

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MARYLAND

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2
3 UNITED STATES OF AMERICA,)
4 Plaintiff,)
5 vs.)
6 HAROLD T. MARTIN, III,) CRIMINAL NO.: RDB-17-0069
7 Defendant.)
8 _____)

Transcript of Proceedings
Before the Honorable Richard D. Bennett
Friday, July 19th, 2019
Baltimore, Maryland

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12 For the Plaintiff:

13 Zachary A. Myers, AUSA
14 David Aaron, Trial Attorney
15 Harvey E. Eisenberg, AUSA

16 For the Defendant:

17 James Wyda, Federal Public Defender
18 Deborah L. Boardman, Assistant Public Defender

19 Also Present: Special Agent Laura Pino, FBI
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22

23 _____
24 Christine T. Asif, RPR, FCRR
25 Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

P R O C E E D I N G S

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2 THE COURT: Good morning, everyone. This is calling
3 the case of United States versus Harold T. Martin, III,
4 criminal number RDB-17-069. We're here for -- all in the back
5 may be seated -- we're here for sentencing today. If counsel
6 will identify themselves for the record, please.

7 MR. EISENBERG: Good morning, Your Honor, may it
8 please the Court. Harvey Eisenberg, Assistant United States
9 Attorney for the District of Maryland.

10 THE COURT: Yes, Mr. Eisenberg, nice to see you.

11 MR. MYERS: Your Honor, Assistant U.S. Attorney
12 Zachary Myers here on behalf of the United States.

13 THE COURT: Yes, Mr. Myers, nice to see you.
14 Apparently, my changing the day from Wednesday to Friday
15 inconvenienced you a little bit and I apologize.

16 MR. MYERS: Not a problem, Your Honor.

17 THE COURT: I was in Washington all day and I
18 couldn't do anything about it.

19 MR. AARON: Good morning, Your Honor. David Aaron
20 from the Department of Justice.

21 THE COURT: Yes, Mr. Aaron, nice to see you.

22 SPECIAL AGENT PINO: Good morning, Your Honor.
23 Laura Pino, FBI special agent.

24 THE COURT: Yes, you're the case agent in this case.
25 It's nice to see you and thank you for all your hard work in

1 the case. You all may be seated.

2 And on behalf of the defendant.

3 MR. WYDA: Good morning, Your Honor. Jim Wyda from
4 the Federal Public Defender's Office on behalf of
5 Mr. Martin.

6 THE COURT: Yes, Mr. Wyda, nice to see you.

7 MS. BOARDMAN: Good morning, Your Honor. Deborah
8 Boardman from the Federal Public Defender's Office.

9 THE COURT: Ms. Boardman, nice to see you as well.
10 You would have been interested in my day in Washington
11 Wednesday, so it's nice to see you.

12 MS. BOARDMAN: I look forward to hearing about it.

13 THE COURT: Good morning to you, Mr. Martin.

14 THE DEFENDANT: Good morning, sir.

15 THE COURT: First of all, let me just note here, in
16 terms of the process here in this court, I think goes without
17 saying. Just so everyone understands, I just want to note in
18 light of the public interest in this case that pursuant to
19 local Rule 506 and standing order 2016-05 of this Court, this
20 Court has adopted the following policy concerning the use of
21 electronic devices in the courtroom. And, specifically,
22 unless authorized by the presiding judge, court proceedings
23 may not be recorded, photographed, broadcast, or transmitted
24 outside of the courtroom. Counsel of record in the case may
25 use electronic devices for appropriate or approved purposes.

1 For example, to check e-mail or calendars, and perform
2 case-related legal research, or otherwise as approved by the
3 presiding judge. And that can be done during court
4 proceedings while sitting at counsel table.

5 Otherwise, unless permitted by the Court, electronic
6 devices may not be used in the courtroom and must be turned
7 off in the courtroom. And use of electronic devices in
8 violation of this policy may subject the device to
9 confiscation/inspection to determine whether court proceedings
10 have been recorded, photographed, or broadcast, or transmitted
11 outside of the courtroom. By entering the courtroom with
12 electronic devices, visitors and counsel will be deemed to
13 have consented to the confiscation and inspection of any
14 device to determine whether there has been a violation of this
15 policy. And that's not to suggest that I believe there will
16 be, but I think in light of the interest in this case, it's
17 important to make sure everyone understands the rules here
18 with respect to electronic devices.

19 And, again, I want to thank everyone before agreeing
20 to switch the date from Wednesday this week to Friday. And I
21 hope it didn't inconvenience anyone, Mr. Martin, including any
22 of the family members you have coming here. I apologize to
23 you. We had to move the date from Wednesday until this
24 Friday.

25 Also, we have with us here the U.S. probation

1 officer who prepared the presentence report in this case,
2 Ms. Gina Swillo. Ms. Swillo, thank you very much for your
3 very thorough report and good morning to you.

4 And with that I think we're ready to proceed. I
5 want to verify, Mr. Martin, that you had an opportunity to
6 review the presentence investigation report in this case,
7 which was prepared by Ms. Swillo. Have you had an opportunity
8 to review it?

9 THE DEFENDANT: Yes, Your Honor. I have.

10 THE COURT: Approximately how many times have you
11 reviewed it with your attorneys?

12 THE DEFENDANT: Three.

13 THE COURT: All right. And are you satisfied you've
14 had a sufficient amount of time to go over it with them.

15 THE DEFENDANT: Yes, to the extent that I still need
16 to get my medical records from Harford County Detention
17 Center, but that's in progress, sir.

18 THE COURT: All right. That's fine. There are no
19 existing and current objections by the government to the
20 report or by the defense. Any objections have been noted or
21 there have been some changes. But there are no objections, to
22 my knowledge, by the government to the presentence report. Is
23 that correct, Mr. Myers?

24 MR. MYERS: Yes, Your Honor. That is correct.

25 THE COURT: And from your point of view, Ms.

1 Boardman or Mr. Wyda, are there any corrections or
2 objections.

3 MR. WYDA: Your Honor, I guess we would like a right
4 to make an addition to the presentence report when we're able
5 to obtain his medical records from Harford County. In
6 Paragraph 77 it mentions that Ms. Swillo wasn't able to get
7 them. We're in the process of getting them. We want to make
8 sure that the proper prescriptions go with Mr. Martin into the
9 BOP.

10 THE COURT: That's fine. We'll make sure that that
11 occurs. In terms of the content of anything else, including
12 his physical conditions and mental health and emotional
13 health, what have you, there are no changes?

14 MR. WYDA: No changes, Your Honor.

15 THE COURT: All right. So with that, and I noted
16 the paper No. 214, the defendant's very thorough sentencing
17 memorandum did not list any continuing objections.

18 Mr. Martin, you pled guilty before me on March the
19 28th of this year pursuant to a specific rule of the Federal
20 Rules of Criminal Procedure, which provides that a criminal
21 defendant may agree upon a specific sentence or a range of
22 sentence. And specifically, the plea agreement in this case
23 provided that you agree with the government that the
24 appropriate sentence here is nine years incarceration, 108
25 months, with a period of three years of supervised release.

1 I accepted your guilty plea on March 28th. And I
2 explained to you at that time that if I were inclined to
3 sentence you to one day more than nine years in prison, or 108
4 months, you would be permitted to withdraw you plea of guilty,
5 do you recall that?

6 THE DEFENDANT: Yes, I do, Your Honor.

7 THE COURT: By the same token I indicated that if I
8 were inclined to sentence you to one day less than nine years
9 incarceration, the government would be free to withdraw from
10 the agreement, do you understand that?

11 THE DEFENDANT: Yes, Your Honor. I do.

12 THE COURT: And I told you at the time that if I
13 were to conduct an early analysis of the facts of this case
14 and the presentence investigation report prepared by Ms.
15 Swillo, and if I were inclined to vary from that I would let
16 the parties know. And I obviously have not so notified
17 counsel, because that will be the sentence here. There won't
18 be any surprises here today. But we have a lot of
19 housekeeping to do. And I know that you have -- I read all
20 the letters that have been submitted and took those into
21 consideration. And I understand that you, yourself, would
22 like to read your statement here in court that you provided,
23 if I'm not mistaken.

24 Is that correct, Ms. Boardman?

25 MS. BOARDMAN: That's correct.

1 THE COURT: That's fine. You have every right to do
2 that. That is fine. I have considered, in doing that, as
3 I'll note later, I think it was the case in front of, I
4 believe, Judge Xinis, Mr. Pho, P-h-o, who received a 66-month
5 or five-and-a-half year sentence, I think, previously from
6 this Court. And I've considered all those factors when I
7 decided that a nine-year sentence was the appropriate sentence
8 in this case. So there won't be any surprises.

9 Just to go again, for the record, in terms of that
10 process, there are two key opinions of the United States
11 Supreme Court that outline the process for sentencing in
12 federal court over the last 14 and a half years. First of all
13 in the case of *United States v. Booker*, in January of 2005,
14 the Supreme Court upheld the constitutionality of the Federal
15 Sentencing Guidelines, which were referenced in paragraph 5 of
16 your plea agreement letter, and/or referenced in the
17 presentence investigation report. But the Supreme Court in
18 upholding the constitutionality of the Federal Sentencing
19 Guidelines did so with the deletion of two particular sections
20 of the guidelines, which had previously rendered the
21 guidelines mandatory.

22 And since January of 2005, it has been well
23 established in federal courts throughout the United States
24 that federal judges, while not bound to apply the guidelines,
25 still must consult them and take them into account. But with

1 the deletion of those mandatory provisions the guidelines were
2 rendered effectively advisory and were not mandatory. And
3 you, obviously, understand the distinction between mandatory
4 and advisory?

5 THE DEFENDANT: (No verbal response.)

6 THE COURT: You understand that distinction?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. And the advisory guideline
9 range in this case that we'll be noting in a moment, were in
10 the range of 87 to 108 months or some seven years in prison to
11 nine years in prison. And the agreement here provides that a
12 sentence at the high end of that guideline range is
13 appropriate. And I find that it is appropriate, based on the
14 facts here. But I've also considered other factors under
15 Title 18 of the United States Code, in terms of the nature and
16 circumstances of this offense and your personal history and
17 characteristics.

18 And just for the record, I mentioned that there were
19 two key opinions of the United States Supreme Court. In the
20 second of the two key opinions, the case of *Gall versus the*
21 *United States* that was decided three years after the *Booker*
22 *case*, the Supreme Court specifically noted that federal judges
23 should not presume that the guideline range is reasonable, but
24 it is a starting point in a multi-step process to first
25 consider the guideline range and then consider other factors

1 apart from the guidelines. And I have done that. And, again,
2 because it was an agreed sentence, much of that is done well
3 in advance of the Court proceeding here today. And conducting
4 all of that analysis, as I've said, I've determined that the
5 nine-year agreed sentence is appropriate.

6 And now with respect to some certain housekeeping
7 matters, the presentence investigation report reflects that
8 you are on two medications; is that correct?

9 THE DEFENDANT: Yes, Your Honor, it is.

10 THE COURT: And you're on clonidine for ADHD?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Hyperactive disorder. And you're on
13 Lexapro for depression; is that correct?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Did you take that medication today?

16 THE DEFENDANT: I did.

17 THE COURT: You take it every morning?

18 THE DEFENDANT: Lexapro in the evening and clonidine
19 in the morning.

20 THE COURT: Okay. And you did that again today, so
21 far this morning?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And is that having any negative effect
24 upon you here today?

25 THE DEFENDANT: No it is not.

1 THE COURT: And are you under the influence of any
2 other narcotics or drugs or any medication of any kind, apart
3 from those two medications.

4 THE DEFENDANT: No, I am not.

5 THE COURT: And Mr. Wyda and Ms. Boardman, you are
6 satisfied your client is competent to proceed with sentencing
7 here today?

8 MR. WYDA: Yes, Your Honor.

9 THE COURT: So the other housekeeping matters to go
10 over are the procedures required by the Protect Act of 2003,
11 which is a law that was passed by the U.S. Congress in that
12 year. And among the many provisions of the Protect Act there
13 are provisions incumbent upon federal courts when imposing
14 sentences in federal criminal cases. Specifically, the
15 Protect Act of 2003 requires that the chief judge of each
16 federal court in the United States ensure that upon the
17 imposition of sentence that certain documents go over to the
18 U.S. Sentencing Commission in Washington.

19 Those documents include the Judgment and Commitment
20 order, which I'll be preparing immediately after these
21 proceedings with the assistance of Ms. Smith, the deputy clerk
22 of court; the statement of reasons for the sentence imposed;
23 any plea agreement in the case; the indictment; the
24 presentence report; and any other information the Sentencing
25 Commission finds appropriate.

1 And the chief judge of this court, back in 2003,
2 issued an administrative order requiring Ms. Swillo's office,
3 the U.S. probation office, to forward these documents to the
4 U.S. Sentencing Commission in Washington upon the imposition
5 of sentence.

6 That means, Mr. Martin, some of these documents are
7 sometimes subject to review by other public officials over in
8 Washington or even members of the public. And for a long
9 period of time there has been a section in presentence
10 investigation reports in this district marked "defendant
11 characteristics," containing confidential family information.
12 That's basically marked as Part C of all presentence reports
13 as to all criminal defendants in this Court.

14 In your case Part C begins in paragraph 57 on page
15 10, and goes over to paragraph 97 on page 15, consistent with
16 the normal administrative process here, that portion of the
17 presentence investigation report, containing confidential
18 family information -- the names of prior wives, for example,
19 health situations -- is sealed. I've reviewed it. Another
20 judge of this Court could review it if he or she so desired,
21 although none have. And members of the U.S. Sentencing
22 Commission could review it, but no one else is permitted to
23 see it absent further order of this Court. Do you understand
24 that?

25 THE DEFENDANT: I do, sir.

1 THE COURT: To all other extent the requirements of
2 the Protect Act are still mandated and to be complied with.

3 Now, I said that the first step is always to
4 calculate the advisory guideline range, and then consider
5 factors apart from the guidelines. Your guideline range is
6 set forth on page 8 of the presentence investigation report.
7 And it reflects a base offense level of 29 for the offense of
8 willful retention of national defense information in violation
9 of 18, United States Code, Section 793(e) as to which you pled
10 guilty as to which you're being sentenced here today.

11 There's a two-level upward adjustment because of
12 your abuse of a position of trust and use of a special skill,
13 in terms of your classification clearance and your access to
14 highly classified government information. That results in an
15 adjusted offense level of 31.

16 You're being given a two-level downward adjustment
17 for your acceptance of responsibility. Although, you're not
18 being accorded a third level. So it comes to a total offense
19 level of 29. And that is exactly as was anticipated in the
20 plea agreement letter of March 11th, which was introduced as
21 Government's Exhibit No. 1 at the time you pled guilty on
22 March the 28th.

23 With respect to any criminal history, you have one
24 driving offense that's set forth on pages 9 and 10 of the
25 presentence investigation report. You have one driving

1 offense, a DWI in 2006, in the District Court of Maryland for
2 Anne Arundel County, as to which you were given probation
3 before judgment. You have no other criminal record of any
4 kind, so you have the lowest criminal history of I, which with
5 a total offense level of 29, as I previously mentioned,
6 results in an advisory guideline range of 87 to 108 months.
7 The agreed sentence in this case is that high end of 108
8 months.

9 There are no disputed matters for me to address that
10 have been raised by counsel. And so with that you may be
11 seated for a moment, Mr. Martin. And I'll first give the
12 government an opportunity to speak. And then I'll recognize
13 Ms. Boardman for remarks -- or Mr. Wyda -- for remarks on your
14 behalf, and then I'll give you an opportunity to speak on your
15 own behalf. And I'll be going over this in a minute, but I'll
16 assure you I've read all the letters that were submitted. So
17 we're ready to proceed.

18 Mr. Myers, I'd be glad to hear from you, sir.

19 MR. MYERS: Thank you, Your Honor. And I appreciate
20 the Court has carefully reviewed all the sentencing memoranda
21 in this case. The government would like to briefly address
22 the factors under 3553(a)

23 THE COURT: If you could, just initially -- if you
24 want to, but just initially, consistent with the plea
25 agreement, the government is now moving to dismiss Counts 2

1 through 20 of the indictment.

2 MR. MYERS: That's correct, Your Honor. Pursuant to
3 the plea agreement the government moves to dismiss --

4 THE COURT: -- consistent with the plea agreement
5 Counts 2 through 20, the remaining 19 counts, Ms. Smith, will
6 be dismissed on government motion. And with that, I'll be
7 glad to hear from you Mr. Myers.

8 MR. MYERS: Thank you, Your Honor. The nine-year
9 sentence that the Court has indicated it will impose is
10 justified by careful consideration of all of the sentencing
11 factors under Section 3553(a). Specifically, the seriousness
12 of the offense in this case certainly justifies the agreed
13 sentence. The defendant here has engaged in a persistent
14 pattern of felonious conduct. He repeatedly made the decision
15 to steal national defense information for nearly 20 years and
16 decided to illegally retain these sensitive materials outside
17 of sensitive spaces in his home and in his car.

18 The stolen information included many documents
19 classified at the highest levels of top secret and sensitive
20 compartmented information. And for nearly two decades he
21 stole this information related to many subject matter areas,
22 including information from many government agencies, such as
23 the four agencies indicated in the stipulated facts. These
24 materials concerned subjects ranging from the methods the NSA
25 used to protect the United States, to extremely serious --

1 excuse me, extremely sensitive planning and operations
2 information regarding global terrorists.

3 The government would proffer to the Court that much
4 of this material was far outside of the subject matter of the
5 defendant's work assignments. And even if the stolen
6 materials had been limited to the subjects the defendant
7 worked on, everyone who holds a national security clearance
8 knows that taking highly classified work materials home is a
9 crime and endangers national security.

10 Over this time the defendant stole approximately six
11 banker's boxes worth of paper documents bearing classification
12 markings, as well as many terabytes of highly classified
13 material. The defendant has admitted that he knew what he was
14 doing was wrong and illegal. And his partner even testified
15 at a prior hearing that the defendant stated he had done the
16 wrong thing for what he considered to be the right reason.

17 The stipulated facts in this case make it crystal
18 clear, this is not a case of hoarding, this is stealing. The
19 defendant did not amass a large quantity of newspapers or
20 junk, stray cats, or anything else indicating a hoarding
21 disorder. The only material he retained in this manner was
22 stolen classified information. This speaks to a continued
23 decision to break the law. Regardless, you can't horde
24 something you don't have. And the defendant was only able to
25 retain this information because he stole it from his

1 workplaces. He knew doing this was wrong, dangerous, and
2 illegal. He did it any way. And now he's facing the
3 consequences of his actions.

4 I'm not going to address every point in the defense
5 filing, given the agreed sentence that the Court has indicated
6 it will impose. But I do think it's important to note again
7 by way of proffer, that the digital information stolen by the
8 defendant was not in a disorganized mess. The analysis
9 demonstrated it was organized in a logical, if repetitive and
10 recursive manner. And that the folder naming structure on the
11 devices seized from the defendant indicated that whoever named
12 the folders and put the files within them, knew what exactly
13 the data was. Several of the stolen digital files were, in
14 fact, classified e-mails from the defendant's classified
15 e-mail account, and other classified documents that had been
16 created, accessed, or modified using his electronic
17 credentials.

18 This is an extremely serious offense. And although
19 there's no evidence that the defendant transmitted any of the
20 classified materials he stole, he was well aware of why the
21 government has strict rules for the secure storage and
22 handling of classified information.

23 THE COURT: Mr. Myers, can I just interrupt you one
24 second on that. I did note in my opinion back in December
25 with respect to pending motions, that I did note that the

1 affidavit which had been submitted to a magistrate judge of
2 this Court in support of the application for issuance of a
3 search warrant had noted a Twitter message, which was just
4 hours before there was stolen government property that was
5 posted on a multiple online sites. Is that not correct in
6 terms of the background of this case?

7 MR. MYERS: That is correct in terms of the
8 background of this case, Your Honor.

9 THE COURT: And that remains to be just a question
10 that's out there, but that is something I've already made
11 reference to as matter of record in this case.

12 MR. MYERS: That's the record in this case, Your
13 Honor. Of course, the government wouldn't comment on any
14 other matters.

15 THE COURT: I understand.

16 MR. MYERS: Your Honor, the defendant was aware that
17 first unlawfully removing national defense information from
18 secure spaces risks the unauthorized disclosure of those
19 materials. And unauthorized disclosure of the sort of
20 materials the defendant stole would reasonably be expected to
21 cause exceptionally grave damage to the national security of
22 this country. And second, as former NSA Director Admiral
23 Rogers has previously written, once the government loses
24 positive control of classified material, the government must
25 often treat that material as compromised and take remedial

1 actions as dictated by the circumstances. Depending on the
2 type, volume -- the type and volume of classified material,
3 such reactions can be costly, time consuming and cause the
4 shift in or abandonment of programs.

5 The defendant's history and characteristics also
6 justify the sentence to be imposed by the Court. His
7 employment in the military, and as a clear government
8 contractor, required him to regularly participate in training
9 on the importance of properly securing classified materials,
10 the risks of violating the law. And he repeatedly signed
11 nondisclosure agreements agreeing to abide by those laws. The
12 defendant hasn't been convicted of any crimes in the past
13 other than the DWI noted in the presentence investigation
14 report, but his lack of substantial criminal record is what
15 enabled him to maintain a security clearance and continuously
16 violate the law undetected. His government affiliation is not
17 a mitigating circumstance here, it's the manner and means of
18 his offense. And his abuse of the public trust was an
19 essential element of his crimes and his advisory guidelines
20 rightly reflect this.

21 The defendant has never been examined by an
22 impartial court or governmental health professional. So it's
23 not to the government to speculate as to his mental health.
24 But I would note that the defendant, if he was facing mental
25 health struggles, could have sought treatment. I know he

1 sought treatment to a degree, but he could have sought more.
2 And he could have decided to stop working in national security
3 roles with access to classified information. Instead, he
4 chose to work in the military and intelligence agencies, with
5 access to these materials, and to continue to steal them.
6 The documents he was trusted to protect.

7 Specific deterrence is important in this sentence,
8 Your Honor, the defendant will never again have access to
9 classified information as a result of his crimes. And the
10 sentence imposed, including the three-year term of supervised
11 release agreed to by the parties, will deter him from ever
12 again violating the public trust. He knows he will be closely
13 monitored on release and that the government will take swift
14 action should he violate in terms of his release or to again
15 violate the law.

16 This sentence is also justified by the need for
17 general deterrence. This nine-year sentence in prison will
18 send a strong message to the public and specifically those of
19 us who are entrusted with national security clearances and
20 access to classified information. There's no excuse for
21 unlawfully stealing and retaining national defense information
22 and classified materials. You'll be investigated. You'll be
23 prosecuted. And upon conviction, you will face serious prison
24 time.

25 This sentence is also justified by the need for just

1 punishment and the need to promote respect for the law. Nine
2 years in prison, which as the Court has noted, is the high end
3 of the advisory guideline range here, is a just sentence that
4 will promote respect for the law, and will make clear to the
5 defendant and the public at large that this conduct was not
6 the result of mistake or accident. The defendant is going to
7 jail because he repeatedly made the decision to violate the
8 government's trust and the law. The defendant knew what he
9 was doing was wrong, that it was illegal and highly dangerous.
10 He chose to break the law any way. And for all of these
11 reasons, taking into account all the 3553(a) factors, the
12 government recommends the Court accept the sentence of nine
13 years in prison.

14 THE COURT: Thank you very much, Mr. Myers. And I
15 would just note that the government is not suggesting any fine
16 be imposed in this case; correct?

17 MR. MYERS: That's correct, Your Honor.

18 THE COURT: He's really not capable of paying any
19 fine.

20 MR. MYERS: The presentence investigation report
21 does indicate that. That's correct, Your Honor.

22 THE COURT: And among the documents to which you
23 made reference, some of which were clearly reflected in the
24 statement of facts, at the time of the guilty plea on March
25 the 28th, they include, as I understand it, a 2008 CIA

1 document containing information relating to foreign
2 intelligence collection sources; is that right?

3 MR. MYERS: That's correct, Your Honor. I believe
4 that is Document S, I would have to look.

5 THE COURT: I think it might be Document T.

6 MR. MYERS: Document T. Yes, Your Honor.

7 THE COURT: Thank you very much, Mr. Myers. And
8 that's consistent with the plea agreement in this case in
9 terms of the recommendation.

10 With that I now recognize the defense counsel for
11 remarks on behalf of Mr. Martin. And then I'll give
12 Mr. Martin an opportunity to speak on his own behalf.

13 MR. WYDA: Thank you, Your Honor.

14 THE COURT: Mr. Wyda.

15 THE COURT: I've read all these -- the letters that
16 all part of your sentencing memorandum, paper No. 214, as well
17 as the supplement that was submitted on Wednesday, including a
18 letter from the defendant's brother, Michael Martin. I don't
19 know if he's here or not today, but I read the letter from
20 Michael Martin. I read the letter from the defendant's
21 sister, Elizabeth Martin. As well as from his aunt, Jean
22 Martin. I've read all of those letters that have been
23 submitted. And I read his letter apparently to which he wants
24 to make reference here today. And I've also reviewed in your
25 materials, the report under seal, but the report of the --

1 Dr. Black, who conducted the analysis of Mr. Martin. So I've
2 read all those materials, Mr. Wyda.

3 MR. WYDA: Thank you, Your Honor. I know you
4 thoroughly prepared for this hearing. The only letter you
5 didn't mention is the letter by Deb Shaw, who is here.

6 THE COURT: No, I did I read her letter. I'm sorry.
7 Yes.

8 MR. WYDA: She's in the second row as well.

9 THE COURT: Yes. Ms. Shaw, I read your letter as
10 well. And I understand that you've actually been -- although
11 you are estranged from Mr. Martin, you've been visiting very
12 regularly during his period of incarceration. And I
13 understand that as well.

14 MR. WYDA: Okay. Your Honor, I'll try to be brief.
15 A nine-year sentence for Mr. Martin punishes him for his
16 misconduct, but tempers that punishment in recognition of
17 Mr. Martin's nearly 30 years of service to his country and the
18 role that mental illness, not treason or greed, played in this
19 misconduct.

20 I'd like to frame my remarks by contrasting Hal
21 Martin before his arrest and Hal Martin after his arrest. Hal
22 Martin is very intelligent, but due to untreated mental
23 illness, struggles with socially and professionally to
24 function, Mr. Martin suffers from autism spectrum disorder, as
25 Dr. Black has stated, has reported in the submission that you

1 just mentioned, Your Honor. This has been a life long
2 challenge for Mr. Martin. We shared with the Court school
3 records from Mr. Martin's youth when he was in kindergarten,
4 which it was recognized that Mr. Martin struggled in social
5 settings and was already socially isolated at the age of 5.
6 Your Honor --

7 THE COURT: That isolation continued in terms of,
8 apparently, the numerous moves he made with his family, not
9 only in different states here, but actually a period of time
10 of education in Iran, his father was stationed in Iran; is
11 that correct?

12 MR. WYDA: That's correct, Your Honor. Instability
13 and isolation were constants throughout Mr. Martin's childhood
14 and adult life. He struggled to maintain relationships and
15 employment. He began to abuse alcohol. Mr. Martin
16 desperately trying to fill the voids in his life, threw
17 himself into his work. He convinced himself that bringing
18 work home would allow him to perform better, would allow him
19 to serve his country better. And, again, I want to make brief
20 reference to Dr. Black's report. Dr. Black describes that
21 Mr. Martin as growing increasingly obsessive about the
22 collecting and hoarding. Dr. Black says the sensitive
23 material became a, quote, tangible representation of
24 Mr. Martin -- Mr. Martin's worth, end quote. A part of his
25 identity.

1 Your Honor, I'm going to make brief reference to the
2 tweet you referred to as part of the background of this
3 case --

4 THE COURT: Because I've made reference to it in my
5 opinion, it's a matter of public record.

6 MR. WYDA: Sure, Your Honor. There's a tweet in
7 this case and it's in the background of this case. But I
8 don't want to have there be any confusion, especially with the
9 audience that's here. The government's made it clear that
10 they're not charging --

11 THE COURT: I understand.

12 MR. WYDA: -- Mr. Martin with transmission. It's
13 not part of this sentencing.

14 THE COURT: Right.

15 MR. WYDA: It's not part of the government's
16 sentencing submission and there's no suggestion that
17 Mr. Martin intended, you know, any active transmission even by
18 that tweet.

19 Now, at the time that Mr. Martin's arrest, almost
20 three years ago, he was morbidly obese, drinking heavily,
21 depressed, isolated, and lacking the insight to make his life
22 better. It's hard to underestimate what a dark place
23 Mr. Martin was in at the time of his arrest. When the door
24 shut behind him after his arrest, he was in a cell alone,
25 wearing the degrading costume he wears today. Mr. Martin was

1 facing years if not decades in prison. He was financially
2 ruined. He would lose his marriage. He lost his job. More
3 importantly for a man obsessed with being part of the team, he
4 lost the mission that meant too much to him.

5 As Dr. Black has helped us understand, when
6 Mr. Martin lost his job, that mission, that calling, he lost
7 himself. All too often in our court we see people at their
8 worst moments. It's hard to imagine what it was like for
9 Mr. Martin in that cell all alone, his identity, his life
10 seemingly gone. For security reasons, he was held in
11 isolation for 23 hours a day in the cell for nearly a year.
12 He was allowed out of his cell for a hour of rec in the common
13 area outside of his cell, again, alone.

14 Your Honor, research shows that strong people break
15 under circumstances such as that. There's an old saying that
16 people show their real character when no one else was looking.
17 When Mr. Martin arrived in that detention center, no one was
18 looking. Mr. Martin showed extraordinary strength and
19 courage. He chose not to break. And to try to live better.
20 He focused on what was important to him. First of all, Deb,
21 through counsel he tried to make sure she was okay and do what
22 little he could do to help her. He then focused on his
23 spiritual well-being. He immersed himself in the Bible and
24 attended religious services when permitted to do so.

25 He then focused on his physical well-being. He

1 started an exercise regimen borrowed from his days in the
2 Navy. He tried to eat as healthy as he could on prison food,
3 not very easy. He has lost well over 100 pounds and
4 transformed himself both physically and mentally from the man
5 that arrived in that detention center. Mr. Martin also
6 focused on making amends. He has pled guilty and accepted
7 responsibility for his wrongdoing in this case. It is
8 important to him to apologize today to everyone he has hurt or
9 let down by his criminal conduct.

10 Mr. Martin is a different person today. He is not
11 suddenly cured. He will always have challenges, especially in
12 social settings like today's. But he has insight and a
13 determination to live a better life. I want to end by
14 referencing one of the letters Your Honor alluded to, the one
15 from Mr. Martin's aunt Audrey. Mr. Martin's aunt is a proud,
16 dignified woman, who is a successful artist. In her letters
17 she placed Mr. Martin in the Martin family's long history of
18 service to this country. She also used an old-fashioned
19 phrase to describe Mr. Martin, when she described Mr. Martin
20 as having a true heart. That seems right to me. For all his
21 challenges, Mr. Martin's heart is true and strong and has been
22 that way throughout his life; faith, family, and country, have
23 been Mr. Martin's guiding principles.

24 Today Mr. Martin accepts his punishment. And when
25 he completes his sentence, he is determined to lead the best

1 life he can. The best life available to him. I think it will
2 be a good life. Thank you, Your Honor.

3 THE COURT: Thank you, Mr. Wyda. Thank you very
4 much. And I want you to know that I have -- I've read these
5 letters. I thought his aunt's name was Jean Martin, but it's
6 Audrey Martin, I'm sorry.

7 MR. WYDA: It's Audrey, I believe.

8 THE COURT: Okay. I'm not sure if I saw that
9 letter. I'm looking at paper No. 214 and I'm looking at the
10 letters I received.

11 MR. WYDA: So, Your Honor, again, Mr. Martin's
12 helping me clarify her name was Jean Martin is a member of the
13 Martin family, when she married she changed her name to
14 Audrey --

15 THE COURT: That's fine.

16 MR. WYDA: Sorry for the confusion. I read all of
17 them. So I did read that letter, but I wasn't sure if it was
18 the same person.

19 Just one comment, question of you before we give
20 Mr. Martin an opportunity to speak on his own behalf. I have
21 read through Dr. Black's report. And I -- I've read many such
22 reports, Mr. Wyda, and your office is always very thorough.
23 This court has not only great pride in the quality of the U.S.
24 Attorney's Office and the federal prosecutors that appear
25 before us routinely, but also we believe the Federal Public

1 Defender's Office is one of the best in the country. And you
2 all many times submit very thorough reports from mental health
3 professionals with respect to clients.

4 The one thing I did not see here from Dr. Black was
5 I saw his reference to the matter of hoarding Mr. Myers has
6 aptly noted that for someone that is alleged to have a
7 hoarding disorder, he seemed very well organized with his
8 keeping of these documents. But I didn't see anywhere here
9 the word "grandiosity" in this report. And I will tell you in
10 all candor that one of the factors that I have noted here is,
11 I think the closest it came to was Dr. Black noted that he
12 tended to want to aggrandize his contributions to national
13 security. But there's no reference to grandiosity here.

14 And this case is very troubling because I really did
15 grapple with this before I decided that the nine years was
16 appropriate. And one of the things to grapple with here is
17 there was some very sensitive material, Mr. Wyda, that was
18 taken home. A lot of it was computerese and things people
19 wouldn't understand. But it's not hard to understand when
20 some of the documents include foreign intelligence sources.
21 And I will tell you that I have grappled with the fact that
22 these people's lives were potentially endangered. And that's
23 pretty serious.

24 Now I'm not saying that resulted -- it clearly did
25 not necessarily result. But that's very serious. And a lot

1 of that has to do with a certain amount of grandiosity of
2 one's access to this kind of information. And I just want you
3 to know that I was troubled by it. It doesn't effect my
4 accepting this nine-year sentence, but I've been troubled by
5 it because I think there were lives that were endangered
6 here.

7 MR. WYDA: Can I --

8 THE COURT: And I'm saying that because you know how
9 I am --

10 MR. WYDA: Sure.

11 THE COURT: -- I want counsel to always know what
12 I'm thinking up here, so I give you an opportunity to respond
13 to me and lives were endangered here.

14 MR. WYDA: So again, I think what I thought -- what
15 I thought Dr. Black did well for us was something that we were
16 struggling to articulate for a while. But, again, I think, I
17 believe this started with Mr. Martin bringing materials home
18 in order to try to make himself better. In order to try to
19 make himself more successful. Again, the government's been
20 through his documents --

21 THE COURT: I understand.

22 MR. WYDA: With a fine tooth comb. And there's no
23 suggestion that he intended -- that he had any malice towards
24 his country or he did anything but love the mission of the
25 intelligence agencies and love and support his country.

1 What -- that became too important a part of his identity when
2 he was struggling with the autism that that just became, you
3 know, all of us -- I think everybody in this room probably is
4 passionate about their work and it's a huge part of our
5 identity. But for Mr. Martin, it went too far and was having
6 some mental illness and became, I think the word Dr. Black
7 uses, an obsession. And not only was he obsessed with his
8 work, the line I quoted in the sentencing memo and in our
9 report, is that -- I just want to find it quickly Your
10 Honor.

11 THE COURT: Take your time.

12 MR. WYDA: -- is that the documents themselves
13 become sort of treasured by Mr. Martin. They became part of
14 who he is. And it was -- he couldn't let them go. Again,
15 Dr. Black says -- reports that he tried to give them back. He
16 tried to get rid of them. But he couldn't, because they
17 became part of him.

18 I will also sort of in support of Dr. Black, Your
19 Honor, again, in the early stages of the case when we saw
20 Mr. Martin's reaction to seeing the documents, there was an
21 emotional reaction. I think there's two things going on, it's
22 what Dr. Black was referring to, those documents were part of
23 who he is. They were profoundly important to him when he was
24 in the throws of his mental health situation. There was also
25 I think an emotional reaction that he knew that was never

1 going to be his world again. That, despite his kind of
2 desperate efforts to be successful in that world, it was over.
3 And it was -- in fact, it was like a drug withdrawal that he
4 was never going to be able to be part of that world that meant
5 so much to him.

6 And, frankly, you know, there was a long history of
7 serving the country in his family. And so, again, I believe
8 that the taking of the documents, we're not saying it was
9 unintentional. We pled guilty to this. We're not saying it
10 was by mistake. We're saying that his decision making was
11 impaired by this mental illness. And that, you know, we're
12 asking you, we're hoping you take that into account.

13 THE COURT: I have. And I understand that. I just
14 think what has to be said here, though, is in terms of Mr.
15 Myers talking about deterrence. We all know here that the
16 issue of deterrence in these cases isn't so much deterring the
17 person who's before the Court, that person's life is ruined,
18 it's a matter of deterrence to others. And I think the public
19 increasingly, in these rather turbulent times, is starting to
20 recognize the dark side of the internet, the dark side of this
21 constant flow of information. And each person that can sort
22 of ratchet themselves up to a level of great importance to
23 have access. And I understand his obsession with this, but
24 it's very dangerous.

25 And it can't go without commenting that there are

1 people buried deep in the process of government who have
2 access to extraordinary -- extraordinarily sensitive
3 information. And that information can endanger the lives of
4 other people. And it's important to understand the deterrence
5 that goes here is that many people may have many issues of
6 different levels, but it can't go ignored, the severity of
7 this here, is I guess the point I want to make sure you
8 understand. Because I did grapple with this when I decided
9 that I think nine years is appropriate. And that will be the
10 sentence. But I just think the record should reflect we're
11 dealing with some pretty -- without getting into the matter of
12 hoarding documents, there was some very sensitive material
13 that went out of there, that were sitting in his garage. That
14 it's a little frightening to think it was out there, quite
15 frankly.

16 MR. WYDA: Your Honor, one, I think, I totally agree
17 with you. And I think Mr. Martin agrees with you. One is he
18 knew when he was looking through those documents the harm that
19 he did to these institutions that he cared for. So I mean,
20 we're accepting a severe sentence because we understand that.
21 We also understand the need for general deterrence.

22 Again, when we're talking about messages and, again,
23 I don't mean any disrespect to the agencies involved,
24 certainly not to the folks on that side of the room, Agent
25 Pino in particular, but I would also hope one of the takeaways

1 from this case is about mental illness. And about, you know,
2 if we're going to keep our nation's secrets secure, you have
3 to be able to monitor when someone is struggling like Mr. --
4 you can't spend too long with Mr. Martin and not understand
5 that he's struggling. It was really hard to be Hal Martin for
6 a long time.

7 And it's, again, I'm not casting aspersions, but I
8 think probably our entire society, including institutions like
9 NSA and CIA, et cetera, need to be more attuned to the impact
10 of mental health issues. Again, I'm trying not to make this
11 antagonistic. But I would hope one good thing that would come
12 from this is you improve the security at your agencies about
13 being able to walk out of those places with terabytes of
14 information is what happened here. And secondly, that you be
15 attuned to people who are breaking in front of you.

16 THE COURT: I understand. And, obviously, the
17 extraordinary mental and emotional stress on some of these
18 jobs. The very matter I'm noting reflects the pressure that
19 people are under. But Mr. Myers, I think, aptly noted the
20 great cost to the government to undertake security-based
21 responses. As I prepared for this sentencing I looked at some
22 of the information out there. There are clearly -- I have no
23 doubt there are clearly CIA operatives and other intelligence
24 operatives, that had to be completely removed and put in other
25 places. They could no longer continue to function. I have

1 absolute confidence in the American government in that regard
2 and the precautions that were taken. And the ripple effect of
3 this is extraordinary.

4 And I think your point's well taken, because these
5 people in these jobs are under enormous mental stress and
6 strain. And there has to be a way to monitor it and deal with
7 it. And, obviously, it gave rise to a very, very unfortunate
8 situation here to say the least.

9 MR. WYDA: If you indulge for one more thing. We'd
10 like Hal's wife to be able to speak briefly.

11 THE COURT: Yes, Ms. Deb Shaw.

12 MR. WYDA: Yeah, she's -- is it possible for her to
13 come up and speak?

14 THE COURT: Certainly. Come forward. I've read her
15 letter. That's fine.

16 Ms. Shaw, just stand right there at the microphone.
17 You don't need to be placed under oath. I'd be glad to hear
18 from you.

19 MS. SHAW: Good morning, Your Honor.

20 THE COURT: Good morning.

21 MS. SHAW: Thank you for this opportunity. As you
22 know, my name is Deb Shaw and I was at one time Hal Martin's
23 wife. I met Hal in 2010. And it was towards the end of a
24 very difficult time in my life. And Hal came in as a breath
25 of fresh air. He treated me with a great deal of respect,

1 which is incredibly important to me. We were together for
2 just over six years at the time of his arrest.

3 The most important part -- there's actually two most
4 important parts -- that I hope the Court recognizes and I've
5 heard so far, positive acknowledgment to this, but I wish you
6 could know the man that I know. And the best way I can
7 describe that is by asking questions.

8 Have you ever encountered -- had an encounter with
9 another person where you were given a chance to see a glimpse
10 of who God created? Doesn't happen often, but there are
11 moments in our lives, and I'm sure that all of us can look
12 back and reflect on one of those moments where you see the
13 goodness in someone. Not the persona that people wear like a
14 button down shirt, but the authentic person that God intended
15 you to be.

16 The person who feels so deeply, but because of life
17 experiences the capacity to emotionally relate to another
18 human being almost doesn't exist. It's so damaged. That they
19 have a physical, emotional, and mental inability to interact
20 with other people because of fear of nonacceptance, because of
21 fear of rejection, because of fear that they're not smart
22 enough, they're not good enough.

23 A person who wants to love with his whole heart, but
24 he can't because he's been hurt and emotionally abused since
25 he was a child. And so repeatedly through his adult life.

1 And is so guarded that the fear of being that person, to relax
2 and be that person, to be that glimpse that I saw, makes him
3 physically sick to his stomach.

4 A person who's so dedicated and overly focused, but
5 so dedicated to doing the right thing that they can lose his
6 way, because he's dealt with mental health issues undiagnosed,
7 untreated, and with no help for most of his life. When I
8 heard and -- that he had been dealing or there was recognition
9 of this from time he was 5, Hal's 54 years old. He's been
10 doing this on his own his whole life. It's not to excuse the
11 decision that he made. It's to incorporate who he is and why.
12 This man would lay his life down for his family, for his
13 brothers, and for his country, but because of his mental
14 illness, his inability to interact on even sometimes the most
15 basic level, made it so profoundly difficult for him.

16 I remember he would come home from work and he would
17 say, you know, everybody talks about their life and talks
18 about their kids and talks about the things they're going to
19 do over the weekend, he couldn't relate. And he didn't
20 understand why no one wanted to interact with him outside of
21 the office. Because he was a pain in the ass. Sorry, he was
22 a pain in the butt. He tried so hard to figure out how to fit
23 in. That the only way he could figure out to make it work was
24 to become as knowledgeable and as important as he felt the job
25 he was doing was.

1 I'm not condoning his behavior. I'm not condoning
2 his decisions. And to be quite honest with you, Your Honor, I
3 don't even understand a lot of it. But I know the man. My
4 life has moved on in a lot of aspects. And I choose to keep
5 Hal a part of it because he's worth it. And, unfortunately,
6 many people in his life, related and otherwise, do not feel
7 the same. And that makes me sad. The way he has been
8 characterized by people and the press makes me cry. Because
9 they don't know, they're ignorant to what mental health issues
10 are.

11 To say that he did not have a hoarding issue, no one
12 lived in that house, no one walked in that house when I did,
13 when we first met. No one went to Home Depot with us to get
14 the supplies we needed to clean that house. And to say that
15 it was organized and deliberate, I understand where you're
16 coming from, but this man and this behavior cried out for help
17 for years and no one listened. No one. They kept giving him
18 whatever it is that they gave him; clearances and ability to
19 work. No one saw the train coming. And then finally hit and
20 everything this man holds dear is gone. And they want to make
21 him out to be some kind of horrible, bad man. He's not a bad
22 man. He made some really crappy decisions, notwithstanding,
23 but he's not a bad man. He needs help.

24 I have spent the better part of 25 years working
25 with the homeless between New York, where I'm originally from,

1 and here. And Hal hated -- hated that work that I did. He
2 couldn't understand my empathy towards those who had so
3 little. And I would come home and I would try to tell him
4 stories about my day, and different prisons I was in, and
5 different confrontations -- not confrontations but different
6 interactions with people.

7 And this one guy Mike, God bless him, he was a drug
8 addict, he was homeless, he was living in a tent underneath an
9 overpass in Glen Burnie. And he was trying to get back on his
10 feet. And I was telling this to Hal and Hal can be a little
11 gruff and he'd say, well, you know, it's his choice. Well,
12 some people can look at it that way. And then I was telling
13 him he was trying to get side work doing anything and
14 everything. And he was having trouble getting job interviews
15 and he was having trouble getting to these side jobs that he
16 would get. And Hal's initial reaction was, well, he's got
17 feet, don't he? And it reminds me of my grandfather and my
18 great grandfather when they would, no bones about it, you got
19 feet you can get to where you need to be.

20 But then, I'm at work one day, and this is when I
21 worked at the church. And I'm at work one day and he comes up
22 with a bicycle, a helmet, gloves, and tire repair kit for this
23 man he never met. Because he thought maybe, maybe there was
24 some worth there. And I'm asking you to maybe, maybe think
25 that there is some worth there.

1 I understand you have a job to do. And I understand
2 you all have a position to take. But the end of the night, I
3 ask you to look at yourself. We all make mistakes. We all do
4 things that we sometimes think back and go, oh, crap, maybe I
5 shouldn't have done that. Or phew, glad that didn't come back
6 to bite me in the butt. But this happened. And my whole
7 world changed. And so did his.

8 For the last three years I have gone to see him
9 behind Plexiglas. And we've argued. And I've wanted to Gibbs
10 slap him a hundred times, so thank God for Plexiglas. We've
11 cried together. We've prayed together. We've argued. We've
12 laughed. And I've watched him transform.

13 My concern for Hal has always been his obsessive
14 nature. He gets fixated and that's where he stays. And now
15 his fixation is on other people, which is a breath of fresh
16 air for me, I have to tell you. And he takes -- he tries,
17 because it's not natural for him to be empathetic, to take
18 other people's feelings into consideration. It's not his
19 make-up because of his mental illness. And when he tries to
20 understand other people he gets frustrated, because it doesn't
21 come natural.

22 The work that he does -- or did -- that was
23 tangible, that he could hold on to, that made sense to him. I
24 turned him upside down because I made no sense to him
25 whatsoever. I am the emotional, empathetic, I don't know if

1 there's anything typical about it, but that's who I am. I'm
2 emotionally empathetic to those who struggle and I have my
3 whole life. And from someone who sees things from a very,
4 very different point of view, and I understand I'm in the
5 minority, Hal's worth the effort. So my hope is that wherever
6 he goes, for the time that he's in and serving his sentence,
7 that he gets the guidance and the help that he needs, because
8 if he doesn't that's a monstrosity. Because he's not just
9 another number or a pain in the butt that's doing time for a
10 mistake that he made, he's a human being who is trying to
11 right his wrongs. And I still love him. Thank you for your
12 time, Your Honor.

13 THE COURT: Thank you very much, Ms. Shaw. And I
14 also had read your letter, which is part of this submission,
15 paper No. 214 in the file. Thank you very much, Ms. Shaw.
16 Thank you.

17 MS. SHAW: Thank you.

18 THE COURT: With that, anything further, Mr. Wyda,
19 before I give Mr. Martin an opportunity to speak on his own
20 behalf?

21 MR. WYDA: No, Your Honor. Thank you.

22 THE COURT: All right. Thank you.

23 Mr. Martin, if you'll please stand. I now
24 personally address you and determine if you wish to make a
25 statement and give you the opportunity to speak on your own

1 behalf. I have read all the letters and the reports and I, in
2 fact, read your letter, which is Exhibit 6 to the submission
3 by defense counsel and I had already read the letter from
4 Ms. Shaw, one of your wives, and I'm certainly glad to hear
5 from you.

6 THE DEFENDANT: All right. Yes, Your Honor. Thank
7 you. There's significant changes I guess to the letter that
8 was submitted. I've made spelling corrections so on and so
9 forth.

10 THE COURT: That's fine.

11 THE DEFENDANT: All right. Dear Judge Bennett,
12 First a disclaimer. Nothing in this statement is classified,
13 no last names of private persons, nor technical talk, just my
14 personal opinions. I thank the Court in advance for its
15 patience. It has been said that one's name should appear in
16 print only three times; announcement of birth, notice of
17 marriage, and obituary. We may have to consider adding this
18 proceeding to that list in order to provide others with
19 explanation, accounting, and apology, as they seek closure.
20 Today's my day for that. So here I am, Harold Thomas Martin,
21 III, an individual who was perhaps an intellectually curious
22 adventurer, looking for an unparalleled, high-impact
23 international opportunity, to take part in that severe
24 contest, between intelligence, which presses forward, and
25 unworthy, timid ignorance, obstructing our progress. Or maybe

1 more Antonius Block, searching for knowledge, and playing
2 chess for the rightest of reasons, or perhaps Major Pugachev
3 in his last battle, fighting to be free. Or just the new
4 number 6, episode 17 noted. Regardless, what I have been
5 called is a walking encyclopedia, and that's fair enough, but
6 what I'd like people to know is I'm not an encyclopedia
7 salesman. I'm crystallizing, not commoditizing, not
8 commercializing. I'm also not Captain America, nor any kind
9 of Superman, either, not in the comic book sense, nor
10 Nietzschean dialectic. Not some crash override, nor Gibson's
11 Henry case; no one special. Just an average Joe. Just a Joe.
12 What I can tell you for certain, though, is that I am
13 Christian in action, Catholic in application, doer of deeds,
14 and that has truly been, where eagles dare. Now, for family,
15 friends, and others that I would try to make amends, and
16 provide the aforementioned relief, in addition to
17 encouragement, comfort and at least a small measure of solace,
18 it will be the only time I intend to speak on the matter with
19 most of you, for most of you, the last time I speak in
20 general.

21 Mom and Dad, I'd like you to know I will be fine. I
22 want to apologize for failing to listen and hear, at times,
23 and for taking so long to heal wounds. You gave me the best
24 training possible, professionally, with knowledge of who we
25 are, through the ages. Time is relative, and we will always

1 be in each other's hearts. See you soon, your first born,
2 Chip. P.S. You named me. What did you expect to have happen?

3 Mike, Beth, and Victoria; Thank you for your support
4 in my time of troubles. I know I haven't been the best
5 brother, but I am learning how much family matters. Between
6 faith and flag, I'm sorry I got the order mixed up, I intend
7 to make up for it, going forward. Much love. Your crazy
8 brother, Chip.

9 Audrey, thank you for the gifts of fine art, music
10 and language; the Hallmarks and fruits of civilization. I'm
11 sorry I didn't spend more time with you and Guy. Let's remedy
12 that. We'll always remain connected through the universals of
13 the cosmos. No matter what. All my love, Chip.

14 David and Chris, I'm sorry we drifted apart. Maybe
15 you can find a bit of forgiveness now that you know more.
16 Hope you both are well. Love, Chip.

17 Grandma and Grandpa: Well, things are wrapping up
18 here; it's time for you both to go home now. Grandma, Uncle
19 Anthony says hello, and he wants you to know that he sends his
20 very best. He asks that you bake some cookies and says he'll
21 see you both very soon. All right, enjoy and watch out for
22 that door. Thomas and Richard; Tom, Dick, and Harry. That was
23 us. Remember what we talked about? Harry Palmer here did it,
24 and it all begins with a very expensive funeral. I'm sorry I
25 didn't keep up over the years, I'll try to remedy that soon.

1 Dr. Croan: You were my Professor Kingsfield, Ulma
2 and Arendt, plus a hundred others. Thank you for the lessons
3 of history and the actual governing dynamic expansion and
4 coexistence. See you in lecture. Best, Chip.

5 Devon: Definitely, my phair one, with voice husky,
6 sweet and eyes so mysterious at times; Venus on a half shell;
7 I, your David. I'm sorry for what came between us, and my
8 insensitivity about the issue. It is all my fault. That
9 matter is something I will forever regret, please forgive me.
10 And I'm glad you found a full life in the MEO. You know, with
11 the other ones, on a holiday, distant lanes are not so far
12 away. So Dev, Rome, if you want to, roam around the world.
13 Ciao Bella, Chip.

14 (Speaking a foreign language.) I will always
15 remember Newport, a certain black Spyder, and Commander
16 Mullen's good advice, (speaking a foreign language.) I'm
17 sorry it didn't work out. I hope you and James are well.
18 James, stay on the square and level. I seek the great
19 architect as well. (Speaking foreign language.) All right,
20 Marina. (Speaking foreign language.) Best Hal.

21 Sigrid: My perfect Prussian, absolutely wonderful
22 woman, and complete atomic blonde. Those were the days, my
23 friend. We thought they would never end. The bloody and
24 baroness, rolling up their store, and I had your six, partner,
25 as you were wingman. I'm sorry I couldn't share more of our

1 hearts, because it felt like, in your eyes, we both wanted to.
2 I think it was just hard to say. Thanks for teaching me how
3 to use your ulfberht; thanks for explaining Goethe to me, the
4 soul of your land. It's in mine, too, you blue moon beam. Be
5 careful, my bundes babe, they do play on our sense of duty. I
6 miss you, Sigs, I really do. So (Speaking foreign language.)
7 Hal.

8 Liz: Black and blue, a hundred shades of you. I
9 hope you've found a way to tame that beautiful gypsy spirit of
10 yours. I'm sorry we didn't work out, but it was very special,
11 and I'm sorry I screwed it up with my issues. There was love,
12 and the boss said it best, it was a tunnel of love. Is that
13 you, baby, or just a brilliant disguise? So, be gentle with
14 Martin. Everyone desires a good love.

15 Martin: Well they claim I've pulled a bit of a
16 swifty, thus we may have to leave it at this. Good on you
17 both. Good luck and enjoy the land of wonder. You're on the
18 front lines, mate. Take care, guys, best, Hal.

19 Now to the hardest one of all, Deborah. Deb, the
20 skies parted when we met. All nature approved. It was crazy
21 you and crazy me, searching for Infiniti, Oliver and Jenny, a
22 love story. Fred said I was definitely dippy about the way
23 you walked. It sounds like madness, because it must be love,
24 every day, every night. It turned into something much, much
25 more. I said something about being a Ninja, you heard Ninjo,

1 thought I wanted to talk about our feelings. And thank
2 goodness you did. You saved me, and by extension, quite
3 possibly a few other people, places, and entire institutions
4 as well. The power of love. The Deb effect. It's the real
5 thing.

6 You awakened my soul, Mumford style, and I wanted to
7 sing you a song for a cold winter's night, and dance you till
8 the end of love. But, instead, it looks like it's going to be
9 if you could read my mind, love. So, Deborah, you helped me
10 up, for I had fallen. You helped me find my way out of that
11 glimmering wilderness, out of the darkness. I think, though,
12 that we were granted that severe mercy, the one C.S. Lewis
13 spoke of. More than anything, thank you for helping me find
14 what's right again.

15 Deb, water bears no scars, and I am a new creation.
16 Now a man walking a penitent path. That is why it's so hard
17 to say, and I am so sorry to have that Rick and Ilse Airport
18 Talk, the one about not today or tomorrow, but soon and
19 forever. Well, here's looking at you, kid. We'll always have
20 Burlington, and the memory of trees. So, as you wish, to
21 blave. Better to have loved and lost, than never to have
22 loved at all. (Speaking foreign language.) My love.

23 Onward, and to the more aggrieved parties. For
24 those gentle folk, living in a savage land, off Savage Road, I
25 offer a flag of truce for a cessation of hostilities. I know

1 you've been talking about me. No doubt amidst a torrent of
2 obscenities. Now you know me and I know you. Inside and out.
3 We have spent a lot of time together, and we have talked, ad
4 nauseam. I am very sorry for what has happened. I want to
5 apologize, and to share with you that anger is like drinking
6 poison and expecting the other person to die.

7 Now, heart to heart my issue is pride, vanity. 1st
8 Corinthians, chapter 13. I was not a charitable man with you.
9 One of the hardest lessons to learn is how to face up to
10 exactly who is that man in the mirror. So, in a sense, I
11 think I was trying to protect you from myself, as well. Try
12 that paradox on for size. In seeking ideals, we can turn into
13 idealists and perfectionists. In our zeal, we can turn into
14 zealots. It was my untempered belief, in that unbreached
15 rationality, the result of unchecked volitional consciousness.
16 Good in moderate doses, but excess can lead to extremes.

17 Oh, and that sign, it's not the only one to seek.
18 Tempus Fugit, so let us begin to use safe words with each
19 other. I'm sorry for being a bit harsh, a disciplinarian,
20 applying a little too much OTK. Well, I wanted you better,
21 not broken. So I'm sorry for pushing you and giving you a
22 tune-up. Encouragement and best thoughts are these: Your
23 worst enemy, after the usual suspects, is some of our own.
24 Beware the tyranny of the mediocre. That mind-numbing
25 serocracy that stifles imagination and innovation, setting

1 idly by, sipping a large glass of tall poppy syndrome, with a
2 chaser of schadenfreude. So, when you need to find the speed
3 of heat, have a really solid understanding of what you can
4 skip and what you must do. Because, without the middle
5 initial, the other two just indicate something else.

6 Last thoughts, I know that the lack of open
7 acknowledgment of technological acumen and achievement is
8 hard, but please don't boast or brag. Loose lips sink ships,
9 then as now. Also, please remember my words to you regarding
10 Hubris and Time. Oh, by the way, I've found that frequency.
11 The one in the picture. It's the road to Shambhala, and it's
12 nice. So I won't be coming back. Best, Hal. P.S. Got root?
13 Try harder, get wired. That's my 21 input. So long.

14 For J.D.: No old man. I thought I was having
15 trouble with my adding. But it's all right now. Via condios,
16 Amigo, Hal.

17 For Rob: I'm sorry for playing apex predator with
18 you. But I am an extremely apt pupil. Some guys drive a
19 Charger, others drive a Prius. It is what it is. You're a
20 good man, Rob, best, Hal.

21 For the Admiral, and cc: to Shawn, Mike, Swoo to
22 Swo, I'm sorry to have played the pirate and given emergency
23 orders to Helm and Lee-Helm. The enterprise was in extremes
24 and elevation, at risk. You needed to know, and have an op
25 for ex by a real badger. No honey included. Just straight up

1 Bucky, with a red flag. Jack Rackham, revisited. Thank you
2 for treating me with dignity and decorum. As I deserved
3 neither. It meant a lot, and I meant every word in my letter
4 to you. I am regaining my bearing, and intend to act
5 appropriately from here on out. Fair winds, following seas,
6 full speed ahead. Ride, captain, ride. All my best, V/R
7 Hal.

8 Dr. R.: You are the greatest. I'm sorry I couldn't
9 give you better ideas to get you through the storm. Much
10 success in the days ahead. My complete admiration and
11 respect. Best, Hal. P.S. Remember simplicity is the ultimate
12 sophistication. Also, attendance and activity does not always
13 equal accomplishment.

14 For brothers and sisters: Oh, what would you think
15 if I sang out of tune? Make no mistake, the manner and method
16 of my approach was unorthodox, unconventional, uncanny. But
17 also unauthorized, illegal and just plain wrong. One step
18 beyond black. Please do not copy this, it is not the easy or
19 correct path. I took short cuts, went backwards, sideways and
20 around things, crossing major borders and boundaries. It is
21 not good, it's very, very bad. Please don't. No boldly
22 pressing enter where angels fear to tread. Creativity and
23 imagination can be a curse, especially if to the manner
24 Bourne. So I hope you will accept this explanation and
25 apology.

1 Having said that, I would offer words of
2 encouragement: As a child of divorce myself, I'm glad I could
3 help you with yours. Remember, we work to create a world in
4 which our services are no longer required. For now, though,
5 it's close action, and sharp. Our nation is under attack like
6 never before, and it's new lies for old, but the eyes are the
7 same. The eyes are the same. Don't be afraid to look, you're
8 stronger. They're right, truth is the first victim, so it's
9 John 8:32, and more importantly, John 10, verses 10 through
10 15, inclusive. Do beware of the long-term effects of that
11 professional schizophrenia, a bipolar lifestyle, and rampant
12 paranoia.

13 As for me, ex umbra lux. So I'm moving on. The
14 Benediction and Blackstone appeal, with a bit of Buddha and a
15 lot of Luther. I'm clean and sober, but still only 50 percent
16 and can barely sing daisy. Like Father Merrin, though, I have
17 talked a leap of faith and begun to face my demons. I have
18 not ceased to care, especially where you are all concerned,
19 because after at least four times it has started to take on
20 that special flavor, and I am fighting for it. Thus, I repeat
21 of the ancient oath: We move in shadow. We work in secret.
22 We serve in silence.

23 Now, please take this to heart, look out for each
24 other. Look out for one another. Care for each other. Be
25 kind to one another. Because, I can tell you to a certainty,

1 that out here in the deepest dark, running solo, it is very,
2 very cold. So pump up the volume. Check out your gear. And
3 find that quiet smile. Stay elite, stay alert, and you'll
4 stay alive. All right, it's folks forever. Set cruise
5 control to run at 5/4 time. As you move intelligently
6 forward, Excelsior, Hal. P.S. to strive, to find, to seek and
7 not to yield. Remain, as I do, guided by that 16-pointed
8 star, a compass for our lives. Heads in the boat. You'll
9 find swain.

10 Sheryl and Bob: Well, Sheryl, it looks like you
11 have your reset and rebalancing. Enjoy. Know that it does
12 come at a price and a cost. I'm sorry if there was blow back.
13 Bob, sorry about all the destroyed dinnerware. Perhaps,
14 dinner out is in order. All the best, Hal.

15 For Oleg and Mischa: I'm sorry we didn't get to
16 talk more. Your insights and observations were spot-on. Your
17 ideas invaluable. Full marks, top of the class. Thank you
18 for playing the great game. One night in Bangkok makes a hard
19 man humble. Best, Hal.

20 For Gina: Go you. Congratulations on breaking
21 barriers. I'm sorry if I showed up on your list of issues.
22 And, I apologize for copying the staff and copying the rod.
23 In my humble opinion, Gina, if we are truly to be avengers,
24 standing side by side as equals, 50-50, then we must
25 celebrate, investigate, and appreciate each other's diversity,

1 differences and abilities in order to win the day. All my
2 very best and highest regards, Hal.

3 For Robert/Joe/Ed and Ingo: Thanks for the training
4 and the tools. It made the difference when the Chip was down.
5 A real run lilo run moment. Sorry I couldn't have been a
6 better artist. See you on the other side, Hal. P.S. I did
7 learn to push, though, just fine. And the beat goes on.

8 For Steve, John, Erica, Nicole and the rest: Steve,
9 you were my Colonel Trautman. You were right about
10 everything. You helped me believe again. Believe in the
11 mission. And I thank you for that. I'm sorry I was very
12 broken and damaged by then. I wish I could have been better
13 for you. I wore a black hat for a savage land, but for you, I
14 put on that black and rode back there as a paladin.
15 Your mil-spec monkey on patrol doing long-range recon. I
16 flipped the switch to battle override, turned and burned,
17 accelerated, expended the last round, and burned out the rest
18 of the circuits. You all are very much worth it. But I have
19 to tell you, General, staff duty is actually a bit rough. So
20 Steve, remember all we talked about, the governing dynamics.
21 I have seen 5,000 years of battle, and it's getting late.
22 (Speaking foreign language.) V/R, best, Hal.

23 For Ash and Frank and the D-Mag: Sirs, it was the
24 only way I could see to solve all the equations. Desperate
25 man, desperate times. So I want to sincerely apologize and

1 say mea culpa, mea culpa, mea maxima culpa. Please forgive a
2 mind made febrile by the facts presented and my unbecoming
3 conduct. Jason Bourne, Scary Version, best job I ever had.
4 Travel well and may the good lord bless and keep you. V/R
5 Hal. P.S. the Heilmefer questions: It is a conundrum, sirs.
6 Works just fine. Sometimes to save the box we have to think
7 outside of it.

8 For J-folks: To paraphrase, some good men. Your
9 progress is marked, but it is not completed. Clarity of
10 intent and thoughts can serve to strengthen all of us for the
11 tasks that still lie ahead. I'm sorry I did it the way I did,
12 for I truly loved the work. All my good thoughts and prayers.
13 Hal.

14 For that curiously interesting and curiously
15 exciting crowd: I'm very sorry for yanking your chain and
16 pulling you into this, but you had serious issues with your
17 management. Best thoughts for you are these. Read closely
18 the following: Gordievsky, Reibbling, Kalugen, Masterman,
19 Reinhard Gehlen, William R. Johnson, and Colonel John Hughes
20 Wilson.

21 Also, remember the words of the great Ray Rocca
22 regarding friendly services. Be careful while building out
23 that panopticon of Orwell and Zamyatin, remember, it is not a
24 total solution. You still have to think critically.
25 Perfection of the instrument is important, but your model and

1 theory must be shown by the data. Good data. Blindness to
2 bias can be a very tricky thing to account for. You may find
3 yourself subjected to it, as well as instrumentarian power, an
4 unwelcoming side effect of free ice cream. Happy hunting.
5 P.S. So, I'm sorry, but I don't drink vodka and I'm immune to
6 Smirnoff. They tend to cloud the mind; the mist releases
7 monsters from the id.

8 For Uncle Bob and Bill: Sirs, I'm very sorry to
9 drag you back in the meat grinder. The kids aren't getting it
10 and a good number of the adults are, frankly, AWOL. Jim
11 Angleton is spinning in a box. The purple dragon is weeping.
12 And Markus Wolf? Well, he's just laughing at us from the
13 great beyond. So you're needed. Bob, thank you for such
14 fancy work, of that part there can be no doubt. I couldn't
15 find the words myself so I jumped the problem queue. The
16 thing is, I don't believe in the no-win scenario. Bill, you
17 take the high road, because I guess I took the low road, sir.
18 Wisdom, Chapters 6, 7, and 8. I pray 9 daily. I'm sorry I
19 couldn't have done it better or cleaner. I had to call Arty
20 on my own POS, Bob, had to lean into it. You both have my
21 complete admiration, respect, and highest regard. Best, Hal.

22 To that cool dude, in a loose mood. I'm sorry.
23 What I wanted to say is just this: Knock it off, Sport. To
24 be fair, though, those people, they, them, the people of
25 Pushkin, they have been through quite a lot. They've asked us

1 to understand their collective experience, and come and see
2 what happened to them the last time the world went insane.
3 Perhaps straight forward diplomacy, can engender a watchful
4 trust. Because this relationship matters. And it dies not
5 from love or hate, but neglect and indifference. It requires
6 both a constant gardener and night manager.

7 Which brings me to Jeremy. Yes, you're right. If
8 it's about your kids, it's about everybody's kids and
9 everybody. And Cusack would get this, it's about no one ever,
10 ever having to say, "hey what happened to Major Kong?" The
11 nominal positive operation of functional security controls,
12 Jeremy, that's what it's about. Good luck. Best, Hal.

13 Now, last to you. Your Honor. I must apologize.
14 When we started this, back in 2016, you said that this matter
15 gave you great pause. I've been thinking about that a lot
16 since then, and it does, doesn't it? You, as much as others,
17 can imagine what all of this implies. And I'm extremely sorry
18 for that, to bring that reality to you. All of you should be
19 able to expect that your taxes are being spent efficiently,
20 wisely, and to good effect. The skies over America have grown
21 a bit dark, but I can offer you this hope: I have met a lot
22 of good people too, and they continue to engage. They are
23 worthy of your faith.

24 So I will end with this, Your Honor: My methods
25 were wrong, illegal, and highly questionable. I will continue

1 to seek wisdom, and pray for it daily, because I do know the
2 difference. I know the difference between fighting for
3 something and dying for nothing. I made my stand. Any way,
4 that's my view. It happens to be a matter of interpretation.
5 I thank the Court for its time. Thank you, Your Honor.

6 (Conference at the bench. It is the policy of this
7 court that every guilty plea and sentencing proceeding include
8 a bench conference concerning whether the defendant is or is
9 not cooperating.)

10 THE COURT: Thank you very much, Mr. Martin. And
11 the record will reflect that the defendant has essentially
12 read from Exhibit 6 to paper No. 214 in the file that was
13 filed on July 10. Just some nine days ago.

14 I've conducted the analysis as called for in the
15 *Booker* and *Gall* cases, as I've said, with respect to
16 determining the propriety of a nine-year sentence in this
17 case, conducting the analysis that called for by both of those
18 cases. The goal being to impose a sentence which not only
19 punishes the defendant but deters the defendant and others
20 from criminal conduct, and incapacitates the defendant, and
21 protects the public, and also rehabilitates the defendant.

22 And to achieve these purposes this Court always
23 looks to the factors under 18, United States Code, Section
24 3553(a). Including the defendant's personal history and
25 characteristics, and the nature and circumstances of the

1 offense, and the need to protect the public, as well as
2 looking at sentences imposed upon similarly situated
3 individuals. All of those factors were taken into account to
4 determine whether or not a sentence within the advisory
5 guideline range, in this case the high end of the guideline
6 range, was appropriate. And I determined that it was.

7 I will note that this case has given me great pause,
8 as I mentioned many years ago, and has only reinforced by the
9 evidence in this case, it's been reinforced today. And that
10 is that the statement from which the defendant read just now
11 included, and I don't purport for a minute, Mr. Martin, to
12 understand all of that, and obviously there are many different
13 people in your lives to whom you're paying reference, so no
14 one can really understand all of that.

15 But I do understand the phrase crossing major
16 borders and boundaries that's contained in your statement.
17 And also loose lips sink ships, which actually comes from an
18 old phrase from World War II. To put it bluntly there are too
19 many loose lips endangering too many ships in this society.
20 And that's the message that has to go out here. I don't care
21 what the personal history is of any individual when it's
22 involved with national security, when it's involved with this
23 kind of information, when it's involved with national defense
24 information.

25 In this job, believe me, everybody's got issues.

1 You would be amazed what I learn in this courtroom, in terms
2 of what goes on in the lives of people. But we're living in
3 very precarious times here. And the -- what I call at times
4 the dark side of the internet is always out there, access to
5 information. Everybody becomes an expert. Everybody asserts
6 themselves as to how they can be on the stage and they effect
7 a lot of people.

8 And I cannot -- have not and cannot get out of the
9 fact that -- and I look carefully when the guilty plea was
10 entered on March 28th with the statement of facts, and the
11 stipulation of facts. And I've already made reference here
12 earlier this morning to some of these documents included
13 intelligence sources. And there were people whose lives --
14 and I see you nodding in agreement -- there are people whose
15 lives are endangered, endangered by this kind of breach.

16 And those people don't get their names in the New
17 York Times. Those people live to make sure their names aren't
18 in the New York Times. And they're at risk now around this
19 world, seeking to protect this country and seeking to
20 enforce -- no matter how much it is troubled, still the best
21 country on the face of the earth. And those people are out
22 there and they were endangered. And all of the analysis, all
23 of the explanation does not change that for one minute, one
24 iota.

25 And, indeed, you recognize that. And those phrases

1 caught my attention previously when I read your statement and
2 when you just read it now, crossing major boundaries and
3 borders, and you have. The first time that information went
4 out from NSA, and you took that information home, you crossed
5 a major boundary and major border, and entered into very
6 dangerous territory. And it's very tragic what's occurred
7 here.

8 For all those reasons I determine that the nine year
9 sentence was appropriate. And I don't mind telling you that I
10 grapple with it. Because I read very thorough, several times,
11 probably more than I normally do, the report of Dr. Black.
12 Not that I don't read them, I read them all the time, but this
13 one caught my attention. I read it over and over. I
14 mentioned to Mr. Wyda a few minutes ago, I didn't see any
15 reference to grandiosity there.

16 And that's what's involved here. When all is said
17 and done -- when all is said and done, people putting
18 themselves on a platform so the world can hear them. And they
19 may need to be heard for different reasons, it's fine. They
20 may have had issues in childhood. But this notion that we
21 live in a culture where people find a way that they get the
22 platform so the world hears them, we need to hear less of them
23 not more. We need to hear less of people shouting how they
24 view the world, when we need to take bigger precautions for
25 those people who really put their lives on the line out in the

1 field. And that is the simple fact of this matter.

2 So I've given this a lot of thought when I
3 determined that a nine-year sentence was appropriate. And
4 that will be the sentence here.

5 It is ordered that you are to be remanded to the
6 custody of the Bureau of Prisons for a period of 108 months on
7 Count 1, with credit for time served in federal custody, since
8 the date of your arrest on August 27, 2016. I'm going to
9 recommend that you receive psychological counseling and mental
10 health treatment. I'm also going to recommend that you
11 participate in a substance abuse program for which you're
12 deemed eligible. There's been some notion of alcoholism. I'm
13 not a professional in that regard, I don't know. But I'll
14 certainly see that you get substance abuse treatment as well.

15 With respect to your assignment, the Bureau of
16 Prisons is not bound by any recommendation that I make, but
17 I'll make a specific recommendation. And I need to hear from
18 counsel on this. I understand that the defendant, upon his
19 release from prison -- he basically is looking at
20 essentially -- he's got three years down and another six years
21 to go -- he's going to be living with his sister in New
22 Hampshire. So I don't know whether to recommend the minimum
23 male camp in Allenwood or Fort Dix or Otisville, New Jersey.
24 And then it occurs to me that there may be psychology
25 counseling and mental health treatment facilities available at

1 FMC Devens in Massachusetts. I really don't know what you
2 would like.

3 If you'd like to talk to your client for a moment,
4 I'm prepared to recommend FMC Devens in Massachusetts, because
5 what I think all the mental health issues he's got to deal
6 with. And then when the Bureau of Prisons -- and I have great
7 faith in the Bureau of Prisons when it comes to this, they can
8 rotate him where they think he should best serve. But I need
9 some education on this from your point of view, Mr. Wyda.

10 MR. WYDA: Your Honor, I think the language we would
11 like from the Court, if you agree, would be to recommend FMC
12 Devens.

13 THE COURT: That's fine. FMC Devens.

14 MR. WYDA: Or an appropriate facility as close as
15 possible to Berlin, New Hampshire.

16 THE COURT: To Berlin New Hampshire. All right.
17 Well I will do that. And I think according to my -- I think
18 the closest facility in the northeast area is -- I didn't get
19 the Mapquest out, but I think the Otisville, New Jersey -- I
20 mean, Otisville, New York. I don't know.

21 MR. WYDA: I think we agree with you, Your Honor.

22 THE COURT: I'm going to recommend FMC Devens in
23 Boston, Massachusetts. And alternatively the minimum male
24 camp at Otisville, New York. They are closest to New
25 Hampshire.

1 MR. WYDA: That would be perfect, Your Honor.

2 THE COURT: You want to talk for a minute, Ms.
3 Boardman, any other thoughts with Mr. Wyda you have.

4 MR. WYDA: Your Honor, kind of, this is a consistent
5 theme that I agree with everything you've said, if you could
6 also put as like a catch-all, as close as possible to Berlin,
7 New Hampshire.

8 THE COURT: That's fine. Put that in there.

9 MR. WYDA: After the Otisville and the Devens --

10 THE COURT: Mrs. Smith is always very good with
11 these things.

12 MR. WYDA: As you can imagine with this team it's
13 going to be a lengthy process.

14 THE COURT: She crosses t's and dots i's with me all
15 the time.

16 MR. WYDA: Thank you, Your Honor.

17 THE COURT: I'm going to order that the defendant be
18 placed on supervised release for a period of three years
19 pursuant to the plea agreement in this case, with the
20 mandatory and standard conditions of supervision adopted by
21 the Court and the following additional conditions: That he
22 shall participate in a mental health treatment program as
23 deemed necessary by the probation officer. And that he shall
24 take any mental health medications that are prescribed by a
25 treating physician. That he shall submit to any substance

1 abuse testing and shall participate in the substance abuse
2 program for which he is eligible.

3 There was some suggestion in Ms. Swillo's report
4 that he must not use alcohol. I'm not prepared to say that.
5 I'll leave it up to a professional to determine whether or not
6 that has to be a condition.

7 The one thing I do note is paragraphs 14 through 18
8 of the plea agreement listed certain other conditions here
9 that I don't know, perhaps, need to be stated in the
10 conditions of supervised release. Specifically, it had to do
11 with assignment -- and the plea agreement in this case is a
12 matter of record in this case -- but it had to do with, first
13 of all, assignment of compensation for certain publications,
14 seeking authorization for communications, no contact with
15 foreign agents, return of discovery and documents to the U.S.
16 Government. I think all of those are conditions that need to
17 be listed in the Judgment and Commitment order in some
18 fashion, because they're woven into the plea agreement.

19 Mr. Myers, what is your position on that? For
20 example, paragraph 14 of the plea agreement letter
21 specifically noted assignment of any compensation for certain
22 publications. It seems to me if that's the case, that that
23 has to be woven in as a condition of supervised release. He's
24 not permitted to do that. What is the wording that you want
25 in that regard?

1 MR. MYERS: Well, Your Honor, the government doesn't
2 have any specific objection to including those paragraphs as
3 conditions of supervised release, but the fact of the matter
4 these are ongoing obligations beyond the three that --

5 THE COURT: I understand.

6 MR. MYERS: -- supervised release. And, of course,
7 the government would pursue its remedies through any manner
8 available to it, you know, not necessarily limited to moving
9 for revocation of his release.

10 THE COURT: Well, the reason I do it that way is for
11 supervised release, Mr. Myers, it allows immediate response,
12 quite frankly, apart from any decisions down the road, if
13 there's conditions of supervised release, the government need
14 only prove by a preponderance of the evidence it want's
15 violated conditions of supervised release, doesn't have to be
16 a criminal charge, that's what I'm trying to clarify.

17 MR. MYERS: Your Honor, since the plea agreement is
18 a matter of record, should the Court determine that it wants
19 to incorporate these conditions, it might be easier, for the
20 sake of the Judgment and Commitment order, just to
21 specifically incorporate by reference.

22 THE COURT: Well, what I'll do, Mr. Wyda, what I'm
23 going to do -- thank you, Mr. Myers -- is just to note that
24 another special condition is that the defendant shall abide by
25 the conditions set forth in paragraphs 14 through 18 of the

1 plea agreement letter that was introduced as Government's
2 Exhibit No. 1 on March 28, 2019. And those four paragraphs or
3 five paragraphs listed certain obligations that he is to
4 recognize. And if that was to come up, that would be a matter
5 that the Court would have to deal with in terms of any
6 potential violation of supervised release. Does that sound
7 workable to you?

8 MR. WYDA: That sounds fine, Your Honor.

9 THE COURT: All right. Ms. Smith, now your task is
10 to remind me that ordered that and we'll do it when we prepare
11 the report.

12 They will be the additional conditions, the special
13 conditions of supervised release.

14 I'm not going to impose a fine in this case the
15 defendant is not able to pay a fine. There's no assets to do
16 so. There is a special assessment of \$100 that's mandated by
17 statute, and that will just be listed as being paid
18 immediately and be deducted from his prison wages. He is not
19 a candidate for voluntary surrender, but he's getting credit
20 for all time served in federal custody for over almost the
21 last three years, since his arrest on August 27, 2016.

22 I want to advise you of your appeal rights,
23 Mr. Martin, because this is an agreed sentence both sides
24 waived any appeal of sentence, but if you did want to note --
25 in paragraph 19 of the plea agreement, there was specifically

1 a waiver of any right of appeal by both sides, but if you did
2 want to note an appeal, you would have to do so within 14 days
3 of the entry of the judgement and commitment order in this
4 case, pursuant to Rule 4(b) of the Federal Rules of Appellate
5 Procedure. If you could not afford an attorney to represent
6 you, an attorney could be appointed to represent you.

7 Mr. Wyda and Ms. Boardman, you do not need to notify
8 the Court, but if you would just make sure your own file
9 reflects that you put a note in your file, presumably that
10 reflects that he does not desire to file an appeal from the
11 sentence that was agreed upon.

12 Is there anything further from the point of view of
13 the government on this matter, Mr. Myers?

14 MR. MYERS: No, Your Honor. Thank you.

15 THE COURT: Anything further, Mr. Wyda, from your
16 point of view.

17 MR. WYDA: No, Your Honor.

18 THE COURT: I just would like to note, to commend
19 the lawyers from the government and from the Federal Public
20 Defender's Office for the high level of professionalism in
21 this case. This is not the first national security case I've
22 had. And with respect to the Classified Information
23 Procedures Act and all the different requirements and all the
24 steps that are taken, the level of performance of the lawyers
25 in this case have been among the highest. So I commend all

1 the lawyers in this case for how they've handled this case.
2 And also the work of the government investigators, both from
3 the FBI and NSA. And, Ms. Pino, I salute you in terms of your
4 work in this case and all those people who work with you on
5 it.

6 And I think it's safe to say that the institutions
7 of this country are still strong. We're still able to deal
8 with these kind of very serious matters in a civilized, fair,
9 calm way. Don't for a minute, Mr. Martin, forget the serious
10 implications of this case.

11 With that this court stands adjourned. Thank you
12 all very much.

13 (The proceedings were concluded.)

14 I, Christine Asif, RPR, FCRR, do hereby certify that
15 the foregoing is a correct transcript from the stenographic
16 record of proceedings in the above-entitled matter.

17 _____/s/_____
18 Christine T. Asif
19 Official Court Reporter
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23
24
25

1	< Dates >.	21201 1:49.	8. 55:18.
2	August 27, 2016	214 6:16, 22:16,	87 9:10, 14:6.
3	61:4, 66:17.	28:9, 41:15,	8:32 51:9.
4	July 10 57:9.	57:8.	.
5	March 28, 2019	23 26:11.	.
6	65:23.	25 38:24.	< 9 >.
7	March 28th 7:1,	28th 6:19, 13:22,	9 13:24, 55:18.
8	59:6.	21:25.	97 12:15.
9	\$100 66:12.	29 13:7, 14:5.	_____ /s/ _____
10	.	29. 13:19.	_____ 68:15.
11	.	.	.
12	< 1 >.	.	.
13	1 13:21, 61:3,	< 3 >.	< A >.
14	65:23.	30 23:17.	Aaron 1:27, 2:19,
15	10 12:15, 13:24,	31. 13:15.	2:21.
16	51:9.	3553(a 14:22, 15:11,	abandonment 19:4.
17	100 27:3.	21:11, 57:20.	abide 19:11,
18	101 1:48.	.	65:20.
19	108 6:24, 7:3, 9:10,	.	abilities 53:1.
20	14:6, 14:7,	< 4 >.	ability 38:18.
21	61:2.	4(b 66:25.	able 6:4, 6:6,
22	11th 13:20.	4th 1:48.	16:24, 32:4, 34:3,
23	13. 48:8.	.	34:13, 35:10,
24	14 8:12, 64:3,	.	56:19, 66:11,
25	64:16, 65:21,	< 5 >.	68:3.
26	66:23.	5 8:15, 37:9.	above-entitled
27	15 12:15, 51:10.	5,000 53:21.	68:13.
28	16-pointed 52:7.	5. 24:5.	absent 12:23.
29	17 43:4.	5/4 52:5.	absolute 35:1.
30	18 9:15, 13:9,	50 51:15.	absolutely 45:21.
31	57:19, 64:3,	50-50 52:24.	abuse 13:12, 19:18,
32	65:21.	506 3:19.	24:15, 61:7,
33	19 15:5, 66:21.	54 37:9.	61:10, 63:22.
34	1st 48:7.	57 12:14.	abused 36:24.
35	.	.	accelerated 53:17.
36	.	.	accept 21:12,
37	< 2 >.	< 6 >.	50:24.
38	2 14:25, 15:5.	6 42:2, 43:4, 55:18,	acceptance 13:17.
39	20 15:1, 15:5,	57:8.	accepted 7:1,
40	15:15.	66-month 8:4.	27:6.
41	2003 11:10, 11:15,	.	accepting 30:4,
42	12:1.	.	33:20.
43	2005 8:13, 8:22.	< 7 >.	accepts 27:24.
44	2006 14:1.	7 55:18.	access 13:13, 20:3,
45	2008 21:25.	77 6:6.	20:5, 20:8, 20:20,
46	2010. 35:23.	793(e 13:9.	30:2, 32:23, 33:2,
47	2016 56:14.	.	58:25.
48	2016-05 3:19.	.	accessed 17:16.
49	2019 1:19.	< 8 >.	accident 21:6.
50	21 49:13.	8 13:6.	accomplishment

1	50:13. accorded 13:18.	36:25. adults 55:10.	ahead 50:6, 50:10, 54:11.
2	according 62:13. account 8:25, 17:15,	advance 10:3, 42:14.	air 35:25, 40:16. Airport 47:17.
3	21:11, 32:12, 55:2, 57:24.	adventurer 42:22. advice 45:16.	alcohol 24:15, 63:25.
4	accounting 42:19. achieve 57:18.	advise 66:18. advisory 9:2, 9:4,	alcoholism 61:8. alert 52:3.
5	achievement 49:7. acknowledgment 36:5,	9:8, 13:4, 14:6, 19:19, 21:3,	alive 52:4. alleged 29:6.
6	49:7. Act 11:10, 11:12,	57:25. affidavit 18:1.	Allenwood 61:19. allow 24:18.
7	11:15, 13:2, 50:4, 67:19.	affiliation 19:16. afford 67:1.	allowed 26:12. allows 65:7.
8	action 20:14, 43:13, 51:5.	aforementioned 43:16.	alluded 27:14. almost 25:19, 36:18,
9	actions 17:3, 19:1.	afraid 51:7. age 24:5.	66:16. alone 25:24, 26:9,
10	active 25:17. activity 50:12.	agencies 15:22, 15:23, 20:4,	26:13. already 18:10, 24:5,
11	actual 45:3. actually 23:10,	30:25, 33:23, 34:12.	42:3, 59:7. alternatively
12	24:9, 36:3, 53:19, 58:13.	Agent 1:38, 2:23, 2:24, 33:24.	62:19. Although 12:21,
13	acumen 49:7. ad 48:3.	agents 64:11. ages 43:25.	13:17, 17:18, 23:10.
14	addict 39:8. adding 42:17,	aggrandize 29:12. aggrieved 47:23.	amass 16:19. amazed 58:22.
15	49:15. addition 6:4,	ago 25:20, 57:9, 58:4, 60:10.	amends 27:6, 43:15.
16	43:16. additional 63:17,	agree 6:21, 6:23, 33:16, 62:7,	America 1:5, 43:8, 56:20.
17	66:8. address 14:9, 14:21,	62:17, 63:1. agreed 10:2, 10:5,	American 35:1. amidst 48:1.
18	17:4, 41:24. ADHD 10:10.	14:7, 15:12, 17:5, 20:11, 66:19,	Amigo 49:16. among 11:12, 21:22,
19	adjourned 68:7. adjusted 13:15.	67:7. agreeing 4:19,	67:21. amount 5:14, 30:1.
20	adjustment 13:11, 13:16.	19:11. agreement 6:22,	analysis 7:13, 10:4, 17:8, 23:1, 57:10,
21	administrative 12:2, 12:16.	7:10, 8:16, 9:11, 11:23, 13:20,	57:13, 59:18. ancient 51:21.
22	Admiral 18:22, 49:21.	14:25, 15:3, 15:4, 22:8, 59:10,	and/or 8:16. angels 50:22.
23	admiration 50:10, 55:21.	63:15, 64:4, 64:7, 64:14, 64:16,	anger 48:5. Angleton 55:11.
24	admitted 16:13. adopted 3:20,	65:13, 65:22, 66:21.	Anne 14:2. announcement
25	63:16. adult 24:14,	agreements 19:11. agrees 33:17.	42:16. antagonistic

1	34:11.	around 45:12, 50:20,	AUSA 1:25, 1:29.
	Anthony 44:19.	59:14.	authentic 36:14.
2	anticipated 13:19.	arrest 23:21, 25:19,	authorization
	Antonius 43:1.	25:23, 25:24,	64:10.
3	apart 10:1, 11:2,	36:2, 61:4,	authorized 3:22.
	13:5, 44:14,	66:17.	autism 23:24,
4	65:8.	arrived 26:17,	31:2.
	apex 49:17.	27:5.	available 28:1,
5	apologize 2:15,	art 44:9.	61:21, 65:4.
	4:22, 27:8, 43:22,	articulate 30:16.	avengers 52:23.
6	48:5, 52:22,	artist 27:16,	average 43:11.
	53:25, 56:13.	53:6.	awakened 47:6.
7	apology 42:19,	Arty 55:19.	aware 17:20,
	50:25.	Arundel 14:2.	18:16.
8	Apparently 2:14,	Ash 53:23.	away 45:12.
	22:23, 24:8.	Asif 1:46, 68:11,	AWOL 55:10.
9	appeal 51:14, 66:18,	68:16.	.
	66:20, 66:22,	asks 44:20.	.
10	66:23, 67:6.	aspects 38:4.	< B >.
	appear 28:24,	aspersions 34:7.	babe 46:5.
11	42:15.	ass 37:21.	baby 46:13.
	Appellate 66:25.	asserts 59:1.	back 2:4, 12:1,
12	application 18:2,	assessment 66:12.	17:24, 31:15,
	43:13.	assets 66:11.	36:12, 39:9, 40:4,
13	apply 8:24.	assignment 61:11,	40:5, 49:12,
	applying 48:20.	64:7, 64:9,	52:12, 53:14,
14	appointed 67:2.	64:17.	55:9, 56:14.
	appreciate 14:19,	assignments 16:5.	background 18:6,
15	52:25.	assistance 11:21.	18:8, 25:2,
	approach 50:16.	Assistant 1:35, 2:8,	25:7.
16	appropriate 3:25,	2:11.	backwards 50:19.
	6:24, 8:7, 9:13,	assure 14:16.	bad 38:21, 38:23,
17	10:5, 11:25,	atomic 45:22.	50:21.
	29:16, 33:9, 58:2,	attack 51:5.	badger 49:25.
18	60:5, 60:24,	attendance 50:12.	bake 44:20.
	62:10.	attended 26:24.	Baltimore 1:20,
19	appropriately	attention 59:22,	1:49.
	50:5.	60:9.	Bangkok 52:18.
20	approved 3:25, 4:2,	Attorney 1:27, 2:9,	banker 16:11.
	46:20.	2:11, 28:24, 67:1,	barely 51:16.
21	Approximately 5:10,	67:2.	baroness 45:24.
	16:10.	attorneys 5:11.	barriers 52:21.
22	apt 49:18.	attuned 34:9,	base 13:7.
	aptly 29:6, 34:19.	34:15.	based 9:13.
23	architect 45:19.	audience 25:9.	basic 37:15.
	area 26:13, 62:14.	Audrey 27:15, 28:6,	basically 12:12,
24	areas 15:21.	28:7, 28:14,	61:15.
	Arendt 45:2.	44:9.	battle 43:3, 53:16,
25	argued 40:9,	aunt 22:21, 27:15,	53:21.
	40:11.	28:5.	beam 46:4.

1	bearing 16:11, 50:4.	25:22, 26:19, 27:13, 30:18,	bones 39:18.
2	bears 47:15.	38:24, 47:21,	book 43:9.
	beat 53:7.	48:20, 50:9, 53:6,	Booker 8:13, 9:21, 57:11.
3	beautiful 46:9.	53:12, 55:19.	BOP 6:9.
	became 24:23, 31:1, 31:2, 31:6, 31:13, 31:17.	Beware 48:24, 51:10.	border 60:1.
4		beyond 50:18, 55:13, 64:25.	borders 50:20, 58:12, 59:24.
5	become 31:13, 37:24.	bias 55:2.	born 44:1.
6	becomes 59:1.	Bible 26:23.	borrowed 27:1.
	began 24:15.	bicycle 39:22.	boss 46:12.
7	begin 48:18.	bigger 60:20.	Boston 62:19.
	begins 12:14, 44:24.	Bill 55:8, 55:16.	bound 8:24, 61:12.
8	begun 51:17.	bipolar 51:11.	boundaries 50:20, 58:12, 59:23.
	behalf 2:12, 3:2, 3:4, 14:14, 14:15, 22:11, 22:12, 28:20, 41:20, 42:1.	birth 42:16.	boundary 60:1.
9		bit 2:15, 44:15, 46:15, 48:19, 51:14, 53:19, 56:21.	Bourne 50:24, 54:3.
10	behavior 38:1, 38:16.	bite 40:6.	box 54:6, 55:11.
	behind 25:24, 40:9.	Black 23:1, 23:25, 24:20, 24:22, 26:5, 28:21, 29:4, 29:11, 30:15, 31:6, 31:15, 31:18, 31:22, 45:15, 46:8, 50:18, 53:13, 53:14, 60:7.	boxes 16:11.
11	belief 48:14.	Blackstone 51:14.	brag 49:8.
12	Believe 4:15, 8:4, 22:3, 28:7, 28:25, 30:17, 32:7, 53:10, 55:16, 58:21.	blave 47:21.	breach 59:11.
13	Bella 45:13.	blaze 47:21.	break 16:23, 21:10, 26:14, 26:19.
14	Benediction 51:14.	blight 39:7, 54:4.	breaking 34:15, 52:20.
15	Bennett 42:11.	Blindness 55:1.	breath 35:24, 40:15.
16	Berlin 62:11, 62:12, 63:2.	Block 43:1.	brief 23:14, 24:19, 25:1.
17	Best 27:25, 28:1, 29:1, 36:6, 43:23, 44:4, 44:20, 45:4, 45:20, 46:12, 46:18, 48:22, 49:12, 49:20, 50:6, 50:11, 52:14, 52:19, 53:2, 53:22, 54:3, 54:17, 55:21, 56:12, 59:16, 62:4.	blonde 45:22.	briefly 14:21, 35:10.
18		bloody 45:23.	brilliant 46:13.
19		blow 52:12.	bring 56:18.
20		blue 46:4, 46:8.	bringing 24:17, 30:17.
21		bluntly 58:14.	brings 56:7.
22		Boardman 1:35, 3:8, 3:9, 6:1, 7:24, 11:5, 14:13, 62:24, 67:3.	broadcast 3:23, 4:10.
23		boast 49:8.	broken 48:21, 53:12.
24		boat 52:8.	brother 22:18, 44:5, 44:8.
25	Beth 44:3.	Bob 52:10, 52:13, 55:8, 55:13, 55:20.	brothers 37:13, 50:14.
	Better 24:18, 24:19,	boldly 50:21.	Bucky 50:1.
			Buddha 51:14.
			building 54:22.
			bundes 46:5.
			Bureau 61:2, 61:11,

1	62:2, 62:3. buried 33:1.	Center 5:17, 26:17, 27:5.	26:19. Chris 44:14.
2	Burlington 47:20.	certain 10:6, 11:17, 30:1, 43:12,	Christian 43:13.
3	burned 53:16, 53:17.	45:15, 64:4, 64:9, 64:17, 65:24.	Christine 1:46, 68:11, 68:16.
4	Burnie 39:9. butt 37:22, 40:6, 41:9.	Certainly 15:12, 33:24, 35:14, 42:4, 61:10.	church 39:21. CIA 21:25, 34:9, 34:23.
5	button 36:14. .	certainty 51:25. certify 68:11.	Ciao 45:13. circuits 53:18.
6	< C >.	cessation 47:25. cetera 34:9.	circumstance 19:17.
7	calculate 13:4. calendars 4:1.	chain 54:15. challenge 24:2.	circumstances 9:16, 19:1, 26:15, 57:21.
8	call 55:19, 58:24. called 43:5, 57:10, 57:13.	challenges 27:11, 27:21.	civilization 44:10.
9	calling 2:2, 26:6. calm 68:5.	chance 36:9. change 59:19.	civilized 68:4. claim 46:15.
10	camp 61:19, 62:20. candidate 66:15.	changed 28:13, 40:7.	clarify 28:12, 65:12.
11	candor 29:10. capable 21:18.	changes 5:21, 6:13, 6:14, 42:7.	Clarity 54:9. class 52:17.
12	capacity 36:17. Captain 43:8, 50:6.	changing 2:14. chapter 48:8.	classification 13:13, 16:11.
13	car 15:17. Care 46:18, 51:18, 51:24, 58:16.	Chapters 55:18. character 26:16.	Classified 13:14, 15:19, 16:8, 16:12, 16:22, 17:14, 17:15, 17:20, 17:22, 18:24, 19:2, 19:9, 20:3, 20:9, 20:20, 20:22, 42:12, 67:18.
14	cared 33:19. careful 15:10, 46:5, 54:22.	characteristics 9:17, 12:11, 19:5, 57:21.	clean 38:14, 51:15.
15	carefully 14:20, 59:5.	characterized 38:8.	cleaner 55:19.
16	case-related 4:2. cases 11:14, 32:16, 57:11, 57:14.	charge 65:12. Charger 49:19.	clear 16:18, 19:7, 21:4, 25:9.
17	casting 34:7. catch-all 63:2.	charging 25:10. charitable 48:8.	clearance 13:13, 16:7, 19:15.
18	Catholic 43:13. cats 16:20.	chaser 49:2. Check 4:1, 52:2.	clearances 20:19, 38:18.
19	caught 59:22, 60:9.	chess 43:2. chief 11:15, 12:1.	clearly 21:23, 29:24, 34:22, 34:23.
20	cause 18:21, 19:3. cc 49:21.	child 36:25, 51:2. childhood 24:13, 60:16.	clerk 11:21.
21	ceased 51:18. celebrate 52:25.	Chip 44:2, 44:8, 44:13, 44:16, 45:4, 45:13, 53:4.	client 11:6, 61:24.
22	cell 25:24, 26:9, 26:11, 26:12, 26:13.	choice 39:11. choose 38:4. chose 20:4, 21:10,	clients 29:3.

1	clonidine 10:10, 10:18.	competent 11:6.	consider 9:25, 13:4, 42:17.
2	close 51:5, 62:10, 63:2.	complete 45:22, 50:10, 55:21.	consideration 7:21, 15:10, 40:18.
3	closely 20:12, 54:17.	completed 54:9.	considered 8:2, 8:6, 9:14, 16:16.
4	closest 29:11, 62:14, 62:20.	completely 34:24.	consistent 12:15, 14:24, 15:4, 22:8, 62:25.
5	closure 42:19.	completes 27:25.	constant 32:21, 56:6.
6	cloud 55:6.	complied 13:2.	constants 24:13.
7	Code 9:15, 13:9, 57:19.	compromised 18:25.	constitutionality 8:14, 8:18.
8	coexistence 45:4.	computerese 29:18.	consult 8:25.
9	cold 47:7, 52:2.	concern 40:13.	consuming 19:3.
10	collecting 24:22.	concerned 15:24, 51:18.	contact 64:10.
11	collection 22:2.	concerning 3:20.	contained 58:12.
12	collective 56:1.	concluded. 68:9.	containing 12:11, 12:17, 22:1.
13	Colonel 53:9, 54:19.	condios 49:15.	content 6:11.
14	comb 30:22.	condition 64:2, 64:19, 65:20.	contest 42:24.
15	comes 13:18, 39:21, 58:13, 62:3.	conditions 6:12, 63:16, 63:17, 64:4, 64:6, 64:12, 64:24, 65:9, 65:11, 65:15, 65:21, 66:8, 66:9.	continue 20:5, 34:25, 56:22, 56:25.
16	comfort 43:17.	conduct 7:13, 15:14, 21:5, 27:9, 54:3, 57:16.	continued 16:22, 24:7.
17	comic 43:9.	conducted 23:1, 57:10.	continuing 6:17.
18	coming 4:22, 38:16, 38:19, 49:12.	conducting 10:3, 57:13.	continuously 19:15.
19	Commander 45:15.	confidence 35:1.	contractor 19:8.
20	commend 67:14, 67:21.	confidential 12:11, 12:17.	contrasting 23:20.
21	comment 18:13, 28:19.	confiscation 4:13.	contributions 29:12.
22	commenting 32:25.	confiscation/inspect ion 4:9.	control 18:24, 52:5.
23	commercializing 43:8.	confrontations 39:5.	controls 56:11.
24	Commission 11:18, 11:25, 12:4, 12:22.	confusion 25:8, 28:16.	conundrum 54:5.
25	Commitment 11:19, 64:13, 65:16, 66:24.	Congratulations 52:20.	convicted 19:12.
	commoditizing 43:7.	Congress 11:11.	conviction 20:23.
	common 26:12.	connected 44:12.	convinced 24:17.
	communications 64:10.	consciousness 48:15.	cookies 44:20.
	compartmented 15:20.	consented 4:13.	cool 55:22.
	compass 52:8.	consequences 17:3.	copy 50:18.
	compensation 64:9, 64:17.		copying 52:22.
			Corinthians 48:8.
			correct 5:23, 5:24, 7:24, 7:25, 10:8, 10:13, 15:2, 18:5, 18:7, 21:16,

1	21:17, 21:21, 22:3, 24:11,	66:15. cried 38:16,	dark 25:22, 32:20,
2	24:12, 50:19, 68:12.	40:11. crime 16:9.	52:1, 56:21, 58:25.
3	corrections 6:1, 42:8.	crimes 19:12, 19:19, 20:9.	darkness 47:11. data 17:13, 55:1.
4	cosmos 44:13. cost 34:20, 52:12.	Criminal 1:9, 2:4, 6:20, 11:14,	date 4:20, 4:23, 61:4.
5	costly 19:3. costume 25:25.	12:13, 13:23, 14:3, 14:4, 19:14,	David 1:27, 2:19, 44:14, 45:7.
6	Counsel 2:5, 3:24, 4:4, 4:12, 7:17,	27:9, 57:16, 65:12.	day 2:14, 2:17, 3:10, 7:3, 7:8,
7	14:10, 22:10, 26:21, 30:11,	critically 54:24. Croan 45:1.	26:11, 39:4, 39:20, 39:21,
8	42:3, 61:14. counseling 61:5,	crossed 59:25. crosses 63:10.	42:20, 46:24, 53:1.
9	61:21. Count 61:3.	crossing 50:20, 58:11, 59:23.	days 27:1, 45:22, 50:10, 57:9,
10	country 18:22, 23:17, 24:19,	crowd 54:15. cruise 52:4.	66:23. deal 35:6, 35:25,
11	27:18, 27:22, 29:1, 30:24,	cry 38:8. crystal 16:17.	62:1, 66:1, 68:3.
12	30:25, 32:7, 37:13, 59:15,	crystallizing 43:7.	dealing 33:11, 37:8.
13	59:17, 68:3. Counts 14:25,	culpa 54:1. culture 60:17.	dealt 37:6. Dear 38:20, 42:11.
14	15:5. County 5:16, 6:5,	cured 27:11. curious 42:21.	Deb 23:5, 26:20, 35:11, 35:22,
15	14:2. courage 26:19.	curiously 54:14. current 5:19.	46:19, 47:4, 47:15.
16	course 18:13, 65:2.	curse 50:23. Cusack 56:9.	Deborah 1:35, 3:7, 46:19, 47:9.
17	courtroom 3:21, 3:24, 4:6, 4:7,	custody 61:2, 61:3, 66:16.	decades 15:20, 26:1.
18	4:11, 58:22. courts 8:23,	cuts 50:19. .	December 17:24. decided 8:7, 9:21,
19	11:13. crap 40:4.	. < D >.	15:16, 20:2, 29:15, 33:8.
20	crappy 38:22. crash 43:10.	D-mag 53:23. Dad 43:21.	decision 15:14, 16:23, 21:7,
21	crazy 44:7, 46:20, 46:21.	daily 55:18, 57:1. daisy 51:16.	32:10, 37:11. decisions 38:2,
22	cream 55:4. create 51:3.	damage 18:21. damaged 36:18,	38:22, 65:8. decorum 50:2.
23	created 17:16, 36:10.	53:12. dance 47:7.	dedicated 37:4, 37:5.
24	creation 47:15. Creativity 50:22.	dangerous 17:1, 21:9, 32:24,	deducted 66:14. deeds 43:13.
25	credentials 17:17. credit 61:3,	60:2. dare 43:14.	deemed 4:12, 61:8, 63:19. deep 33:1.

1	deepest 52:1. deeply 36:16.	60:24. determining 57:12.	disorder 10:12, 16:21, 23:24, 29:7.
2	defendants 12:13. Defender 1:33, 1:35,	deterrence 20:7, 20:17, 32:15,	disorganized 17:8.
3	3:4, 3:8, 29:1, 67:16.	32:16, 32:18, 33:4, 33:21.	disputed 14:9.
4	defense 5:20, 13:8, 15:15, 17:4,	detering 32:16. deters 57:15.	disrespect 33:23.
5	18:17, 20:21, 22:10, 42:3,	Dev 45:12.	distant 45:11.
6	58:19. Definitely 45:5,	Devens 61:22, 61:25, 62:8, 62:9, 62:18,	distinction 9:3, 9:6.
7	46:22.	63:5.	District 1:1, 1:2, 2:9, 12:10, 14:1.
8	degrading 25:25. degree 20:1.	device 4:8, 4:14. devices 3:21, 3:25,	diversity 52:25.
9	deletion 8:19, 9:1.	4:6, 4:7, 4:12, 4:18, 17:11.	divorce 51:2.
10	deliberate 38:15. demons 51:17.	Devon 45:5. dialectic 43:10.	Dix 61:19.
11	demonstrated 17:9. Department 2:20.	Dick 44:22.	Document 22:1, 22:4, 22:5, 22:6.
12	Depending 19:1. Depot 38:13.	dictated 19:1. die 48:6.	documents 11:17, 11:19, 12:3, 12:6, 15:18, 16:11, 17:15, 20:6, 21:22, 29:8, 29:20, 30:20, 31:12, 31:20, 31:22, 32:8, 33:12, 33:18, 59:8, 64:11.
13	depressed 25:21. depression 10:13.	dies 56:4. difference 53:4, 57:2.	doer 43:13.
14	deputy 11:21. describe 27:19, 36:7.	differences 53:1. different 24:9, 27:10, 33:6, 39:4, 39:5, 41:4, 58:8, 60:15, 67:19.	doing 8:2, 16:14, 17:1, 21:9, 37:5, 37:10, 37:25, 39:13, 41:9, 53:15.
15	described 27:19. describes 24:20.	difficult 35:24, 37:15.	done 4:3, 10:1, 10:2, 16:15, 40:5, 55:19, 60:13.
16	deserved 50:2. desire 67:6.	digital 17:7, 17:13.	door 25:23, 44:22.
17	desired 12:20. desires 46:14.	dignified 27:16. dignity 50:2.	doses 48:16.
18	Desperate 32:2, 53:24, 53:25.	dinner 52:14. dinnerware 52:13.	dots 63:10.
19	desperately 24:16. despite 32:1.	diplomacy 56:3. dippy 46:22.	doubt 34:23, 48:1, 55:14.
20	destroyed 52:13. Detention 5:16, 26:17, 27:5.	Director 18:22. disciplinarian 48:19.	down 27:9, 36:14, 37:12, 40:24, 53:4, 61:16, 65:8.
21	deter 20:11. determination 27:13.	discovery 64:11. disguise 46:13.	drag 55:9.
22	determine 4:9, 4:14, 41:24, 57:25, 60:4, 64:1, 65:14.	dismiss 14:25, 15:3.	dragon 55:11.
23	determined 10:4, 27:25, 58:2,	dismissed 15:6.	drifted 44:14.
24			drink 55:5.
25			

1	drinking 25:20, 48:5.	elite 52:3.	entry 66:24.
2	drive 49:18, 49:19.	Elizabeth 22:21.	episode 43:4.
3	driving 13:24, 13:25.	emergency 49:22.	equal 50:13.
4	drug 32:3, 39:7.	emotional 6:12, 31:21, 31:25, 34:17, 36:19, 40:25.	equals 52:24.
5	drugs 11:2.	emotionally 36:17, 36:24, 41:2.	equations 53:24.
6	dude 55:22.	empathetic 40:17, 40:25, 41:2.	Erica 53:8.
7	due 23:22.	empathy 39:2.	especially 25:8, 27:11, 50:23, 51:18.
8	during 4:3, 23:12.	employment 19:7, 24:15.	essential 19:19.
9	duty 46:5, 53:19.	enabled 19:15.	essentially 57:7, 61:16.
10	DWI 14:1, 19:13.	encounter 36:8.	established 8:23.
11	dying 57:3.	encountered 36:8.	estranged 23:11.
12	dynamic 45:3.	Encouragement 43:17, 48:22, 51:2.	et 34:9.
13	dynamics 53:20.	encyclopedia 43:5, 43:6.	evening 10:18.
14	. . .	end 9:12, 14:7, 21:2, 24:24, 27:13, 35:23, 40:2, 45:23, 47:8, 56:24, 58:1.	Everybody 31:3, 37:17, 56:8, 56:9, 58:21, 59:1.
15	< E >.	endanger 33:3.	Everyone 2:2, 3:17, 4:17, 4:19, 16:7, 27:8, 46:14.
16	e-mail 4:1, 17:15.	endangered 29:22, 30:5, 30:13, 59:11, 59:18.	everything 38:20, 39:14, 53:10, 63:1.
17	e-mails 17:14.	endangering 58:15.	evidence 17:19, 58:5, 65:10.
18	E. 1:29.	endangers 16:9.	ex 49:25, 51:13.
19	eagles 43:14.	enemy 48:23.	exactly 13:19, 17:12, 48:10.
20	earlier 59:8.	enforce 59:16.	examined 19:21.
21	early 7:13, 31:19.	engage 56:22.	example 4:1, 12:18, 64:16.
22	earth 59:17.	engaged 15:13.	Excelsior 52:6.
23	easier 65:15.	engender 56:3.	exceptionally 18:21.
24	easy 27:3, 50:18.	Enjoy 44:21, 46:17, 52:11.	excess 48:16.
25	eat 27:2.	enormous 35:5.	exciting 54:15.
	education 24:10, 62:5.	enough 36:22, 43:5.	excuse 16:1, 20:20, 37:10.
	effect 10:23, 30:3, 35:2, 47:4, 55:4, 56:20, 59:2.	ensure 11:16.	exercise 27:1.
	effectively 9:2.	enter 50:22.	Exhibit 13:21, 42:2, 57:8, 65:23.
	effects 51:10.	entered 59:6, 60:1.	exist 36:18.
	efficiently 56:19.	entering 4:11.	existing 5:19.
	effort 41:5.	enterprise 49:23.	expansion 45:3.
	efforts 32:2.	entire 34:8, 47:3.	expect 44:2, 56:19.
	Eisenberg 1:29, 2:8, 2:10.	entrusted 20:19.	expected 18:20.
	either 43:9.		expecting 48:6.
	electronic 3:21, 3:25, 4:5, 4:7, 4:12, 4:18, 17:16.		
	element 19:19.		
	elevation 49:24.		
	eligible 61:8, 63:23.		

1	expended 53:17.	62:3.	17:13.
	expensive 44:24.	fallen 47:10.	filing 17:5.
2	experience 56:1.	family 4:22, 12:11,	fill 24:16.
	experiences 36:17.	12:18, 24:8,	finally 38:19.
3	expert 59:1.	27:17, 27:22,	financially 26:1.
	explained 7:2.	28:13, 32:7,	find 9:13, 31:9,
4	explaining 46:3.	37:12, 43:14,	44:15, 47:10,
	explanation 42:19,	44:5.	47:13, 49:2, 52:3,
5	50:24, 59:19.	fancy 55:14.	52:6, 52:9, 55:2,
	extension 47:2.	far 10:21, 16:4,	55:15, 60:17.
6	extent 5:15, 13:1.	31:5, 36:5,	finds 11:25.
	extraordinarily	45:11.	fine 5:18, 6:10,
7	33:2.	fashion 64:14.	8:1, 8:2, 21:15,
	extraordinary 26:18,	Father 24:10,	21:19, 28:15,
8	33:2, 34:17,	51:16.	30:22, 35:15,
	35:3.	fault 45:8.	42:10, 43:21,
9	extremely 15:25,	FBI 1:38, 2:23,	44:9, 53:7, 54:6,
	16:1, 17:18,	67:24.	60:15, 62:9, 63:4,
10	49:18, 56:17.	FCRR 1:46, 68:11.	66:4, 66:10,
	extremes 48:16,	fear 36:20, 36:21,	66:11.
11	49:23.	37:1, 50:22.	First 3:15, 8:12,
	eyes 45:6, 46:1,	febrile 54:2.	9:24, 13:3, 14:11,
12	51:6, 51:7.	Federal 1:33, 1:47,	18:17, 26:20,
	.	3:4, 3:8, 6:19,	38:13, 42:12,
13	.	8:12, 8:14, 8:18,	44:1, 51:8, 59:24,
	< F >.	8:23, 8:24, 9:22,	64:8, 67:17.
14	face 20:23, 48:9,	11:13, 11:14,	fit 37:22.
	51:17, 59:17.	11:16, 28:24,	five 65:24.
15	facilities 61:21.	28:25, 61:3,	five-and-a-half
	facility 62:10,	66:16, 66:25,	8:5.
16	62:14.	67:15.	fixated 40:14.
	facing 17:2, 19:24,	feel 38:6.	fixation 40:15.
17	26:1.	feelings 40:18,	flag 44:6, 47:25,
	fact 17:14, 29:21,	47:1.	50:1.
18	32:3, 42:2, 59:5,	feels 36:16.	flavor 51:20.
	60:22, 64:24.	feet 39:10, 39:17,	flipped 53:16.
19	factors 8:6, 9:14,	39:19.	Floor 1:48.
	9:25, 13:5, 14:22,	felonious 15:14.	flow 32:21.
20	15:11, 21:11,	felt 37:24, 46:1.	FMC 61:22, 61:25,
	29:10, 57:19,	few 47:3, 60:10.	62:7, 62:9,
21	57:24.	field 60:22.	62:18.
	facts 7:13, 9:14,	fighting 43:3,	focused 26:20,
22	15:23, 16:17,	51:20, 57:2.	26:22, 26:25,
	21:24, 54:2, 59:6,	figure 37:22,	27:6, 37:4.
23	59:7.	37:23.	folder 17:10.
	failing 43:22.	file 41:15, 57:8,	folders 17:12.
24	Fair 43:5, 50:5,	67:4, 67:5,	folk 47:24.
	55:24, 68:4.	67:6.	folks 33:24, 52:4.
25	faith 27:22, 44:6,	filed 57:9.	following 3:20,
	51:17, 56:23,	files 17:12,	50:5, 54:18,

1	63:17.	function 23:24,	gloves 39:22.
	food 27:2.	34:25.	goal 57:14.
2	foregoing 68:12.	functional 56:11.	God 36:10, 36:14,
	foreign 22:1, 29:20,	funeral 44:24.	39:7, 40:10.
3	45:14, 45:16,	.	Goethe 46:3.
	45:19, 45:20,	.	goodness 36:13,
4	46:6, 47:22,	< G >.	47:2.
	53:22, 64:11.	Gall 9:20, 57:11.	Gordievsky 54:18.
5	forever 45:9, 47:19,	game 52:18.	governing 45:3,
	52:4.	garage 33:13.	53:20.
6	forget 68:5.	gardener 56:6.	governmental
	forgive 45:9,	gave 35:7, 38:18,	19:22.
7	54:1.	43:23, 56:15.	grandfather 39:17,
	forgiveness 44:15.	gear 52:2.	39:18.
8	former 18:22.	Gehlen 54:19.	grandiosity 29:9,
	Fort 61:19.	General 20:17,	29:13, 30:1,
9	forth 13:6, 13:24,	33:21, 43:20,	60:11.
	42:9, 65:21.	53:19.	Grandma 44:17,
10	forward 3:12, 12:3,	gentle 46:13,	44:18.
	35:14, 42:24,	47:24.	Grandpa 44:17.
11	44:7, 52:6,	gets 40:14, 40:20,	granted 47:12.
	56:3.	41:7.	grapple 29:15,
12	found 45:10, 46:9,	getting 6:7, 33:11,	29:16, 33:8,
	49:10.	39:14, 39:15,	60:6.
13	four 15:23, 51:19,	53:21, 55:9,	grappled 29:21.
	65:23.	66:15.	grave 18:21.
14	frame 23:20.	Gibbs 40:9.	great 28:23, 32:22,
	Frank 53:23.	Gibson 43:10.	34:20, 35:25,
15	frankly 32:6, 33:15,	gifts 44:9.	39:18, 45:18,
	55:10, 65:8.	Gina 5:2, 52:20,	52:18, 54:21,
16	Fred 46:22.	52:23.	55:13, 56:15,
	free 7:9, 43:3,	give 14:11, 14:14,	58:3, 62:2.
17	55:4.	22:11, 28:19,	greatest 50:8.
	frequency 49:10.	30:12, 31:15,	greed 23:18.
18	fresh 35:25,	41:19, 41:25,	grinder 55:9.
	40:15.	50:9.	growing 24:21.
19	Friday 2:14, 4:20,	given 13:16, 14:2,	grown 56:20.
	4:24.	17:5, 36:9, 49:22,	gruff 39:11.
20	Friday 1:19.	58:3, 60:23.	guarded 37:1.
	friend 45:23.	giving 38:17,	guess 6:3, 33:7,
21	friendly 54:22.	48:21.	42:7, 55:17.
	friends 43:15.	glad 14:18, 15:7,	guidance 41:7.
22	frightening 33:14.	35:17, 40:5, 42:4,	guided 52:7.
	front 8:3, 34:15,	45:10, 51:2.	guideline 9:8, 9:12,
23	46:18.	glass 49:1.	9:23, 9:25, 13:4,
	fruits 44:10.	Glen 39:9.	13:5, 14:6, 21:3,
24	frustrated 40:20.	glimmering 47:11.	58:1.
	Fugit 48:18.	glimpse 36:9,	Guidelines 8:15,
25	Full 45:10, 50:6,	37:2.	8:19, 8:20, 8:21,
	52:17.	global 16:2.	8:24, 9:1, 10:1,

<p>1 13:5, 19:19. guiding 27:23. 2 guilty 6:18, 7:1, 7:4, 13:10, 13:21, 3 21:24, 27:6, 32:9, 59:5. 4 Guy 39:7, 44:11. guys 46:18, 49:18. 5 gypsy 46:9. 6 . < H >. 7 half 8:12, 45:6. Hallmarks 44:10. 8 Hampshire 61:18, 62:11, 62:12, 9 62:21, 63:3. handled 67:22. 10 handling 17:22. happen 36:10, 11 44:2. happened 34:14, 12 40:6, 48:4, 56:2, 56:10. 13 happens 57:4. Happy 55:4. 14 hard 2:25, 25:22, 26:8, 29:19, 34:5, 15 37:22, 46:2, 47:16, 49:8, 16 52:18. harder 49:13. 17 hardest 46:19, 48:9. 18 Harford 5:16, 6:5. harm 33:18. 19 Harold 2:3, 42:20. Harold Martin, III 20 1:10. Harry 44:22, 21 44:23. harsh 48:19. 22 Harvey 1:29, 2:8. hat 53:13. 23 hate 56:5. hated 39:1. 24 he'll 44:20. Heads 52:8. 25 heal 43:23. health 6:12, 6:13,</p>	<p>12:19, 19:22, 19:23, 19:25, 29:2, 31:24, 34:10, 37:6, 38:9, 61:6, 61:21, 62:1, 63:18, 63:20. healthy 27:2. hear 14:18, 15:7, 35:17, 42:4, 43:22, 60:14, 60:18, 60:19, 61:13. heard 36:5, 37:8, 46:25, 60:15. hearing 3:12, 16:15, 23:4. hears 60:18. heart 27:20, 27:21, 36:23, 48:7, 51:23. hearts 44:1, 46:1. heat 49:3. heavily 25:20. Heilmefer 54:5. held 26:10. hello 44:19. Helm 49:23. helmet 39:22. help 26:22, 37:7, 38:16, 38:23, 41:7, 51:3. helped 26:5, 47:9, 47:10, 53:10. helping 28:12, 47:13. Henry 43:11. hereby 68:11. high 9:12, 14:7, 21:2, 55:17, 58:1, 67:16. high-impact 42:22. highest 15:19, 53:2, 55:21, 67:21. highly 13:14, 16:8, 16:12, 21:9, 56:25. history 9:16, 13:23, 14:4, 19:5, 27:17, 32:6, 45:3, 57:20, 58:17.</p>	<p>hit 38:19. hoarding 16:18, 16:20, 24:22, 29:5, 29:7, 33:12, 38:11. hold 40:23. holds 16:7, 38:20. holiday 45:11. Home 15:17, 16:8, 24:18, 29:18, 30:17, 37:16, 38:13, 39:3, 44:18, 59:25. homeless 38:25, 39:8. honest 38:2. honey 49:25. Honorable 1:18. Hope 4:21, 33:25, 34:11, 36:4, 41:5, 44:16, 45:17, 46:9, 50:24, 56:21. hoping 32:12. horde 16:23. horrible 38:21. hostilities 47:25. hour 26:12. hours 18:4, 26:11. house 38:12, 38:14. housekeeping 7:19, 10:6, 11:9. Hubris 49:10. huge 31:4. Hughes 54:19. human 36:18, 41:10. humble 52:19, 52:23. hundred 40:10, 45:2, 46:8. hunting 55:4. hurt 27:8, 36:24. husky 45:5. Hyperactive 10:12. . . < I >. ice 55:4.</p>
--	--	--

1	id 55:7.	20:10, 21:16,	influence 11:1.
	idealists 48:13.	57:23.	Ingo 53:3.
2	ideals 48:12.	imposing 11:13.	initial 39:16,
	ideas 50:9, 52:17.	imposition 11:17,	49:5.
3	identify 2:6.	12:4.	initially 14:23,
	identity 24:25,	improve 34:12.	14:24.
4	26:9, 31:1,	in. 37:23.	innovation 48:25.
	31:5.	inability 36:19,	input 49:13.
5	idly 49:1.	37:14.	insane 56:2.
	ignorance 42:25.	incapacitates	insensitivity
6	ignorant 38:9.	57:16.	45:8.
	ignored 33:6.	incarceration 6:24,	Inside 48:2.
7	II 58:14.	7:9, 23:12.	insight 25:21,
	III 2:3, 42:21.	inclined 7:2, 7:8,	27:12.
8	illegal 16:14, 17:2,	7:15.	insights 52:16.
	21:9, 50:17,	include 11:19,	inspection 4:13.
9	56:25.	21:25, 29:20.	Instability 24:12.
	illegally 15:16.	included 15:18,	Instead 20:3,
10	illness 23:18,	49:25, 58:7,	47:8.
	23:23, 31:6,	59:8.	institutions 33:19,
11	32:11, 34:1,	Including 4:21,	34:8, 47:3,
	37:14, 40:19.	6:11, 15:22,	68:2.
12	Ilse 47:17.	20:10, 22:17,	instrument 54:25.
	imagination 48:25,	34:8, 57:20,	instrumentarian
13	50:23.	64:23.	55:3.
	imagine 26:8, 56:17,	inclusive 51:10.	intellectually
14	63:8.	inconvenience	42:21.
	immediate 65:7.	4:21.	intelligence 20:4,
15	immediately 11:20,	inconvenienced	22:2, 29:20,
	66:14.	2:15.	30:25, 34:23,
16	immersed 26:23.	incorporate 37:11,	42:24, 59:9.
	immune 55:5.	65:15, 65:17.	intelligent 23:22.
17	impact 34:9.	increasingly 24:21,	intelligently
	impaired 32:11.	32:19.	52:5.
18	impartial 19:22.	incredibly 36:1.	intend 43:18, 44:6,
	implications 68:6.	incumbent 11:13.	50:4.
19	implies 56:17.	indicate 21:21,	intended 25:17,
	importance 19:9,	49:5.	30:23, 36:14.
20	32:22.	indicated 7:7, 15:9,	intent 54:10.
	important 4:17,	15:23, 17:5,	interact 36:19,
21	17:6, 20:7, 26:20,	17:11.	37:14, 37:20.
	27:8, 31:1, 31:23,	indicating 16:20.	interactions 39:6.
22	33:4, 36:1, 36:3,	indictment 11:23,	interest 3:18,
	36:4, 37:24,	15:1.	4:16.
23	54:25.	indifference 56:5.	interested 3:10.
	importantly 26:3,	individual 42:21,	interesting 54:14.
24	51:9.	58:17.	international
	impose 15:9, 17:6,	individuals 57:24.	42:23.
25	57:14, 66:10.	indulge 35:9.	internet 32:20,
	imposed 11:22, 19:6,	Infiniti 46:21.	58:25.

1	interpretation 57:4.	Jeremy 56:7, 56:12.	kindergarten 24:3.
2	interrupt 17:23.	Jersey 61:19, 62:15.	Kingsfield 45:1.
3	interviews 39:14.	Jim 3:3, 55:10.	kit 39:22.
4	introduced 13:20, 65:22.	job 26:2, 26:6, 37:24, 39:14,	Knock 55:23.
5	invaluable 52:17.	40:1, 54:3, 58:21.	knowledge 5:22, 43:1, 43:24.
6	investigate 52:25.	jobs 34:18, 35:5, 39:15.	knowledgeable 37:24.
7	investigated 20:22.	Joe 43:11.	knows 16:8, 20:12.
8	investigation 5:6, 7:14, 8:17, 10:7, 12:10, 12:17, 13:6, 13:25, 19:13, 21:20.	John 51:9, 53:8, 54:19.	Kong 56:10.
9	investigators 67:23.	Johnson 54:19.	.
10	involved 33:23, 58:18, 58:19, 60:12.	Judge 3:22, 4:3, 8:4, 11:15, 12:1, 12:20, 18:1, 42:11.	< L >.
11	iota 59:20.	judgement 66:24.	L. 1:35.
12	Iran 24:10.	judges 8:24, 9:22.	lack 19:14, 49:6.
13	isolated 24:5, 25:21.	Judgment 11:19, 14:3, 64:13, 65:16.	lacking 25:21.
14	isolation 24:7, 24:13, 26:11.	July 19th 1:19.	land 46:4, 46:17, 47:24, 53:13.
15	issuance 18:2.	jumped 55:15.	lanes 45:11.
16	issue 32:16, 38:11, 45:8, 48:7.	junk 16:20.	language 44:10, 62:6.
17	issued 12:2.	Justice 2:20.	language. 45:14, 45:16, 45:19, 45:20, 46:6, 47:22, 53:22.
18	issues 33:5, 34:10, 37:6, 38:9, 46:11, 52:21, 54:16, 58:21, 60:16, 62:1.	justified 15:10, 20:16, 20:25.	large 16:19, 21:5, 49:1.
19	.	justifies 15:12.	Last 8:12, 40:8, 42:13, 43:3, 43:19, 49:6, 53:17, 56:2, 56:13, 66:17.
20	< J >.	justify 19:6.	late 53:21.
21	J-folks 54:8.	.	later 8:3.
22	Jack 50:1.	< K >.	laughed 40:12.
23	jail 21:7.	Kalugen 54:18.	laughing 55:12.
24	James 45:17, 45:18.	keep 34:2, 38:4, 44:25, 54:4.	Laura 1:38, 2:23.
25	James Wyda 1:33.	keeping 29:8.	law 11:11, 16:23, 19:10, 19:16, 20:15, 21:1, 21:4, 21:8, 21:10.
	January 8:13, 8:22.	kept 38:17.	laws 19:11.
	Jason 54:3.	key 8:10, 9:19, 9:20.	lawyers 67:15, 67:20, 67:22.
	Jean 22:21, 28:5, 28:12.	kid 47:19.	lay 37:12.
	Jenny 46:21.	kids 37:18, 55:9, 56:8.	lead 27:25, 48:16.
		kind 11:2, 14:4, 30:2, 32:1, 38:21, 43:8, 51:25, 58:19, 59:11, 62:25, 68:4.	lean 55:20.
			leap 51:17.
			learn 48:9, 53:7, 58:22.

1	learning 44:5.	lilo 53:5.	Loose 49:8, 55:22,
2	least 35:8, 43:17,	limited 16:6,	58:13, 58:15.
	51:19.	65:4.	lord 54:4.
3	leave 46:16, 64:1.	line 31:8, 60:21.	lose 26:2, 37:5.
	lecture 45:4.	lines 46:18.	loses 18:23.
4	Lee-helm 49:23.	lips 49:8, 58:13,	lost 26:2, 26:4,
	legal 4:2.	58:15.	26:6, 27:3,
5	lengthy 63:9.	list 6:17, 42:18,	47:21.
	less 7:8, 60:18,	52:21.	lot 7:18, 29:18,
6	60:19.	listed 64:4, 64:13,	29:25, 38:3, 38:4,
	lessons 45:2,	65:24, 66:13.	48:3, 50:3, 51:15,
7	48:9.	listen 43:22.	55:25, 56:15,
8	letter 8:16, 13:20,	listened 38:17.	56:21, 59:3,
	22:18, 22:19,	little 2:15, 26:22,	60:23.
9	22:20, 22:23,	33:14, 39:3,	Love 30:24, 30:25,
	23:4, 23:5, 23:6,	39:10, 48:20.	36:23, 41:11,
10	23:9, 28:9, 28:17,	live 26:19, 27:13,	44:7, 44:13,
	35:15, 41:14,	59:13, 60:17.	44:16, 46:11,
11	42:2, 42:3, 42:7,	lived 38:12.	46:12, 46:14,
	50:3, 64:16,	lives 29:22, 30:5,	46:22, 46:23,
12	65:22.	30:13, 33:3,	47:4, 47:8, 47:9,
	letters 7:20, 14:16,	36:11, 52:8, 58:9,	47:22, 56:5.
13	22:15, 22:22,	58:23, 59:9,	loved 47:21, 47:22,
	27:14, 27:16,	59:11, 60:21.	54:12.
14	28:5, 28:10,	living 39:8, 47:24,	low 55:17.
	42:1.	58:23, 61:17.	lowest 14:4.
15	level 13:7, 13:15,	Liz 46:8.	luck 46:17, 56:12.
	13:18, 13:19,	local 3:19.	Luther 51:15.
16	14:5, 32:22,	logical 17:9.	lux 51:13.
	37:15, 45:18,	Lombard 1:48.	.
17	67:16, 67:20.	long 12:8, 24:1,	.
	levels 15:19,	27:17, 32:6, 34:4,	< M >.
18	33:6.	34:6, 43:23,	madness 46:23.
	Lewis 47:12.	49:13.	magistrate 18:1.
19	Lexapro 10:13,	long-range 53:15.	maintain 19:15,
	10:18.	long-term 51:10.	24:14.
20	lie 54:11.	longer 34:25,	Major 43:2, 50:20,
	lies 51:6.	51:4.	56:10, 58:11,
21	life 24:1, 24:14,	Look 3:12, 22:4,	59:23, 60:1.
	24:16, 25:21,	36:11, 39:12,	make-up 40:19.
22	26:9, 27:13,	40:3, 51:7, 51:23,	male 61:19, 62:19.
	27:22, 28:1, 28:2,	51:24, 59:5.	malice 30:23.
23	32:17, 35:24,	looked 34:21.	man 26:3, 27:4,
	36:16, 36:25,	looking 26:16,	36:6, 37:12, 38:3,
24	37:7, 37:10,	26:18, 28:9,	38:16, 38:20,
	37:12, 37:17,	33:18, 42:22,	38:21, 38:22,
25	38:4, 38:6, 41:3,	47:19, 57:23,	38:23, 39:23,
	45:10.	61:15.	47:16, 48:8,
	lifestyle 51:11.	looks 47:8, 52:10,	48:10, 49:14,
	light 3:18, 4:16.	57:19.	49:20, 52:19,

1	53:25. management 54:17.	14:9, 18:14, 44:5, 56:4, 68:4.	met 35:23, 38:13, 39:23, 46:20, 56:21.
2	manager 56:6. mandated 13:2,	maxima 54:1. mea 54:1.	method 50:15.
3	66:12. mandatory 8:21, 9:1,	mean 33:19, 33:23, 62:16.	methods 15:24, 56:24.
4	9:2, 9:3, 63:16. manner 16:21, 17:10,	means 12:6, 19:17. meant 26:4, 32:4, 50:3.	Michael 22:18, 22:20.
5	19:17, 50:15, 50:23, 65:3.	measure 43:17. meat 55:9.	microphone 35:16. middle 49:4.
6	Mapquest 62:15. March 6:18, 13:20,	medical 5:16, 6:5. medication 10:15, 11:2.	Mike 39:7, 44:3, 49:21.
7	13:22, 21:24. Marina 45:20.	medications 10:8, 11:3, 63:20.	mil-spec 53:15. military 19:7, 20:4.
8	marked 12:10, 12:12, 54:9.	mediocre 48:24. member 28:12.	mind 47:9, 54:2, 55:6, 60:5.
9	markings 16:12. marks 52:17.	members 4:22, 12:8, 12:21.	mind-numbing 48:24.
10	Markus 55:12. marriage 26:2,	memo 31:8. memoranda 14:20.	mine 46:4. minimum 61:18, 62:19.
11	42:17. married 28:13.	memorandum 6:17, 22:16.	minority 41:5. minute 14:15, 58:7, 59:19, 62:23, 68:5.
12	Maryland 1:2, 1:20, 1:49, 2:9, 14:1.	memory 47:20. men 54:8.	minutes 60:10. mirror 48:10.
13	Massachusetts 61:22, 61:25, 62:19.	mental 6:12, 19:23, 19:24, 23:18, 23:22, 29:2, 31:6, 31:24, 32:11, 34:1, 34:10, 34:17, 35:5, 36:19, 37:6, 37:13, 38:9, 40:19, 61:5, 61:21, 62:1, 63:18, 63:20.	Mischa 52:15. misconduct 23:16, 23:19.
14	Masterman 54:18. mate 46:18.	mentally 27:4. mention 23:5.	mission 26:4, 26:6, 30:24, 53:11. mist 55:6.
15	material 16:4, 16:13, 16:21,	mentioned 9:18, 14:5, 24:1, 58:4, 60:10.	mistake 21:6, 32:10, 41:10, 50:15.
16	18:24, 18:25, 19:2, 24:23,	mentions 6:6. MEO 45:10.	mistaken 7:23. mistakes 40:3.
17	29:17, 33:12. materials 15:16,	mercy 47:12. Merrin 51:16.	mitigating 19:17. mixed 44:6.
18	15:24, 16:6, 16:8, 17:20, 18:19,	mess 17:8. message 18:3, 20:18, 58:16.	model 54:25. moderate 48:16. modified 17:16.
19	18:20, 19:9, 20:5, 20:22, 22:25,	messages 33:22.	Mom 43:21. moment 9:9, 14:11, 53:5, 61:24.
20	23:2, 30:17. matter 15:21, 16:4,		moments 26:8, 36:11, 36:12.
21	18:11, 25:5, 29:5, 32:18, 33:11,		monitor 34:3, 35:6.
22	34:18, 43:18, 44:13, 45:9,		
23	56:14, 57:4, 59:16, 60:22,		
24	64:8, 64:24, 65:14, 65:25,		
25	67:9, 68:13. matters 10:7, 11:9,		

<p>1 monitored 20:13. monkey 53:15. 2 monsters 55:7. monstrosity 41:8. 3 months 6:25, 7:4, 9:10, 14:6, 14:8, 4 61:2. mood 55:22. 5 moon 46:4. morbidly 25:20. 6 morning 2:2, 2:7, 2:19, 2:22, 3:3, 7 3:7, 3:13, 3:14, 5:3, 10:17, 10:19, 8 10:21, 35:19, 35:20, 59:8. 9 motion 15:6. motions 17:25. 10 move 4:23, 51:21, 52:5. 11 moved 38:4. moves 15:3, 24:8. 12 moving 14:25, 51:13, 65:4. 13 MR. AARON 2:19. MR. EISENBERG 2:7. 14 MR. MYERS 2:11, 5:24, 14:19, 15 21:17, 21:20, 22:3, 22:6, 16 65:2. MR. WYDA 3:3, 6:3, 17 6:14, 11:8, 22:13, 23:3, 23:8, 23:14, 18 25:6, 25:15, 28:7, 28:11, 30:7, 19 30:10, 30:14, 30:22, 31:12, 20 33:16, 35:9, 35:12, 41:21, 21 62:6, 62:10, 62:17, 62:25, 22 63:8, 63:12, 66:4, 67:13. 23 MS. BOARDMAN 3:7, 3:12, 7:25. 24 MS. SHAW 35:19, 41:17. 25 Mullen 45:16. multi-step 9:24.</p>	<p>multiple 18:5. Mumford 47:6. music 44:9. MYERS 2:12, 2:13, 2:16, 5:23, 14:18, 15:2, 15:7, 15:8, 17:23, 18:7, 18:12, 18:16, 21:14, 22:7, 29:5, 32:15, 34:19, 64:15, 64:22, 65:7, 65:13, 65:19, 67:9, 67:10. myself 48:11, 51:2, 55:15. mysterious 45:6. . . < N >. name 28:5, 28:12, 28:13, 35:22, 42:15. named 17:11, 44:2. names 12:18, 42:13, 59:12, 59:13. naming 17:10. narcotics 11:2. nation 34:2, 51:5. national 13:8, 15:15, 16:7, 16:9, 18:17, 18:21, 20:2, 20:19, 20:21, 29:12, 58:18, 58:19, 67:17. natural 40:17, 40:21. nature 9:15, 40:14, 46:20, 57:21. nauseam 48:4. Navy 27:2. nearly 15:15, 15:20, 23:17, 26:11. necessarily 29:25, 65:4. necessary 63:19. need 5:15, 20:16, 20:25, 21:1, 33:21, 34:9,</p>	<p>35:17, 39:19, 49:2, 57:22, 60:15, 60:18, 60:19, 60:20, 61:13, 62:4, 64:5, 64:12, 65:9, 67:3. needed 38:14, 49:24, 55:13. needs 38:23, 41:7. negative 10:23. neglect 56:5. neither 50:3. New 38:25, 43:3, 47:15, 51:6, 59:12, 59:14, 61:17, 61:19, 62:11, 62:12, 62:15, 62:16, 62:20, 63:3. Newport 45:15. newspapers 16:19. nice 2:10, 2:13, 2:21, 2:25, 3:6, 3:9, 3:11, 49:12. Nicole 53:8. Nietzschean 43:10. night 40:2, 46:24, 47:7, 52:18, 56:6. Nine 6:24, 7:3, 7:8, 9:11, 21:1, 21:12, 29:15, 33:9, 57:9, 60:4. nine-year 8:7, 10:5, 15:8, 20:17, 23:15, 30:4, 57:12, 60:24. Ninja 46:25. Ninjo 46:25. no-win 55:16. No. 1:9, 6:16, 13:21, 22:16, 28:9, 41:15, 57:8, 65:23. nodding 59:10. nominal 56:11. nonacceptance 36:20.</p>
--	--	---

1	nondisclosure 19:11.	observations 52:16.	open 49:6.
2	none 12:21.	obsessed 26:3, 31:7.	operation 56:11.
3	nor 42:13, 43:8, 43:9, 43:10.	obsession 31:7, 32:23.	operations 16:1.
4	normal 12:16.	obsessive 24:21, 40:13.	operatives 34:23, 34:24.
5	normally 60:7.	obstructing 42:25.	opinion 17:24, 25:5, 52:23.
6	northeast 62:14.	obtain 6:5.	opinions 8:10, 9:19, 9:20, 42:14.
7	NORTHERN 1:2.	obviously 7:16, 9:3, 34:16, 35:7, 58:8.	opportunity 5:5, 5:7, 14:12, 14:14, 22:12, 28:20, 30:12, 35:21, 41:19, 41:25, 42:23.
8	note 3:15, 3:17, 8:3, 17:6, 17:24, 17:25, 19:24, 21:15, 58:3, 64:3, 65:19, 66:20, 66:23, 67:5, 67:14.	occurred 60:2.	order 3:19, 11:20, 12:2, 12:23, 30:18, 42:18, 44:6, 52:14, 53:1, 63:13, 64:13, 65:16, 66:24.
9	noted 5:20, 6:15, 9:22, 18:3, 19:13, 21:2, 29:6, 29:10, 29:11, 34:19, 43:4, 64:17.	occurs 6:11, 61:20.	ordered 61:1, 66:6.
10	Nothing 42:12, 57:3.	offense 9:16, 13:7, 13:15, 13:18, 13:24, 14:1, 14:5, 15:12, 17:18, 19:18, 57:22.	orders 49:23.
11	notice 42:16.	offer 47:25, 51:1, 56:21.	organized 17:9, 29:7, 38:15.
12	notified 7:16.	Office 3:4, 3:8, 12:2, 12:3, 28:22, 28:24, 29:1, 37:21, 67:16.	originally 38:25.
13	notify 67:3.	officer 5:1, 63:19.	Orwell 54:23.
14	noting 9:9, 34:18.	Official 1:47, 68:17.	others 32:18, 42:18, 43:15, 45:2, 49:19, 56:16, 57:15.
15	notion 60:16, 61:8.	officials 12:7.	Otherwise 4:2, 4:5, 38:6.
16	notwithstanding 38:22.	often 18:25, 26:7, 36:10.	Otisville 61:19, 62:15, 62:16, 62:20, 63:5.
17	NSA 15:24, 18:22, 34:9, 59:25, 67:24.	Okay 10:20, 23:14, 26:21, 28:8.	OTK 48:20.
18	number 2:4, 41:9, 43:4, 55:10.	old 26:15, 37:9, 49:14, 51:6, 58:14.	outline 8:11.
19	numerous 24:8.	old-fashioned 27:18.	outside 3:24, 4:11, 15:16, 16:4, 26:13, 37:20, 54:7.
20	.	Oleg 52:15.	overly 37:4.
21	< 0 >.	Oliver 46:21.	overpass 39:9.
22	oath 35:17, 51:21.	once 18:23.	override 43:10, 53:16.
23	obese 25:20.	one. 38:17.	own 14:15, 22:12, 28:20, 37:10, 41:19, 41:25,
24	obituary 42:17.	ones 45:11.	
25	objection 64:23.	ongoing 64:25.	
	objections 5:19, 5:20, 5:21, 6:2, 6:17.	online 18:5.	
	obligations 64:25, 65:24.	Onward 47:23.	
	obscenities 48:2.	op 49:24.	

1	48:23, 55:20, 67:4.	path 47:16, 50:19.	26:25, 36:19.
2	.	patience 42:15.	physically 27:4, 37:3.
3	. < P >.	patrol 53:15.	physician 63:21.
4	P-h-o 8:4. page 12:14, 12:15, 13:6.	pattern 15:14.	picture 49:11.
5	pages 13:24.	pause 56:15, 58:3.	Pino 1:38, 2:23, 33:25, 67:24.
6	paid 66:13.	pay 66:11.	pirate 49:22.
7	pain 37:21, 37:22, 41:9.	paying 21:18, 58:9.	place 25:22.
8	paladin 53:14.	pending 17:25.	placed 27:17, 35:17, 63:14.
9	Palmer 44:23.	penitent 47:16.	places 34:13, 34:25, 47:3.
10	panopticon 54:23.	perfect 45:21, 62:22.	plain 50:17.
11	paper 6:16, 16:11, 22:16, 28:9, 41:15, 57:8.	Perfection 54:25.	Plaintiff 1:7, 1:23.
12	paradox 48:12.	perfectionists 48:13.	planning 16:1.
13	Paragraph 6:6, 8:15, 12:14, 12:15, 64:16, 66:21.	perform 4:1, 24:18.	platform 60:14, 60:18.
14	paragraphs 64:3, 64:23, 65:21, 65:23, 65:24.	performance 67:20.	play 46:5.
15	paranoia 51:12.	Perhaps 42:21, 43:2, 52:13, 56:3, 64:5.	played 23:18, 49:22.
16	paraphrase 54:8.	period 6:25, 12:9, 23:12, 24:9, 61:2, 63:14.	playing 43:1, 49:17, 52:18.
17	Part 12:12, 12:14, 22:16, 24:24, 25:2, 25:13, 25:15, 26:3, 31:1, 31:4, 31:13, 31:17, 31:22, 32:4, 36:3, 38:5, 38:24, 41:14, 42:23, 55:14.	permitted 4:5, 7:4, 12:22, 26:24, 64:20.	plea 6:22, 7:1, 7:4, 8:16, 11:23, 13:20, 14:24, 15:3, 15:4, 21:24, 22:8, 59:5, 63:15, 64:4, 64:7, 64:14, 64:16, 65:13, 65:22, 66:21.
18	parted 46:20.	persistent 15:13.	Please 2:6, 2:8, 41:23, 45:9, 49:8, 49:9, 50:18, 50:21, 51:23, 54:1.
19	participate 19:8, 61:7, 63:18, 63:22.	person 27:10, 28:18, 32:17, 32:21, 36:9, 36:14, 36:16, 36:23, 37:1, 37:2, 37:4, 48:6.	pled 6:18, 13:9, 13:21, 27:6, 32:9.
20	particular 8:19, 33:25.	persona 36:13.	Plexiglas 40:9, 40:10.
21	parties 7:16, 20:11, 47:23.	personal 9:16, 42:14, 57:20, 58:17.	plus 45:2.
22	partner 16:14, 45:24.	personally 41:24.	point 5:25, 9:24, 17:4, 33:7, 35:4, 41:4, 62:5, 67:8, 67:12.
23	parts 36:4.	persons 42:13.	poison 48:6.
24	passed 11:11.	phair 45:5.	policy 3:20, 4:8, 4:15.
25	passionate 31:4.	pshaw 40:5.	
	past 19:12.	Pho 8:4.	
		photographed 3:23, 4:10.	
		phrase 27:19, 58:11, 58:14.	
		phrases 59:21.	
		physical 6:12,	

1	poppy 49:1.	33:11.	professionals
	portion 12:16.	previously 8:5,	29:3.
2	POS 55:20.	8:20, 14:5, 18:23,	Professor 45:1.
	position 13:12,	59:22.	proffer 16:3,
3	40:2, 64:15.	price 52:12.	17:7.
	positive 18:24,	pride 28:23, 48:7.	profoundly 31:23,
4	36:5, 56:11.	principles 27:23.	37:15.
	possible 35:12,	print 42:16.	program 61:7, 63:18,
5	43:24, 62:11,	prior 12:18,	63:23.
	63:2.	16:15.	programs 19:4.
6	possibly 47:3.	prison 7:3, 9:10,	progress 5:17,
	posted 18:5.	9:11, 20:17,	42:25, 54:9.
7	potential 66:2.	20:23, 21:2,	promote 21:1,
	potentially 29:22.	21:13, 26:1, 27:2,	21:4.
8	pounds 27:3.	61:15, 66:14.	proper 6:8.
	power 47:4, 55:3.	Prisons 39:4, 61:2,	properly 19:9.
9	pray 55:18, 57:1.	61:12, 62:2,	property 18:4.
	prayed 40:11.	62:3.	propriety 57:12.
10	prayers 54:12.	Prius 49:19.	prosecuted 20:23.
	precarious 58:24.	private 42:13.	prosecutors 28:24.
11	precautions 35:2,	probably 31:3, 34:8,	Protect 11:10,
	60:20.	60:7.	11:12, 11:15,
12	predator 49:17.	probation 4:25,	13:2, 15:25, 20:6,
	prepare 66:6.	12:3, 14:2,	48:11, 57:22,
13	prepared 5:1, 5:7,	63:19.	59:15.
	7:14, 23:4, 34:21,	problem 2:16,	protects 57:17.
14	61:25, 63:25.	55:15.	proud 27:15.
	preparing 11:20.	Procedure 6:20,	prove 65:10.
15	preponderance	67:1.	provide 42:18,
	65:10.	Procedures 11:10,	43:16.
16	prescribed 63:20.	67:19.	provided 6:23,
	prescriptions 6:8.	proceed 5:4, 11:6,	7:22.
17	Present 1:38.	14:17.	provides 6:20,
	presented 54:2.	proceeding 10:3,	9:11.
18	presentence 5:1,	42:18.	provisions 9:1,
	5:6, 5:22, 6:4,	Proceedings 1:17,	11:12, 11:13.
19	7:14, 8:17, 10:7,	3:22, 4:4, 4:9,	Prussian 45:21.
	11:24, 12:9,	11:21, 68:9,	psychological
20	12:12, 12:17,	68:13.	61:5.
	13:6, 13:25,	process 3:16, 6:7,	psychology 61:20.
21	19:13, 21:20.	8:10, 8:11, 9:24,	Public 1:33, 1:35,
	presiding 3:22,	12:16, 33:1,	3:4, 3:8, 3:18,
22	4:3.	63:9.	12:7, 12:8, 19:18,
	press 38:8.	professional 19:22,	20:12, 20:18,
23	presses 42:24.	51:11, 61:9,	21:5, 25:5, 28:25,
	pressing 50:22.	64:1.	32:18, 57:17,
24	pressure 34:18.	professionalism	57:22, 67:15.
	presumably 67:5.	67:16.	publications 64:9,
25	presume 9:23.	professionally	64:18.
	pretty 29:23,	23:23, 43:24.	Pugachev 43:2.

1	pulled 46:15. pulling 54:16.	rampant 51:11. range 6:21, 9:9,	received 8:4, 28:10.
2	pump 52:2. punishes 23:15,	9:10, 9:12, 9:23, 9:25, 13:4, 13:5,	recognition 23:16, 37:8.
3	57:15. punishment 21:1,	14:6, 21:3, 58:1, 58:2.	recognize 14:12, 22:10, 32:20,
4	23:16, 27:24. pupil 49:18.	ranging 15:24. ratchet 32:22.	59:21, 65:25. recognized 24:4.
5	purple 55:11. purport 58:7.	rather 32:19. rationality 48:15.	recognizes 36:4. recommend 61:5,
6	purposes 3:25, 57:18.	Ray 54:21. RDB-17-0069 1:9.	61:6, 61:18, 61:25, 62:7,
7	Pursuant 3:18, 6:19, 15:2, 63:15,	RDB-17-069 2:4. reaction 31:20,	62:18. recommendation 22:9,
8	66:25. pursue 65:3.	31:21, 31:25, 39:16.	61:12, 61:13. recommends 21:12.
9	push 53:7. pushing 48:21.	reactions 19:3. Read 7:19, 7:22,	recon 53:15. record 2:6, 3:24,
10	Pushkin 55:25. Put 17:12, 34:24,	14:16, 22:15, 22:19, 22:20,	8:9, 9:18, 14:3, 18:11, 18:12,
11	53:14, 58:14, 60:21, 63:2, 63:4,	22:22, 22:23, 23:2, 23:6, 23:9,	19:14, 25:5, 33:10, 57:7, 64:8,
12	67:5. putting 60:13.	28:4, 28:16, 28:17, 28:21,	65:14, 68:13. recorded 3:23,
13	. . < Q >.	35:14, 41:14, 42:1, 42:2, 42:3, 47:9, 54:17, 57:8,	4:10. records 5:16, 6:5, 24:3.
14	quality 28:23. quantity 16:19.	58:6, 59:22, 59:23, 60:6, 60:8,	recursive 17:10. red 50:1.
15	question 18:9, 28:19.	60:9. ready 5:4, 14:17.	reference 18:11, 21:23, 22:24,
16	questionable 56:25.	real 26:16, 47:4, 49:25, 53:5.	24:20, 25:1, 25:4, 29:5, 29:13, 58:9,
17	questions 36:7, 54:5.	reality 56:18. really 21:18, 29:14,	59:7, 60:11, 65:17.
18	queue 55:15. quickly 31:9.	34:5, 38:22, 46:6, 49:3, 58:10,	referenced 8:15, 8:16.
19	quiet 52:3. quite 33:14, 38:2,	60:21, 61:22. reason 16:16,	referencing 27:14. referred 25:2.
20	47:2, 55:25, 65:8.	65:6. reasonable 9:23.	referring 31:22. reflect 19:20,
21	quote 24:23, 24:24.	reasonably 18:20. reasons 11:22,	33:10, 36:12, 57:7.
22	quoted 31:8. . .	21:11, 26:10, 43:2, 60:4, 60:15.	reflected 21:23. reflects 10:7, 13:7,
23	< R >. R. 50:8, 54:19.	rebalancing 52:11. rec 26:12.	34:18, 67:5, 67:6.
24	Rackham 50:1. raised 14:10.	recall 7:5. receive 61:5.	regaining 50:4. regard 35:1, 55:21, 61:9, 64:21.
25			

1	regarding 16:2, 49:9, 54:22.	53:20, 54:21, 54:23.	61:11, 67:18.
2	Regardless 16:23, 43:4.	remind 66:6.	respond 30:12.
3	regards 53:2.	reminds 39:17.	response 65:7.
4	regimen 27:1.	removed 34:24.	response. 9:5.
5	regret 45:9.	removing 18:17.	responses 34:21.
6	regularly 19:8, 23:12.	rendered 8:20, 9:2.	responsibility 13:17, 27:7.
7	rehabilitates 57:17.	repair 39:22.	rest 53:8, 53:17.
8	Reibbling 54:18.	repeat 51:20.	result 20:9, 21:6, 29:25, 48:15.
9	reinforced 58:4, 58:5.	repeatedly 15:14, 19:10, 21:7, 36:25.	resulted 29:24.
10	Reinhard 54:19.	repetitive 17:9.	results 13:14, 14:6.
11	rejection 36:21.	report 5:1, 5:3, 5:6, 5:20, 5:22, 6:4, 7:14, 8:17, 10:7, 11:24, 12:17, 13:6, 13:25, 19:14, 21:20, 22:25, 24:20, 28:21, 29:9, 31:9, 60:7, 63:24, 66:7.	retain 15:16, 16:25.
12	relate 36:17, 37:19.	reported 23:25.	retained 16:21.
13	related 15:21, 38:6.	Reporter 1:47, 68:17.	retaining 20:21.
14	relating 22:1.	reports 12:10, 12:12, 28:22, 29:2, 31:15, 42:1.	retention 13:8.
15	relationship 56:4.	represent 67:1, 67:2.	return 64:11.
16	relationships 24:14.	representation 24:23.	review 5:6, 5:8, 12:7, 12:20, 12:22.
17	relative 43:25.	required 11:10, 19:8, 51:4.	reviewed 5:11, 12:19, 14:20, 22:24.
18	relax 37:1.	requirements 13:1, 67:19.	revisited 50:1.
19	release 6:25, 20:11, 20:13, 20:14, 61:15, 63:14, 64:6, 64:19, 64:24, 65:2, 65:5, 65:7, 65:9, 65:11, 66:2, 66:9.	Reporter 1:47, 68:17.	revocation 65:5.
20	releases 55:6.	reports 12:10, 12:12, 28:22, 29:2, 31:15, 42:1.	Richard 44:22.
21	relief 43:16.	represent 67:1, 67:2.	Richard D. Bennett 1:18.
22	religious 26:24.	representation 24:23.	Rick 47:17.
23	Remain 44:12, 52:7.	required 11:10, 19:8, 51:4.	rid 31:16.
24	remaining 15:5.	requirements 13:1, 67:19.	Ride 50:6.
25	remains 18:9.	requires 11:15, 56:5.	rightest 43:2.
26	remanded 61:1.	requiring 12:2.	rightly 19:20.
27	remarks 14:13, 22:11, 23:20.	research 4:2, 26:14.	rights 66:18.
28	remedial 18:25.	reset 52:11.	ripple 35:2.
29	remedies 65:3.	respect 4:18, 10:6, 13:23, 17:25, 21:1, 21:4, 29:3, 35:25, 50:11, 55:21, 57:11,	rise 35:7.
30	remedy 44:11, 44:25.	respect 4:18, 10:6, 13:23, 17:25, 21:1, 21:4, 29:3, 35:25, 50:11, 55:21, 57:11,	risk 49:24, 59:14.
31	Remember 37:16, 44:23, 45:15, 49:9, 50:11, 51:3,	requires 11:15, 56:5.	risks 18:18, 19:10.
32		requiring 12:2.	Road 47:24, 49:11, 55:17, 65:8.
33		research 4:2, 26:14.	roam 45:12.
34		reset 52:11.	Rob 49:17, 49:20.
35		respect 4:18, 10:6, 13:23, 17:25, 21:1, 21:4, 29:3, 35:25, 50:11, 55:21, 57:11,	Robert/joe/ed 53:3.
36		respect 4:18, 10:6, 13:23, 17:25, 21:1, 21:4, 29:3, 35:25, 50:11, 55:21, 57:11,	Rocca 54:21.
37		requires 11:15, 56:5.	rod 52:22.
38		requiring 12:2.	rode 53:14.
39		research 4:2, 26:14.	
40		reset 52:11.	
41		respect 4:18, 10:6, 13:23, 17:25, 21:1, 21:4, 29:3, 35:25, 50:11, 55:21, 57:11,	

1	Rogers 18:23. role 23:18.	51:11. school 24:2.	15:17, 15:19, 16:1, 24:22,
2	roles 20:3. rolling 45:24.	screwed 46:11. seal 22:25.	29:17, 33:2, 33:12.
3	Rome 45:12. room 31:3, 33:24.	sealed 12:19. search 18:3.	sentenced 13:10. sentences 11:14,
4	root 49:12. rotate 62:4.	searching 43:1, 46:21.	57:23. Sentencing 2:5,
5	rough 53:19. round 53:17.	seas 50:5. seated 2:5, 3:1,	6:16, 8:11, 8:15, 8:18, 11:6, 11:18,
6	routinely 28:25. row 23:8.	14:11. second 9:20, 17:24,	11:24, 12:4, 12:21, 14:20,
7	RPR 1:46, 68:11. ruined 26:2,	18:22, 23:8. secondly 34:14.	15:10, 22:16, 25:13, 25:16,
8	32:17. Rule 3:19, 6:19,	secret 15:19, 51:21.	31:8, 34:21. serious 15:25,
9	66:25. Rules 4:17, 6:20,	secrets 34:2. Section 12:9, 13:9,	17:18, 20:23, 29:23, 29:25,
10	17:21, 66:25. run 52:5, 53:5.	15:11, 57:19. sections 8:19.	54:16, 68:4, 68:5.
11	running 52:1. .	secure 17:21, 18:18, 34:2.	seriousness 15:11. serocracy 48:25.
12	. < S >.	securing 19:9. security 16:7, 16:9,	serve 24:19, 51:22, 54:10, 62:4.
13	sad 38:7. safe 48:18, 68:2.	18:21, 19:15, 20:2, 20:19,	served 61:3, 66:16.
14	sake 65:16. salesman 43:7.	26:10, 29:13, 34:12, 56:11,	service 23:17, 27:18.
15	salute 67:24. sang 50:15.	58:18, 67:17. security-based	services 26:24, 51:4, 54:22.
16	satisfied 5:13, 11:6.	34:20. seeing 31:20.	serving 32:7, 41:6.
17	Savage 47:24, 53:13.	seek 42:19, 45:18, 48:17, 52:6,	Set 13:6, 13:24, 52:4, 65:21.
18	save 54:6. saved 47:2.	57:1. seeking 48:12,	setting 48:25. settings 24:5,
19	saw 28:8, 29:5, 31:19, 37:2,	59:15, 64:10. seemed 29:7.	27:12. seven 9:10.
20	38:19. saying 3:17, 26:15,	seemingly 26:10. seems 27:20,	Several 17:13, 60:6.
21	29:24, 30:8, 32:8, 32:9, 32:10.	64:18. seen 53:21.	severe 33:20, 42:23, 47:12.
22	says 24:22, 31:15, 44:19, 44:20.	sees 41:3. seized 17:11.	severity 33:6. shades 46:8.
23	scars 47:15. Scary 54:3.	send 20:18. sends 44:19.	shadow 51:21. shall 20:14, 63:18,
24	scenario 55:16. schadenfreude	sense 40:23, 40:24, 43:9, 46:5,	63:19, 63:21, 63:22, 65:20.
25	49:2. schizophrenia	48:10. sensitive 15:16,	Shambhala 49:11. share 45:25, 48:5.

1	shared 24:2. sharp 51:5.	61:17. sisters 50:14.	sound 66:2.
2	Shaw 23:5, 23:9, 35:11, 35:16,	sites 18:5. sitting 4:4,	sounds 46:23, 66:4.
3	35:21, 35:22, 41:13, 41:15,	33:13. situated 57:23.	sources 22:2, 29:20, 59:9.
4	42:4. Shawn 49:21.	situation 31:24, 35:8.	spaces 15:17, 18:18.
5	shell 45:6. Sheryl 52:10.	situations 12:19. six 16:10, 36:2,	Speaking 45:14, 45:16, 45:19, 45:20, 46:6, 47:22, 53:22.
6	shift 19:4. ships 49:8, 58:13,	45:24, 61:16. size 48:12.	speaks 16:22.
7	58:15. shirt 36:14.	skies 46:20, 56:20.	Special 1:38, 2:23, 13:12, 43:11, 46:10, 51:20, 65:20, 66:8, 66:12.
8	short 50:19. shouldn't 40:5.	skill 13:12. skip 49:4.	SPECIAL AGENT PINO 2:22.
9	shouting 60:19. show 26:16.	slap 40:10. small 43:17.	Specific 6:19, 6:21, 20:7, 61:13, 64:23.
10	showed 26:18, 52:21.	smart 36:21. smile 52:3.	Specifically 3:21, 6:22, 9:22, 11:14, 15:11, 20:18, 64:6, 64:17, 65:17, 66:21.
11	shown 55:1. shows 26:14.	Smirnoff 55:6. Smith 11:21, 15:5,	spectrum 23:24.
12	shut 25:24. sick 37:3.	63:6, 66:5. sober 51:15.	speculate 19:23.
13	side 32:20, 33:24, 39:13, 39:15,	social 24:4, 27:12.	speed 49:2, 50:6.
14	52:24, 53:6, 55:4, 58:25.	socially 23:23, 24:5.	spelling 42:8.
15	sides 66:19, 66:22.	society 34:8, 58:15.	spend 34:4, 44:11.
16	sideways 50:19. sign 48:17.	solace 43:17. solid 49:3.	spent 38:24, 48:3, 56:19.
17	signed 19:10. significant 42:7.	solo 52:1. solution 54:24.	spinning 55:11.
18	Sigrid 45:21. Sigs 46:6.	solve 53:24. someone 29:6, 34:3,	spirit 46:9.
19	silence 51:22. similarly 57:23.	36:13, 41:3. Sometimes 12:7,	spiritual 26:23.
20	simple 60:22. simplicity 50:11.	37:14, 40:4, 54:6.	spoke 47:13.
21	sincerely 53:25. sing 47:7, 51:16.	song 47:7. soon 44:1, 44:21,	Sport 55:23.
22	sink 49:8, 58:13. sipping 49:1.	44:25, 47:18. sophistication	spot-on 52:16.
23	sir 3:14, 5:17, 12:25, 14:18,	50:12. sort 18:19, 31:13,	Spyder 45:15.
24	55:17. Sirs 53:23, 54:5,	31:18, 32:21. sought 19:25,	square 45:18.
25	55:8. sister 22:21,	20:1. soul 46:4, 47:6.	staff 52:22, 53:19.
			stage 59:2. stages 31:19. stand 35:16, 41:23, 57:3. standard 63:16. standing 3:19,

<p>1 52:24. stands 68:7. 2 star 52:8. started 27:1, 30:17, 3 51:19, 56:14. starting 9:24, 4 32:19. stated 16:15, 23:25, 5 64:5. statement 7:22, 6 11:22, 21:24, 41:25, 42:12, 7 58:6, 58:12, 59:6, 59:22. 8 States 1:1, 1:5, 2:3, 2:8, 2:12, 9 8:10, 8:13, 8:23, 9:15, 9:19, 9:21, 10 11:16, 13:9, 15:25, 24:9, 11 57:19. stationed 24:10. 12 statute 66:13. Stay 45:18, 52:3, 13 52:4. stays 40:14. 14 steal 15:15, 20:5. stealing 16:18, 15 20:21. stenographic 16 68:12. step 13:3, 50:17. 17 steps 67:20. Steve 53:8, 53:20. 18 stifles 48:25. stipulated 15:23, 19 16:17. stipulation 59:7. 20 stole 15:21, 16:10, 16:25, 17:20, 21 18:20. stolen 15:18, 16:5, 22 16:22, 17:7, 17:13, 18:4. 23 stomach 37:3. stop 20:2. 24 storage 17:21. store 45:24. 25 stories 39:4. storm 50:9.</p>	<p>story 46:22. straight 49:25, 56:3. strain 35:6. stray 16:20. Street 1:48. strength 26:18. strengthen 54:10. stress 34:17, 35:5. strict 17:21. strive 52:6. strong 20:18, 26:14, 27:21, 68:3. stronger 51:8. structure 17:10. struggle 41:2. struggled 24:4, 24:14. struggles 19:25, 23:23. struggling 30:16, 31:2, 34:3, 34:5. style 47:6. subject 4:8, 12:7, 15:21, 16:4. subjected 55:3. subjects 15:24, 16:6. submission 23:25, 25:16, 41:14, 42:2. submit 29:2, 63:21. submitted 7:20, 14:16, 18:1, 22:17, 22:23, 42:8. substance 61:7, 61:10, 63:21, 63:22. substantial 19:14. success 50:10. successful 27:16, 30:19, 32:2. suddenly 27:11. suffers 23:24. sufficient 5:14. suggest 4:15.</p>	<p>suggesting 21:15. suggestion 25:16, 30:23, 63:24. Superman 43:9. supervised 6:25, 20:10, 63:14, 64:6, 64:19, 64:24, 65:2, 65:7, 65:9, 65:11, 66:2, 66:9. supervision 63:16. supplement 22:17. supplies 38:14. support 18:2, 30:25, 31:18, 44:3. Supreme 8:11, 8:14, 8:17, 9:19, 9:22. surprises 7:18, 8:8. surrender 66:15. suspects 48:23. swain 52:9. sweet 45:6. swift 20:13. swifty 46:16. Swillo 5:2, 5:7, 6:6, 7:15, 12:2, 63:24. switch 4:20, 53:16. Swo 49:22. Swoo 49:21. syndrome 49:1. . . < T >. T. 1:46, 2:3, 22:6, 68:16. table 4:4. takeaways 33:25. talked 44:23, 48:3, 51:17, 53:20. talks 37:17, 37:18. tall 49:1. tame 46:9. tangible 24:23, 40:23. task 66:5.</p>
--	--	--

1	tasks 54:11.	60:6.	train 38:19.
	taxes 56:19.	thoroughly 23:4.	training 19:8,
2	teaching 46:2.	though 32:14, 43:12,	43:24, 53:3.
	team 26:3, 63:8.	47:11, 51:4,	Transcript 1:17,
3	technical 42:13.	51:16, 53:7,	68:12.
	technological	55:24.	transform 40:12.
4	49:7.	thoughts 48:22,	transformed 27:4.
	tempers 23:16.	49:6, 54:10,	transmission 25:12,
5	Tempus 48:18.	54:12, 54:17,	25:17.
	tend 55:6.	62:24.	transmitted 3:23,
6	tended 29:12.	Three 5:12, 6:25,	4:10, 17:19.
	tent 39:8.	9:21, 25:20, 40:8,	Trautman 53:9.
7	terabytes 16:12,	42:16, 61:16,	Travel 54:4.
	34:13.	63:14, 64:25,	tread 50:22.
8	term 20:10.	66:17.	treason 23:18.
	terms 3:16, 6:11,	three-year 20:10.	treasured 31:13.
9	8:9, 9:15, 13:13,	threw 24:16.	treat 18:25.
	18:6, 18:7, 20:14,	throughout 8:23,	treated 35:25.
10	22:9, 24:7, 32:14,	24:13, 27:22.	treating 50:2,
	58:22, 66:1,	throws 31:24.	63:21.
11	67:24.	till 47:7.	treatment 19:25,
	territory 60:2.	timid 42:25.	20:1, 61:6, 61:10,
12	terrorists 16:2.	tire 39:22.	61:21, 63:18.
	testified 16:14.	Title 9:15.	trees 47:20.
13	testing 63:22.	Today 2:5, 7:18,	Trial 1:27.
	Thanks 46:2, 46:3,	10:3, 10:15,	tricky 55:2.
14	53:3.	10:20, 10:24,	tried 26:21, 27:2,
	THE DEFENDANT 3:14,	11:7, 13:10,	31:15, 31:16,
15	5:9, 5:12, 5:15,	22:19, 22:24,	37:22.
	7:6, 7:11, 9:5,	25:25, 27:8,	tries 40:16,
16	9:7, 10:9, 10:11,	27:10, 27:12,	40:19.
	10:14, 10:16,	27:24, 42:20,	trouble 39:14,
17	10:18, 10:22,	47:18, 58:5.	39:15, 49:15.
	10:25, 11:4,	together 36:1,	troubled 30:3, 30:4,
18	12:25, 42:6,	40:11, 48:3.	59:16.
	42:11.	token 7:7.	troubles 44:4.
19	theme 63:1.	Tom 44:22.	troubling 29:14.
	themselves 2:6,	tomorrow 47:18.	truce 47:25.
20	31:12, 32:22,	took 7:20, 50:19,	true 27:20, 27:21.
	59:2, 60:14.	55:17, 59:25.	truly 43:14, 52:23,
21	theory 55:1.	tools 53:4.	54:12.
	They've 55:25,	tooth 30:22.	trust 13:12, 19:18,
22	67:22.	top 15:19, 52:17.	20:12, 21:8,
	thinking 30:12,	torrent 48:1.	56:4.
23	56:15.	total 13:18, 14:5,	trusted 20:6.
	third 13:18.	54:24.	truth 51:8.
24	Thomas 42:20,	totally 33:16.	Try 23:14, 26:19,
	44:22.	towards 30:23,	30:18, 39:3,
25	thorough 5:3, 6:16,	35:23, 39:2.	43:15, 44:25,
	28:22, 29:2,	tragic 60:2.	48:11, 49:13.

1	trying 24:16, 34:10, 39:9, 39:13,	unfortunate 35:7.	67:8, 67:12.
2	41:10, 48:11, 65:12.	unfortunately 38:5.	violate 19:16, 20:14, 20:15, 21:7.
3	tune 50:15.	unintentional 32:9.	violated 65:11.
4	tune-up 48:22.	United 1:1, 1:5, 2:3, 2:8, 2:12,	violating 19:10, 20:12.
5	tunnel 46:12.	8:10, 8:13, 8:23, 9:15, 9:19, 9:21,	violation 4:8, 4:14, 13:8, 66:2.
6	turbulent 32:19.	11:16, 13:9, 15:25, 57:19.	visiting 23:11.
7	turn 48:12, 48:13.	universals 44:12.	visitors 4:12.
8	turned 4:6, 40:24, 46:24, 53:16.	unlawfully 18:17, 20:21.	vodka 55:5.
9	tweet 25:2, 25:6, 25:18.	unless 3:22, 4:5.	voice 45:5.
10	Twitter 18:3.	unorthodox 50:16.	voids 24:16.
11	two 8:10, 8:19, 9:19, 9:20, 10:8,	unparalleled 42:22.	volitional 48:15.
12	11:3, 15:20, 31:21, 36:3,	untempered 48:14.	volume 19:2, 52:2.
13	49:5.	until 4:23.	voluntary 66:15.
14	two-level 13:11, 13:16.	untreated 23:22, 37:7.	vs 1:8.
15	type 19:2.	unwelcoming 55:4.	.
16	typical 41:1.	unworthy 42:25.	< W >.
17	tyranny 48:24.	upheld 8:14.	W. 1:48.
18	.	upholding 8:18.	wages 66:14.
19	< U >.	upside 40:24.	waived 66:20.
20	ulfberht 46:3.	upward 13:11.	waiver 66:22.
21	Ulma 45:1.	uses 31:7.	walk 34:13.
22	ultimate 50:11.	using 17:16.	walked 38:12, 46:23.
23	umbra 51:13.	usual 48:23.	walking 43:5, 47:16.
24	unauthorized 18:18, 18:19, 50:17.	.	wanted 37:20, 40:9, 46:1, 47:1, 47:6, 48:20, 55:23.
25	unbecoming 54:2.	< V >.	wants 22:23, 36:23, 44:19, 65:14.
	unbreached 48:14.	v. 8:13.	War 58:14.
	uncanny 50:16.	V/R 50:6, 53:22, 54:4.	warrant 18:3.
	unchecked 48:15.	vanity 48:7.	Washington 2:17, 3:10, 11:18, 12:4, 12:8.
	Uncle 44:18, 55:8.	vary 7:15.	watch 44:21.
	unconventional 50:16.	Venus 45:6.	watched 40:12.
	underestimate 25:22.	verbal 9:5.	watchful 56:3.
	underneath 39:8.	verify 5:5.	water 47:15.
	understanding 49:3.	verses 51:9.	wear 36:13.
	understands 3:17, 4:17.	Version 54:3.	wearing 25:25.
	undertake 34:20.	versus 2:3, 9:20.	wears 25:25.
	undetected 19:16.	Via 49:15.	Wednesday 2:14, 3:11, 4:20, 4:23, 22:17.
	undiagnosed 37:6.	victim 51:8.	
		Victoria 44:3.	
		view 5:25, 41:4, 57:4, 60:20, 62:5,	

1	week 4:20.	16:8, 20:4, 24:17,	.
	weekend 37:19.	24:18, 31:4, 31:8,	.
2	weeping 55:11.	37:16, 37:23,	< Y >.
	well-being 26:23,	38:19, 39:1,	yanking 54:15.
3	26:25.	39:13, 39:20,	year 6:19, 8:5,
	whatever 38:18.	39:21, 40:22,	11:12, 26:11,
4	whatsoever 40:25.	45:17, 46:10,	60:4.
	wherever 41:5.	51:3, 51:21,	years 6:24, 6:25,
5	whether 4:9, 4:14,	54:12, 55:14,	7:3, 7:8, 8:12,
	57:25, 61:18,	67:23, 67:25.	9:10, 9:11, 9:21,
6	64:1.	workable 66:3.	15:15, 21:2,
	whoever 17:11.	worked 16:7,	21:13, 23:17,
7	whole 36:23, 37:10,	39:21.	25:20, 26:1,
	40:6, 41:3.	working 20:2,	29:15, 33:9, 36:2,
8	whom 58:9.	38:24.	37:9, 38:17,
	wife 35:10, 35:23.	workplaces 17:1.	38:24, 40:8,
9	wilderness 47:11.	Works 54:6.	44:25, 53:21,
	willful 13:8.	World 32:1, 32:2,	58:4, 61:16,
10	William 54:19.	32:4, 40:7, 45:12,	63:14, 66:17.
	Wilson 54:20.	51:3, 56:2, 58:14,	yield 52:7.
11	win 53:1.	59:15, 60:14,	York 38:25, 59:13,
	winds 50:5.	60:18, 60:20.	59:14, 62:16,
12	wingman 45:25.	worst 26:8, 48:23.	62:20.
	winter 47:7.	worth 16:11, 24:24,	yourself 7:21, 40:3,
13	wired 49:13.	38:5, 39:24,	55:3.
	Wisdom 55:18,	39:25, 41:5,	youth 24:3.
14	57:1.	53:18.	.
	wisely 56:20.	worthy 56:23.	.
15	wish 36:5, 41:24,	wounds 43:23.	< Z >.
	47:20, 53:12.	woven 64:14,	Zachary 2:12.
16	withdraw 7:4, 7:9.	64:19.	Zachary A. Myers
	withdrawal 32:3.	wrapping 44:17.	1:25.
17	within 17:12, 57:25,	written 18:23.	Zamyatin 54:23.
	66:23.	wrongdoing 27:7.	zeal 48:13.
18	without 3:16, 32:25,	wrongs 41:11.	zealots 48:14.
	33:11, 49:4.	Wyda 3:3, 3:6, 6:1,	
19	wives 12:18, 42:4.	11:5, 14:13,	
	Wolf 55:12.	22:14, 23:2,	
20	woman 27:16,	24:12, 25:12,	
	45:22.	28:3, 28:16,	
21	wonder 46:17.	28:22, 29:17,	
	wonderful 45:21.	41:18, 60:10,	
22	word 29:9, 31:6,	62:5, 62:22,	
	50:3.	62:24, 63:5,	
23	wording 64:20.	65:18, 67:3,	
	words 48:18, 49:9,	67:11.	
24	51:1, 54:21,	.	
	55:15.	.	
25	wore 53:13.	< X >.	
	work 2:25, 16:5,	Xinis 8:4.	