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Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

12 CR 185 (LAP)

5 JEREMY HAMMOND,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 15, 2013
10:06 a.m.

10 Before:

11 HON. LORETTA A. PRESKA,

12 District Judge

13 APPEARANCES

14 PREET BHARARA
15 United States Attorney for the
16 Southern District of New York
17 ROSEMARY NIDIRY
18 THOMAS BROWN
19 Assistant United States Attorneys

20 SUSAN KELLMAN
21 SARAH KUNSTLER
22 Attorneys for Defendant

23 ALSO PRESENT:
24 CHRISTOPHER TARBELL, FBI Special Agent
25 EMILY KUNSTLER
MARGARET RATNER KUNSTLER

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1 (In open court)

2 THE COURT: United States against Jeremy Hammond.

3 Is the government ready?

4 MS. NIDIRY: Yes. Good morning, your Honor. Rosemary
5 Nidiry for the government. With me at counsel table is Thomas
6 Brown of the U.S. Attorney's Office and Special Agent
7 Christopher Tarbell of the FBI.

8 THE COURT: Good morning.

9 Is the defense ready?

10 MS. KELLMAN: We are, your Honor. Good morning.
11 Susan Kellman for Jeremy Hammond. Your Honor, my client is
12 seated to my right, and I'm assisted at counsel table by Sarah
13 Kunstler and Emily Kunstler and Margaret Ratner Kunstler.

14 THE COURT: Good morning. Won't you be seated. Good
15 morning.

16 I think the first item we should take up, please, is
17 the application of the New York Times to have the redacted
18 portions of the sentencing memorandum unsealed.

19 Mr. McCraw.

20 MR. McCRAW: Yes, your Honor. Good morning.

21 THE COURT: Good morning. Do you wish to be heard
22 further?

23 MR. McCRAW: Your Honor, I believe my letter lays out
24 what our position is. I'd like to respond to whatever argument
25 is made for continuing the redaction.

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1 THE COURT: Yes, sir.

2 MR. McCRAW: Thank you.

3 THE COURT: Ms. Kellman, Ms. Kunstler.

4 MS. KELLMAN: Your Honor, I hope that we can dispose
5 of this fairly quickly. As the Court knows, I came on board
6 fairly late in this matter. And one of the first things that I
7 had an opportunity to read before I even began to familiarize
8 myself with the case was the Court's protective order in this
9 matter. And I took that, as I take all orders of this Court,
10 seriously. I reached out to the government of the United
11 States in an effort to see if there were areas in which we
12 could agree that redactions were not necessary, and I
13 succeeded neither in connecting with them on that issue by
14 phone or by e-mail. And after several weeks of having no input
15 from the government, I erred on the side of caution and I
16 redacted everything that I thought could potentially cause a
17 problem.

18 From our vantage point, we didn't really have a sense
19 that most of it needed to be redacted and we would, as I always
20 do, defer to the Court on these matters. If the Court is
21 inclined to release the information, of course we live to
22 serve, Judge. I did what I thought was appropriate, which
23 was to follow the letter of the Court's instruction. And if
24 there is somebody in this courtroom who feels that there are
25 areas that don't need to be redacted, I'm happy to be

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1 instructed.

2 THE COURT: Thank you.

3 What's the government's position here? There seemed
4 to be pretty limited redactions.

5 MS. NIDIRY: Yes, your Honor. Since receiving the
6 redacted versions of the defense's submissions, we've had
7 discussions with defense counsel about the areas that we think
8 do not need to be redacted. And primarily what we think should
9 be redacted are victim names and the entities, the personal
10 information of various individuals, credit card information,
11 things like that, that appear in some of the exhibits, the URL
12 information of websites that may have vulnerabilities.

13 And so we have talked it over with Ms. Kunstler and my
14 understanding is that she is going to-- or they are going to be
15 submitting a submission with more limited redactions that
16 comport, we think, with the protective order.

17 THE COURT: What is your position as to the material
18 within the four corners of the defense sentencing memorandum in
19 the text?

20 MS. NIDIRY: Those I think can be unredacted.

21 THE COURT: Okay. And then as far as I could tell,
22 the remaining material -- the addresses, the names, et
23 cetera -- those appear in the exhibits.

24 MS. NIDIRY: I think that's correct.

25 THE COURT: Okay. Certainly the material in the text

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1 of the sentencing memorandum may be unredacted.

2 Is there anything else that we need to discuss?

3 MS. KELLMAN: Not that I'm aware of, Judge.

4 THE COURT: Mr. McCraw, anything else you want to
5 discuss?

6 MR. McCRAW: Yes, your Honor. In terms of-- first, we
7 have no problem with personal identifying information of the
8 sort that was in the protective order. That list which dealt
9 with credit card numbers and the like, no problem, and we
10 appreciate your Honor's unsealing of the memorandum.

11 Primarily what we've been concerned about is what
12 appears to be a supplemental argument, A through H, which is
13 largely redacted, the version, and I think it's the latest,
14 almost completely redacted, other than the introductory
15 paragraph.

16 We know from the government's submission, where they
17 address what's redacted in Footnote 19 on page 19 that
18 essentially it's an argument aimed at your Honor in terms of
19 something you should consider for sentencing. We believe that
20 other than the personal identifying information, which we
21 discussed, that they should be unredacted.

22 THE COURT: I'm sorry. Let me just locate that.

23 The problem is mine isn't redacted so I don't know
24 what the material is.

25 MR. McCRAW: Your Honor, in --

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1 THE COURT: I have Exhibit H.

2 MR. McCRAW: For ease, the first two paragraphs of the
3 letter addressed to you are unredacted and then, after that,
4 other than some "respectfully submitted," everything else is
5 blank. Everything that is attached to that letter is blank.

6 THE COURT: Okay. Thank you.

7 I guess I should be asking Ms. Kellman, first, do you
8 have any concerns about unredacting that material?

9 Ms. Kunstler?

10 MS. KUNSTLER: Your Honor, we don't have any concerns
11 about unredacting that material.

12 MS. KELLMAN: Judge, when you say do we have any
13 concerns about it, is the Court's concern with respect to your
14 order?

15 THE COURT: No.

16 MS. KELLMAN: Then I think that the answer is we don't
17 have any concerns.

18 THE COURT: Does the government have any objection to
19 unredacting that material?

20 MS. NIDIRY: To the extent that the-- only to the
21 extent that the names of entities with potential
22 vulnerabilities exist in there. In other words, everything--
23 we believe that everything should be unredacted except the
24 names of, for example, the countries listed that have potential
25 vulnerabilities.

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1 THE COURT: Okay. Mr. McCraw.

2 MR. McCRAW: Your Honor, as to the country names, the
3 government has taken the position that this is untrue. They
4 say that in Footnote 19, that essentially having addressed the
5 argument that was redacted, that we haven't seen, they say this
6 is untrue. It seems unlikely to me that there is a privacy
7 interest or a national security interest in things that aren't
8 true. If they are now saying that there are some actual
9 vulnerabilities and they're willing to make that submission to
10 your Honor, that's a different matter. At this point what I'm
11 being told by Footnote 19 is that none of this is believable,
12 in which case I don't see the case for redaction.

13 THE COURT: Ms. Nidiry.

14 MS. NIDIRY: I think that counsel is misreading our
15 footnote. We do point out that C.W. and Mr. Hammond did
16 discuss vulnerabilities in foreign websites among other
17 websites. And so there is a potential that the entities
18 listed herein have website vulnerabilities, and that is our
19 concern.

20 THE COURT: Then the footnote goes on. It says, "In
21 fact, the FBI notified foreign governments about this activity
22 and the vulnerability of their websites." Right?

23 MS. NIDIRY: Yes, that's correct.

24 THE COURT: All right. I'm not sure, Mr. McCraw, that
25 the government is saying that it's untrue.

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1 MR. McCRAW: But it-- and I agree with you, your
2 Honor, that they have said that there was a discussion. Now, I
3 don't know what's in there, so whether --

4 THE COURT: It's a list of countries.

5 MR. McCRAW: Okay. And my understanding is that if
6 the footnote is accurate, that there's been notification, I
7 would think there would need to be some showing that that
8 vulnerability continues. I would assume that, having been
9 notified and this list having been developed some time ago,
10 that there should be a fresh case that there is
11 vulnerability.

12 THE COURT: Ms. Nidiry.

13 MS. NIDIRY: I don't necessarily-- I don't think that
14 the burden should be put on the victims with the potential
15 vulnerabilities to demonstrate that the vulnerabilities have
16 been taken care of. I think that the information that is
17 important for the public that is in this document is provided
18 without listing the names of the potential victims.

19 THE COURT: Anything else, Mr. McCraw?

20 MR. McCRAW: Just one final point, your Honor. I'm
21 not asking that the victims do this. I'm asking that the
22 government do this. The government is proposing the redaction.
23 The constitutional standard is clear it's their burden, not the
24 burden of anybody in the general public.

25 THE COURT: All right. In light of the potential

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1 vulnerabilities of these governments and out of an excess of
2 caution, I will permit the redacting of the list of countries.
3 Otherwise, the remainder of the November 1, 2013 addendum to
4 the defendant's sentencing submission shall be unredacted.

5 MS. NIDIRY: Your Honor, I'm sorry, just to be clear,
6 the exhibits to that addendum do contain a host of chat logs
7 within which there are a lot of discussions of websites. So we
8 would ask that those --

9 THE COURT: Vulnerable websites.

10 MS. NIDIRY: Yes, exactly.

11 THE COURT: Or deemed to be vulnerable.

12 MS. NIDIRY: Yes, as well as personal credit card
13 information.

14 THE COURT: Well, we're all on board on the personal
15 credit card information. I'll permit the redaction of the
16 supposedly vulnerable sites.

17 MS. NIDIRY: Yes. Thank you.

18 THE COURT: Okay. Sir, anything else?

19 MR. McCRAW: Thank you, your Honor.

20 THE COURT: Yes, sir. Thank you.

21 Ms. Kellman, Ms. Kunstler, have you and your client
22 had adequate time to review the presentence report?

23 MS. KELLMAN: We have, your Honor.

24 THE COURT: Is there any reason it should not be made
25 part of the record?

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1 MS. KELLMAN: No, your Honor.

2 THE COURT: Are there any objections to the
3 presentence report?

4 MS. KELLMAN: Your Honor, we highlighted the
5 objections in our submission of November 1st.

6 THE COURT: Are there any that you'd like to discuss
7 today?

8 MS. KELLMAN: Only to the extent that we'd like the
9 Court to take them into consideration, and that is specifically
10 with respect to the comments in the presentence report with
11 respect to paragraph 61 and 83.

12 THE COURT: Sixty-one and?

13 MS. KELLMAN: Eighty-three, your Honor. With respect
14 to 61, does the Court want me to-- I'm happy to discuss them
15 briefly with the Court.

16 THE COURT: Sure.

17 MS. KELLMAN: With respect to paragraph 61, I thought
18 that the report was somewhat harsh with respect to its comment
19 that Mr. Hammond had refused to maintain employment while on
20 bond during the period between his guilty plea and the sentence
21 and his prior federal case. And from our own research, that
22 didn't appear to be the case.

23 We provided the probation department and the Court
24 with a copy of not one, but two letters from Mr. Hammond's
25 prior employer, Rome & Company. And Mr. Roman, who had

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1 responded to inquiries on this issue, said that not only had he
2 welcomed Jeremy back because of the fine work that he had done,
3 but in his second letter to the Court, he wrote that "The
4 second time following his period of detention, we welcomed him
5 back with enthusiasm and without hesitation." He described
6 Mr. Hammond as friendly, courteous, polite, and extremely
7 respectful of the business deeds of the company that he
8 served. And I thought that that was an extraordinary
9 compliment from somebody who recognized that Jeremy had had
10 legal problems, was prepared to welcome him back because of the
11 good work he had done.

12 And what troubled me was that probation appeared to
13 have been aware of that, and the reality was that Mr. Hammond
14 had told probation that he took two weeks off before he had to
15 surrender. But I thought it was harsh to say that he hadn't
16 worked at all since, one, that's not what he said, and, two,
17 that didn't appear to be what his employer was saying either.

18 I ask the Court to take notice of that and I attach
19 both letters from Mr. Roman.

20 THE COURT: Is there any objection to deleting the
21 portion, at least as appears in paragraph 62 of my copy of the
22 presentence report, the portion that says "and failed to
23 maintain employment"?

24 MS. NIDIRY: No, your Honor.

25 THE COURT: Okay. That portion is deleted.

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1 MS. KELLMAN: Thank you, Judge.

2 And the second piece, in paragraph 83, the probation
3 department appeared to be concerned that they hadn't had any
4 contact from Mr. Hammond's family, specifically his girlfriend,
5 his mother and his brother. And our understanding was that
6 those people were not inclined to speak directly to probation,
7 but they had through us communicated a willingness to provide
8 letters, which they did, and we provided those letters to
9 probation. I'm not sure why they weren't commented upon, but
10 we've attached them to our submissions.

11 So I think it's unfair to say that the family had not
12 been responsive, which suggests to the Court that somehow they
13 might not be supportive. And of course I think the Court knows
14 well --

15 THE COURT: We might have-- I wonder if we have
16 different copies. That portion appears at paragraph 84 in my
17 copy and it says, "However, through counsel the defendant said
18 that those individuals would prefer not to be interviewed and
19 would rather rely on letters they have written on behalf of the
20 defendant," and then the report goes on to summarize those
21 letters.

22 MS. KELLMAN: I think, Judge, that's the second
23 submission, is what that is. Our letter went to the first
24 submission and I think after our letter probation --

25 THE COURT: Got it. So this is fixed.

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1 MS. KELLMAN: I think that's correct, Judge.

2 THE COURT: All right then. No other objections to
3 the presentence report?

4 MS. KELLMAN: No, your Honor.

5 THE COURT: Thank you.

6 With respect to the offense level computation, I
7 accept the findings of the presentence report set forth at
8 paragraphs 42 through 56, which conclude that a total offense
9 level of 31 is appropriate. With respect to the defendant's
10 criminal history, I accept the findings of the presentence
11 report set forth at paragraphs 57 through 77, which conclude
12 that a criminal history category of four is appropriate.

13 I have the sentencing memorandum on behalf of
14 Mr. Hammond. I have the supplemental letter dated November 1;
15 I have a large binder of letters; I have a letter from Russell
16 Hammond handed up today; I have the letter attached to the
17 November 7 submission; I have the government's submission.

18 Are there any additional written materials I should be
19 looking at, Counsel?

20 MS. NIDIRY: No, your Honor.

21 MS. KELLMAN: No, your Honor.

22 THE COURT: Ms. Kellman, would you like to speak on
23 behalf of Mr. Hammond?

24 MS. KELLMAN: I would, your Honor.

25 THE COURT: Or Ms. Kunstler.

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1 MS. KELLMAN: But at the moment I'd like to defer, if
2 I may, to Sarah Kunstler, who has prepared some remarks. And I
3 would like to yield to my mentee in the Southern District's
4 excellent mentoring program. I have to say in this case I may
5 well have learned more from my mentee than she from me and I'm
6 very proud of the work she's done in this case.

7 THE COURT: Yes, ma'am.

8 MS. KELLMAN: So I'd like to defer to her and then I
9 will speak, Judge.

10 THE COURT: Yes, ma'am. Ms. Kunstler.

11 MS. KUNSTLER: Thank you, your Honor. Would you
12 mind if I took the podium? It might be a little bit easier for
13 me.

14 THE COURT: Of course. If you actually want to remain
15 seated, that's fine too.

16 MS. KUNSTLER: Thank you.

17 MS. KELLMAN: When she gave me the key to her office
18 last night in case I need to get papers, I said, "Not a
19 chance." She's going to make it through this.

20 MS. KUNSTLER: Thank you, your Honor. I'm very happy
21 to be here today. I wasn't sure if I would make it.

22 In December of 2012, 24,000 geophysicists gathered at
23 a meeting of the American Geophysical Union. The most
24 well-attended lecture was about the depletion of the earth's
25 resources --

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1 THE COURT: Ms. Kunstler, I'm going to ask you to keep
2 your voice up or perhaps be a little closer to the microphone--

3 MS. KUNSTLER: Sure.

4 THE COURT: -- so everyone can hear you.

5 MS. KUNSTLER: Thank you.

6 A geophysicist named Brad Werner from the University
7 of California walked the crowd through an advanced computer
8 model to show how the rapid depletion of these resources was
9 leading to the destabilization of the earth's ability to
10 sustain human life.

11 When asked what could reverse or stem this tide,
12 Mr. Werner was largely at a loss. There is one dynamic in the
13 model, however, that offered some hope. Werner termed it
14 resistance: Movements of people, or groups of people, who
15 adopt a certain set of dynamics that does not fit within the
16 dominant culture. According to the abstract for his
17 presentation, this includes protests, blockades, and sabotage
18 by indigenous people, workers and other activist groups.

19 Serious scientific gatherings don't usually feature
20 calls for mass resistance, but in the history of our great
21 nation and in the history of humankind, there have always been
22 moments where resistance has led to important social change.
23 The American Revolution, the Civil War, the Civil Rights
24 Movement and the end of apartheid in South Africa. And there
25 have always been people who stood up to make that change: Our

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1 founding fathers, Martin Luther King, Nelson Mandela.

2 What these people have in common is how they act in a
3 moment of choice, when confronted with a situation in which
4 they can rise up, often at great personal risk, and take action
5 or quietly sit down and risk nothing. And in that moment of
6 choice, if they do nothing, no one will be the wiser, but if
7 they act, they will suffer the consequences of that action.

8 These actors and the actions they take are not always
9 understood in the moment. Sometimes the actors are viewed as
10 criminals; their actions as violations of the established law.
11 Sometimes it takes time -- days, months, a century -- for the
12 context and meaning of those actions to be properly understood.
13 And in some cases, history, rather than vindicating them, will
14 judge them harshly.

15 The development and use of surveillance technologies
16 will be one of the defining issues of our times. The reach of
17 these capabilities is astonishingly broad. Governments can
18 listen in on cell phone calls, use voice recognition to scan
19 mobile networks, read e-mails and text messages, sensor web
20 pages, track a citizen's every movement using GPS, and can even
21 change e-mail contents en route to a recipient. They can
22 secretly turn on webcams built into personal laptops and
23 microphones and cell phones not being used. And all of this
24 information can be filtered and organized on such a massive
25 scale that it can be used to spy on every person in an entire

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1 country.

2 Jeremy Hammond, a gifted computer programmer, decided
3 to use his skills to break the law. He did so out of a concern
4 that these technologies were enabling governments and
5 corporations to gather information on individuals and
6 organizations without oversight or scrutiny. He did so as an
7 act of protest. And as a result of his actions and the actions
8 of others similarly committed to open government, the public
9 has become increasingly aware and increasingly concerned.

10 There are many, like our adversaries in the U.S.
11 Attorney's Office, who do not accept Jeremy's actions as acts
12 of civil disobedience. Many who see what he did as
13 one-dimensional, criminal and malicious. In its sentencing
14 submission, the government argues that Jeremy Hammond was
15 motivated by a malicious and callous contempt for those with
16 whom he disagreed and that this goal, demonstrated by
17 statements that he made in chat rooms, was to cause mass mayhem
18 by destroying websites and entities he disliked.

19 Contrary to the government's representations, this
20 wasn't a malicious and unfocused act against an entity with
21 whom Jeremy had a disagreement. It was an act of protest
22 against the private intelligent industry and its ability to do
23 what the United States in theory is prohibited from doing:
24 Targeting American citizens and other populations worldwide.

25 If Jeremy spent every waking hour on-line hiding

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1 behind a screen, hacking into websites, it would lend credence
2 to the government's argument. But this is not the case. As
3 the Court knows, Jeremy lived an active, moral and productive
4 off-line life, as well as a life in which he was devoted to
5 helping others in a way that many of us imagine we would do if
6 only we had the time. In an age where technology and computers
7 isolate us, where we walk around staring into tiny screens,
8 using social media to stay in touch with our friends, and send
9 text messages rather than talk to the people in our lives,
10 Jeremy connected with people, looked them in the eyes and made
11 an impact on their -- looked them in the eyes and made an
12 impact in their lives in extraordinarily positive ways.

13 The government discounts these efforts. In a footnote
14 buried deep in its submission, the government argues that
15 Jeremy's contributions to the public good are not worthy of
16 this Court's consideration because they are substantially
17 outweighed by the harm he caused. The government ignores the
18 letters of support we received; 60 out of a total of 265 from
19 people who know Jeremy from his positive work in the community
20 of Chicago-- the communities of Chicago. People who have
21 first-hand knowledge of the countless hours he spent
22 volunteering, teaching, tutoring, creating a community space so
23 groups could meet, organizing to close down local coal plants
24 that were poisoning the community, helping people gain skills,
25 find jobs, and get back on their feet. Opening the doors of

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1 his home to people who were hungry and in need and inspiring
2 others to do those same things.

3 These letters demonstrate a profound accomplishment
4 and a profound commitment to humanity, far greater than any of
5 us at the defense table can lay claim to. And under 18 U.S.C.
6 3553(a), they are certainly worthy of this Court's
7 consideration.

8 One of the most wonderful letters attached to our
9 submission came from someone who has never met Jeremy, a father
10 of two young people attending college in Chicago, who wrote
11 after his children made him aware of Jeremy's case. The man's
12 children were not friends of Jeremy's either. He happened to
13 run into them on the street when they were moving their
14 belongings into a new third-floor apartment. Jeremy happened
15 by and offered to help. Later, after his arrest, they saw his
16 picture on the news and realized that the person who had
17 helped them was the person who now awaits sentence in this
18 case.

19 Now, this is by no means the most significant letter
20 in our submission, but I mention it because it highlights the
21 kind of person that Jeremy is. Not many people would have
22 stopped to help, but Jeremy Hammond is the kind of person who
23 stops everything he's doing to help another human being, a
24 person who has made a tremendous real-world impact and a person
25 who feels the responsibility to make the world a better place

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1 in both big ways and small.

2 Jeremy Hammond broke the law. He knew that he was
3 breaking the law and he acted at his peril. He accepts the
4 consequences of his actions. He does not -- and we do not --
5 minimize his actions by addressing his motivation, but his
6 motivation matters. When Jeremy sat down at his computer and
7 broke the law, he did so with the same set of values and
8 principles that he applied to every other aspect of his life.
9 Nothing that Jeremy did in this case was for personal gain.
10 Had it been otherwise, surely he would have sought to exploit
11 the credit cards available to him, something he has never
12 done.

13 In a recent statement, Sarah Harrison, the British
14 journalist who accompanied Edward Snowden to Russia described
15 actors like Jeremy Hammond as a last line of defense in the
16 fight for transparency. Ms. Harrison wrote, "In these times of
17 secrecy and abuse of power, when whistleblowers come forward,
18 we need to fight for them so others will be encouraged. When
19 they are gagged, we must be their voice. When they are hunted,
20 we must be their shield. When they are locked away, we must
21 free them. Giving us the truth is not a crime. This is our
22 data, our information, our history. We must fight to own
23 it."

24 The government has a one-dimensional view of this
25 case. Part of the challenge may be that Jeremy Hammond's

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1 actions are a new form of protest, using tactics that are,
2 concededly, violations of our federal criminal law. But our
3 world is changing quickly as evidenced by the hundreds of
4 letters of support and thousands of people who signed on to the
5 petitions that we submitted to the Court.

6 Your Honor, Jeremy understands that you must sentence
7 him today and that you must apply the laws in force at this
8 moment. None of us has the benefit of history hindsight or the
9 changes that will no doubt take place as our thinking and our
10 laws evolve to address the seemingly boundless use of
11 surveillance by corporations and governments and the actions of
12 people like Jeremy Hammond, who step forward to grasp truths
13 that are hidden from us.

14 Under 18 U.S.C. 3553(a), we respectfully submit that
15 after looking at all of the sentencing factors, Jeremy
16 Hammond's history and characteristics, the nature and
17 circumstances of the crime, the need to reflect the seriousness
18 of the offense to promote just punishment, to afford adequate
19 deterrents and to avoid unwanted sentencing disparities, that a
20 sentence of time served is sufficient, but not greater, to meet
21 the goals of sentencing.

22 Thank you.

23 THE COURT: Thank you, Ms. Kunstler.

24 Ms. Kellman, did you wish to add anything?

25 MS. KELLMAN: Yes, if I may, Judge. As the Court

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1 knows, this is not the kind of case I often handle. And I am
2 actually in the middle of a trial right now and it is a case in
3 which the government's evidence rests -- I would say virtually
4 exclusively, but I think that would be wrong -- I would have to
5 say exclusively on the words of and the testimony of people who
6 have killed more people than we can count on one hand.

7 And when I was cross-examining one of the witnesses
8 yesterday, one of the cooperators yesterday, I asked him what
9 his hope was. And essentially he said-- for his cooperation.
10 And what he said essentially was that he hoped that he would do
11 better than other cooperators that had testified in a related
12 case. And those cooperators had admitted on the stand under
13 oath to killing six people -- one, six; one, eight -- and
14 they were hoping to do better than another cooperator in a
15 related case who had killed 11 people and was sentenced to
16 seven years. So for their seven and six bodies respectively,
17 they hoped to be sentenced to less than seven years.

18 I asked one of the cooperators, an older -- I thought
19 older fellow, how he felt about the sentence of "Sammy the
20 Bull" Gravano, who had killed 19 people and had the government
21 argue-- I'm sorry, advocate on his behalf for a sentence of
22 time served. And I was struck at the notion that our
23 government, having had an opportunity to explore all that
24 Jeremy Hammond has done in this case, that the same individuals
25 who seek a ten-year sentence for Jeremy Hammond were hoping and

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1 begging, beseeching a federal judge to give the man who said "I
2 looked at friends in the face and blew their heads off," but I
3 think that this man, now that he's testified on our behalf, on
4 behalf of the government, should go home today.

5 Now, I know these words will probably come back to
6 haunt me one day when I stand before the Court arguing as to
7 why my cooperator client should not spend the rest of his life
8 in jail for having looked his friends in the face and blown
9 their heads off. But when I think about the dynamic, and in a
10 sense the absurdity of the dynamic, the government of the
11 United States arguing to set people free who have killed more
12 people than many people know and the enthusiasm and intensity
13 of their arguments as to why Jeremy Hammond, if they could,
14 should never see the light of day, but certainly spend the next
15 ten years of his life incarcerated, I'm disappointed and to
16 some extent stunned.

17 As I read through the letters that were submitted --
18 and as the Court knows, you have what we perceive to be the
19 cream of the letters -- I was taken as I really never have been
20 in a case by the kinds of things that people who knew Jeremy
21 and who didn't know Jeremy had to say about what I think we
22 can all agree, for better or worse, is an extraordinary young
23 man.

24 When I first heard about Jeremy's case and began to
25 read about it, I have a son not so different in age, just a few

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1 years younger than Jeremy, and I thought, Wow, my son is going
2 in the right direction and I'm so proud of him. And I thought,
3 How am I going to figure out what to say about how to defend
4 someone who I may not be as proud of from the things that I had
5 read in the newspaper and in the government's submissions and
6 in the indictment?

7 And as I read about Jeremy, I was floored at the kind
8 of-- I don't know if there's a better word; I'm sure there is--
9 than volunteerism. That this is a young man with an
10 extraordinary heart. And the notion that the Court, as the
11 government suggests, that the extent of his good works pales in
12 comparison with the extent of his computer hacking, which the
13 government calls malicious -- and I think the evidence suggests
14 is far more a form of protest. Had it been malicious, I think
15 that there would have been a much better argument for Jeremy
16 using or abusing the credit cards, for example, to his own
17 purpose, and even the government concedes that that didn't
18 happen.

19 As I read through the materials -- and Ms. Kunstler,
20 of course, just highlighted one letter that stood out to her.
21 I couldn't even pick a letter that stood out to me because one
22 was more generous about the impact of Jeremy's good works and
23 Jeremy's good action on so many people, whether they were
24 children in the Chicago area who needed tutoring, needed
25 assistance in learning how to use a computer, needed help

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1 getting a job and he helped them learn how to write a resume.
2 This is a young man who, on a daily basis, all day, every day,
3 when he could help someone would help that person whether he
4 knew them or he didn't know them.

5 When I first heard that he was an excellent chef and
6 that he cooked for homeless people in Chicago just because they
7 were hungry, I thought, Well, where does he get the money for
8 the food? And the answer was he didn't have money for the
9 food. He found rotting food, he found storekeepers who were
10 throwing out food, and he collected food and he went to a soup
11 kitchen and he cooked the food.

12 And I think to some extent there are-- one of the
13 problems certainly in Chicago, as I've read, is that homeless
14 people don't always go to shelters in order to get aid and
15 sometimes it's purely mental illness. Sometimes it's purely a
16 fear of connecting or an alienation that comes as a part of
17 homelessness. But when the people of Chicago, the homeless
18 people of Chicago, heard that Jeremy was cooking that night, it
19 was impossible to get into the soup kitchens because of the
20 person he was, because of the chef he was, and because they
21 were hungry and because he made the time to do that.

22 There are so many days when I say it's a sunny,
23 beautiful Saturday, I think I'm going to go over to the park
24 and just rake and volunteer, because there's always something
25 in the park that needs to be done and there's always a group

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1 that needs to do it. And I walk my dogs and I see everybody
2 raking and I say, You know what? I'm going to bring the dogs
3 home and I'm going to go back. And then I start to read
4 something that I need to read for Monday morning and the next
5 thing I know it is Monday morning and I haven't gotten out to
6 the park and I haven't helped rake. And I say I'm going to go
7 and help in the city because I can help with resumes. And I've
8 signed up to do it a number of times, and then life gets in the
9 way and I don't do it.

10 Jeremy Hammond does do it, your Honor. As I started
11 to go through these letters, I have to admit one of the ones
12 that jumped off the page to me came from a childhood hero of my
13 own, and that was Daniel Ellsberg, somebody who stood up to the
14 government then in a way that we weren't accustomed to seeing,
15 or at least I wasn't. And in my young life as a college
16 student, it made an impact on me.

17 In his letter to the Court -- which was not solicited
18 by us, your Honor, but Mr. Ellsberg called us and asked if he
19 could submit a letter on our behalf. He wrote to the Court
20 that "The actions taken by Jeremy Hammond need to be viewed in
21 a context that considers the profound consequences of private
22 surveillance of public activists in the United States." We
23 create a whistleblower statute to create whistleblowers, but
24 when people blow their whistles, we don't like it and we don't
25 like what we hear.

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1 I could summarize, and would love to be able to
2 summarize, every letter that we highlighted in our submission
3 to the Court, but I know that your Honor has read them and I
4 know that your Honor will take them to heart. I've never
5 really seen a collection of letters in which so many people had
6 so many genuine good things to say about the human being and
7 took the time to say it. Not because they thought it was
8 right. That, I'm sure, was a piece of it. But to a large
9 extent, your Honor, I believe they took the time because Jeremy
10 took the time. Because he made it his life's work to take the
11 time, to make that moment when he could make a positive impact
12 on somebody else's life.

13 I would love to imagine what happens to the young
14 children whose computer skills are improved by Jeremy's
15 tutoring; the young students whose math skills are improved;
16 the kids who don't make it at school and somehow connected with
17 Jeremy; the teachers who wrote to the Court and said his
18 enthusiasm was infectious and other students improved because
19 they wanted to be more like Jeremy because his enthusiasm for
20 learning was infectious.

21 I was told a story early on about Jeremy that I was
22 unclear about how I would respond to it. And at the moment I
23 thought, well, I was glad he wasn't my child. And I don't mean
24 that anymore. But Jeremy went into an Apple computer store one
25 day and was playing on the computers that are spread all over

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1 the store. And he hacked into their computer system and he put
2 their financial data on the screen. All the screens. And it
3 took a long time for them to-- not long. It took a while for
4 them to figure out that that's what was happening. By the time
5 they figured it out, all of the geniuses were at the bar-- and
6 I use that word literary-- were at the bar in the back trying
7 to figure out what had gone on. And the one person sitting
8 there was Jeremy. And he said, "You know, your systems are
9 really, really easily penetrated, but I can show you how to fix
10 that." And he spent the rest of the afternoon making their
11 systems impenetrable.

12 Now, is there a maliciousness in this? I don't think
13 so. Is it fair to call it impish? I don't think so. On the
14 other hand, he served a very real purpose to Apple at that
15 particular time and he did it in a way that was probably more
16 dramatic than was called for, but at the end of the day,
17 everybody at Apple was extremely happy that Jeremy Hammond had
18 been in the store that day. Not just in that store, but
19 systemwide.

20 And I recount that story for the Court because I think
21 that it does help us to understand that the government's view
22 of the malicious nature of Jeremy's hactivism is not real. As
23 Ms. Kunstler said, your Honor, motivation matters. And I think
24 that here what motivated Jeremy, I think he's made it very
25 clear in everything he's tried to do that his motivation

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1 matters. He's not motivated by personal financial gain. He's
2 motivated in one of the more naive ways I've ever seen: To
3 make this world a better place. And there are days when his
4 hactivism doesn't really ring true. On the other hand, there
5 are so many ways that I think at a time when our culture is
6 undergoing extraordinary changes at a pace that I think we
7 can't even appreciate, I think Jeremy Hammond has a handle on
8 that.

9 Your Honor, Jeremy Hammond understands that you must
10 sentence him today and that you must apply the laws that are in
11 force at this moment. None of us has the benefit of history,
12 hindsight, or changes that will no doubt take place in our
13 thinking. Jeremy Hammond faces a guidelines sentence of ten
14 years. He had several co-defendants in this case and the
15 co-defendants have been sentenced to far less time than ten
16 years. Two, I believe, got 32-month sentences and others got
17 in the two-year range.

18 This Court has tremendous power and tremendous
19 authority when it comes to sentencing. And I raise those other
20 sentences by way of 3553 and the Court's ability to take into
21 consideration great disparities in sentencing. But really,
22 Judge, it is not the centerpiece of our argument on behalf of
23 Jeremy Hammond. The centerpiece of our argument is a young man
24 with high hopes and unbelievably laudable expectations and
25 motivations. A young man who has made a very, very positive

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1 difference in the world around him.

2 And as I just circle back to the individuals on behalf
3 of whom the government advocates on a regular basis in this
4 courthouse, individuals that have killed as many people as they
5 know, there is no hope that when they get out they'll do
6 better, but they will get out. Jeremy Hammond has
7 extraordinary range. He is a young man of great brilliance and
8 great potential. And I think that if the Court were to give
9 him the benefit of the doubt, that he will make a very positive
10 difference in our world one day. And I commend that as my last
11 thought to the Court.

12 Thank you, Judge.

13 THE COURT: Thank you, Ms. Kellman.

14 Mr. Hammond, do you wish to speak on your own behalf?

15 THE DEFENDANT: Yes, ma'am.

16 MS. KUNSTLER: Could Mr. Hammond stand at the podium.

17 THE COURT: Yes, ma'am.

18 THE DEFENDANT: Sorry. I'm actually sick right now.

19 Good morning. My name is Jeremy Hammond and I'm here
20 to be sentenced for hacking activities carried out during my
21 involvement with Anonymous. I have been locked up at MCC for
22 the past 20 months and I have had a lot of time to think about
23 how I will explain my actions today.

24 But before I begin, I want to take a moment to
25 recognize the work of the people who have supported me. I want

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1 to thank all the lawyers and others who have worked on my case:
2 Elizabeth Fink, Susan Kellman, Sarah Kunstler, Emily Kunstler,
3 Margaret Kunstler, Grainne O'Neill, and many others. I also
4 want to thank the National Lawyers Guild, the Jeremy Hammond
5 Defense Committee and Support Network, Free Anons, the
6 Anonymous Solidarity Network, Anarchist Black Cross, and all
7 others who have helped me by writing letters of support,
8 sending me letters, attending my court dates, and spreading the
9 word about my case. I also want to shout out all my brothers
10 and sisters behind bars and those who are still out there
11 fighting the power.

12 The acts of civil disobedience and direct action that
13 I am being sentenced for today are in line with the principles
14 of community and equality that have guided my life. Yes, I
15 hacked into dozens of high-profile corporations and government
16 institutions, understanding very clearly that what I was doing
17 was against the law and that my actions could land me back in
18 federal prison, but I felt I had an obligation to use my skills
19 to expose and confront injustice and to bring the truth to
20 light.

21 Now, could I have achieved the same goals through
22 legal means? While I have tried everything from voting
23 petitions to peaceful protests, I have found that those in
24 power do not want the truth to be exposed. And that when we
25 speak truth to power, we are ignored at best and brutally

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1 suppressed at worst. We are confronting a power structure that
2 does not respect its own system of checks and balances, never
3 mind the rights of its own citizens or the international
4 community.

5 My introduction to politics was when George W. Bush
6 stole the presidential election in 2000. Then he took
7 advantage of the waves of racism and patriotism after 9/11 to
8 launch unprovoked imperialist wars against Iraq and
9 Afghanistan. And I took to the streets in protest naively
10 believing that our voices would be heard in Washington and that
11 we could stop the war. Instead, we were labeled as traitors,
12 we were beaten, and arrested.

13 And I have been arrested for numerous acts of civil
14 disobedience on the streets of Chicago, but it wasn't until
15 2005 that I started using my computer skills to break the law
16 as a form of political protest. I was arrested by the FBI for
17 hacking into the computer systems of a right-wing, pro-war
18 group called Protest Warrior, an organization that sold racist
19 T-shirts on their website and regularly harassed anti-war
20 groups. I was charged under the Computer Fraud and Abuse Act,
21 and the "intended loss" in my case was arbitrarily calculated
22 by multiplying the five thousand credit cards in Protest
23 Warrior's database by \$500, resulting in a total of \$2.5
24 million lost. My sentencing guidelines were calculated on the
25 basis of this "loss" even though not a single credit card was

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1 used or distributed, by me or anyone else. And for that I was
2 sentenced to two years in prison.

3 And while in prison I have seen for myself the ugly
4 reality of how the criminal justice system destroys the lives
5 of the millions of people held captive behind bars. The
6 experience solidified my opposition to repressive forms of
7 power and the importance of standing up for what you believe.

8 When I was released, I was eager to continue my
9 involvement in the struggle for social change. I didn't want
10 to go back to prison, so I focused on aboveground community
11 organizing. But over time I became frustrated with the
12 limitations of peaceful protest, seeing it as reformist and
13 ineffective. And all the time the Obama administration
14 continued the wars in Iraq and Afghanistan, escalated the use
15 of drones, and failed to close Guantanamo Bay.

16 Around this time, I was following the work of groups
17 like WikiLeaks and Anonymous. It was very inspiring to see the
18 ideas of hactivism coming to fruition. I was particularly
19 moved by the heroic actions of Chelsea Manning, who had exposed
20 the atrocities committed by U.S. forces in Iraq and
21 Afghanistan. She took an enormous personal risk to leak this
22 information, believing that the public had a right to know and
23 hoping that her disclosures would be a positive step to end
24 these abuses. It is heart-wrenching to hear about her cruel
25 treatment in military lockup.

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1 I thought long and hard about choosing this path
2 again, and I had to ask myself if Chelsea Manning fell into the
3 abysmal nightmare of prison fighting for truth, could I in good
4 conscience do any less if I was able? I thought the best way
5 to demonstrate solidarity was to continue the work of exposing
6 and confronting corruption.

7 I was drawn to Anonymous because I believed in
8 autonomous, decentralized direct action. At the time,
9 Anonymous was involved in operations in support of the Arab
10 Spring uprisings against censorship and in defense of
11 WikiLeaks. I had a lot to contribute, including technical
12 skills and how to better articulate ideas and goals. It was an
13 exciting time, the birth of a digital dissent movement, where
14 the definitions and capabilities of hactivism were being
15 shaped.

16 I was especially interested in the work of the hackers
17 of LulzSec, who were breaking into some significant targets and
18 becoming increasingly political. Around this time, I first
19 started talking to Sabu, who was very open about the hacks he
20 supposedly committed, and he was encouraging hackers to unite
21 and attack major government and corporate systems under the
22 banner of Anti Security. But very early in my involvement, the
23 other LulzSec hackers were arrested, leaving me to break into
24 computer systems and write press releases. Later, I would
25 learn that Sabu had been the first one arrested, and that the

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1 entire time I was talking to him, he was an FBI informant.

2 Anonymous was also involved in the early stages of
3 Occupy Wall Street. I was regularly participating on the
4 streets of Chicago as part of Occupy Chicago and I was very
5 excited to see a worldwide mass movement against the
6 injustices of capitalism and racism. In several short months--
7 in several short months, the occupations came to an end, closed
8 by police crackdowns and mass arrests of protestors who were
9 kicked out of their own public parks. The repression of
10 Anonymous and of the Occupy movement set the tone for AntiSec
11 in the following months. Indeed, the majority of our hacks
12 against police targets were in retaliation for the arrests of
13 our comrades.

14 I targeted law enforcement systems because of the
15 racism and inequality in which the criminal law is enforced. I
16 targeted the manufacturers and distributors of military and
17 police equipment who profit from weaponry used to advance U.S.
18 political and economic interests abroad and to repress people
19 at home. I targeted information security firms because they
20 work in secret to protect government and corporate interests at
21 the expense of individual rights, undermining and discrediting
22 activists, journalists and other truth seekers and spreading
23 disinformation.

24 I had never even heard of Stratfor until Sabu brought
25 it to my attention. At the time Sabu was encouraging people to

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1 invade systems, and helping to strategize and facilitate
2 attacks. He even provided me with vulnerabilities of targets
3 passed on by other hackers, so it came as a great surprise when
4 I learned that Sabu had been working for the FBI the entire
5 time.

6 On December 4th, 2011, Sabu was approached by another
7 hacker who had already broken into Stratfor's credit card
8 database. Sabu, under the watchful eye of his government
9 handlers, then brought the hack to AntiSec by inviting this
10 hacker to our private chat room, where he supplied download
11 links to the full credit card database as well as the initial
12 vulnerability access point to Stratfor's systems.

13 I spent some time researching Stratfor and upon
14 reviewing the information we were given, decided that their
15 activities and client base made them a deserving target. I
16 find it ironic that Stratfor's wealthy and powerful customer
17 base had their credit cards used to donate to humanitarian
18 organizations, but my main role in the attack was to retrieve
19 Stratfor's private e-mail spools, which is where all the dirty
20 secrets are typically found.

21 It took me more than a week to gain further access
22 into Stratfor's internal systems, but I eventually broke into
23 their mail server. There was so much information that we
24 needed several servers of our own in order to transfer the
25 e-mails. Sabu, who was involved with the operation at every

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1 step, offered a server, which was provided and monitored by the
2 FBI. Over the next weeks, the e-mails were transferred, the
3 credit cards were used for donations, and Stratfor's systems
4 were defaced and destroyed. But why the FBI introduce us to
5 the hacker who found the initial vulnerability and allow this
6 hack to continue remains a mystery.

7 As a result of the Stratfor hack, some of the dangers
8 of the unregulated private intelligence industry are now
9 known. It had been revealed through WikiLeaks and other
10 journalists around the world that Stratfor maintained a
11 worldwide network of informants that they used to engage in
12 intrusive and possibly illegal surveillance activities on
13 behalf of large multi-national corporations.

14 After Stratfor, I continued to break into other
15 targets, using a powerful "zero day exploit" allowing me
16 administrator access to systems that ran the popular Plesk
17 web-hosting platform. Sabu asked me many times for access to
18 this exploit, which I consistently refused to give him.
19 Without his own independent access, Sabu supplied me with
20 lists of these vulnerable targets that he had found on Google.
21 I broke into numerous websites that he supplied, uploaded the
22 stolen e-mail accounts and databases onto Sabu's FBI server,
23 and handed over passwords and back doors that enabled Sabu,
24 and by extension the FBI handlers, to control these targets.

25 These intrusions, all of which were suggested by Sabu

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1 while cooperating with the FBI, affected thousands of domain
2 names and consisted largely of foreign government websites,
3 including those of Turkey, Brazil, Iran --

4 THE COURT: Mr. Hammond, you've just heard that we
5 have redacted those. I would appreciate it if you did not read
6 them out.

7 THE DEFENDANT: In one instance, Sabu and I provided
8 access to hackers who went on to deface and destroy many
9 websites belonging to the governments of many country names.

10 THE COURT: Thank you, sir.

11 THE DEFENDANT: I don't know how other information I
12 provided to him may have been used, but I think the
13 government's collection and use of this data needs to be
14 investigated.

15 The government celebrates my conviction and
16 imprisonment, hoping that it will close the door on the full
17 story. I took responsibility for my actions by pleading
18 guilty, but when will the government be made to answer for its
19 own crimes?

20 The U.S. hypes the hacker threat in order to justify
21 the multi-billion-dollar cybersecurity industrial complex, but
22 it is also responsible for the same conduct it aggressively
23 prosecutes and claims to work to prevent. This hypocrisy of
24 law and order and the injustices caused by capitalism cannot be
25 cured by institutional reform, but through civil disobedience

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1 and direct action.

2 Yes, I broke the law, but I believe that sometimes
3 laws must be broken in order to make room for change. This is
4 not to say that I do not have any regrets. I realize that I
5 released the personal information of innocent people who have
6 had nothing to do with the operations of the institutions that
7 I had targeted. I apologize for the release of data that was
8 harmful to individuals and that were irrelevant to my goals.
9 I believe in the individual right to privacy, from government
10 surveillance and from actors like myself, and I appreciate
11 the irony of my own involvement in the trampling of these
12 rights.

13 But I am committed to working to make this world a
14 better place for all of us. I still believe in the importance
15 of hactivism as a form of civil disobedience, but it is time
16 for me to move on to other ways of seeking change. My time in
17 prison has taken a toll on my family, friends and community,
18 and I know that I am needed at home. I recognize that seven
19 years ago I stood before a different federal judge facing
20 similar charges, but this does not lessen the sincerity of what
21 I have to say to you today.

22 It has taken a lot for me to write this, to explain my
23 actions, knowing that doing so honestly could cost me many more
24 years of life in prison. And I am aware that I could get as
25 many as ten years, but I hope that I do not as I believe that

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1 there is still much work to be done.

2 So stay strong and keep struggling.

3 THE COURT: Thank you, sir.

4 Does the government wish to be heard?

5 MS. NIDIRY: Yes. Thank you, your Honor.

6 Jeremy Hammond was not a whistleblower. The way the
7 government has-- the reason the government says that is not
8 simply because we don't like what he did. The reason we say
9 that is because of the evidence. And the evidence --

10 THE COURT: Ms. Nidiry, you're going to have to keep
11 your voice up. You're dropping your voice at the end of the
12 sentences.

13 MS. NIDIRY: The evidence regarding, in particular,
14 his motivation-- and I'll get to other factors later. With
15 regard to his motivation, as we set out in our submission, the
16 evidence of his motivation that comes from what he said when he
17 was anonymous, when he thought he wasn't going to get caught,
18 that's when he explained to his co-conspirators why he was
19 doing what he was doing. And what he said was I want to cause
20 financial mayhem, mass mayhem. I am really excited because
21 there is a home address of an FBI agent that we can release.
22 Spend those credit cards. Go buy things on those credit cards.
23 That's what he said when he was anonymous, when he was did not
24 think he was going to get caught.

25 And when we sit here today, when the Court sits here

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1 today and tries to judge, to sentence him based on his
2 offenses, 3553 obviously says you have to look at all of the
3 factors, the nature and circumstances of the offense and, in
4 particular, with regard to this defendant, I think the nature
5 and the characteristics of the defendant.

6 Based on what we know he did, based on the evidence at
7 the time, what we can say for sure is Jeremy Hammond was an
8 experienced hacker who used his skills through a variety of
9 different entities, from police retirement systems to the FTC's
10 consumer protection websites to Arizona's State Public Safety
11 website, releasing thousands of credit card information,
12 personal information, home addresses, talking about releasing
13 girlfriend pictures of police officers, personal e-mails, home
14 addresses of retired police officers.

15 There is nothing about any of that that is relevant to
16 political protest. There is nothing about any of that that is
17 altruistic. There is nothing about any of that that is related
18 to the injustices that Mr. Hammond sees in this world. There
19 is no altruism in any of that conduct.

20 Now, when Mr. Hammond and his counsel stand up before
21 this Court and refer to all of the letters of support for him,
22 we don't have any doubt that Mr. Hammond has done some good
23 things in his life. As the Court sentences people all the
24 time, you know that there are people who come before the Court
25 who do good, who have also committed crimes. The fact is you

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1 have to pay for the crimes that you commit. And Mr. Hammond
2 has stood before this Court and-- well, actually, Mr. Hammond
3 has stood before this Court before. He has stood before a
4 federal court before and he has said the same things.

5 And at the time he was given leniency. He said I did
6 it for the same reasons. I did it out of altruism, out of some
7 idea of political protest, and the Court gave him leniency.
8 And what Mr. Hammond did with that leniency was to go out and
9 do it again. Do it again on an exponentially larger scale.
10 That was one website; now it is tens of hundreds of websites.
11 That was five thousand credit cards; now it is thousands, tens
12 of thousands of credit cards. That was one political website
13 he disagreed with; now it's been tens of websites that are
14 political, that are state and local municipal governments, that
15 are related to retirement, related to public safety. I mean,
16 just across the board creating-- just wreaking havoc, which is
17 exactly what he said he wanted to do.

18 Now, Ms. Kellman compared as part of, obviously, 3553,
19 the Court has to consider the way in which the sentence that
20 Mr. Hammond gets compares to others similarly situated. And
21 his co-defendants did get lesser sentences in the UK, and there
22 is a reason for that. They are in the situation that
23 Mr. Hammond was in 2006. No prior convictions. They hadn't
24 done this before and they were much younger.

25 THE COURT: And they what?

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1 MS. NIDIRY: They were much younger. They were
2 basically-- I believe they were in their 19s to early 20s at
3 the time of the offenses.

4 Mr. Hammond now comes before the Court having done--
5 having been in their situation eight years ago and told the
6 Court he had learned a lesson, or told the Court, you know, I
7 did this for this reason and I understand that that was
8 something that I shouldn't have done. And now he comes before
9 the Court again and there is nothing in what he said to the
10 Court that makes-- that should give the Court any comfort that
11 he will not do this again. There's nothing that he said
12 before, and particularly given that he said the same thing
13 before, and he just went out and did it again.

14 I think it's unfortunate, that he obviously has a lot
15 of skill that he has chosen repeatedly to use for harm, used to
16 hurt other people, used to hurt thousands of people that he's
17 never met, who did nothing to him. And with regard to this one
18 question of the fact that he did not do this for personal gain,
19 I think that that's true. I think that that only gets you so
20 far. If you steal a lot of credit cards and you don't use them
21 yourself, it's still a crime if you tell other people to use
22 them. It's still a crime if you release them out in the public
23 and you don't care who uses them.

24 And so the fact that he didn't do these crimes for
25 personal gain is-- you know, it basically just means that-- it

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1 only means that: He didn't do it for personal gain. It
2 doesn't mean that these crimes weren't harmful. It doesn't
3 mean that these crimes he committed didn't hurt people, didn't
4 hurt the public, didn't endanger the public safety of people,
5 particularly in the state of Arizona, did not hurt consumers,
6 did not hurt retired police officers and just vast logs of
7 people whom he harmed.

8 I think, also, that Mr. Hammond has made an effort to
9 try and deflect responsibility for his role in particular in
10 the Stratfor hack. He says he accepts responsibility because
11 he pled, but now in his submission and today he talks a lot
12 about how it was essentially the FBI cooperator who set him up
13 to do it.

14 The fact is that Mr. Hammond came to the conspiracy
15 six months earlier with the Arizona Department of Public Safety
16 hack, which he himself had done and he brought it eagerly. And
17 when, in the course of the conspiracy, obviously as they're
18 investigating it, they need to try and figure out who these
19 various people are. And Mr. Hammond was there and as the
20 evidence shows, once he learned about the Stratfor hack, he was
21 the one who delved into it and who perfected it. He was the
22 one who was directing the co-conspirators in the chat room
23 about what to do with the credit cards. Go buy onion servers,
24 go donate to this. He was the one who basically spent hours,
25 in his own words, before he was arrested, he was the one who

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1 was explaining what they have and what they could do with it.

2 So he was not a mere bystander who released e-mail
3 spools. He was the person who was in the middle of this hack,
4 who collected all of the information and released it, including
5 the credit card numbers and all of the other personal
6 information.

7 I think that based on all of the harm that this
8 defendant did to the thousands of people, to the public, the
9 cost to the states, the cost to public safety, based on his own
10 statements about his motivations before he was arrested, based
11 on his role in the offense and based on the fact that he stands
12 before this Court, having stood before another federal court
13 before, there is no reason to think that 120 months is not a
14 sufficient-- is not warranted in this case. Under 3553, I
15 think the evidence shows that 120 months is sufficient-- is
16 an appropriate sentence that is not more than what is
17 warranted.

18 Thank you.

19 THE COURT: Ms. Kunstler, Ms. Kellman, did you wish to
20 add anything?

21 MS. KELLMAN: If I may, Judge, just briefly.

22 THE COURT: Yes, ma'am.

23 MS. KELLMAN: I want to be clear about just a few
24 things that I think it's fair to say that will come into the
25 Court's consideration, I imagine. And the first is at no time

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1 do I perceive anything that Mr. Hammond has said or anything in
2 our submission meant to suggest -- and I think the Court knows
3 that it doesn't suggest -- that in any way, manner, shape or
4 form Jeremy Hammond is suggesting that he is somehow
5 deflecting responsibility and claiming that he was set up. He
6 has never said anything like that. He does not feel that way,
7 nor do I think either of his counsel has said anything that
8 way.

9 What Mr. Hammond has said, and has stood by, is that
10 the government's cooperator who was being supervised by the FBI
11 certainly helped him focus on the kinds of targets the FBI was
12 interested in having him focus on. Did he go along willingly?
13 He certainly did. Was he intrigued at his ability to
14 accomplish these hacks? He was. But the notion that he
15 somehow seeks to deflect his responsibility I think is
16 completely erroneous.

17 He was in the moment certainly happy to cooperate with
18 the government's cooperator, clearly having no idea that he was
19 just that, a government's cooperator, but that is not to
20 suggest at all that he doesn't understand that what he did, he
21 did of his own choice, of his own free will. And I think that
22 that's an unfair suggestion on the part of the government.

23 I do think, as Mr. Hammond said, that he recognizes
24 the irony in the use of the credit cards having been used for
25 good works in its own twisted way. I don't suggest for a

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1 moment, nor does he, that it justifies what happened with those
2 credit cards. And he recognizes and has apologized for the use
3 of anybody's private personal-- personal credit cards on the
4 one hand. On the other hand, as the government concedes,
5 nothing that was acquired in this way was used in any way to
6 line his pockets or to in any way increase his financial
7 position.

8 I think it's important to also point out, Judge, that
9 in our view it's unfair for the government to say that he's
10 been in this situation before and he's not learned his lesson.
11 Jeremy Hammond has spent 20 months in prison. The government
12 argues that our request for a nonguidelines sentence should be
13 ignored because Jeremy has already had leniency. I think that
14 that's an unfair statement.

15 In 2006, your Honor, Jeremy Hammond, 19 years old,
16 received a two-year sentence for hacking a website of an
17 organization that targeted war protestors. This offense, his
18 first felony, was committed, as I said, as a teenager and
19 resulted in his prior sentence. But while the sentence was, in
20 fact, a departure from the guidelines, which the government
21 highlights in its own papers, the reality is that the loss
22 numbers, which drove the sentencing guidelines in the first
23 instance, were extraordinarily and artificially inflated. They
24 were based on fictional losses, which of course we all
25 recognize the guidelines has the ability to do, but we also

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1 recognize the unfairness in that sort of calculation because in
2 that case the credit cards were never used. The probation
3 department assigned an arbitrary average amount that could have
4 been abused to every card and multiplied and came up with an
5 astronomical potential loss figure, notwithstanding that there
6 was no loss in that case at all. And so I think that while the
7 sentence itself constituted a departure, the reality is that it
8 was a departure based on a fiction to begin with.

9 Mr. Hammond stands before the Court, your Honor, fully
10 accepting of his role in this case and of his responsibilities,
11 understanding what his hacks have caused in terms of the harm
12 that the government sees and points out to the Court, but also
13 understanding that the work that he did has, to some extent,
14 opened all of our eyes to what's been happening behind closed
15 doors in a corporate America that is less transparent than our
16 government ought to be to us.

17 I just want to read, if I may, Judge, in closing --

18 THE COURT: Before you finish, Ms. Kellman, I didn't
19 understand your second point where you were talking about the
20 government's position that Mr. Hammond had been in this
21 situation before and hasn't learned his lesson. I'm not sure
22 how you're distinguishing the other situation.

23 MS. KELLMAN: Your Honor --

24 THE COURT: I take your point on the loss amount.

25 MS. KELLMAN: Yes, ma'am.

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1 THE COURT: But I'm not understanding the "didn't
2 learn your lesson" part.

3 MS. KELLMAN: Well, I think that-- fair enough, Judge.
4 I think that the learning the lesson piece is an important
5 factor here, Judge, because I think that --

6 THE COURT: I do, too. That's why I'm asking.

7 MS. KELLMAN: I know. I think that Mr. Hammond has
8 tried his best, your Honor, to explain to you that from the
9 time he was released from prison on that sentence until the
10 time he was arrested here, he did what he thought was
11 everything he could to try to open up what he thought were
12 abuses and tried to air abuses that he thought were going on
13 behind closed doors.

14 And he lost his way and thought that the only way he
15 could make the impact was with the skill that he has, and that
16 is hactivism. And in a sense it's one of the reasons, Judge,
17 that I did want to read, if I may, from-- and then I'll get
18 back to the Court's point because I do know how important it
19 is.

20 But Professor Peter Ludlow from Northwestern
21 University speaks, I think to a large extent -- he's, I think,
22 a professor of philosophy at Northwestern, and he took the time
23 to write a very thoughtful letter to your Honor. And I think
24 that he helps-- he helped me to understand what it was that
25 Jeremy's goals were here and what Jeremy's work has meant in

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1 terms of its impact on our culture. And, yes, he has done
2 what he did before, but he believes that he did it with a
3 higher purpose. It wasn't a purpose to hurt, but a purpose to
4 expand everybody's understanding of what's been going on
5 vis-a-vis the public security-- public intelligence community
6 and the private connections that its made, the private
7 corporate connections that it's made, and the way that that
8 masks what our government is doing to the average person.

9 Professor Ludlow writes that "Jeremy Hammond's
10 exploratory hacks helped expose the scope and nature of the
11 private intelligence industry. Along the way he exposed a
12 well-organized and well-funded system of deception and
13 targeting American citizens and other populations worldwide.
14 He showed that the deceptions were systematic, sometimes
15 illegal, and oftentimes nothing more than extraordinarily
16 disturbing.

17 "Few people realize that in addition to the familiar
18 U.S. government intelligence agencies-- the FBI, the NSA and
19 the CIA-- and military intelligence operations, there are also
20 a number of private intelligence corporations, a sector of the
21 intelligence community that was not well known, but was massive
22 in its scope.

23 "Tim Shorrock, author of *Spies for Hire: The Secret*
24 *World of Intelligence Outsourcing*, cites government estimates
25 that by 2006 \$42 billion of the \$60 billion spent annually by

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1 the United States government on foreign and domestic
2 intelligence was going to private intelligence firms, meaning
3 that about 70 percent of the money spent on intelligence was
4 being outsourced to entities over which the American public had
5 no ability to learn. This also means that most of the
6 intelligence activities take place outside of the oversight
7 that governments have put in place lo these many years,
8 oversights that apply to the CIA, the NSA and the FBI. And
9 of course the American U.S. government is far from the only
10 customer of these services. They also provide intelligence
11 services to multi-national corporations and lobbying
12 groups."

13 I know that the Court has read our submissions with
14 respect to some of the specific good that Jeremy's work has
15 accomplished. And specifically, just for examples, I speak
16 about the exposure of some of the e-mails that had to do with
17 People for the Ethical Treatment of Animals, the PETA
18 litigation, and also the Bhopal situation.

19 And I think that those things on balance, your Honor,
20 those kinds of disclosures and those kinds of-- and I don't
21 mean the specific disclosures, but the notion that those things
22 have been able to be kept under the radar and under the wire by
23 systems that were designed to make them unavailable to the
24 public are far more-- are far more of an irritant -- I think is
25 just so not strong enough a word -- but far more of an irritant

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1 than a young man, 19 years old, making what the government
2 views as the same mistake, but what he views -- and it is what
3 it is, Judge. He views what he does as extraordinary-- as
4 having an extraordinarily positive impact. He understands it
5 breaks the law. He has urged the Court in writing, through our
6 papers and in his own words, that this is his form of civil
7 disobedience and that he hopes it will bring about a change
8 that we need to have in the way our government outsources the
9 works that it doesn't want its citizens to know about.

10 You know, when the settlers in the 1600s decided that
11 they didn't want to be a part of the British Empire, their
12 work, their good work, became known as the Revolutionary War.
13 And had they not stood up to the king and said, We don't want
14 to live this way anymore, we want to be able to make our own
15 rules -- I don't suggest that Jeremy Hammond ought to be able
16 to make the rules for this country. I do suggest that it is a
17 very extraordinary step for a young man to take to not be
18 afraid of the consequences; to be able to say I think what our
19 government is doing ought to be exposed to the light, without
20 making a judgment it's right or it's wrong, but it needs to be
21 exposed to the light.

22 And I think that to make the analogy in the sense that
23 the government does, that he did it wrong once and he's doing
24 it again and it's criminal once and it's criminal again, in
25 some respects -- and I certainly don't mean to be

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1 disrespectful -- is in some respects to not recognize what he
2 hoped to accomplish, and that is to open everybody's eyes to
3 what it is our government is doing.

4 You know, I was fascinated by listening to
5 congressional hearings, as I have in the last few months, about
6 the impact of disclosures like WikiLeaks and Anonymous and the
7 like. And the members of Congress saying, well, I had no idea.
8 I had no idea. I didn't know this was going on. I doubt
9 that's accurate, and I think we know to some extent it's not
10 accurate.

11 But I do think that a tremendous amount of pressure is
12 now being put on government to say-- to reevaluate what it is
13 that we, as a government, ought to be able to keep secret,
14 ought to be able to make public. And it is the beginning, I
15 believe, of this debate and not the end of it. Because we are
16 as a culture, as a digital culture, moving so-- moving quickly,
17 moving forward so quickly, and maybe faster than some of us
18 move. Maybe faster than institutions move.

19 But I think that it is in a way sophomoric to suggest
20 that the only thing that Jeremy did here had bad impact on our
21 country and was bad because it broke the law. He recognizes
22 that what he did broke the law. And I think that-- and I hope
23 that he recognizes that he can be an incredibly positive
24 influence without breaking the law from outside a prison cell;
25 that he can accomplish a lot more within the framework of our

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1 government than he can by being locked in a prison cell where
2 he has no access to the people he'd like to touch and the lives
3 he'd like to reach.

4 And I hope that that-- I think that that resonates
5 inside of him. I hope that it was communicated to the Court in
6 his statements. He recognizes what he did violated the law.
7 He hopes that somebody can see, that the Court can see, that
8 there is a higher purpose. And whether that higher purpose,
9 Judge, is enough to -- certainly I recognize this Court's not
10 going to say, Oh, yeah, great idea and, you know, no
11 punishment. That isn't to say that a sentence of time served
12 with a humongous community service component, which is
13 something that this young man excels at and something that
14 comes from inside what is very, very good about Jeremy Hammond,
15 will make a substantial difference in his world and also in our
16 world.

17 Thank you, Judge.

18 THE COURT: Thank you.

19 MS. KUNSTLER: Your Honor, if I may.

20 THE COURT: Counselor.

21 MS. KUNSTLER: I just want to speak a little bit to
22 the piece of Mr. Hammond having-- this being Mr. Hammond's
23 second offense, second similar offense.

24 Your Honor, I've read, and I'm sure the Court has the
25 transcript the government provided from the first-- from his

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1 first sentencing from the hacking offense when he was 19. And
2 I've worked with Mr. Hammond on his statement today and talked
3 to him and listened to what he finally came to in terms of what
4 his insight is and what he plans to do and what his future
5 holds for him.

6 You know, over the past two years that I've known him
7 in this case, we've spent a lot of time talking about that.
8 And I don't think it's fair for the government to say he's
9 saying the same thing again, because I don't think he's saying
10 the same thing again. I think that Jeremy Hammond at 28 is
11 different from Jeremy Hammond at 19. I think-- and I was
12 looking at the text of what he read to the Court several
13 minutes earlier. You know, I think after the first two
14 years he spent in prison, and the almost two years he spent
15 now, have had an impact on him. We've spoken about this
16 impact.

17 Jeremy Hammond told the Court that he's committed to
18 making this world a better place. That he still believes in
19 the importance of hactivism as a form of civil disobedience,
20 but that he recognizes that it's time for him to move on to
21 other ways of seeking change.

22 He also has the insight to recognize the toll that his
23 time in prison has taken on his friends, family and community,
24 and that he's needed at home. These are the words of a
25 28-year-old person who thinks differently about the world and

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1 his role in it than the 19-year-old person who did the
2 Protest Warrior hack and the person who spoke at his prior
3 sentencing. I think there is a substantive difference in what
4 he's saying and how he feels about what he plans to do with his
5 future.

6 Thank you.

7 THE COURT: Thank you.

8 Anything else from the government?

9 MS. NIDIRY: No, your Honor. Thank you.

10 THE COURT: Are there any victims here who wish to be
11 heard?

12 MR. SUKER: I'm a victim.

13 THE COURT: Thank you. Yes, sir. Come forward,
14 please.

15 And, sir, the second man who put his hand up, if you
16 come forward so you're up here when it's time. Come and have a
17 seat here in front of the rail, sir.

18 Sir, would you come up and tell us your name,
19 please.

20 MR. SUKER: David Suker.

21 THE COURT: Excuse me, sir. Won't you sit right there
22 by the rail. Yes, sir. Thank you.

23 Yes, sir.

24 MR. SUKER: David Suker.

25 THE COURT: Spell it, please, sir.

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1 MR. SUKER: S-u-k-e-r.

2 THE COURT: Yes, sir.

3 MR. SUKER: I'm a victim because of the FBI
4 repression.

5 THE COURT: Are you a victim of the crime?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay.

8 THE DEFENDANT: I've been repressed --

9 THE COURT: Ladies and gentlemen, it makes it very
10 difficult for me to hear and very difficult for the court
11 reporter to take it down if there's noise.

12 How are you a victim of this crime, sir?

13 MR. SUKER: I've been under surveillance by the FBI
14 and the United States --

15 THE COURT: You're not a victim of Mr. Hammond's
16 crime, sir.

17 MR. SUKER: Okay. All right.

18 THE COURT: You may be seated, sir.

19 MR. SUKER: No, no, no, no. I'm going to finish.

20 THE MARSHAL: Sir, have a seat.

21 MR. SUKER: My son is being taken away from me.

22 THE MARSHAL: Have a seat.

23 MR. SUKER: All power to the people.

24 THE MARSHAL: Have a seat.

25 MR. SUKER: All power to the people.

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1 THE COURT: Is there another victim of Mr. Hammond's
2 crime?

3 Come right up, sir. Tell me your name, sir.

4 MR. TOCCE: My name is Vincent Louis Tocce.

5 THE COURT: Spell your last name, please, sir.

6 MR. TOCCE: T-o-c-c-e. It's Italian.

7 THE COURT: Thank you.

8 MR. TOCCE: It's pronounced Tocce in Italian.

9 THE COURT: Thank you. How are you have a victim of
10 Mr. Hammond's crime?

11 MR. TOCCE: Well, Mr. Hammond's friends have been
12 harassing me on-line ever since he's been in jail.

13 THE COURT: Talk to me.

14 MR. TOCCE: Okay. All right. I'm sorry.

15 THE COURT: It's very hard to hear if you're not in
16 the microphone.

17 MR. TOCCE: Got you. Thank you.

18 I-- first of all, I'm a victim of the CFAA myself. I
19 was convicted of a federal crime. I pleaded -- pled guilty to
20 unauthorized access to protect a computer. So I'm kind of
21 familiar with --

22 THE COURT: Okay. But tell me how Mr. Hammond's crime
23 affected you, sir.

24 MR. TOCCE: Okay. Okay. No problem. I'll make it
25 brief. Over the past year, I've gotten to know some of

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1 Jeremy's friends, and I've had to change my home phone number.
2 I don't have a home phone number anymore. I don't have a home
3 address. You can look me up on the internet. Try to find
4 where I live. I don't have a house anymore.

5 THE COURT: How did Mr. Hammond's crime affect you,
6 sir?

7 MR. TOCCE: His sympathizers -- his sympathizers have
8 been hounding me for over a year. I have had my parents' house
9 swatted. Do you know what swatting is?

10 THE COURT: I don't, sir. Sir. Sir. Sir, if you
11 want me to understand you --

12 MR. TOCCE: I'm a victim.

13 THE COURT: Okay. Sir, if you want me to understand
14 you, talk to me.

15 MR. TOCCE: You got it.

16 THE COURT: All right.

17 MR. TOCCE: Just me and you.

18 THE COURT: Yes.

19 MR. TOCCE: I apologize. I apologize. Okay.

20 THE COURT: Now, remember, Mr. Hammond's crime was
21 hacking and distributing information.

22 MR. TOCCE: Yes.

23 THE COURT: How did that injure you?

24 MR. TOCCE: I was in contact with his colleague, his
25 direct comrade, Hector Xavier Monsegur. And Hector-- I spoke

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1 with Hector on several occasions. Hector found out where I was
2 living. He found out my-- he had a-- he had a woman come to my
3 house and live in my house with me. I had sex with this woman.
4 He-- I can't even tell you all the stuff that's happened, but
5 let's just say I've had to change my cell phone number five
6 times. Now I don't have a cell phone number because I'm tired
7 of changing it. Okay?

8 These Anonymous people-- I'm sorry. I'm sorry.
9 These Anonymous kids are misguided. They-- I understand
10 their-- I understand their frustration. I get it. But I don't
11 think they have-- I don't think they know the right way to get
12 their message across. And it's obvious that they have to
13 resort to harassment to do that, and I don't think that's cool
14 at all.

15 I've got-- I've gotten to-- after I found out about
16 Jeremy and Hector -- I never knew-- never knew that Jeremy was
17 one of the people who was harassing me. And I certainly didn't
18 know Hector was. Hector was very friendly to me. He was very
19 friendly to me.

20 THE COURT: All right. Have we about covered the
21 damage, sir?

22 MR. TOCCE: Okay. Oh, sorry. Damage. I'll stay on
23 the damages. You're right. Sorry. Okay. So I no longer have
24 a cell phone.

25 THE COURT: I got that.

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1 MR. TOCCE: I no longer have a home. I have a family
2 who Anonymous posted-- Anonymous posted-- Anonymous posted my
3 parents' home address and Social Security numbers on a website
4 called DocSpin. Have you heard of DocSpin?

5 THE COURT: Oh, sure.

6 MR. TOCCE: No, it's a serious question.

7 THE COURT: I haven't.

8 MR. TOCCE: You have not?

9 THE COURT: No.

10 MR. TOCCE: I would suggest you look into it.

11 THE COURT: All right, sir.

12 MR. TOCCE: Please. Because I'm on DocSpin --

13 THE COURT: And what else, sir? I take it-- sir, I
14 take it that exposes it to the world.

15 MR. TOCCE: Exactly.

16 THE COURT: All right.

17 MR. TOCCE: And it's essentially like a repository for
18 hackers and ne'er-do-wellers to find people, match their nicks,
19 their nicknames, with who they are and then harass them, their
20 family --

21 THE COURT: All right. And that happened to your
22 parents, sir.

23 MR. TOCCE: My parents were swatted. My parents live
24 in San Jose, California. I'll give you their address if you
25 want.

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1 THE COURT: That's not necessary, sir.

2 MR. TOCCE: Okay. Oh, by the way, it's on DocSpin if
3 you want to see it.

4 So one night-- I do a pod cast. And my podcast --
5 since I'm a cybercriminal, I do a podcast that caters to
6 hackers, internet trolls, all those assholes. Excuse my
7 French. Some of these people are friendly actually, believe it
8 or not.

9 THE COURT: Damage.

10 MR. TOCCE: Damage. Okay, damage. I've had-- I've
11 had three computers rooted. Do you know what rooted is?

12 THE COURT: Yes, sir.

13 MR. TOCCE: Yes.

14 THE COURT: Ladies and gentlemen, this is not funny.

15 MR. TOCCE: It's not funny. I'm not trying --

16 THE COURT: Shh. This is a serious proceeding. I am
17 required to ask for victims to speak and I would appreciate a
18 little quiet in here.

19 Sir, damage.

20 MR. TOCCE: Where was-- where did I leave off?

21 THE COURT: Rooted.

22 MR. TOCCE: Rooted. Okay. I've had --

23 THE COURT: Three.

24 MR. TOCCE: -- at least three.

25 THE COURT: Got it.

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1 MR. TOCCE: At least three computers rooted. I'm
2 now-- my cell phone is downstairs. The last cell phone I had
3 was a Nokia Brick. You ever heard of that?

4 THE COURT: Yes, sir.

5 MR. TOCCE: That was my cell phone.

6 THE COURT: Okay.

7 MR. TOCCE: Because I didn't want anybody to-- any of
8 these assholes -- excuse my French -- to get into that
9 because --

10 THE COURT: Okay. So we've --

11 MR. TOCCE: Because cell phones are vulnerable too,
12 right?

13 THE COURT: Yes, sir. We've pretty much covered the
14 damage though, right?

15 MR. TOCCE: No, we haven't.

16 THE COURT: All right. What else?

17 MR. TOCCE: Emotional damage.

18 THE COURT: Yes, sir.

19 MR. TOCCE: I spoke with Hector Xavier Monsegur at
20 least five times on the phone through his-- through his
21 e-girlfriend who went by Kieshu Zykova. Do you know Kieshu
22 Zykova?

23 THE COURT: Yes, sir.

24 MR. TOCCE: Okay. Kieshu Zykova is the one who I
25 fucked.

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1 THE COURT: Sir--

2 MR. TOCCE: And--

3 THE COURT: -- I want to know the damage.

4 MR. TOCCE: This is--

5 THE COURT: You're telling me --

6 MR. TOCCE: This is the emotional damage.

7 THE COURT: Let's hear it.

8 MR. TOCCE: Okay? These people played with my mind.

9 Hector-- okay. Hector never told me-- he never said anything
10 like what he said to Jeremy, like tried to get me to do
11 anything. In fact, I think Hector was actually trying to warn
12 me. He said --

13 THE COURT: Okay. But that's not damage.

14 MR. TOCCE: No -- well, let me get to this.

15 THE COURT: All right. Let's get to it now.

16 MR. TOCCE: Okay. All right. Let's just put it this
17 way: Hector spooked me. Bad. When all of the LulzSec people
18 were gone, I was starting to fear for my life. I didn't know
19 who I was dealing with. I was-- I was-- I was very -- I was
20 very scared. At the same time this is when I'm getting prank
21 calls, I'm getting text bombed. You ever --

22 THE COURT: Yes.

23 MR. TOCCE: -- been text bombed?

24 THE COURT: Yes, sir.

25 MR. TOCCE: You ever been pizza bombed? I was pizza

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1 bombed several times. You ever been Chinese food bombed?

2 THE COURT: I think I've got the picture.

3 MR. TOCCE: Okay.

4 THE COURT: Anything else, sir, that you wish to add
5 that you haven't said to me?

6 MR. TOCCE: I think the emotional damage is -- was the
7 most-- the most hurtful because I eventually left the internet.
8 Once I saw that all of Hector's friends were gone and put in
9 jail, I decided I needed to get out.

10 THE COURT: All right, sir.

11 MR. TOCCE: And-- okay. So I went dark on the
12 internet and then I went into a deep depression. I have
13 medical records, I have doctors' notes, I have prescriptions.
14 I have proof if you want it.

15 THE COURT: All right, sir.

16 MR. TOCCE: I can send it to you.

17 THE COURT: That's not necessary. I believe you, sir.

18 MR. TOCCE: Okay. All right. I went into at least a
19 30-day deep, dark depression. A lot of the feelings that I
20 had-- have you heard of Aaron Swartz?

21 THE COURT: Yes, sir. I think we probably have this
22 down.

23 MR. TOCCE: Okay. I had the same feelings as Aaron
24 Swartz. I wanted to kill myself. Literally. I literally
25 wanted to kill myself.

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1 THE COURT: Yes, sir, I heard you.

2 MR. TOCCE: I wanted to throw myself in front of a
3 train several times -- I almost did -- because of Anonymous.
4 Because of fucking Anonymous.

5 THE COURT: I think I have the picture. I thank you
6 for letting me know, sir.

7 MR. TOCCE: Thank you, Judge.

8 THE COURT: Won't you be seated, sir.

9 MS. KELLMAN: Your Honor.

10 THE COURT: Yes, Ms. Kellman.

11 MS. KELLMAN: If I may, Judge, and I know that the
12 Court has the submissions, but the Court did ask to hear from
13 victims. And in our submission, your Honor, we did cite two
14 letters from victims. And if I may just read our comments.
15 The letters are attached to our submission.

16 THE COURT: I did see them, but if you would like to
17 read it, you're welcome to do so.

18 MS. KELLMAN: Thank you, Judge.

19 Among the letters, your Honor, that we submitted
20 seeking leniency on behalf of Mr. Hammond's motivations are two
21 letters from former clients and subscribers of Stratfor,
22 victims of Mr. Hammond's conduct. In one letter, Anthony C.
23 Arthur, a radio operator living in Canada and former Stratfor
24 subscriber, cites Mr. Hammond's political motivations as what
25 he believes the Court should-- and thus believes that the Court

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1 should be lenient in Mr. Hammond's case. He wrote,
2 "Mr. Hammond's break-in of the Stratfor computers was clearly
3 a political protest that ultimately showed that he had no
4 intent to profit from the data uncovered by these hacks," And
5 that letter is attached, your Honor, to our submission as
6 C-21. Mr. Arthur expressed his opinion that he views the hack
7 "as a catalyst for Stratfor, its customers" -- including
8 himself -- "to utilize better computer security practices.

9 Similarly, Nigel Parry, Stratfor client and freelance
10 journalist and web designer from St. Paul, Minnesota, has asked
11 the Court for leniency on behalf of Mr. Hammond.

12 THE COURT: Thank you, Ms. Kellman.

13 MS. KELLMAN: Thank you, Judge.

14 THE COURT: Counsel, as you've heard, I have
15 calculated the guidelines and taken them into account. In my
16 view, the guidelines accurately reflect the nature and
17 circumstances of the offense, but probably more needs to be
18 said on that.

19 As we've heard today, Mr. Hammond claims that he
20 committed this crime with the best of intentions and sought
21 only to disclose information the public deserved to know and to
22 steal from the rich and give to the poor. But this ignores
23 Mr. Hammond's own words concerning his true motivations -- and
24 I do believe with counsel that motivations count -- and it
25 ignores the widespread harm suffered by countless individuals

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1 and organizations as a result of Mr. Hammond's hacks.

2 It is, in fact, clear that his aim was to break into
3 critical computer systems, steal data, deface websites, destroy
4 files, and dump on-line the sensitive personal and financial
5 information of thousands of individuals, all with the objective
6 of creating -- in Mr. Hammond's words -- "maximum mayhem."

7 These are not the actions of Martin Luther King,
8 Nelson Mandela, John Adams, or even Daniel Ellsberg. In the
9 Stratfor hack, Mr. Hammond disclosed an enormous amount of
10 confidential information, not even remotely in the public
11 interest. He disclosed account information for some 860,000
12 Stratfor clients and about 60,000 credit card numbers belonging
13 to Stratfor clients. He also defaced the Stratfor website and
14 deleted all of the data on the company's computer servers,
15 effectively shutting down the company's operations for weeks,
16 costing it millions in lost business and in recovery costs.

17 He talks about using credit card information to create
18 "financial mayhem" and said that "an equally important part is
19 destroying their servers and dumping their user address list
20 and private e-mails with the goal of destroying the target,
21 hoping for bankruptcy, collapse."

22 With respect to the Stratfor hack, Mr. Hammond also
23 said "The sheer amount of destruction we wreaked on Stratfor's
24 servers is the digital equivalent of a nuclear bomb, leveling
25 their systems in such a way that they will never be able to

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1 recover....for weeks we used and abused their customer credit
2 card information....and if dumping everything on their
3 employees and clients weren't enough to guarantee their
4 bankruptcy, we laid waste to their web server, their mail
5 server, their development server, their clear space and SRM
6 Intranet portal and backup archives in such a way that ensures
7 they won't be coming back on-line any time soon."

8 In addition to the Stratfor hack, Mr. Hammond admits
9 to attacking several other entities, ranging from state and
10 federal governmental agencies to police officers' associations
11 to private corporations, all of which suffered significant
12 financial and reputational harm. Those hacks harmed many
13 individuals and entities with little or no connection to
14 Mr. Hammond's supposed political motivation for the crimes.

15 Mr. Hammond admits that he hacked the Arizona
16 Department of Public Safety website and claims that he did it
17 to expose certain law enforcement policies that he opposes.
18 But his attack went far beyond that. For example, he published
19 the personal information about Arizona law enforcement agents
20 and their families. Among other individuals harmed, a retired
21 police officer and his wife, whose unlisted home phone number
22 was released as a result of that hack, received hundreds of
23 harassing phone calls for weeks and threats, including threats
24 of physical violence.

25 Similarly, in the Boston Police Patrolmen's

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1 Association hack, Mr. Hammond said "We gotta target the
2 officers individually."

3 In addition, in the Arizona hack, that hack forced the
4 Public Safety Department to shut down vital computer systems,
5 including Arizona's sex offender website, fingerprint
6 identification system, and Amber alert system, which, as you
7 know, allows the state to notify the public of missing or
8 abducted children.

9 Even one of Mr. Hammond's colleagues, Jake Davis, was
10 disturbed by the invasiveness and purposelessness of the
11 Arizona attack. He said, "I thought this hack has gone way too
12 far. There's no point to this thing. It's just harming police
13 officers....this doesn't entertain anybody or help anybody
14 anywhere."

15 Mr. Hammond seems to think of himself as a modern-day
16 Robin Hood because he says he did not use the credit card
17 information he stole for personal gain but, rather, directed
18 that the credit cards be used to make donations to charities
19 and organizations he supports. But as it turns out, it's very
20 likely that these organizations did not benefit from these
21 transactions. Instead, Mr. Hammond's actions forced the
22 organizations to expend their scarce and valuable resources
23 identifying and returning the fraudulent donations.

24 Mr. Hammond might claim that these were regrettable,
25 but unintended, consequences of his actions. In reality,

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1 however, Mr. Hammond's own words indicate that this is exactly
2 what he set out to accomplish when he engaged in his crimes.
3 While planning one of his hacks, Mr. Hammond stated that he not
4 only would publish confidential documents, but would also
5 disclose "personal e-mail accounts, girlfriends' pics, dirt and
6 scandals."

7 As I noted, Mr. Hammond stated on several occasions
8 while plotting his hacks that his ultimate goal was to cause
9 mayhem. There is nothing, as one of Mr. Hammond's supporters
10 characterized his hacking, "playfully clever" about his
11 hacking, and there's certainly nothing high-minded or
12 public-spirited about causing mayhem. Accordingly, I take into
13 account the very serious nature and circumstances of this
14 crime.

15 With respect to the history and characteristics of
16 this defendant, I do take into account what Ms. Kellman and
17 what Ms. Kunstler have said about Mr. Hammond's charitable
18 acts. He certainly did many charitable acts in his Chicago
19 community, including working in food kitchens, tutoring, and
20 the like. And I also note that he spent time giving GED
21 classes while incarcerated. And I do take that into
22 account.

23 The most striking fact, however, about Mr. Hammond's
24 history is his unrepentant recidivism. He has an
25 almost-unbroken record of criminal offenses that demonstrates a

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1 total lack of respect for the law. As the PSR sets out,
2 Mr. Hammond's prior criminal history includes, among other
3 things, a plea of guilty to criminal damage to property in
4 2003; convictions for battery in 2004; disorderly conduct in
5 2006; mob action in 2009; as well as multiple violations of
6 supervised release, parole, and probation; and other arrests
7 for disorderly conduct, contempt of court, and criminal
8 trespass.

9 Perhaps most significantly, however, Mr. Hammond's
10 prior criminal history includes a federal conviction in 2006
11 for the very same offense conduct that was the offense of
12 conviction here, where the defendant hacked into a website of
13 an organization he disagreed with politically and obtained
14 information -- such as credit card numbers, home addresses and
15 other identifying information -- about the members and
16 customers of that organization.

17 In fact, Mr. Hammond began engaging in the conduct
18 that serves as the basis for this conviction just after he
19 finished his probationary term in the prior conviction in
20 Chicago. I do note that Mr. Hammond said the same thing at
21 the time of that conviction. At 19 he said he had altruistic
22 motives, and now, at 28, he says he has altruistic motives.

23 I note that the probation office -- in my view,
24 correctly -- notes Mr. Hammond's propensity to continue to
25 commit crime. And the probation office notes that "There is no

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1 information in his record that would suggest that he will not
2 continue to recidivate."

3 With respect to Mr. Hammond's charitable works, as I
4 said, I take those into account, but I also note his lack of
5 charity and extraordinary harmful activities to folks he does
6 not agree with, including, for example, that retired Arizona
7 police officer.

8 Moving to the paragraph two factors, there is
9 obviously a desperate need here to promote respect for the law.
10 As I noted, Mr. Hammond has, over the course of his young life,
11 demonstrated no respect for the law. There is a need here for
12 adequate public deterrents. And based on Mr. Hammond's record,
13 there is certainly a need here to protect the public from
14 further crimes of this defendant.

15 As to paragraph D, that factor -- that is, needed
16 education or vocational training -- is not applicable here.
17 Indeed, I note Mr. Hammond's extraordinary educational
18 background and his extraordinary skill with computers and
19 apparently his skill at tutoring.

20 I've taken into account the paragraph 3, 4 and 5
21 factors with respect to the need to avoid unwarranted
22 sentencing disparities. I do note the prior sentences given
23 out in this case and the related cases. As we all know, of
24 course, this view of disparity is supposed to be more broadly
25 ranging than just the defendants in this case. But given

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1 Mr. Hammond's history, I do not think there will be any
2 unwarranted sentencing disparity.

3 And the need to provide restitution is of lesser
4 import here.

5 Accordingly, Counsel, it's my intention, weighing all
6 of those factors, to impose a sentence of 120 months'
7 incarceration followed by a period of three years of supervised
8 release. It is my intention to adopt the recommended special
9 terms and conditions of supervised release: That is, of
10 providing access to requested financial information; not
11 incurring any new credit charges without approval unless in
12 compliance with payment obligations; participating in a
13 substance abuse program; not having any involvement with
14 hacking-related or electronic civil disobedience websites or
15 organizations; participating in the probation department's
16 computer/internet monitoring program; submission to a search;
17 not using any means to hide his identity on-line; not using any
18 means to encrypt his communications on-line; and not encrypting
19 stored data. The last two except as required by any
20 employment.

21 It is not my intention to impose a fine on the finding
22 that Mr. Hammond is not able to address a fine.

23 As to restitution, I understand the parties are still
24 gathering that material and will present it in due course.

25 And it is my intention to impose the mandatory \$100

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1 special assessment.

2 Is there any reason, Counsel, why such a sentence
3 should not be imposed?

4 MS. NIDIRY: No, your Honor.

5 MS. KELLMAN: No, your Honor.

6 THE COURT: Thank you.

7 Mr. Hammond, you're sentenced, sir, to a period of 120
8 months' incarceration. Following that time, you'll spend a
9 period of three years on supervised release. During the period
10 of supervised release, you'll comply with all of the standard
11 terms and conditions of supervised release. Among them are
12 that you not commit another federal, state or local crime; you
13 not illegally possess a controlled substance; and you not
14 possess a firearm or other destructive device.

15 In addition to those and all of the other standard
16 terms and conditions of supervised release, you will provide
17 the probation officer with access to any requested financial
18 information. You will not incur any new credit charges or open
19 any additional lines of credit without the approval of the
20 probation officer unless you are in compliance with the
21 installment payment schedule for financial penalties.

22 In addition, you'll participate in a program approved
23 by the probation officer for substance abuse, and that program
24 will include testing to determine whether you've returned to
25 the use of drugs or alcohol.

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1 The Court authorizes the release of available drug
2 treatment evaluations and reports to the substance abuse
3 treatment provider as approved by the probation officer.

4 Mr. Hammond, you might be required to contribute some
5 or all of the costs of that program depending on your ability
6 to pay and the availability of third-party payment.

7 In addition, sir, you shall have no involvement with
8 any hacking-related or electronic civil disobedience websites
9 or organizations, and shall have no involvement or contact with
10 any civil disobedience organizations.

11 In addition, you will participate in the
12 computer/internet monitoring program administered by the
13 probation office. You must provide the probation office
14 advanced notification of any computer, automated service or
15 connected device that will be used during the term of your
16 supervision and that can access the internet.

17 The probation office is authorized to install any
18 application as necessary to survey all activity on computers or
19 connected devices owned or operated by you. You may be
20 required to pay the cost of the monitoring services at the
21 monthly rate provided by the probation office. The rate and
22 payment schedule are subject to periodic adjustments by the
23 probation office.

24 The probation office shall be notified via electronic
25 transmission of impermissible or suspicious activity or

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1 communications occurring on such computer or connected device
2 consistent with the computer monitoring policy in effect by the
3 probation office. As triggered by impermissible or suspicious
4 activity, you shall consent to and cooperate with unannounced
5 examinations of any computer equipment owned or used by you.
6 This examination shall include, but is not limited to,
7 retrieval and copying of all data from the computer, connected
8 device, storage media, and any internal or external peripherals
9 and may involve removal of such equipment for the purpose of
10 conducting a more thorough inspection.

11 You shall also submit your person and any property,
12 house, residence, vehicle, papers, computer or other electronic
13 communication or data storage devices or media and your effects
14 to a search at any time, with or without a warrant, by any law
15 enforcement or probation officer with reasonable suspicion
16 concerning a violation of the conditions of your supervised
17 release or any unlawful conduct by you and by any probation
18 officer in the lawful discharge of the officer's supervision
19 functions.

20 In addition, you shall not use any means to hide your
21 identity on-line, including, for example, the TOR network or
22 proxy servers. You also shall not use any means to encrypt
23 your communications on-line except as required by employment.
24 And you shall not encrypt stored data except as required by
25 employment.

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1 As I mentioned, sir, I do not impose a fine. And I
2 will await restitution information within 90 days from
3 counsel.

4 And as I mentioned, I must impose, and do impose,
5 the \$100 special assessment, and that should be paid
6 promptly.

7 Sir, it's my duty to inform you that unless you've
8 waived it, you have the right to appeal this sentence and you
9 might have the right to appeal in forma pauperis, which means
10 as a poor person, with the waiver of certain fees and
11 expenses.

12 Ms. Kellman, did you wish a designation or request?

13 MS. KELLMAN: Yes, your Honor, as close as the Bureau
14 of Prisons can get Mr. Hammond to the Chicago area would be his
15 request.

16 THE COURT: It's the Court's recommendation that
17 Mr. Hammond be designated to a facility as close as possible to
18 the Chicago metropolitan area so that his family is able to
19 visit him.

20 Is there anything else today, Counsel?

21 MS. NIDIRY: Yes, your Honor. The government would
22 move to have the underlying indictments dismissed against
23 Mr. Hammond.

24 THE COURT: So ordered.

25 Anything else?

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1 MS. KELLMAN: Your Honor, just one inquiry, if I may.
2 The Court ordered specifically searches of Mr. Hammond's
3 computers -- which, of course, I understand -- and extended
4 that to retrieval or defined it further as retrieval and
5 copying. The Court also excluded in some of the later
6 restrictions any work-related computers, which I think also
7 appropriate and understandable.

8 But with respect to the searches, I would ask the
9 Court to consider language as well that permits the same level
10 of privacy with respect to searching work-related computers. I
11 wouldn't want Mr. Hammond to not be employable because a
12 company he might work for, that their computers might be
13 subject to those --

14 THE COURT: I'm sorry, I don't know what you're asking
15 me for. What language do you want?

16 MS. KELLMAN: With respect to the-- I think it's the
17 third from last condition, your Honor, which was search of
18 computers to also exclude any computers that are work related,
19 that are owned by his employer or connected with his
20 employment.

21 THE COURT: Counsel.

22 MS. NIDIRY: Okay. That's fine.

23 THE COURT: Agreed. Anything else?

24 MS. KELLMAN: No, nothing. Thank you, Judge.

25 THE COURT: Thank you, ladies and gentlemen. You've

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been very helpful. Good morning.
Thank you, Mr. Marshal.
(Adjourned)