001 confirmed that the arson would occur at night, to make sure  
26 that defendant is not there, and that defendant could put anything he  
27 "want[s] gone" in the restaurant. Defendant replied, "okay."

28

1           **O.     October 17, 2017: Law Enforcement Confronts Defendant**  
2           **Concerning His Interactions with UCE5001**

3           On or about October 17, 2017, defendant was approached by FBI  
4 agents, who spoke with defendant, and told him that they were aware  
5 of his interactions with UCE5001. FBI agents showed defendant a  
6 picture of UCE5001. Defendant said that he knew UCE5001 as an  
7 "electrician," and he explained that he was supposed to do some work  
8 for defendant "today." After initially claiming that UCE5001 was  
9 going to do some work on the bathroom in the restaurant, defendant  
10 eventually admitted that UCE5001 would "take care of making sure that  
11 this place be gone."

12           FBI Special Agent Kevin Boles testified during defendant's trial  
13 that he asked defendant to act as a confidential source for the FBI  
14 in its investigation into allegations of corruption among elected  
15 officials in Adelanto. Defendant agreed to do so.

16           **P.     October 18, 2017: Defendant told the CHS that the FBI Knew**  
17           **About the Electrician and Enlisted the CHS's Help to "Get**  
              **Shit Off [His] Door"**

18           The following day, on or about October 18, 2017, however,  
19 defendant approached the CHS and told the CHS that the FBI had  
20 searched Fat Boyz Grill and wanted defendant to cooperate with an on-  
21 going investigation. Defendant requested assistance from the CHS to  
22 make UCE5001 "go away," explaining that the FBI would not have a case  
23 against defendant without UCE5001.

24           Later that same day, the CHS initiated a follow-up conversation  
25 with defendant, which was recorded. During that conversation  
26 defendant told the CHS, "you brought shit to my door." Defendant  
27 also said, "get shit off my door." The CHS understood that defendant  
28 was telling the CHS to kill UCE5001.

1           **Q.     October 23-25, 2017: Defendant Spoke With the CHS About**  
2           **Hiring Someone to Assault Him so that He Could Feign Memory**  
3           **Loss**

4           On or about October 23, 2017, in recorded conversations,  
5           defendant spoke with the CHS about enlisting the CHS's assistance to  
6           have someone beat up defendant, thereby enabling defendant to claim  
7           he suffered memory loss. Defendant explained to the CHS that it  
8           would allow him to get out of the situation he was in with the FBI if  
9           defendant were assaulted and could claim memory loss. At trial, the  
10          CHS testified, and recordings corroborated, that defendant said the  
11          assault needed to happen early in the morning outside of his  
12          restaurant, and he suggested that a rat could be placed next to him,  
13          implying that the motive for someone else to assault him was as a  
14          form of punishment for acting as an informant for the FBI.

15          On or about October 25, 2017, after defendant had agreed to  
16          assist the FBI in an ongoing investigation, and while in the presence  
17          of an FBI agent, defendant made a recorded telephone call to the CHS.  
18          During that call, the CHS told defendant that the CHS had arranged  
19          with someone to beat up defendant, as defendant had requested.  
20          Defendant tried multiple times to redirect the conversation and  
21          ultimately hung up on the CHS, saying "He's gonna go there. Oh  
22          shit." Still later that day, defendant met with the CHS in person,  
23          and in a recorded conversation, defendant told the CHS that he was  
24          okay with paying \$600 for someone to knock him out, and he explained  
25          to the CHS that he did not want the CHS to discuss his request to be  
26          knocked out on the telephone call earlier because defendant was being  
27          followed by the FBI.



1           **R.    November 2-3, 2017: The CHS told Defendant that the**  
2           **Electrician Was Gone; the Next Day Defendant Reported that**  
3           **He was Assaulted**

4           On or about November 2, 2017, in a recorded conversation, the  
5           CHS told defendant that the "electrician" was "gone." Then the CHS  
6           began to say, "if they come asking any questions," but before the CHS  
7           could finish defendant said, "I don't know shit."

8           The following day, November 3, 2017, defendant reported to the  
9           police that he had been assaulted.

10          During the trial, San Bernardino County Sheriff's Department  
11          Detective Travis James testified that he reported to Fat Boyz Grill  
12          Restaurant on the morning of November 3, 2017, where he saw defendant  
13          in the company of Fire Department personnel and ambulance personnel.  
14          He saw defendant speak with the Fire Department and ambulance  
15          personnel, and saw that he did not want to be brought to the hospital  
16          by emergency personnel. However, when Mr. James attempted to talk  
17          with defendant, defendant looked away from him and barely spoke to  
18          him, presenting himself as unfocused or unable to communicate, so Mr.  
19          James asked the fire department and ambulance personnel to return and  
20          speak with defendant again. Mr. James testified that defendant did  
21          not act like other victims of assault that Mr. James had interacted  
22          with in the past.

23          A lay witness, Lavalley Garrett, testified that he saw defendant  
24          on the morning of November 3, and that defendant acted differently  
25          than he usually did, and Mr. Garrett told defendant to go to the  
26          hospital. Mr. Garrett said that defendant told Mr. Garrett that  
27          defendant had been assaulted and that a rat had been placed next to  
28          him. Defendant also asked Mr. Garrett to destroy an electronic  
            device, which Mr. Garrett did at defendant's request. Special Agent

1 Boles testified that later that day he received a destroyed recording  
2 device, which he had previously loaned to defendant for defendant to  
3 use in his efforts to assist the FBI in a broader corruption  
4 investigation.

5 **III. THE SENTENCING GUIDELINES CALCULATION**

6 Plaintiff agrees with the Probation Officer's Guideline  
7 calculation in the PSR. The United States Probation Office ("USPO")  
8 determined that defendant has a total offense level of twenty-seven,  
9 after applying a grouping analysis to the two counts of conviction.  
10 The USPO determined that defendant's conviction for the attempted  
11 arson of a building affecting interstate commerce carries a base  
12 offense level of twenty four, pursuant to U.S.S.G. § 2K1.4(a)(1), an  
13 increase in two levels for obstruction of justice, pursuant to  
14 U.S.S.G. § 3C1.1, and an increase in one level for not grouping with  
15 the other count of conviction, which had an adjusted offense level  
16 within six points of the attempted arson of a building affecting  
17 interstate commerce count. See U.S.S.G. § 3D1.4.

18 The USPO determined that defendant has a total offense level of  
19 twenty for bribery of programs receiving federal funds, determined by  
20 a base offense level of fourteen, pursuant to U.S.S.G. § 2C1.1,  
21 adjusted upwards by two levels, because the \$10,000 bribe payment  
22 exceeded the \$6,500 threshold pursuant to U.S.S.G. § 2B1.1(b)(1)(B),  
23 adjusted upwards by an additional four levels because defendant was  
24 an elected public official (and a public official in a high level  
25 decision-making or sensitive position) pursuant to U.S.S.G.  
26 § 2C1.1(b)(3). The United States agrees with the total offense level  
27 calculated by the USPO.

28

1 The USPO also determined that defendant has zero criminal  
2 history points, placing him in Criminal History Category I. (PSR  
3 ¶¶ 63-67.) The United States agrees with the USPO's Criminal History  
4 Category computation. The United States also agrees with the fine  
5 range calculation of \$25,000 to \$250,000. See U.S.S.G.  
6 § 5E1.2(c)(3); see also PSR ¶ 123.

7 With a Criminal History Category of I and a total offense level  
8 of 27, defendant's Guidelines sentencing range is 70-87 months'  
9 imprisonment.

10 **IV. ANALYSIS OF THE 18 U.S.C. § 3553(a) FACTORS**

11 A mid-term Guidelines sentence of 79 months' imprisonment is  
12 reasonable in light of the factors listed under 18 U.S.C. § 3553(a).  
13 Such a sentence would reflect the nature and circumstances of the  
14 offenses and the history and characteristics of defendant, among  
15 other relevant sentencing factors.

16 Defendant was a City Council Member and Mayor Pro Tem for the  
17 City of Adelanto. He abused his position of trust as an elected  
18 official to line his own pockets. Unfortunately, his decision to  
19 accept a \$10,000 bribe payment was not a one-off event. The  
20 recordings in this case show that he spoke to the undercover agent  
21 and CHS over a period of months. Defendant initially quoted a price  
22 of \$20,000 for his vote on a City Council matter. Later, he  
23 suggested \$15,000 for "pushing" permits. Finally, he accepted a  
24 \$10,000 payment, and he said that he expected "a stack," or \$2,000,  
25 each time he would interfere with code enforcement going forward.  
26 While the investigation was pending, defendant also explained to the  
27 CHS that defendant had found an applicant for a marijuana dispensary  
28

1 permit who would pay defendant (and the CHS) \$20,000 to ensure that  
2 the applicant received the dispensary permit.

3 At the same time that defendant was seeking out bribe payments  
4 in exchange for his vote or his influence as an elected official, he  
5 also decided to pursue a scheme to burn down his restaurant to  
6 collect insurance money. Defendant sought out an arsonist. He took  
7 the arsonist (in reality, UCE5001) on a tour of the restaurant and an  
8 adjoining suite, so that the arsonist could construct a plan to burn  
9 down the restaurant and the adjoining suite. Defendant discussed  
10 with the arsonist how to make the fire look like an accident, and  
11 defendant discussed with the arsonist how defendant could contribute  
12 to the fire by leaving the gas on or planning the arson for when the  
13 water would be shut off. Defendant knew the Fire Department was down  
14 the street, and he emphasized that the fire would have to burn  
15 quickly. Defendant also knew that there was another entity, a  
16 church, that used the same building he did, but located in a  
17 different suite. The fire would potentially put others at risk.  
18 Ultimately, defendant paid the arsonist \$1,500 to burn down the two  
19 suites (including the restaurant). Defendant put the wheels in  
20 motion for the arson to occur, and it only did not occur because the  
21 arsonist he paid was actually an undercover law enforcement agent.

22 Once defendant found out that law enforcement knew that he hired  
23 someone to burn down his restaurant, he did not stop scheming. The  
24 FBI told defendant that the FBI wanted his help to investigate  
25 allegations of corruption in Adelanto. Rather than attempting to  
26 ameliorate the harm he had caused by actually assisting the FBI in  
27 its investigation, defendant attempted to undermine the investigation  
28 into his own bad conduct. Immediately after being approached by the

1 FBI, defendant told the CHS that the CHS—who had introduced the  
2 arsonist to defendant at defendant's request—had brought "shit to  
3 defendant's door" and he told the CHS "get shit off my door." The  
4 CHS understood that to be an instruction to kill the arsonist.

5 Defendant also pursued a different scheme. He told the CHS that  
6 he wanted someone, initially the CHS and later someone the CHS would  
7 hire on behalf of defendant, to assault defendant outside of his  
8 restaurant and to leave a rat next to him. Defendant explained that  
9 he would be able to claim falsely a loss of memory and also,  
10 apparently, he would claim that someone had punished him for  
11 cooperating with law enforcement in an investigation. Although the  
12 CHS did not ultimately arrange for anyone to assault defendant,  
13 defendant went ahead and did it himself, or at least he later claimed  
14 that he was assaulted outside of his restaurant, and that a rat had  
15 been placed next to him, just as he had requested be done in his  
16 recorded conversation with the CHS. Following the alleged assault,  
17 defendant acted unfocused and forgetful when speaking with law  
18 enforcement who interacted with him, but he did not act that way in  
19 speaking with the CHS (outside of the presence of law enforcement  
20 officers). Moreover, the morning of the alleged assault, defendant  
21 convinced a witness who stopped by his restaurant to destroy a  
22 recording device that had been loaned to defendant by the FBI for use  
23 in the broader corruption investigation.

24 Defendant's persistent and varied attempts to obstruct the  
25 investigation into his own misconduct, and to frustrate the efforts  
26 of the FBI to investigate other allegations of public corruption, are  
27 additional forms of serious misconduct, beyond the convictions at  
28 issue in this case.

1 In evaluating an appropriate sentence in this case, it is also  
2 appropriate for the court to consider ameliorating factors in  
3 defendant's history and characteristics, such as his contributions to  
4 the community as a foster parent, and the possibility that he may  
5 have been suffering emotionally when he engaged in some of the  
6 conduct at issue in this case because of tension with his then-wife.

7 In sum, after evaluating all of the 3553(a) factors, the Court  
8 should sentence defendant to a mid-Guidelines term of 79 months'  
9 imprisonment, a \$25,000 fine, a \$200 special assessment, and a three-  
10 year term of supervised release.

11 **V. CONCLUSION**

12 For the foregoing reasons, the government respectfully requests  
13 that this Court impose a sentence of 79 months' imprisonment, a  
14 \$25,000 fine, a \$200 special assessment, and a three-year term of  
15 supervised release.

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