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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 UNITED STATES OF AMERICA,
12
13 Plaintiff,
14 vs.
15 JAMES THEODORE HIGHHOUSE,
16 Defendant.

Case No. 22-cr-000016-HSG
**JAMES THEODORE HIGHHOUSE'S
SENTENCING MEMORANDUM**
Date: August 31, 2022
Time: 10:00 AM
Place: Courtroom 2
Hon. Haywood S. Gilliam, Jr.

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1 **I. INTRODUCTION**

2 Defendant James Theodore “Ted” Highhouse (“Mr. Highhouse”) is a 49-year old United States
3 Army veteran. He served two tours of duty, one each in Iraq and Afghanistan, at the peak of those
4 conflicts, in the particularly difficult and impactful position of chaplain. Mr. Highhouse had direct
5 responsibility for ministering to severely wounded, dying, and suicidal soldiers. This traumatic military
6 history resulted in extreme mental health conditions, including post-traumatic stress disorder (PTSD)
7 and major depressive disorder, exacerbated by his continued and repetitive service and collapsing family
8 life. Mr. Highhouse’s criminal conduct, including his impulsive and risk-taking behavior, directly links
9 to his mental health diagnoses. He has proactively sought and continues to seek treatment for those
10 challenges, and he fully regrets the pain he caused the victim in this case, as well as the other people in
11 his life. He has no prior criminal history whatsoever and has an extensive history of service to the
12 country, including work at the Veterans’ Administration. Mr. Highhouse’s separated spouse and his
13 minor daughter live on the opposite coast, far from the potential impact of his sentencing. Further, as
14 noted by the probation officer in the Presentence Report, Mr. Highhouse has “clearly demonstrated
15 acceptance of responsibility for the offense,” as well as assisted authorities in investigation and
16 prosecution by notifying them of his intent to plead guilty. Presentence Report (“PSR”), ¶¶ 96-97.
17 Especially given Mr. Highhouse’s efforts to treat his conditions, his sincere remorse, and his acceptance
18 of responsibility, a sentence of incarceration must be “sufficient, but not greater than necessary,” to
19 effectuate the goals of sentencing outlined in 18 U.S.C. § 3553(a). For these reasons, discussed below,
20 Mr. Highhouse respectfully requests that this court impose a sentence in accordance with this statutory
21 principle of parsimony.

22 **II. SENTENCING RECOMMENDATION**

23 Mr. Highhouse requests a sentence of incarceration at the low end of his calculated Sentencing
24 Guidelines range of 24-30 months, at 24 months, in accordance with the parsimony principle. The PSR
25 notes that Mr. Highhouse has no criminal history. PSR, ¶ 3, 102. This means that under the United
26 States Sentencing Guidelines, Mr. Highhouse’s Criminal History Category is I. *Id.*, ¶ 102. Further, Mr.
27 Highhouse’s final total offense level includes a two-level reduction, because he has “clearly
28 demonstrated acceptance of responsibility for the offense.” *Id.*, ¶ 96. Finally, the PSR points out that Mr.

1 Highhouse assisted authorities by his guilty plea, lowering his total offense level by another level. *Id.*, ¶
2 97. At Mr. Highhouse’s criminal history level of I and total offense level of 17, the Guidelines advisory
3 range of a term of incarceration is 24 to 30 months. *Id.*, ¶ 156. This final total offense level is the
4 product of examining all the factors outlined in the applicable Guidelines; the range does not appear out
5 of a vacuum. Mr. Highhouse requests that the Court impose a sentence consistent with this calculated
6 range and the applicable term of incarceration.

7 The final PSR adopts an extremely punitive recommendation of a term of imprisonment for 60
8 months, despite stating “the undersigned officer is in agreement with the proposed guideline calculations
9 as set forth in the Plea Agreement.” PSR, Addendum, p. 4; ¶ 3. The PSR also points out that “the
10 defendant has been compliant with all conditions of release” according to Pretrial Services. *Id.*, ¶ 4.
11 Further, Mr. Highhouse’s Pretrial Services Officer in the District of Oregon states Mr. Highhouse has
12 been compliant, and that he spends his time caring for his elderly mother and handling estate issues for
13 his father, who passed of a severe heart attack early this year. *Id.*, ¶ 5, 112, 118. The PSR consistently
14 and repeatedly points out Mr. Highhouse’s complete lack of criminal history and his calculated
15 Guideline range, including both increases and reductions. The suggested imposition of 60 months of
16 incarceration is inconsistent with the remainder of the Report and is twice as long as the maximum of
17 the calculated Guidelines range—and lacks an articulated, Guidelines-supported ground for departure.

18 The PSR itself states unequivocally: “[b]ased upon a total offense level of 17 and a criminal
19 history category of I, the guideline imprisonment range is 24 to 30 months.” *Id.*, ¶ 156. Mr. Highhouse
20 respectfully requests that the Court impose a term of incarceration that is sufficient, but no longer than
21 necessary to promote the § 3553(a) factors, as well as consistent with the appropriate Guidelines range.
22 The mitigating factors discussed below warrant a sentence that falls on the low end of the advisory
23 Guidelines range, taking into account those factors, Mr. Highhouse’s complete lack of prior criminal
24 history, and his acceptance of responsibility. Imposing a sentence at the low end of this advisory
25 range—of no more than 24 months—is sufficient to further the aims of § 3553. A sentence of
26 incarceration outside the calculated range would be “greater than necessary” as unnecessarily punitive
27 and duplicative, as supported by the factors discussed below.

28 //

1 **III. ARGUMENT**

2 18 U.S.C. § 3553(a), governing imposition of a federal sentence, states that “[t]he court *shall*
3 impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in
4 paragraph (2) of this subsection.” (emphasis added). This “parsimony principle” is a “broad command”
5 that requires courts to impose a sentence no greater than necessary “to comply with the four identified
6 purposes of sentencing: just punishment, deterrence, protection of the public, and rehabilitation.” *Dean*
7 *v. United States*, 581 U.S. 62, 137 S. Ct. 1170, 1175 (2017) (internal citations omitted). The United
8 States Sentencing Commission promulgated the Guidelines to promote transparency and proportionality
9 in sentencing under 18 U.S.C. § 3553. In fact, “[r]ead harmoniously as a whole, the statute *requires* a
10 court to impose a sentence of the kind and range established by the Sentencing Commission. No
11 command exists in the statute that the court devise its own standard of what is “sufficient, but not greater
12 than necessary.” *United States v. Quesada*, 972 F.2d 281, 283 (9th Cir. 1992) (emphasis added). A
13 sentencing court may, in its discretion, tailor a sentence in light of the statutory concerns enumerated in
14 18 U.S.C. § 3553(a). 18 U.S.C. § 3553(a)(4); *U.S. v. Booker*, 543 U.S. 220, 245 (2005); *U.S. v. Beecroft*,
15 608 F.2d 753, 762 (9th Cir. 1979). However, 18 U.S.C. § 3553(a) requires the Court to impose a
16 sentence that is exactly sufficient to comply with the purposes set forth in the statute.

17 In imposing a sentence aligned with the parsimony principle, courts consider factors including
18 (1) the nature and circumstances of the offense and the history and characteristics of the defendant; and
19 (2) the need for the sentence imposed to reflect the seriousness of the offense, to provide just
20 punishment, to afford adequate deterrence to criminal conduct, to protect the public from a defendant’s
21 further crimes, and to provide the defendant with needed education or vocational training or other
22 correctional treatment in the most effective manner. 18 U.S.C. § 3553(a)(1), (2)(A)-(D). To this end,
23 courts have wide discretion to consider a defendant’s personal history in determining a reasonable
24 sentence. *Beecroft*, 608 F.2d at 762. Subject to constitutional constraints, the sentencing court may rely
25 on any evidence relating to defendant's background, character, and conduct when considering the
26 statutory sentencing factors. *See U.S. v. Christensen*, 732 F.3d 1094, 1104 (9th Cir. 2013).

27 The Sentencing Guidelines, although flexible, are not fragile. They are the constantly amended
28 and modernized product of an independent judicial agency, empowered under 28 U.S.C. § 994 to

1 “promulgate and distribute [the Guidelines] to all courts of the United States.” Overall, the Sentencing
2 Guidelines are the mechanism by which to impose a sentence in line with the parsimony principle of “no
3 greater than necessary” under 18 U.S.C. § 3553(a). Both statutory and case law require consciously
4 measuring the proposed degree of departure in the PSR against the standards in the statute and the
5 Guidelines. Where the PSR adopts a recommendation for a sentence more than twice as long as the
6 appropriate, Guidelines-supported range, such examination of the defendant in light of the statutory
7 factors is essential. *See U.S. v. Williams*, 37 F.3d 82, 85 (2d Cir. 1994) (“Although the Guidelines afford
8 the district court flexibility in sentencing, the power to depart is to be used sparingly and is reserved for
9 unusual cases.”). Here, that conscious measuring necessitates careful examination of the natures of both
10 the offender and the offense.

11 **A. History of Defendant and Nature of the Offense**

12 Mr. Highhouse was born on June 23, 1972, in Portland, Oregon. PSR, ¶ 112. He currently lives
13 in Portland with his elderly mother, for whom he helps provide care. *Id.* His father died earlier this year
14 of a massive heart attack, following Mr. Highhouse’s efforts to save his life with CPR. *Id.*, ¶¶ 112, 118.
15 Beyond his care for his parents, however, the most impactful aspect of Mr. Highhouse’s adult life is his
16 record of service to his country. Mr. Highhouse has an extensive and decorated military history as an
17 Army chaplain who served two tours of duty—once each in Iraq and Afghanistan, each at the height of
18 those respective conflicts. While in the Army, Mr. Highhouse tended and ministered to wounded
19 warriors, many of whom died following combat wounds or committed suicide. *Id.*, ¶ 120. From
20 February 1, 2006 to August 1, 2014, Mr. Highhouse served in this capacity and achieved the rank of
21 Captain. *Id.*, ¶ 150. He served in Iraq from 2006 to 2008 and in Afghanistan from 2011 to 2012 and
22 received an honorable discharge. His service record and ministry to fellow wounded, dying, and suicidal
23 soldiers earned him a variety of decorations. Mr. Highhouse’s Certificate of Release or Discharge from
24 Activity Duty (Form 214) lists the following decorations, medals, and badges:

- 25
- Afghanistan Campaign Medal with Campaign Star
 - 26 • Iraq Campaign Medal with Two Campaign Stars
 - 27 • Meritorious Service Medal
 - 28 • Army Commendation Medal (3rd Award)

- 1 • Meritorious Unit Commendation
- 2 • National Defense Service Medal
- 3 • Global War on Terrorism Service Medal
- 4 • Army Service Ribbon
- 5 • Overseas Service Ribbon (2nd Award)
- 6 • NATO Medal

7 He married Joyce Highhouse in 2011, immediately prior to his deployment to Afghanistan, the
 8 second such deployment as an active duty chaplain. *Id.*, ¶ 119. This “traumatic” yearlong deployment
 9 strained their relationship; the two eventually separated and Joyce filed for divorce. *Id.* They have one
 10 minor daughter, who resides with her mother in North Carolina. *Id.*, ¶ 124. Their divorce and child
 11 custody issues remain unresolved. *Id.*, ¶ 129. These issues have caused Mr. Highhouse a “significant
 12 amount of stress.” *Id.* Following his extensive service as a chaplain, Mr. Highhouse obtained a Doctor of
 13 Ministry to add to his Master of Divinity and bachelor’s and associate’s degrees. PSR, ¶ 146. During the
 14 latter half of 2014 and all of 2015, he was employed full-time as a chaplain at the Veterans’
 15 Administration in Palo Alto. *Id.*, ¶ 149. He was unable to maintain this position due to ongoing familial
 16 issues and the four-hour daily commute from his home. *Id.*, ¶ 123, 149. At this point, his marriage was
 17 “significantly strained.” *Id.*, ¶ 123. Later, in 2015, Mr. Highhouse assumed his position as chaplain at
 18 the Federal Correctional Institution, Dublin, where the events that gave rise to the pled offenses took
 19 place. *Id.*, ¶ 125.

20 Although fortunate not to suffer extreme abuse or trauma in childhood, Mr. Highhouse’s adult
 21 life has been far from trauma-free. During his service as a chaplain in the military, Mr. Highhouse
 22 witnessed a variety of gruesome and traumatic events that left him with diagnoses of major depressive
 23 disorder and post-traumatic stress disorder. PSR, ¶ 138. He now takes regular medication for these
 24 issues, and he has attended regular therapy for treatment of these long-ongoing and traumatic cognitive
 25 ailments since July 2020. *Id.*, ¶¶ 137-140. Mr. Highhouse recounts a variety of experiences as a chaplain
 26 that contributed to these issues. They include chronic exposure to trauma in the form of high death tolls,
 27 high rates of suicide, and an extreme operational tempo that, at times, put Mr. Highhouse in the path of
 28 rocket and mortar attacks. All the while, Mr. Highhouse suffered from severe mental health problems

1 related to these events, but felt unable to seek help in the military, for fear of the stigma associated with
2 mental illness. PSR, ¶ 122. However, Mr. Highhouse did not just experience the terror lived by his
3 company, but also the horror in ministering to them himself, in unimaginable conditions.

4 Over the course of his service, Mr. Highhouse estimates that he specifically ministered to around
5 three hundred and fifty wounded and dying soldiers in the field. Before even his first deployment to Iraq
6 in 2006, two soldiers in his brigade were killed in training accidents prior to deployment, and Mr.
7 Highhouse was directly responsible for crisis intervention care in these extremely emotional incidents.
8 This, however, was only the beginning of Mr. Highhouse's service in such conditions. After arriving in
9 east Baghdad, Mr. Highhouse's brigade was extended to 15 months just a few months after his
10 deployment. Mr. Highhouse was the aid station chaplain seven days a week, at the main triage point in
11 east Baghdad, which had a high casualty frequency due to the high concentration of insurgent activity.
12 There were at least 276 soldier deaths in his brigade in Iraq. Mr. Highhouse ministered hundreds of
13 wounded soldiers, provided end of life care for multiple deaths, and went on combat patrols in a volatile
14 city. Due to this volatility, Mr. Highhouse's ministry extended to several mass casualty events due to
15 regular bombings—bombings in which Mr. Highhouse was almost killed three times.

16 Mr. Highhouse, suffering from chronic burnout, returned to the United States in January 2008.
17 Just months later, without sufficient decompression, Mr. Highhouse was assigned to the Army's Warrior
18 Transition Unit in July 2008, due to his experience in combat medical ministry. This one-year
19 assignment gave Mr. Highhouse responsibility for 400 formerly deployed, medically unfit soldiers with
20 acute health conditions. Conditions in this assignment exacerbated Mr. Highhouse's burnout symptoms
21 from his Iraq deployment—including six suicide completions in the first six months, with regular
22 attempts. During his next assignment in Ft. Drum, New York, Mr. Highhouse's infantry battalion was
23 picked in July 2009 to deploy immediately to Afghanistan. Due to his already-present mental health
24 conditions, Mr. Highhouse was moved to a non-deploying unit, which caused further scrutiny over Mr.
25 Highhouse's mental health. Finally, Mr. Highhouse deployed to Afghanistan in October 2011, just one
26 month after his marriage. During this deployment, Mr. Highhouse tended to yet more wounded and
27 suicidal soldiers, and faced the dangers of rocket fire himself. During this tour, the day before Mr.
28 Highhouse was scheduled to go home, a fellow soldier shot himself at the aid station. Finally, Mr.

1 Highhouse covered another unit whose chaplain was sent home after a rocket attack injury. Covering
2 them for three months, this additional duty made Mr. Highhouse responsible for around one thousand
3 soldiers if called upon.

4 Mr. Highhouse personally watched his fellow soldiers die from indescribable injuries, both
5 physical and mental, for years. He took on an unimaginable responsibility of ministering to them, and
6 his own injuries from that service are long lasting and deep. Mr. Highhouse’s extreme and extensive
7 trauma warrants significant and consistent treatment—as well as significant consideration at sentencing.

8 This trauma and the extensive mental health concerns that followed contributed heavily to Mr.
9 Highhouse’s commission of the charged offenses. Mr. Highhouse notes in a written statement to
10 Probation that part of what influenced him to commit the pled offenses was a deep struggle with his
11 mental health, including impulse control problems from PTSD, depression, and anxiety. PSR, ¶ 61. Mr.
12 Highhouse points out his struggle with impulse control due to PTSD, his lack of support system, his
13 collapsing marriage, and concerns over his daughter’s health. *Id.* Despite these struggles that contributed
14 to the commission of these offenses, Mr. Highhouse maintains acceptance of responsibility and
15 knowledge that he made a grave mistake. However, imposing a sentence greater than necessary would
16 unduly impact Mr. Highhouse’s ability to obtain treatment he still needs, in both therapy and medicinal
17 intervention for his mental health. The Supreme Court has found and reiterated “evidence about the
18 defendant's background and character is relevant because of the belief, long held by this society, that
19 defendants who commit criminal acts that are attributable to . . . emotional and mental problems, may be
20 *less culpable than defendants who have no such excuse.*” *Boyd v. California*, 494 U.S. 370, 382 (1990)
21 (emphasis added) (internal citations omitted). Here, Mr. Highhouse’s severe mental health struggles,
22 most notably his PTSD, circumscribe his culpability, especially where his criminal conduct occurred
23 subsequent to his military service.

24 First, PTSD has been associated with risky sexual behavior, particularly among male military
25 veterans. See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3305816/> (“Recent investigations have
26 demonstrated that posttraumatic stress disorder (PTSD) is associated with a range of impulsive
27 behaviors.”¹ Specifically, impulsive behaviors for which individuals with PTSD are at risk include
28

¹ Weiss NH, Tull MT, Viana AG, Anestis MD, Gratz KL. *Impulsive behaviors as an emotion regulation strategy: examining*
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1 “risky sexual behavior.” *Id.* In a study examining the prevalence of compulsive sexual behavior among
 2 male military veterans, the research suggested “male veterans may be at particularly high risk for CSB
 3 [compulsive sexual behavior].” This study further found “traumatic experiences [including] PTSD
 4 symptoms resulting from either combat or other trauma exposure, were significantly associated with
 5 CSB.” Finally, “among those with PTSD, re-experiencing symptoms specifically were associated with
 6 CSB.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4291826/>.² As noted above, Mr. Highhouse
 7 continually re-experienced the same traumatic events in the military that gave rise to his PTSD initially.
 8 He also continued, and still continues, to re-experience those traumatic events when recounting them for
 9 mental health treatment. Finally, “[h]eightened PTSD-related negative affect and externalizing behaviors
 10 preceded high-risk sexual events” for a sample of male veterans in a study examining the association
 11 between PTSD in veterans and increased sexual risk behaviors.

12 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4684959/>.³

13 Mr. Highhouse’s criminal conduct is consistent with the research establishing a link between
 14 PTSD and engagement in impulsive and risky sexual behaviors. Because of the impact and re-
 15 experience of his PTSD, Mr. Highhouse is less culpable when it comes to impulsive, risky sexual
 16 behavior than a defendant who had no such condition. *See Boyde*, 494 U.S. at 382. Here, however, Mr.
 17 Highhouse does not stand behind his mental health as an excuse—he accepts responsibility, as noted
 18 above and in the PSR, but acknowledges the role that his PTSD, depression, and anxiety played. Further,
 19 Mr. Highhouse will continue to seek treatment for these conditions, in continued acknowledgment of the
 20 role they play in his life. The parsimony principle counsels that the sentence be no greater than
 21 necessary to effectuate the sentencing factors, which include the need to “to provide the defendant with
 22 needed educational or vocational training, medical care, or other correctional treatment in the most
 23 effective manner.” 18 U.S.C. § 3553(a)(2)(D). Sentencing him to a duplicative or unnecessarily punitive
 24 sentence of incarceration would impair his ability to maintain his efforts to address and treat these

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 27 *associations between PTSD, emotion dysregulation, and impulsive behaviors among substance dependent inpatients*. J.
 Anxiety Disord. 2012 Apr; 26(3):453-8.

28 ² Smith PH, Potenza MN, Mazure CM, McKee SA, Park CL, Hoff RA. *Compulsive sexual behavior among male military
 veterans: prevalence and associated clinical factors*. J. Behav. Addict. 2014 Dec; 3(4):214-22.

³ Black AC, Cooney NL, Justice AC, Fiellin LE, Pietrzak RH, Lazar CM, Rosen MI. *Momentary assessment of PTSD
 symptoms and sexual risk behavior in male OEF/OIF/OND Veterans*. J. Affect. Disord. 2016 Jan 15; 190:424-428.

1 mental health concerns “in the most effective manner.”

2 The nature of the charged offenses as the first crimes that Mr. Highhouse has ever committed
3 speaks to the factors that motivated their commission. As confirmed by the Presentence Report, Mr.
4 Highhouse has no prior criminal history whatsoever, and his corresponding Criminal History Category is
5 I. PSR, ¶ 102. Further, none of the unproven accusations against Mr. Highhouse are alleged to have
6 occurred prior to his extensive and traumatic military history. In this federal case, Mr. Highhouse pled
7 guilty to sexual abuse of a ward under 18 U.S.C. § 2243(b) (Counts 1 and 2), abusive sexual contact
8 under 18 U.S.C. § 2244(4) (Counts 3 and 4), and making false statements under 18 U.S.C. § 1001
9 (Count 5). The events giving rise to these charges occurred at the Federal Correctional Institution,
10 Dublin, in Alameda County. Mr. Highhouse has not litigated this matter, but willingly pled guilty to
11 serious offenses. He has extensively demonstrated remorse for his actions and a willingness to try to
12 correct the factors that contributed to the offenses. Mr. Highhouse’s role in these offenses was not that
13 of a mastermind manipulator but that of a veteran with acute mental health conditions, who made a
14 severe mistake. Mr. Highhouse knows he committed very serious offenses during the course of the
15 events that took place at FCI Dublin. Although the acceptance of responsibility does not erase the
16 offense, Mr. Highhouse’s own words are perhaps the best indicator of his view on the nature of the
17 offense:

18 “I feel horrible and am truly and deeply and sincerely sorry for having
19 committed this offense. I am sorry for any pain and suffering my actions
20 have caused the victim to experience. I own [and] take full responsibility
21 for my actions. I made a mistake and I apologize for what I have done.”

22 PSR, ¶ 59.

23 The sentencing statute, 18 U.S.C. § 3553(a), specifically requires that the Court “shall consider .
24 . . the nature and circumstances of the offense and characteristics of the defendant” in determining the
25 sentence. The proximity of these factors in the statute—and their proximity in Mr. Highhouse’s case—
26 support the necessity of considering them in tandem. Although the nature and circumstances of the
27 crimes themselves are extremely serious, statutory and case law authority requires the consideration of
28 the offender, not just the offense.

1 **B. Need for Sentence Imposed to Reflect Seriousness, Promote Respect, and Provide**
2 **Just Punishment**

3 The Supreme Court recently reiterated the principle that “[w]hen a defendant appears for
4 sentencing, the sentencing court considers the defendant on that day, not on the date of his offense or the
5 date of his conviction.” *Concepcion v. United States*, 142 S. Ct. 2389, 2396 (2022). A sentence
6 conforming to the principle of parsimony will be more than sufficient to reflect the seriousness of the
7 charges to which Mr. Highhouse pled. As noted in the PSR, Mr. Highhouse has accepted responsibility
8 and expressed remorse due to the seriousness of the charged conduct. The PSR notes that he entered a
9 guilty plea and “was cooperative with the probation officer.” PSR, ¶ 57. He notes in the written
10 statement provided to Probation that he “own[s] [and] take[s] full responsibility for [his] actions.” He
11 points out “I made a mistake and I apologize for what I have done.” When Mr. Highhouse appears for
12 sentencing, the Court must consider him as he appears then, and should consider the extensive
13 demonstration of Mr. Highhouse’s remorse and his efforts to treat the problems that contributed to the
14 pled offenses. Mr. Highhouse acknowledges the seriousness of his offenses and understands the need for
15 the sentence to reflect that seriousness. For that reason, increasing the imposed sentence on the sole
16 basis of impressing seriousness would be unduly punitive and at odds with the parsimony principle.

17 Further, imposing an increased sentence on the basis of promoting respect for the law is
18 unnecessary in this case. Mr. Highhouse is well aware of the necessity of respect for the law, and
19 demonstrated it during the pendency of this federal case. He willingly pled guilty to Counts One through
20 Five just over a month after the information was filed. PSR, ¶¶ 1-2. Further, after Mr. Highhouse
21 voluntarily self-surrendered by appearing for his initial appearance, he has been compliant with all
22 conditions of release including attending treatment services. *Id.*, ¶ 4. Mr. Highhouse’s Pretrial Services
23 Officer in the District of Oregon has further confirmed his cooperation and compliance with all of his
24 terms. *Id.*, ¶ 5. Mr. Highhouse’s cooperation with Pretrial Services and Probation; compliance with all
25 the terms of his release; and willingness to proceed with sentencing after pleading guilty demonstrates
26 an economical use of government and judicial resources. Increasing an imposed sentence on the basis of
27 promoting respect for the law is unnecessary in this case and would work against the principle of
28 parsimony that prefaces 18 U.S.C. § 3553(a).

1 Finally, a sentence of incarceration that is sufficient, but no greater than necessary, would justly
2 punish Mr. Highhouse for the offenses to which he pled guilty. Mr. Highhouse understands the potential
3 penalties he faces and has already suffered consequences of the offenses he committed. He notes that
4 “[b]ecause of this case I ripped apart my marriage [and] family.” PSR, ¶ 60. He also points out that he is
5 going through a “very painful divorce” and that his “daughter has suffered immensely,” and finally that
6 his elderly parents had experienced “significant stress” due to the pendency of his federal case. *Id.* In
7 other words, Mr. Highhouse recognizes the impact his criminal conduct has had on his loved ones. An
8 appropriate Guidelines-range sentence of incarceration will justly punish Mr. Highhouse for the offenses
9 to which he pled guilty. “The substantive standard that Congress has prescribed for trial courts is the
10 ‘parsimony principle’ enshrined in § 3553(a).” *Holguin-Hernandez v. United States*, 140 S. Ct. 762, 766
11 (2020); *see Dean*, 137 S. Ct. at 1175 (2017). Even far prior to the adoption of the Sentencing Guidelines,
12 the Supreme Court recognized that “[r]etribution is no longer the dominant objective of the criminal law.
13 Reformation and rehabilitation of offenders have become important goals of criminal jurisprudence.”
14 *Williams v. People of State of N.Y.*, 337 U.S. 241, 248 (1949) . The Supreme Court further agreed that
15 “the punishment should *fit the offender and not merely the crime.*” *Id.* at 247 (emphasis added). Mr.
16 Highhouse has pled guilty and accepted responsibility for serious crimes. However, Mr. Highhouse has
17 also identified mitigating factors that contributed to his grievous mistakes in committing these offenses.
18 Just punishment in this case does not require undue or excessive imposition of incarceration—rather;
19 just punishment requires a careful examination of not only the crime, but also the offender.

20 C. Need for Adequate Deterrence and Protection of the Public

21 Mr. Highhouse requests that the Court consider the weight of these factors in the context of
22 imposing a punishment not greater than necessary to accomplish the purpose of the statute. Mr.
23 Highhouse is unlikely to reoffend. The circumstances that led to his criminal conduct in this case—
24 presence around prison inmates, extreme mental health issues, and a collapsing personal life—either no
25 longer exist or are in the process of resolution. First, Mr. Highhouse will never work in a position like
26 his chaplain position at FCI Dublin again. Additionally, as detailed further in the PSR and this
27 memorandum, Mr. Highhouse has demonstrated a consistent effort to treat his mental health and to
28 comply with his pre-sentencing conditions. This willingness to confront the potential of a term of

1 incarceration and potential supervised release by the government indicates Mr. Highhouse's extreme
2 low likelihood of recidivism. Increasing an appropriate Guidelines-range sentence of incarceration
3 beyond a term that is "sufficient" under 18 U.S.C. § 3553(a) would be excessively duplicative and
4 punitive.

5 Further, an excessive term of incarceration is not necessary to "protect the public from further
6 crimes" under 18 U.S.C. § 3553(a)(2)(C). Again, Mr. Highhouse will never be in a position anywhere
7 near "wards," as contemplated by 18 U.S.C. § 2243(b), to which Mr. Highhouse pled guilty. No facts to
8 which Mr. Highhouse pled evince his propensity to attempt or commit another offense like the ones
9 before the Court in the future. Mr. Highhouse has consistently sought treatment for the conditions that
10 most significantly contributed to his sexual misconduct and will continue to do so in the future.
11 Imposing an appropriate Guidelines-range sentence of incarceration will be more than sufficient to
12 protect the public while Mr. Highhouse serves his sentence, and any potential supervised release will
13 amply effectuate any further protection of the public that the Court deems necessary. Further, to the
14 extent there is any concern over Mr. Highhouse's proximity to his estranged wife and daughter, they
15 both reside in North Carolina. PSR, ¶ 124. Further, to the extent the Alameda family court does not
16 participate further due to the geographic location of the parties, there will be a family court of competent
17 jurisdiction to deal with those potential concerns. Keeping Mr. Highhouse literally, physically in prison
18 to protect the public at large would be unnecessarily punitive—especially where Mr. Highhouse has
19 complied with every single condition imposed on his current release. PSR, ¶¶ 4-5. Mr. Highhouse's
20 cooperation and compliance during the pendency of this sentencing demonstrates the lack of a need to
21 imprison him for an unnecessarily long period.

22 **IV. CONCLUSION**

23 Mr. Highhouse is a traumatized veteran with an extensive service record, severe mental health
24 concerns, and a complete lack of criminal history, who has sincerely accepted responsibility for the
25 offenses to which he pled. He has demonstrated a respect for the law and the conditions of his release,
26 potential incarceration, and potential supervised release. He chose to proceed to sentencing to expend
27 governmental resources effectively and to face the court to further the purposes of sentencing outlined in
28 the United States Code. For the foregoing reasons, Mr. Highhouse, through his counsel, respectfully

1 requests that this Court maintain the principle of parsimony and impose a sentence that is “sufficient, but
2 not greater than necessary” to effectuate the purposes of 18 U.S.C. § 3553.

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6
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