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10 Attorneys for Plaintiff
 11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 v.
 17 TYLER LAUBE,
 18 Defendant.

No. CR 2:18-00759(B)-CJC-3

GOVERNMENT'S SENTENCING POSITION
FOR DEFENDANT TYLER LAUBE

Hearing Date: April 4, 2024
 Hearing Time: 11:00 a.m.
 Location: Courtroom of the
 Hon. Cormac J.
 Carney

20 Plaintiff United States of America, by and through its counsel
 21 of record, the United States Attorney for the Central District of
 22 California and Assistant United States Attorneys Kathrynne N. Seiden,
 23 Solomon D. Kim, and Anna P. Boylan, hereby files its Sentencing
 24 Position for Defendant Tyler Laube.

25 This Sentencing Position is based upon the attached memorandum
 26 of points and authorities, the files and records in this case, and
 27 such further evidence and argument as the Court may permit. The
 28 government respectfully requests the right to supplement this

1 Sentencing Position with additional information as needed, including
2 to respond to defendant's Sentencing Position.

3 Dated: March 21, 2024 Respectfully submitted,

4 E. MARTIN ESTRADA
5 United States Attorney

6 CAMERON L. SCHROEDER
7 Assistant United States Attorney
8 Chief, National Security Division

9 _____
10 /s/
11 SOLOMON D. KIM
12 KATHRYNNE N. SEIDEN
13 ANNA P. BOYLAN
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15 Attorneys for Plaintiff
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In March 2017, while still on probation for an armed robbery,
4 defendant Tyler Laube ("defendant") repeatedly punched a journalist
5 in the face during a political rally. In October 2023, defendant
6 pled guilty to a superseding information charging him with one count
7 of interference with a federally protected right without bodily
8 injury, a Class A misdemeanor, in violation of 18 U.S.C. § 245(b)(3).
9 (Dkts. 265, 268.) In January 2024, the United States Probation and
10 Pretrial Services Office ("Probation") issued its Presentence
11 Investigation Report ("PSR") and Recommendation Letter, in which it
12 correctly calculated defendant's total offense level as 8 and his
13 criminal history category as III, for a Guidelines range of six to 12
14 months. (Dkt. 297 (PSR) ¶ 119.) Probation recommended that
15 defendant be sentenced to a low-end Guidelines sentence of six
16 months' imprisonment, a one-year term of supervised release, a
17 mandatory \$25 special assessment, and a \$2,000 fine. (Dkt. 296
18 (Recommendation) at 1-2, 7.) The government agrees with Probation's
19 recommendation and requests that the Court sentence defendant
20 accordingly.

21 **II. BACKGROUND**

22 Between January and April 2017, while still on probation for an
23 armed robbery involving a semiautomatic firearm, defendant became
24 involved in an organization originally known as the "DIY Division,"
25 which was later rebranded as the "Rise Above Movement," or "RAM."
26 (PSR ¶¶ 21, 47; Dkt. 262 (Plea Agreement) ¶ 9.) RAM represented
27 itself as a combat-ready, militant group of a new nationalist white
28 supremacy and identity movement. (Id.) RAM regularly held hand-to-

1 hand and other combat training for RAM members and associates to
2 prepare to engage in violent confrontations with protestors and other
3 individuals at political rallies. (Id.) Defendant's coconspirators
4 maintained a RAM Twitter account through which they posted videos and
5 photographs of RAM members, including defendant, training in hand-to-
6 hand combat and assaulting people at political events with their
7 faces partially obscured by skeleton or American flag masks. (PSR
8 ¶ 22.)

9 On March 15, 2017, defendant attended a combat training event in
10 San Clemente, California. (Plea Agreement ¶ 9.) Ten days later, and
11 while still on probation for armed robbery, defendant and several of
12 his coconspirators attended a political rally in Huntington Beach,
13 California, organized by supporters of then-President Donald Trump.
14 (Id. ¶¶ 22, 47.) Defendant and his coconspirators carried signs that
15 read "Defend America" and "Da Goyim Know," a phrase used by white
16 supremacist extremists to refer to their knowledge of a purported
17 Jewish conspiracy to control world affairs. (Id. ¶ 24.)

18 At the event, a riot ensued during which defendant and his
19 associates assaulted counter-protestors and other persons. (Plea
20 Agreement ¶ 9.) Specifically, several rally attendees confronted,
21 pushed, and then punched F.T., a journalist reporting on the rally,
22 and his colleague. (PSR ¶ 24.) As F.T. stumbled backward, defendant
23 approached F.T., grabbed his shoulder, and punched him several times
24 in the head and body¹ before a counter-protestor released pepper
25 spray, causing the crowd to momentarily disperse. (Id.; Plea
26 Agreement ¶ 9.)

27
28
¹ Fortunately, F.T. was not injured. (Plea Agreement ¶ 9.)

1 Undeterred, defendant and his coconspirators then pursued a
2 group of approximately three to five counter-protestors as they
3 walked north along the beach, away from the crowd and away from
4 defendant and his coconspirators. (Dkt. 1 (Compl.) ¶ 23.)
5 Defendant's coconspirators proceeded to kick a counter-protestor
6 repeatedly in the back, punch another in the face, and punch a third
7 in the back of the head. (Id. ¶¶ 24-26.) Eventually, coconspirator
8 Robert Rundo ("Rundo") held a counter-protestor on the ground,
9 punching him repeatedly in the head while other RAM members looked
10 on, cheered, and prevented others from intervening. (Id. ¶ 26.)

11 During and after those confrontations, the majority of the rally
12 attendees continued peacefully marching south down the beach, while
13 defendant and his coconspirators remained in the same area with a
14 group of other rally attendees. (Id. ¶ 28.) Approximately twenty
15 minutes later, defendant and his coconspirators led a group of
16 approximately 15 to 20 men in pursuing counter-protestors for over a
17 minute as they continued north along the beach, towards the parking
18 lot. (Id. ¶ 28; PSR ¶ 25.)

19 In November 2018, defendant was charged with conspiring to riot,
20 in violation of 18 U.S.C. § 371. (Dkt. 47.) Defendant initially
21 pled guilty, but later withdrew his plea after the Court dismissed
22 the indictment. (Dkts. 147, 151.) After the Ninth Circuit reversed
23 dismissal of the indictment, defendant was charged in a superseding
24 indictment with conspiring to riot. (Dkts. 161, 209.) On October 23,
25 2023, defendant pled guilty to a second superseding information
26 charging him with interference with a federally protected right
27 without bodily injury, a misdemeanor, in violation of 18 U.S.C.
28 § 245(b)(3). (Dkts. 265, 268.) In doing so, defendant admitted that

1 in repeatedly punching F.T., he intentionally and willfully
2 interfered with and intimidated F.T. (Plea Agreement ¶ 9.)

3 **III. PROBATION'S GUIDELINES CALCULATIONS AND RECOMMENDATION**

4 Based on the foregoing, Probation determined that defendant's
5 base offense level is 10 under U.S.S.G. § 2H1.1(a)(3) and that
6 defendant is entitled to a two-level reduction for acceptance of
7 responsibility under U.S.S.G. § 3E1.1(a), for a total offense level
8 of 8. (PSR ¶¶ 32-41.) Probation further determined that defendant
9 has 6 criminal history points, for a criminal history category of
10 III. (Id. ¶¶ 51-53.) Based on a total offense level of 8 and a
11 criminal history category of III, Probation calculated defendant's
12 Guidelines range as six to 12 months' imprisonment and a one-year
13 term of supervised release. (Id. ¶¶ 199, 122.) Probation correctly
14 determined that defendant's term of imprisonment and term of
15 supervised release are statutorily capped at one year. (Id. ¶¶ 118,
16 121.) Probation identified no factors that would warrant a departure
17 or variance from the applicable Guidelines range. (Id. ¶¶ 132-33.)

18 **IV. SIX MONTHS' IMPRISONMENT AND A ONE-YEAR TERM OF SUPERVISED**
19 **RELEASE IS SUFFICIENT BUT NOT GREATER THAN NECESSARY TO ACCOUNT**
20 **FOR THE § 3553(A) FACTORS**

21 The government respectfully requests that the Court adopt
22 Probation's factual findings and Guidelines calculations and sentence
23 defendant to a low-end Guidelines sentence of six months'
24 imprisonment, a one-year term of supervised release, a \$2,000 fine,
25 and a \$25 special assessment.

26 **A. Defendant's History and Characteristics and the Need For**
27 **Deterrence and to Promote Respect For the Law**

28 Defendant's history and characteristics and the need for
deterrence and to promote respect for the law all warrant a within-

1 Guidelines sentence. 18 U.S.C. §§ 3553(a)(1), (2)(A)-(B).
2 Defendant's illegal conduct in this case was not a one-off incident;
3 rather, defendant has amassed a significant number of criminal
4 convictions, despite being only 27 years old. Specifically, after
5 sustaining numerous juvenile convictions, at 19 years old defendant
6 was convicted of second-degree robbery because he and a friend used a
7 semi-automatic handgun to rob a 7-11 convenience store and a gas
8 station. (PSR ¶ 47.) That same year, he was also convicted of
9 possession of a switchblade and resisting arrest, all based on
10 separate incidents. (Id. ¶¶ 48-49.) Each time, defendant was
11 sentenced to a term of probation, which he repeatedly violated. (Id.
12 ¶¶ 47-49.) Some of those violations involved additional arrests
13 beyond those reflected in his convictions, including arrests for
14 fighting in public and driving under the influence in May and June of
15 2016. (Id. ¶¶ 56-57.) Defendant was still on probation when he
16 committed the instant crime. (Id.) And despite his storied criminal
17 history, up until he was charged in this case, defendant had spent
18 only 21 days in jail. (Id. ¶ 47.)

19 Moreover, even defendant's federal indictment in this case, or
20 the brief period he spent in custody as a result, was not sufficient
21 to deter him from quickly reverting to his illegal conduct. Just
22 months after withdrawing his guilty plea in this case, defendant was
23 arrested for driving under the influence, for which he was convicted.
24 (Id. ¶ 50.) Defendant was once again sentenced to a term of
25 probation. (Id.)

26 Given defendant's pattern of recidivism, his repeated violent
27 conduct, and his failure to appreciate the leniency he has been shown
28 thus far, a within-Guidelines sentence is necessary to deter him and

1 other similarly situated defendants from engaging in future criminal
2 conduct, especially violence, and to promote respect for the law.
3 See 18 U.S.C. § 3553(a) (2) (A)–(B).

4 **B. The Nature and Circumstances of the Crime**

5 A low-end Guidelines sentence is further supported by
6 defendant's conduct in this case. Admittedly, defendant's
7 involvement with RAM was brief and the conduct to which he pled
8 guilty was primarily confined to his preparation for and behavior at
9 a single protest. But those facts have already been taken into
10 consideration, given that defendant was permitted to plead guilty to
11 a misdemeanor offense, rather than the felony conspiracy for which he
12 was charged. Defendant's conduct -- intentionally committing an act
13 of violence at a political rally -- was something he trained for and
14 willfully engaged in. (PSR ¶ 23; Plea Agreement ¶ 9.) And
15 defendant's conduct was less excusable given that he committed it
16 against a journalist documenting the free expression of ideas.
17 Particularly given that defendant's violence here echoed numerous
18 other instances of violence in his past, the government submits that
19 a conservative, low-end Guidelines sentence is warranted to capture
20 the nature and circumstances of defendant's crime. See 18 U.S.C.
21 § 3553(a) (1).

22 **C. The Need to Avoid Unwarranted Sentencing Disparities**

23 Finally, a within-Guidelines sentence is further appropriate
24 because it will accomplish the goal avoiding unwarranted sentencing
25 disparities among similarly situated defendants. Nationwide,
26 defendants with similar criminal histories to defendant's who
27 willfully interfere with or intimidate others during a civil disorder
28 can expect to serve between six to twelve months' imprisonment. This

1 is true even for defendants who do not take the extra step of
2 actually engaging in violence. See 18 U.S.C. § 245(b) (prohibiting
3 the use of force or threats). Although defendant went further than
4 other defendants facing the same sentence by actually engaging in
5 violence, the government is still recommending a low-end Guidelines
6 sentence. By sentencing defendant within the Guidelines, the Court
7 will minimize sentencing disparities among similarly situated
8 defendants. See United States v. Treadwell, 593 F.3d 990, 1011 (9th
9 Cir. 2010) ("Because the Guidelines range was correctly calculated,
10 the district court was entitled to rely on the Guidelines range in
11 determining that there was no 'unwarranted disparity'"); Gall
12 v. United States, 552 U.S. 38, 54 (2007) ("[A]voidance of unwarranted
13 disparities was clearly considered by the Sentencing Commission when
14 setting the Guidelines ranges.").

15 **V. CONCLUSION**

16 For the foregoing reasons, the government respectfully requests
17 that the Court sentence defendant to six months' imprisonment, a one-

1 year term of supervised release, a \$2,000 fine, and a mandatory \$25
2 special assessment.

3 Dated: March 21, 2024

Respectfully submitted

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5 United States Attorney

6 CAMERON L. SCHROEDER
7 Assistant United States Attorney
8 Chief, National Security Division

9 /s/

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