

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	No. CR21-099-JCC
Plaintiff,)	
v.)	ELVIN HUNTER WILLIAMS'S
)	SENTENCING MEMORANDUM
ELVIN HUNTER BGORN WILLIAMS,)	
Defendant.)	

I. INTRODUCTION

For his profoundly misguided effort to provide material support to a terrorist organization, Elvin Hunter Bgorn Williams (“Hunter”) respectfully asks this Court to impose a sentence of 36 months’ imprisonment followed by 15 years of supervised release. At the time of his offense, Hunter was just 20 years old, suffering from serious and disabling psychological disorders that made him vulnerable to influence, and had no criminal history. Multiple government confidential human sources (CHSs), motivated and far more sophisticated than Hunter, encouraged Hunter’s extreme and ideological interpretation of Islamic principles and facilitated his attempt to travel. Since his arrest, Hunter has shown extraordinary remorse for his actions and distanced himself from the ideology he once espoused. Given these factors and others discussed below, a sentence of 36 months’ imprisonment and 15 years of supervised release is sufficient to achieve the goals of sentencing.

1 Probation and the Government calculate the Guidelines as recommending a 20-
2 year sentence, a number that distorts the sentencing analysis. Because Hunter lacked the
3 specific intent necessary to warrant application of U.S.S.G. § 3A1.4, an enhancement
4 that increases the guideline range from 46–57 months to 240 months, the defense
5 objects to its application. Probation, and to a lesser extent the Government,
6 appropriately recognizes many factors merit a significant variance. Probation and the
7 Government nonetheless suggest that many more years in prison are necessary to
8 achieve the goals of incapacitation, deterrence, and retribution. Given Hunter’s age,
9 vulnerabilities, and mental health needs, as discussed below, these goals can be
10 achieved with a significantly shorter custodial sentence.

11 Earlier this month, Hunter turned 22 years old, the second birthday he has spent
12 at the Federal Detention Center. The defense recommendation allows Hunter to mature,
13 reintegrate into the community, and find stability while still in his early 20s, and to have
14 the support and oversight of federal supervision throughout his 30s. Hunter’s
15 difficulties are profound, but the public school system was able to guide Hunter through
16 school, and the United States Probation Office can manage Hunter as well, if not better,
17 as a young adult. A prison is no place for a person like Hunter to spend his entire early
18 adulthood.

19 **II. BACKGROUND**

20 Hunter’s life and offense conduct are carefully and thoroughly set forth in the
21 Presentence Report and in Dr. Mark Cunningham’s psychological evaluation, filed
22 separately under seal as Exhibit 1. The defense will not repeat that entire background.
23 Given the task before the Court and the centrality of Hunter’s history and
24 characteristics, especially as they relate to his vulnerabilities, and the nature and
25 circumstances of the offense, the defense reiterates some of that background here.
26

1 **A. Hunter’s “development was characterized by extensive adverse**
2 **developmental factors, encompassing transgenerational,**
3 **neurodevelopmental, parenting and family, community, and disturbed**
4 **trajectory arenas.” Ex. 1 at 1.**

5 Hunter was born to a family that has suffered for generations from mental
6 illness, substance use disorder, and trauma. *See, e.g.*, PSR ¶¶ 97, 101; Ex. 1 at 16–18.
7 His maternal grandmother suffered from alcoholism and died in an alcohol-related
8 accident; his maternal grandfather was a heavy drinker, used marijuana and cocaine,
9 and then developed an addiction to crack. Ex. 1 at 16–17. Hunter’s mother suffers from
10 depression and anxiety, and she has been diagnosed with bipolar disorder; she too has
11 struggled with addiction. *Id.* Hunter’s paternal grandfather was a heavy drinker who
12 was in and out of jail. *Id.* at 16. His paternal grandmother abused methamphetamine and
13 cocaine, neglected Hunter’s father, and was in a series of abusive relationships. *Id.*
14 Hunter’s father left home by the time he was 13 years old, has been diagnosed with
15 various mental illnesses, and is currently serving a life sentence as a persistent offender.
16 *Id.*; PSR ¶¶ 97–98. He was largely absent throughout Hunter’s childhood. PSR ¶ 98.

17 Given this multigenerational background, it is not surprising that Hunter has
18 faced challenges since conception; his young, unwed mother experienced extraordinary
19 stress, exposed him to cigarettes and marijuana in utero, and was involved in a serious
20 car accident when she was five months’ pregnant. Ex. 1 at 14. Hunter’s birth itself was
21 traumatic. He was born premature, his mother suffered a placental abruption in labor,
22 and he reportedly did not breathe for the first five minutes after his birth. PSR ¶ 98.

23 His parents separated by the time he was a year and half old due to his father’s
24 criminal conduct and domestic violence. PSR ¶ 100. Instability and trauma ensued.
25 Most of Hunter’s young life was spent sleeping on the floor or on the couch as his
26 family moved from crowded home to crowded home. PSR ¶ 103. Professionals at his
 schools realized that he lacked basic support and structure. Ex. 2 at 2; Ex. 3 at 5. His
 school social worker helped provide for his basic needs, as his mother did not meet

1 those needs. Ex. 2. In middle school, his mother’s boyfriend’s son sexually assaulted
2 Hunter and his younger sister. PSR ¶ 110.

3 The combination of biology, prenatal exposure, trauma, and instability combined
4 to cause a lifetime of challenges for Hunter. His behavior has been concerning since he
5 was two years old, and he began mental health treatment that same year. PSR ¶¶ 99,
6 133. He was prescribed psychotropic medication when he was just five or six years old.
7 PSR ¶ 133. He has been diagnosed with bipolar II disorder, Tourette’s disorder,
8 obsessive-compulsive disorder, generalized anxiety disorder, mood disorder, and
9 pervasive developmental disorder. *Id.*; *see also* Ex. 1 at 7–8. Throughout his school
10 years, he was so emotionally and behaviorally disabled that he was in self-contained
11 special education classrooms. PSR ¶ 149; *see also* Ex. 1 at 2.

12 “At age 18, Hunter discontinued maintenance medication and mental health
13 follow-up against medical advice and lost SSI support, as he refused to acknowledge
14 his psychiatric disability. Of course, Hunter’s chronic psychological disorders did not
15 remit with his denial of them. In the absence of family structure, mental health services,
16 and medication maintenance, he foundered.” Ex. 1 at 14.

17 **B. Hunter’s social isolation, social dysfluency and resulting vulnerability**
18 **to “persons offering interaction, affirmation, status, and logistical**
19 **direction and support.”**

20 Hunter is socially dysfluent. He had no close friends in childhood and as a
21 teenager was only friends with one family group; even they saw him as an “outcast.”
22 Hunter struggled making meaningful connections. Dr. Cunningham explains, “Hunter’s
23 social dysfluency resulted in his being socially isolated and ostracized, and markedly
24 limited his ability to establish authentic reciprocal friendships and/or romantic
25 relationships.” Ex. 1 at 14.

26 This isolation left him vulnerable to people who cared about—or pretended to
care about—him. As Dr. Cunningham notes, “Hunter had never had a sense of

1 significance or belonging, and had no knowledge of how to constructively establish
2 this. This neediness and his serious psychological disorders rendered him
3 extraordinarily vulnerable to being operationalized from idea to action by those who
4 offered companionship, relationship, significance, purpose, structure, and belonging.”
5 Ex. 1 at 29. People who have known Hunter for years recognize the same. For example,
6 his school social worker offered that Hunter has spent his life trying to find a way to
7 individuate himself, to feel his self-worth, and to engage with a community. Ex. 2 at 4.
8 His special education teacher explains, “He had lots of difficulties with his peers and
9 struggled with finding ways to fit in. His way of trying to fit in was to mimic students
10 or groups with whom he sought to belong, and in that way further alienated himself
11 from them.” Ex. 3 at 1.

12 Hunter found some sense of belonging in Islam and the mosque. Even this was
13 limited by his social dysfluency. “Hunter found himself further misunderstood and
14 isolated at the mosque and in the community, and was no closer in finding a place for
15 himself in his local community.” Ex. 1 at 36. His teacher explained that Hunter wore a
16 ceremonial robe that had been given to him by members of the mosque to school.
17 Hunter sought acceptance from the other Muslim students, but instead of accepting him,
18 they ridiculed him. Ex. 3 at 3. Hunter ultimately found acceptance in more extreme
19 online fora. Ex. 3 at 5. “Muslim group chats . . . opened an avenue of social interaction
20 that he had never had before. Now there were people to talk to, with whom he could be
21 whoever he wanted, with no risk of face-to-face rejection.” Ex. 1 at 27.

22 His connection to extreme communities was not ideologically driven. He
23 inconsistently espoused beliefs for different Islamic groups, including the Shia
24 denomination, which has been persecuted by ISIS, and off-shoot Islamic groups in
25
26

1 Syria that are not formally designated as foreign terrorist groups.¹ Hunter’s behavior
2 exhibits a lack of understanding of the ideologies of both ISIS and Islam.

3 Incarcerated at the Federal Detention Center, Hunter’s quest for connection and
4 belonging continues and is evidenced by the fact that he is exploring Shintoism with
5 Asian-Pacific Islander inmates who have befriended him in prison. Ex. 1 at 5.

6 **C. The Government exploited Hunter’s vulnerabilities.**

7 **1. The Government knew of Hunter’s serious mental illnesses.**

8 When law enforcement first became aware of Hunter, they contacted his mother.

9 PSR ¶ 14. The FBI told his mother that they were trying to “help” him and, believing
10 this promise, she provided the FBI with Hunter’s medical and mental health records.

11 PSR ¶ 115. By this time, Hunter had already been diagnosed with ADHD, mood
12 disorder, disruptive behavior disorder, pervasive development disorder, bipolar II
13 disorder, Tourette’s disorder, and generalized anxiety disorder. PSR ¶ 133. The
14 Government was reminded of Hunter’s mental health struggles in late 2020. During an
15 interview with the FBI, Hunter told agents that he felt “isolated, lonely, and repeatedly
16 expressed his desire to ‘find a wife.’” PSR ¶ 18. He further stated that he had been “off
17 of [his] medications” for about a year. *Id.* Hunter admitted to previously having suicidal
18 thoughts but stated that he had no current intentions of hurting himself or others. *Id.*

19 **2. The Government’s willingness to charge Hunter with a**
20 **material support offense centered on his willingness to travel in**
21 **support of a foreign terrorist organization.**

22 The Government has long known that Hunter posted and chatted about extreme
23 Islamic videos on the internet, but did not believe there was a basis to charge him:
24

25 _____
26 ¹ Hassan Hassan, [The Sectarianism of the Islamic State: Ideological Roots and Political Context - Carnegie Endowment for International Peace](#), Carnegie Endowment for International Peace (June 13, 2016).

1 -----
2 [REDACTED] On 12/31/2020, SA D. Narrance contacted AUSA T. Greenberg via
3 telephone regarding a case update and possible federal charges against
4 Elvin Hunter Bgorn WILLIAMS. Recently discovered activity and behavior
5 was shared with AUSA T. Greenberg. AUSA T. Greenberg does not see enough
6 information for a chargeable offense.

7 The Government was willing to prosecute Hunter, however, if he attempted to travel.²

8 [REDACTED] Currently, WILLIAMS is attempting to obtain a US Passport. Once
9 WILLIAMS has a passport, he plans to travel overseas in order to fight
10 for ISIS. WILLIAMS needs a passport in order to book international
11 travel for the purpose of providing material support to ISIS. AUSA T.
12 Greenberg is willing to charge WILLIAMS with 18 USC 2339A if he attempts
13 to travel in support of ISIS.

14 **3. The Government facilitated the central aspect of this offense—**
15 **Hunter’s attempt to travel overseas.**

16 The Government used “multiple confidential human sources to encourage
17 Hunter toward further extreme ideology,” PSR ¶ 176, to get him to take steps to travel.
18 The CHSs³ provided “financial, emotional, and logistical influence.” PSR ¶ 177. While
19 Hunter was interested in ISIS before the Government’s involvement, he did not have
20 the means or basic life skills to attempt to fly abroad and act upon the extreme
21 ideologies. PSR ¶ 121. And he had never attempted to commit a violent act in the name
22 of Islam domestically.

23 Through the use of multiple CHSs, the Government influenced Hunter every
24 step of the way leading up to his eventual arrest. During one of his earlier conversations
25 with CHS-4, Hunter stated that he was trying to get in contact with ISIS but has had “no
26 luck so far.” PSR ¶ 33. In response, CHS-4 offered: “I know a brother who apparently

² Hunter had even asked the FBI for legal advice about what he could say online.

³ The reliability, credibility, and motives of the CHSs have never been independently assessed despite Hunter’s request that the CHS files be provided to the Probation Office or this Court. PSR ¶ 32 n.3. The Court should reject attempts to bolster their credibility in a memorandum. Dkt. 34 at 4; *see also* Ex. 5, filed separately under seal.

1 has a contact,” referring to CHS-5. Hunter took CHS-4 up on his offer, and CHS-4
2 initiated a group chat with Hunter, CHS-4, and CHS-5. PSR ¶ 33.

3 Once connected with CHS-5, Hunter asked him for guidance on how to “make
4 hijrah and help with the next caliphate.” PSR ¶ 34. He sought instructions on what to
5 do, when to leave, and where to go. *Id.* CHS-5 detailed the steps Hunter would need to
6 take, including making an application to join ISIS and waiting for the application to be
7 vetted by multiple layers of ISIS leadership. PSR ¶¶ 34–42. CHS-5 asked Hunter about
8 logistics—if he had the means to travel, including money for a flight, ticket, and
9 passport. PSR ¶ 37. Hunter responded that he was poor, but CHS-5’s inquiry prompted
10 Hunter to begin the process of obtaining the money he needed to pay for his travel. *Id.*
11 CHS-5 repeatedly detailed the application process, emphasizing that Hunter must first
12 obtain a passport before final approval would be granted and a specific travel
13 destination designated. PSR ¶ 41. CHS-5 sent Hunter the purported ISIS application.
14 PSR ¶ 42. Throughout, CHS-5 maintained close contact with Hunter, providing
15 logistical support and instructions every step of the way. PSR ¶¶ 9–13.

16 The Government’s influence continued through its use of CHS-2. CHS-2 was
17 critical to Hunter’s efforts to obtain money for a passport and an airline ticket. PSR
18 ¶¶ 10–11. When Hunter became nervous and expressed hesitation about going to the
19 airport, CHS-2 dismissed Hunter’s concerns: “Believe me nobody after you, you just
20 overthinking and don’t believe the rumors.” PSR ¶ 58.

21 In addition to providing financial and logistical support, the CHSs posed leading
22 questions to Hunter, eliciting (seemingly by design) inflammatory statements and
23 pushing Hunter further into extremist ideology. For example, during one conversation,
24 CHS-5 prompted Hunter: “U know brother the media that show beheading and death to
25 our enemies. This u want?” PSR ¶ 39. As the conversation continued, CHS-5 pressed
26 Hunter: “U have problem with killing or something?” *Id.* In another conversation with

1 CHS-4, CHS-4 commented to Hunter: “My stomach is turning . . . stupid ass Israelis
 2 just angers me.” PSR ¶ 65. After Hunter’s “application” was supposedly approved, a
 3 purported ISIS recruiter asked Hunter: “This is the time some brothers choose to back
 4 out. I want to make sure you know that ifu decide not to make hijrah it is no problem.
 5 Need to make sure u are fully committed now.” PSR ¶ 69.

6 **4. CHS-2 was uniquely motivated by the serious child sex offense**
 7 **he faced to curry favor with the Government.**

8 CHS-2 is a lawful permanent resident who came to the United States after he
 9 was kidnapped and threatened by a terrorist group in Iraq.⁴ Ex. 5 at 23. He is 11 years
 10 older than Hunter and well educated, with two engineering degrees. Ex. 5 at 3, 22.

11 In September 2019, CHS-2 was charged with attempted commercial sexual
 12 abuse of a minor when he was prepared to pay \$150 to a 15-year-old fictitious girl in
 13 exchange for sex. Ex. 5 at 1. When arrested, the prosecutor noted that CHS-2’s conduct
 14 “demonstrates that he is an experienced sex buyer and sexually attracted to juvenile
 15 girls.” Ex. 5 at 2. He worked with juveniles prior to his arrest and continued to do so
 16 while his case was pending. Ex. 5 at 14–15. When confronted by law enforcement,
 17 CHS-2 made a false statement, demonstrating his propensity to minimize, lie, and skew
 18 facts with law enforcement officers when he faces jeopardy. Ex. 5 at 4. As charged,
 19 CHS-2 faced deportation—back to Iraq, where he had been threatened with
 20 execution—because the child sex offense constituted an aggravated felony.⁵ Even
 21 beyond deportation to Iraq, CHS-2 faced serious consequences: a standard range of
 22 15.75 to 20.25 months that would have been served in the Washington State

23 _____
 24 ⁴ Ex. 5 at 12. The defense discovered this information independently. The FBI never
 25 bothered to provide this information to the USAO. The Court should treat with great
 26 skepticism statements Hunter made to CHS-2 or CHS-2’s statements.

⁵ RCW 9A.28.020; 8 U.S.C. § 1101(a)(43)(A); Practice Advisory, *Aggravated Felonies*,
 IMMIGRANT LEGAL RESOURCE CENTER (April 2017) (available at
[aggravated_felonies_4_17_final.pdf\(ilrc.org\)](https://www.ilrc.org/files/2017/04/aggravated_felonies_4_17_final.pdf)).

1 Department of Corrections; community custody for three years; a ten-year term of sex
2 offender registration; and a mandatory \$5,000 fine.

3 After cooperating against Hunter, CHS-2 was allowed to plead guilty to two
4 misdemeanors, Communicating with a Minor for Immoral Purposes (CMIP) and
5 Patronizing a Prostitute. Ex. 5 at 22. CHS-2 received three significant benefits from this
6 plea agreement. First, he avoided pleading guilty to a felony and avoided the litany of
7 collateral consequences that follow, including the immigration consequences associated
8 with an aggravated felony. Second, he served only seven days in jail, far less time than
9 he faced if convicted of a felony offense. Third, he received a deferred sentence for the
10 CMIP charge. After the deferred sentence is completed, he is allowed to seek an order
11 withdrawing the plea and dismissing the charges entered by the sentencing court. As an
12 added benefit, he is removed from the sex offender registry list and can continue
13 working with underage children. And, if and when the CMIP charge is dismissed, he
14 will have no criminal convictions and all immigration risk disappears. It is not beyond
15 reason to expect that the Government will advocate on CHS-2's behalf when he tries to
16 become a citizen or obtain status beyond that of an LPR.

17 CHS-2 was highly motivated to deliver Hunter to the Government. As stated by
18 the FBI agent himself: "we couldn't have brought [Hunter's case] to prosecution
19 without him." Ex. 5 at 61. He was "very instrumental" in convincing Hunter to attempt
20 to travel overseas.

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1 **III. THE SENTENCING GUIDELINES ARE MISCALCULATED AND DO**
 2 **NOT COME CLOSE TO APPROXIMATING AN APPROPRIATE**
 3 **SENTENCE.**

4 **A. The Government cannot prove the specific intent necessary for the**
 5 **application of § 3A1.4.**

6 The defense objects to the application of U.S.S.G. § 3A1.4(a) because the
 7 Government cannot prove by clear and convincing evidence that Hunter specifically
 8 intended to promote a federal crime of terrorism. “To trigger this enhancement, the
 9 government must prove elements distinct from those of the crime of conviction,
 10 specifically that the offense committed ‘involved, or was intended to promote, a federal
 11 crime of terrorism.’”⁶ *United States v. Alhaggagi*, 978 F.3d 693, 699 (9th Cir. 2020).
 12 The Government must prove Hunter had the requisite *specific* intent, “beyond the intent
 13 required to establish a violation of the material support statute.” *Id.* The Government
 14 must also prove Hunter’s intent by clear and convincing evidence, a standard of proof
 15 that “reflects the value society places on individual liberty,” *Mondaca-Vega v. Lynch*,
 16 808 F.3d 413, 422 (9th Cir. 2015) (en banc) (internal cites omitted), and requires “an
 17 abiding conviction that the truth of [the] factual contentions” are “highly probable.”
 18 *United States v. Lonich*, 23 F.4th 881, 916 (9th Cir. 2022).

19 The specific intent requirement reflects the Sentencing Commission’s intent that
 20 the enhancement should only apply where a defendant is a “dangerous terrorist[.]” who
 21 needs to be punished more severely than others. *Alhaggagi*, 978 F.3d at 699. In cases
 22 that do not involve violent acts of terrorism, such as in material support cases, the
 23 conviction alone is not enough evidence to prove that the enhancement should apply.
 24 *Id.* at 701; *see also United States v. Arcila Ramirez*, 16 F.4th 844, 854–55 (11th Cir.
 25 2021) (holding district court erred in applying terrorism enhancement because it failed

26 ⁶ A “federal crime of terrorism” is defined as an offense that is “calculated to influence
 or affect the conduct of government by intimidation or coercion, or to retaliate against
 government conduct.” 18 U.S.C. § 2332B(g)(5)(A).

1 to make any evidentiary findings regarding defendant’s intent when she aided
2 Columbian Cartel).

3 The outsized influence of the CHSs, combined with Hunter’s severe and
4 disabling psychological disorders, prevented him from forming the requisite specific
5 intent for the § 3A1.4 enhancement to apply to his sentencing. Although he generally
6 intended to provide material support for ISIS, his conduct was not specifically intended
7 or calculated to influence or retaliate against the United States government, as § 3A1.4
8 requires.

9 The Government will likely argue that Hunter’s online statements expressing his
10 admiration of ISIS, his desire to become a martyr, and the knowledge that ISIS was a
11 terrorist organization are evidence enough to establish that he had the requisite specific
12 intent for the enhancement to apply. The Court should reject these arguments. First, as
13 highlighted above, the Government itself represented to the FBI that those chats alone
14 did not support charging Hunter criminally. Second, Hunter’s severe and disabling
15 psychological disorders, his disengagement from treatment, his preteen maturity level,
16 and the influence of more sophisticated, motivated CHSs make his online musings
17 insufficient to establish the application of the enhancement.

18 **B. Even if the Court applies the enhancement, the resulting criminal**
19 **history category (VI) grossly overestimates the necessary punishment.**

20 Even if the Court applies the enhancement, the Court should discount the
21 Guidelines because Hunter in no way approximates a person typically found in criminal
22 history category VI. *See United States v. Alhaggagi*, 372 F. Supp. 3d 1005, 1012 (N.D.
23 Cal. 2019), vacated and remanded, 978 F.3d 693 (9th Cir. 2020) (“[T]he enhancement’s
24 treatment of criminal history—automatically assigning to all terrorism defendants a
25 criminal history category of VI—is inappropriate based on the seriousness of the crime,
26

1 inappropriate based on assumptions about recidivism, and inappropriate as to this
2 Defendant, warranting a downward departure.”).

3 Hunter was just 20 years old at the time of his offense. He has no criminal
4 history and has not shown that harsher-than-normal punishment is necessary because of
5 his risk of recidivism. To the contrary, he has shown that he is remorseful, amenable to
6 treatment, and someone who welcomes the help of more established figures—whether a
7 teacher, a social worker, or even an FBI agent. He will welcome the guidance of his
8 probation officer.

9 **C. U.S.S.G. § 3A1.4 is not based on empirical evidence and does not**
10 **promote the goals of Congress or the Sentencing Commission.**

11 The Court also should depart from the guideline range because § 3A1.4 was
12 adopted without the support of empirical evidence and was created arbitrarily to deal
13 with a relatively novel issue at the time. Neither the Sentencing Commission nor courts
14 that have applied the terrorism enhancement have provided any evidence to support the
15 presumption that terrorism defendants are uniquely dangerous. Sameer Ahmed, *Is*
16 *History Repeating Itself? Sentencing Young American Muslims in the War on Terror*,
17 126 Yale L.J. 1520 (2017). In affirming sentences based on the notion that terrorism
18 defendants are unique in terms of recidivism, rehabilitation, and need for incapacitation,
19 appellate courts have not cited to any evidence. *Id.* There have been no studies to
20 determine how much time a convicted “terrorist” should serve. George D. Brown,
21 *Punishing Terrorists: Congress, the Sentencing Commission, the Guidelines, and the*
22 *Courts*, 23 Cornell J.L. & Pub. Pol’y 517, 520 (2014).

23 While providing far too much weight to the “terrorism” label, the Guidelines
24 totally fail to account for the role of the CHSs and Hunter’s uniquely challenging
25 circumstances.
26

1 **IV. A THREE-YEAR TERM OF IMPRISONMENT FOLLOWED BY 15**
2 **YEARS OF SUPERVISED RELEASE IS SUFFICIENT TO ACHIEVE**
3 **THE GOALS OF SENTENCING.**

4 **A. The defense-recommended sentence is sufficient to fulfill the goal of**
5 **retribution given the harm threatened and Hunter’s culpability.**

6 “The heart of the retribution rationale is that a criminal sentence must be directly
7 related to the personal culpability of the criminal offender.” *Tison v. Arizona*, 481 U.S.
8 137, 149 (1987). *See also Miller v. Alabama*, 567 U.S. 460, 472 (2012) (recognizing
9 case for retribution not as strong for juveniles as for adults). “[T]he degree of
10 blameworthiness of an offense is generally assessed according to two kinds of
11 elements: the nature and seriousness of the harm caused or threatened by the crime; and
12 the offender’s degree of culpability in committing the crime...” Richard S. Frase,
13 *Excessive Prison Sentences, Punishment Goals, and the Eighth Amendment:*
14 *"Proportionality" Relative to What?*, 89 Minn. L. Rev. 571, 590 (2005).

15 **1. Despite concerning rhetoric, the actual harm threatened can be**
16 **sufficiently punished by three years of prison and 15 years of**
17 **supervised release.**

18 While the harm theoretically threatened by Hunter was alarming, there was no
19 world in which Hunter would be able to join ISIS, travel overseas, and engage in
20 violence. As detailed in Dr. Cunningham’s report, Hunter’s skills were more consistent
21 with a preteen than an adult. Ex. 1 at 34. He did not bathe or brush his teeth regularly.
22 *Id.* Into his late teens, he required prompts and close supervision in order to stay on task
23 in household chores, and he performed chores inadequately. *Id.* He could not be given
24 more than one household assignment at a time, nor be left unsupervised in the kitchen.
25 *Id.* He could not write a check, and his survival depended on the charity and assistance
26 of others. *Id.* He could not hold onto a job for long, as his limitations in even
rudimentary tasks quickly became apparent. *Id.* Dr. Cunningham offers, “As he

1 struggles to maintain basic hygiene and keep his room clean, his independent
2 organizing capability to engage in lone wolf terrorism is doubtful.” Ex. 1 at 40.

3 Hunter would not have been able to coordinate his travel and act upon his
4 ideologies without the Government’s extensive involvement. He would not have known
5 whom to contact and what steps to take in order to join ISIS or travel abroad; he would
6 not have had the financial resources to pay for an airline ticket and passport; and he
7 would not have gone as far as to act upon the extremist ideologies the CHSs
8 encouraged.

9 While he made alarming statements prior to the involvement of the CHSs, the
10 “threat” posed by Hunter only came to be through the CHSs’ persistence and the federal
11 resources devoted to getting Hunter to actually attempt to travel. The CHSs fanned the
12 flames of Hunter’s ideology, despite being well aware of his lifelong mental health
13 struggles.⁷ The CHSs taught Hunter what he needed to do, introduced him to the people
14 he thought he needed to know, helped him find employment, helped him get a passport,
15 and more. CHS-2 was particularly motivated, given the charges he was facing and the
16 enormous consequences they would trigger.⁸ The harm actually threatened does not
17 justify incarcerating Hunter throughout his entire young adulthood.

18
19 ⁷ The Government’s use of aggressive sting operations against mentally ill individuals
20 is not limited to this case. A 2014 report by Human Rights Watch analyzed 494 cases
21 identified by the Justice Department as relating to international terrorism. *See Illusion*
22 *of Justice: Human Rights Abuses in US Terrorism Prosecutions*, COLUM. L. SCH. HUM.
23 RTS. INST. & HUM. RTS. WATCH (July 21, 2014) (available at [Human Rights Watch](https://www.hrw.org/report/2014/07/21/illusion-of-justice)
[columbia.edu](https://www.hrw.org/report/2014/07/21/illusion-of-justice)). The report documents a pattern targeting vulnerable individuals with
24 intellectual and mental disabilities and poor people. *Id.* at 4, 27–41.

25 ⁸ The skepticism leveled with respect to CHSs finds support in the Department of
26 Justice Inspector General Michael E. Horowitz’s *Audit on the FBI’s Management of Its*
Confidential Human Source Validation Processes, Justice OIG (Nov. 19, 2019), found
at <https://oig.justice.gov/node/624>. That report leveled broad criticisms against the
government that the FBI failed to oversee CHSs, maintain files, and protect the
community. Here, the United States Attorney’s Office represented to the defense that
CHS-2’s court records, attached as Ex. 5 and which bear directly on his credibility,

1 **2. Hunter’s involvement was made from a steep angle,⁹ skewed by**
 2 **many mitigating factors.**

3 The Court must also assess Hunter’s culpability. Dr. Cunningham explains that
 4 “the degree of ‘blameworthiness’ of an individual for criminal or even murderous
 5 conduct may vary depending on what factors and experiences shaped, influenced, or
 6 compromised that choice.” Ex. 1 at 5. Here, the factors that influenced Hunter are
 7 manifold and mitigate the need to punish Hunter.

8 Most obviously, Hunter is young—in both years and maturity level. “Juveniles’
 9 susceptibility to immature and irresponsible behavior means their irresponsible conduct
 10 is not as morally reprehensible as that of an adult.” *Thompson v. Oklahoma*, 487 U.S.
 11 815, 835 (1988). Hunter was just 20 years old at the time of his offense and much more
 12 like a preteen than an adult. The prefrontal cortex, which helps people “inhibit impulses
 13 and to plan and organize your behavior to reach your goals,” is one part of the brain that
 14 continues to grow and develop into a person’s 20s. Tony Cox, [Brain Maturity Extends](#)
 15 [Well Beyond Teen Years : NPR](#) (Oct. 10, 2011). Hunter’s brain is still developing.

16 Hunter’s actions are also mitigated by his severe and debilitating mental illness.
 17 Hunter’s interest in ISIS was not part of his ideological core beliefs but an example of
 18 his “highly restrictive, fixated interests.” Ex. 1 at 10. Intense obsessions with particular
 19 topics are a common experience for individuals like Hunter who have attention-deficit
 20 hyperactivity disorder (ADHD) and autism spectrum disorder (ASD).¹⁰ While in these

21 _____ were not included in his FBI CHS file. The Court should treat snippets and excerpts
 22 addressed to the CHSs with skepticism because the parties cannot be assured that the
 23 CHS files in this case contain all relevant information to make an accurate assessment
 24 of reliability. The defense has repeatedly invited the Government to provide this Court
 25 with the complete CHS records, *ex parte*, trusting that the Court will review their files
 26 keeping in mind Hunter’s interests. The Government has rejected that invitation.

⁹ See Ex. 1 at 6.

¹⁰ See *Signs and Symptoms of Autism Spectrum Disorder*, CENTER FOR DISEASE
 CONTROL AND PREVENTION: AUTISM SPECTRUM DISORDER (Mar. 28, 2022),
<https://www.cdc.gov/ncbddd/autism/signs.html>; see also Amanda Barrell, *What to know*

1 hyper-focused episodes, it is common for an individual to be “fully engrossed” in their
2 interest.¹¹ In individuals diagnosed with ADHD, specifically, it has also been observed
3 that they can also lose interest without explanation.¹² Throughout Hunter’s life, he has
4 found and then fixated on different interests and hobbies. Ex. 1 at 10–11. Adults in
5 Hunter’s life describe a series of different identity shifts, including changing his name
6 multiple times during school, identifying as transgender, and fixating on having female
7 companionship and sex—all of which involved Hunter becoming very interested and
8 then suddenly moving on. *Id.*; Ex. 3 at 1–2.

9 Hunter’s involvement in this offense was more a reflection of his psychological
10 diagnoses than ideological belief. He does not have deep-seated anti-American beliefs
11 that are fundamental to his being. His interest in ISIS could have also been an episode
12 of interest in something more innocuous, as were the subject matters he became
13 interested in during his developmental years. This is not to say Hunter’s beliefs and
14 conduct should not cause concern to those in his community and to those he loves. It is
15 to say that this behavior is tied to how his brain processes the world around him and not
16 to beliefs that are irreversible and inherent to his being.

17 The Court should also consider Hunter’s social dysfluency, his desperate desire
18 to find a community, and the role of the CHSs in creating that “community.” The Court
19 should also give weight to the fact that this offense occurred when Hunter was
20 struggling even more than usual. “As demands for adult adaptive skills accelerated in
21 his late teens, Hunter’s supports for navigating adult demands fell away: he was no
22 longer receiving mental health consultations, he discontinued medication support, he
23

24 _____
25 *about ADHD and hyperfocus*, MEDICAL NEWS TODAY (Jul. 8, 2019),
<https://www.medicalnewstoday.com/articles/325681>.

26 ¹¹ Barrell, *supra*.

¹² *Id.*

1 was put out of the house—without economic resources and with pre-teen adaptive
2 skills. It is not surprising that [he] spiraled down.” Ex. 1 at 28.

3 “As the damage and impairing factors . . . increase, choice is exercised on an
4 increasing slope, and moral culpability is correspondingly reduced.” Ex. 1 at 5. For
5 Hunter, his “choice” was made on a steep slope, tilted by serious and disabling
6 psychological disorders, social isolation, poor problem-solving skills, low self-esteem, a
7 sense of desperation and futility, and a not-yet-fully-developed brain. Ex. 1 at 7. A
8 three-year prison sentence followed by 15 years of supervised release is sufficient to
9 punish Hunter.

10 **B. Providing meaningful support and supervision is a better way to**
11 **achieve the related goals of incapacitation, specific deterrence, and**
12 **rehabilitation than warehousing Hunter in prison for a period of**
13 **years.**

14 The Government asks the Court to impose a sentence of 15 years’ imprisonment,
15 keeping Hunter in custody from 20 well into his 30s. The Government’s warehouse-
16 style recommendation seems to stem from the belief that Hunter’s offense—encouraged
17 by the Government’s agents and rooted in mental illness—is ideological and that
18 Hunter cannot be rehabilitated. By the Government’s estimation, the only way to
19 protect the public is to lock Hunter up for 15 years, presumably with the hope that
20 prison will help him overcome the serious and disabling psychological orders that have
21 plagued him since he was two years old.

22 First, Hunter’s beliefs are not so strong that he is incapable of rehabilitation or
23 redemption. Even when he was engaged in Islam and then extreme ideology, he had
24 (and continues to have) inaccurate understandings of both ISIS and Islam as a religion.
25 Hunter was not drawn to Islam or ISIS due to a calling or identifying with certain
26 beliefs. Just three months after he came out as a transgender woman, he abandoned that

1 identity and declared he was Muslim. Ex. 3 at 2. More recently, upon being arrested, he
2 quickly disavowed Islam altogether and is now practicing Shintoism.

3 Moreover, the Court should be under no illusion that prison will help Hunter. As
4 former United States District Judge Nancy Gertner writes,

5 It is hard to imagine an environment worse for a youthful offender than an
6 adult prison. Professor Joshua Buckholtz, of the Harvard Department of
7 Psychology, put it this way: If an evil genius scientist were hell-bent on
8 using the most up-to-date neuroscientific insights to make youthful
9 offenders more impulsive, aggressive, and antisocial, he could do no
10 better than the adult prison: constant uncertain threat, being disconnected
11 from communities, subject to long periods of social isolation, a
12 regimented life that undermines their ability to learn to plan. He would
13 break their ability to associate “good” behavior to future beneficial
14 outcomes — a trait necessary for them to begin to envision a different life
15 for themselves — by limiting access to meaningful occupational training
16 and education while imprisoned, and/or ensuring that their occupational
17 opportunities are impaired once released.

18 Gertner, Nancy, *19-Year-Olds Don't Belong in Adult Prisons*, Harvard Law School,
19 available at [http://www.nancygertner.com/news/19-year-olds-don%E2%80%99t-](http://www.nancygertner.com/news/19-year-olds-don%E2%80%99t-belong-adult-prisons)
20 [belong-adult-prisons](http://www.nancygertner.com/news/19-year-olds-don%E2%80%99t-belong-adult-prisons) (originally published in THE BOSTON GLOBE online edition,
21 June 20, 2017).

22 While Hunter’s move to Shintoism is a healthier outlet than the extreme
23 ideology he had landed on, it “still reflect[s] his unstable sense of self, adolescent
24 experimentation, and vulnerability to those offering acceptance/belonging.” Ex. 1 at 37.
25 Prison is not helping him to learn necessary life skills or address his severe and
26 debilitating mental health disorders.

Probation has the resources available to support Hunter’s development into an
adult. The conditions of supervision proposed by Probation and accepted by the defense
will help Hunter avoid the downward spiral he found himself in when he lost structure,
lost support, and stopped taking his medication.

1 **C. A sentence of three years is also sufficient to achieve general**
2 **deterrence.**

3 The goal of general deterrence does not demand a sentence of seven or 15 years.
4 To the extent that anyone pays attention to the sentence the Court imposes and then
5 considers that sanction in deciding whether to commit a crime, the penalty does not
6 need to be “particularly burdensome,” but instead simply “one that people would seek
7 to avoid.” Mirko Bagaric, *A Rational Theory of Mitigation and Aggravation in*
8 *Sentencing: Why Less is More When it Comes to Punishing Criminals*, 62 Buff. L. Rev.
9 1159, 1204 (2014).

10 **V. CONCLUSION**

11 For all the reasons provided in this memorandum and after listening to the
12 testimony of Dr. Cunningham, listening to Hunter speak, and listening to the defense’s
13 presentation, the defense respectfully asks the Court to impose a term of 36 months of
14 imprisonment followed by 15 years of supervised release.

15 DATED this 22nd day of November 2022.

16 Respectfully submitted,¹³

17 s/ *Mohammad Hamoudi*
18 Assistant Federal Public Defender

19 s/ *Corey Endo*
20 First Assistant Federal Public Defender

21 Attorneys for Elvin Williams

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23
24
25

26 ¹³ Undersigned counsel extend gratitude to University of Washington School of Law students Mustafa Alemi, Ayla Kadah, Arren Hernandez, and Ciera Phung-Marion for their research and contributions to this memorandum.

United States v. Williams, CR21-099-JCC

Exhibit 1 to Defense Sentencing Memorandum

Filed Under Seal

MEMORANDUM

To: Williams Team
From: Jennifer Davis
Date: 6/21/2022
Subject: **Jill Wilson-Zahn** Interview 6/16/2022

Jill Wilson-Zahn
Office: [REDACTED]
Highline School District Social Worker

On June 16, 2022, I spoke by telephone with Jill Wilson-Zahn, social worker for the Highline School District. Jill has been a social worker for 30 years. She has known and worked with our client, who she refers to as Hunter, since he was in 7th grade at Sylvester Middle School (2013-2014 school year). Hunter was 13 years old. She continued working with him, meeting at least weekly, throughout the remainder of his school years until graduation in June 2019, when he completed his Certificate of Individual Achievement.

Jill is the EBC (Emotional Behavioral Center) social worker for kids with IEPs in 5 high schools and 2 middle schools in the Highline School District.

When Jill first met Hunter, he had an intense anger problem and was emotionally dysregulated in middle school. This is what prompted him to be referred to EBC. His negative dark thinking was a result of early trauma in his life, mental health needs, and medication needs. His mother, Jaime was involved in trying to get him help. The separation from his biological father had a profound impact on Hunter. His father was incarcerated and they weren't really connected. Although his mother tried to access resources for her son, she also suffered from health issues, including mental health, which limited her effectiveness to adequately parent Hunter.

Hunter suffered from feeling isolated and struggled with socialization issues. He has always searched to find a group or place in this world where he belonged. In that search, he did not necessarily have ill intentions.

Jill observed that Hunter began his freshman and sophomore years really well. He is academically smart and was open to meeting with Jill. He was respectful and she felt safe with him. He was curious about the world, seemed to be connecting with other students, and craved knowledge. Although Hunter struggled with his identity, he was open minded. It was shocking to Jill to see Hunter later become radicalized in his thinking. In his early high school years, he was an advocate for feminist rights and LGBTQ rights. He wanted to travel and talked about going to college.

J. Wilson-Zahn Interview 6/14/2022

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If Hunter were stable on medication and receiving regular mental health services, Jill felt that it was very possible for him to take classes at a community college and then transfer to a four year university. She stressed that with those resources in place, Hunter could make a real future for himself. An additional component would be support at home, which he often lacked while growing up, despite his mother and stepfather's best intentions. Hunter reported to Jill that his mom was often sleeping and not engaged with him. She did make it to IEP meetings, which was helpful. Jeremy, his stepfather, never came to any of the meetings. Jeremy worked hard to keep a roof over their heads – shelter and food on the table. Jaime never worked, to Jill's knowledge. Poverty was always at the forefront for this family. Hunter received WEA funds up until graduation.

It wasn't until Hunter's junior year in high school that Jill saw him become radicalized about women not having rights. She recalled comments he made about the May 2017 suicide bombing at the Ariana Grande concert and how he thought they deserved it since women/girls shouldn't wear miniskirts according to Islam. His sister, Hailey, was deeply affected by Hunter's change in perception. It was quite painful for her as he began treating her differently at this time. Hunter mistreated Hailey and badgered her about her clothing and the fact that she is a lesbian with a girlfriend. Hailey, who is proud of her sexual identity, wanted nothing to do with Hunter after he started behaving in this way.

Hunter's interest in attending a local mosque grew. There were nice people there and Jill was supportive of his involvement with them. She spoke with some of the members and even drove Hunter there. They weren't radicalized and their belief in Allah was beautiful. They took Hunter in and gave him the supportive environment he craved.

Since Hunter hadn't grown up with physical things, such as clothing, supplies, tangible resources, Jill provided him with gift cards and took him shopping. This was all supplied within the EBC social work budget. The mosque members did the same thing for Hunter – helped him get the basic necessities and a little more.

Initially, Hunter wanted to change his name, which the school accommodated without any trouble. He connected with some of the other students who had been born and raised Muslim. However, when he started telling them about the religion in which they grew up and how they should act, this did not go over very well. His views and strident approach made the students, as well as members of the mosque, feel uncomfortable.

When Hunter began looking up information and videos about ISIS on the computer, this caused alarm and a teacher contacted the FBI after Hunter made comments

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normalizing the bombing at the concert. This same staff member was concerned after seeing Hunter's computer searches of weapons and terrorist organizations. A special agent (Jill could not recall his name) came to the school to do a threat assessment. Jill and the security officer from the high school were present when the FBI agent interviewed Hunter. This took place in approximately 2018 during winter quarter of Hunter's senior year. The interview lasted 45 minutes. The agent took notes. Jill did not. She has had no further contact with the FBI since that meeting.

It was at this time that Hunter had begun decompensating. He was not on medication consistently, his mental health had declined, he was not receiving counseling, and he was not going home. He started sleeping at the mosque. His mother voiced concern to Jill over Hunter's behavior and her fear that he might set the house on fire. Hunter sought refuge at the mosque.

Despite all of this, Hunter graduated from high school. He still had a lot of positive things going for him or so Jill thought. She was devastated to hear the news that he had tried to go overseas to help a terrorist organization.

Stephanie Pierce, one of the paras (para professionals) with the school, worked closely with Hunter. She saw him every day throughout high school and might be a good person to talk with about her observations of Hunter.

Towards the end of his senior year, there were some students and staff who were uncomfortable and did not feel safe around Hunter as he became hyper-radicalized. Jill saw this decline as a result of his mental health deteriorating. He had always wanted to be part of something and in the process would take things to the extreme. She reports he was also withdrawing from people and not consistently engaging in community mental health treatment.

Although she is not a clinician, Jill's assessment of the decline of Hunter's mental health is merging bipolar disorder as witnessed in the manic/impulsive decisions he made. There is also an identity piece that emerged in freshman year. He confided in Jill that he felt he was transgender. In an effort to be supportive, Jill tried to connect Hunter with the trans community in Burien at Navos, Proud and Out. He wouldn't go even when she offered to drive him. He talked about this for years, even wanting to dress like a female during freshman and sophomore year. He started growing his hair longer, but cut it as he became more radicalized in Islam. There was a whole component of his identity that was not explored or tapped into. It seemed he wanted to reject it and in doing so went to the extreme; possibly self-loathing and internalized shame. He feared that he would not be accepted by peers and would feel further alienated. Although his mom would probably have been supportive, she's been mostly disengaged due to her own mental health issues.

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Jill also works with Hunter's younger sister, Hailey. Through her work with both Hailey and Hunter, she has had a lot of contact with Jaime. Jill has concerns about Jaime's mental health and these have continued for the more than six years Jill has known them. Jill is also concerned about Jaime's judgment. Recently, Jaime left home and claimed to have traveled to Lebanon to help a person (man). No one is clear this occurred, but when Jill went to the house, she saw a suitcase sitting in the hallway.

Hunter did not have any close friends in school. He was lonely and isolated. He became even more isolated when he would often retreat to the library to pray. Other students found his assertions about Islam annoying. They managed his name change and wearing a headscarf, but his constant lecturing on how to be a good Muslim wore on their nerves.

At the end of his sophomore year, Hunter liked a Muslim girl, but she eventually became uncomfortable with him. When he talked about his desire to marry into a Muslim family, Jill interpreted that as being more about wanting to belong. The mosque provided him with a place where it was safe for him to be seen. They were focused on humanitarian efforts and offering support to people who sought information about Islam who might be interested in joining their community.

Hunter has spent his life try to find a way to individuate himself, to feel his self-worth, and engage with a community. Jaime described him as always being a child who took everything he did to the extreme. Due to isolation and lack of mental health support, he spiraled. In Jill's opinion, Hunter needs tight wrap around services in this area to succeed. This is key to his success.

Although Jill has no fear of Hunter, his sister Hailey does and wants nothing to do with him. There were reports from a school counselor that Hunter hit Hailey in the past. Also reports of him becoming aggressive, but Jill had never witnessed this in her interactions with him. Jill knows that Jaime was more protective of Hailey than Hunter and he felt like an outlier in the family. He never felt there was a place for him there which was painful.

Jill was shocked by Hunter's efforts to get on an airplane. His intent has never been to cause harm. She was also concerned when she heard he had talked about trying to do something at a Pride parade in Seattle. She had no contact with him after graduation, but that is not unusual, as her work with the students is done. However, Jill would like to be able to write to Hunter and visit him if that is possible. She asked that we say hello to him for her and to let him know she is thinking of him, wishes him well, and sending him peace. She is more than willing to write a letter of support on his behalf if that would be

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helpful. Jill will be out of the country the month of July, but will be back to checking email in August.

MEMORANDUM

To: Williams Team
From: Jennifer Davis
Date: 6/28/2022
Subject: Jerel Thomas Interview 6/28/2022

Jerel Thomas

Cell: [REDACTED]

I spoke with Jerel Thomas, Hunter's special education teacher at Highline High School from 2016 through 2018. He left the Highline School District four years ago to teach elementary school special education with the Kent School District. Jerel had the following information to share about his interactions with Hunter.

Jerel first met Hunter when school started at Highline High School in the fall of 2016. Jerel was his special education teacher and worked with Hunter continuously through the 2017-2018 school year. During 2016-2017, he team taught with Alex Olson, who is now with the Renton School District.

Hunter is the name Jerel knew him by, although he did change his name a few times while in school. He did not know him as Ali.

Hunter was well liked by staff and within the EBC program. He had strong relationships with adults in that program and in the classroom, Hunter seemed to have good affect, a good sense of humor, and liked to joke around about things. However in the Gen Ed classes, he struggled with staying on task and would often put his head down on his desk. It is Jerel's practice to review his students' school records to gain better insight and understanding of their challenges. It helps him to tailor a curriculum that suits each student. He works closely with the school psychologist in understanding the scores and evaluations for his students. Hunter had a long track record of high scores in atypicality and saw himself as different. He had been diagnosed with general anxiety disorder and ADHD. He had lots of difficulties with his peers and struggled with finding ways to fit in. His way of trying to fit in was to mimic students or groups with whom he sought to belong, and in that way further alienated himself from them. In using this method of trying to connect, he came off as mocking them.

When Hunter was in class, he would cover his entire face and head with a scarf. He would leave class often and could be found curled up in the hallway asleep on the floor.

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Despite difficulties in connecting with peers, Jerel didn't have any cause for concerns that year. Hunter got to classes with the assistance of a para professional (para). Teachers reported that if he stayed on task, he did well. His IQ was in the average range. Jerel recalls having a good time with Hunter that first year. However, in 2017-2018, things took a bizarre and drastic turn.

Hunter's disability manifested in his difficulty with peers. He was going between Highline High School and Puget Sound Skill Center (PSSC) for classes. There were many meetings between Hunter, his mom, and school personnel.

2017-2018 started out okay with Hunter facing the same challenges as the previous academic year. Hunter was getting to a point in his life where he was struggling even more deeply to find a place of acceptance. At home, he was dealing with living in poverty, his mom wasn't able to work, and his dad was incarcerated. At his age, coming to terms with these issues makes sense and is hard.

In December of 2017 or January 2018, Hunter disclosed to school staff, including Jerel, that he was trans and wanted to become a woman. This surprised them, but no one had a problem with it. They expressed support for Hunter and their reaction, in turn, seemed to surprise Hunter. Three months later, he abruptly announced he wanted to become Muslim. Again, their reaction was supportive. Jerel wondered if these were intended as avenues for Hunter to get attention.

Jerel asked Hunter why a couple of months prior, he had identified as female, but had now suddenly decided to convert to becoming Muslim. How did Hunter juxtapose these disparate paths, particularly since trans people are denounced by the Muslim sect he had chosen to join. Hunter shrugged it off as his trans comments being a phase or joke.

Over the course of that winter semester, things began to become more extreme. In Jerel's class, Hunter would look for Koranic verses on the computer, which was just fine if he'd done his classwork. But then Hunter began looking up ISIS warrior types with machine guns and facial coverings. Despite working with a guy at the mosque, which was a good community, doing good work, Hunter was still reaching out to make contact with ISIS supporters. The mosque even tried to help him by giving Hunter a cell phone, which he used to further these contacts.

While taking law enforcement or marine classes at the PSSC, Jerel received a call from the administrator that Hunter had put a screenshot of ISIS warriors and the ISIS flag.

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Hunter had been given a ceremonial robe by members of the mosque. They explained to him that it was to be used only for ceremonial occasions. However, Hunter started wearing it every day to school. He would be ridiculed by the Muslim kids and those who weren't. This upset Hunter. He was seeking acceptance and this just further alienated him. One day, while riding the bus back to Highline High School from PSSC, he and another student got into an argument about the robe. When they got off the bus, Hunter punched the kid repeatedly in the face and got blood on his robe. Getting blood on his robe really upset Hunter. Jerel explained that although what the other student had said to him wasn't okay, Hunter shouldn't have punched him. Jerel added that since the robe was only to be used for special occasions that Hunter was disrespecting the religion and the purpose of this clothing item. He didn't want to hear it. During this time, Hunter was also wearing a scarf that covered his entire face to school.

There was a Muslim girl who took the same bus from PSSC to Highline with Hunter. She'd initially worn a hijab, but over time, began to dress in more Western fashion – leggings and shirts. Hunter hassled her about this change, telling her she wasn't living up to her faith. She tried to get him to stop, but he persisted. Hunter wrote a letter to the girl's parents and asked the administrator to send it to them. The administrator contacted Jerel. The letter stated that their daughter was taking a bad path and was becoming a whore. Jerel spoke with Hunter about how this letter was inappropriate, that they could not send it, and that under school policy, it was considered harassment and bullying.

Although Hunter changed programs at PSSC, his peer struggles with other Muslim students continued. He went into marine mammals. In that program, the students go on field trips and work together to complete assignments. He and another student went out in a canoe together. Hunter tried proselytizing about Islam to this other kid and their conversation became heated to the point that when they reached shore and got out of the canoe, they started a fist fight. A teacher had to break it up. This is the type of program where they cannot have this kind of thing happen and Hunter got moved to yet another program, although his difficulties with fitting in continued.

In Hunter's social studies class, they were assigned a project to come up with a law they would want passed in Washington State. Hunter prepared a PowerPoint presentation on making Washington a sanctuary state for Sharia law. Every background image was of the ISIS warriors holding guns. Two slides were really inappropriate stating that the U.S. says they respect women, but then women dress like whores. Because of dressing in this way, the suicide bombing at the Ariana Grande concert in the UK was justified. It is Grande's fault because she dresses like a whore. The teacher sent the PowerPoint to Jerel and he talked with Hunter about it. Hunter had done the assignment, but it was clearly inappropriate to show to the class. Jerel and the teacher were trying to

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find a way for Hunter to get credit for doing the assignment and explain to him why it was also inappropriate.

Each student is asked to explain their post-graduation goals. Hunter said he wanted to move to Syria to join ISIS. Jerel wondered if this was Hunter's way of seeking attention. It was a difficult transition to watch a kid who had started the previous year as positive, good affect, sense of humor, and having good interactions with teachers come to this place in his life. Now he was demonstrating flashes of anger and Jerel thought Hunter might be experiencing bipolar episodes. He'd read the past evaluations where he was diagnosed as being autistic, but then they settled on generalized anxiety disorder and ADHD. Jerel wondered about changes in medication and if this could be partly to blame for the changes he'd seen in Hunter.

There had been a period to time where Hunter didn't get into any fights in school, and then they started happening again.

During the spring of 2018, Jerel spent a lot of time with Hunter. Hunter kept bringing up Islam. Jerel told Hunter they didn't need to get into a heated conversation about it and Hunter should stop. Hunter kept pushing and finally snapped. He picked up a chair and smashed it against the window frame. Jerel was afraid the window might break, but it didn't. Hunter tipped over every desk in the classroom and threw all the chairs. Jerel's classroom was on the 2nd floor. The teacher below was teaching AP calculus and heard the commotion. He came up to see what was going on. He asked Jerel if he had this under control, Jerel said yes.

The rage came on in an instant and probably lasted only a few minutes, if that. It was over the top incredible and just as quickly it was gone and Hunter crumpled to the floor, sobbing, apologizing for having done all this and that he would put the desks and chairs back in order. Jerel was never afraid for his safety when this happened. He never felt Hunter would injure him or throw a chair at him. Jerel has had kindergarten students throw chairs at him, so he is aware of how situations can go very wrong. This wasn't one of those situations.

Hunter had many conversations with one of his paras, Stephanie Pierce, about ISIS and his beliefs in Islam. Stephanie spoke with Jerel about her concerns over Hunter becoming more radicalized as time went on. She tried hard to pair Hunter with other Muslim students, but Hunter wasn't having any of it. She told Jerel she was ready to report him to the FBI. Jerel told her that if she was that concerned, then she should contact the FBI, which she did. They came out and talked with Jaime, Hunter, and Hunter's mentors at the mosque. There were a lot of people trying to support Hunter. But at this point, it would have been very difficult to get him to turn back when all this time,

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for his entire life, he had been screaming for belonging and acceptance by a peer group and he had finally found it in chatrooms with people whom he believed to be ISIS supporters. Try telling someone that they need to go back to a lonely existence, with no friends or outlets, and that is just not going to happen without offering them some alternative. These people in his newly found peer group gave him the thing he longed for most. Hunter faced significant emotional and behavioral challenges. He felt isolated from his peers and gravitated to a group who he perceived as accepting him.

Stephanie wasn't afraid of Hunter hurting her personally. She was afraid of the radicalized group. He dove in deep when talking with her about ISIS and Sharia law.

After high school, Jerel doesn't know if Hunter kept up with any counseling or taking his medications. He assumes that he did not and his condition worsened. Hunter's family being of limited means could have made it difficult for him to see a counselor or afford medication after graduation. ADHD meds, such as Adderall, can cause anger and aggression if not monitored.

In his interactions with Jaime, Jerel thought she was a nice person. She had problems coming to in-person meetings. Although she had a car, she did not have insurance and didn't like to drive it. She expressed concern over Hunter getting involved with a radicalized group and tried to talk with him about it, but these conversations usually ended in arguing and fights. They also had arguments over the way Jaime was raising her daughter, Hunter's sister. He felt she was not being raised properly.

Jaime told Jerel she had an auto-immune disease that kept her from working. Jerel thought there may be some issues with drugs and alcohol as Jaime had such limited availability even though she wasn't working. He tried to set up times to talk at 10:00 am, but she was unavailable or didn't answer the phone. Whenever she came for in-person meetings, she appeared with a different affect. He thought it was more likely caused by overuse of pain pills. She never smelled of alcohol at these meetings. One of Jerel's co-worker's daughter is friends with Hailey, Hunter's sister. He told Jerel that although she was a nice person, Jaime has her own struggles with pain pills and alcohol that inhibit her ability to engage with her children.

Jerel did not get a strong sense that Hunter had much support or supervision at home. He had read that Hunter concocted a relationship with a girl in middle school based on a photograph he found on the internet of another minor. He photo-shopped the image with a naked body and told others they were involved in a relationship. It is Jerel's opinion that this happens when a child spends too much time unsupervised and with access to electronics. He believes it is critical for students with emotional and behavioral issues to increase their supervision at home.

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Hunter was not one of the kids who Jerel worried about doing drugs and alcohol because that is something that is done socially and he didn't have any friends. He was not part of any of those groups who went to the bathroom or baseball field to do drugs. When not in class, Hunter could be found sleeping in the hallway or someplace else in the school.

Hunter got tripped up when he was given access to electronic devices and unsupervised time. The foundational support needed to ground him was not present in his home life. Hunter needed integration into a positive social network that would provide adequate supervision and a sense of belonging. Prison would not teach him skills to adapt to life outside. He is extremely governed by peers – a follower – and needs the proper peer group to stay on track.

Jerel noted that in the BAS assessments, Hunter self-identified and was rated by all other evaluators in later years as being at risk or clinically depressed. This never seemed to be explored in any of his evaluations. Jerel thought it wasn't addressed and should have been. Chronic sleeping and avoiding class are signs of depression, not just generalized anxiety. This could be treated and help Hunter navigate life in a more positive way.

Jerel reviewed Hunter's high school transcript to explain what a Certificate of Individual Achievement means. Hunter earned a high school diploma as he met all the state graduation requirements. One of the state's requirements was for him to pass the SBAC test. Students who pass the SBAC earn a Certification of Academic Achievement (CAA).

Student's with IEP's typically struggle to pass the SBAC, which makes sense as they have a disability that prevents them from performing at the same level of their non-disabled peers. To remedy this, IEP teams could stipulate that a student will pass the SBAC by earning a Level 2 (or Basic) instead of a Level 3 (Proficient). With this waiver, SPED students who pass with a level 2 are awarded a Certificate of Individual Achievement (CIA) instead of the CAA.

Hunter still earned a high school diploma that is no different than anybody else's. The CAA/CIA simply denotes how the student met the academic testing requirement. The transcript is the only place where this is found. Jerel disagrees with this as it still serves as a way to identify a special education student, but that may be why this designation is no longer being used.

Williams: J. Thomas Interview

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Jerel is available to speak with us again in the future, write a support letter on Hunter's behalf or anything else that might assist in our work.



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September 16, 2022

Corey Endo
Mo Hamoudi
Assistant Federal Public Defenders
Counsel for Elvin Hunter Williams

Re: United States v. Elvin Hunter Williams

Dear Corey and Mo:

The government is responding to your letters dated August 9, 2022, and September 2, 2022, requesting information about some of the confidential human sources (CHS) who were involved in the FBI's investigation of Elvin Williams. Specifically, you request certain information about CHS-2, CHS-3, CHS-4, and CHS-5, which you claim is relevant to your presentation of an "Imperfect Entrapment Defense" at sentencing.

At the outset, the government does not believe that any of the information you request is discoverable, given the current procedural posture of this case. Nonetheless, the government agrees to provide you with the requested information about CHS-2. Williams had extensive personal contacts with CHS-2 throughout the investigation. CHS-2 lives in the Seattle area and regularly met and spoke with Williams in person, over the phone, and through electronic communications. On the other hand, Williams has never met CHS-3, CHS-4, or CHS-5. These informants operate online and communicated with Williams only through electronic communications, all of which have been produced to you in discovery. Your September 2 letter seems to recognize this distinction by focusing almost exclusively on CHS-2. Because CHS-2 would be the primary focus of any "Imperfect Entrapment Defense" at sentencing, the government has agreed to produce the following information about CHS-2 in response to your letters.

The Complaint, filed on June 9, 2021, disclosed that CHS-2 "has pending charges in Washington State relating to solicitation of a minor" and "is hoping to receive consideration regarding the pending state charges, although no promises have been made

to CHS-2.” Complaint at 21, fn. 15. Your letter requests more details about the state case, which are as follows:

On September 27, 2019, the King County Prosecuting Attorney’s Office filed an Information charging CHS-2 with the offense of Attempted Commercial Sexual Abuse of a Minor, in violation of RCW 9A.28.020 and 9.68A.100. On October 6, 2021, the state prosecutor filed an Amended Information charging CHS-2 with the offenses of Communication with a Minor for Immoral Purposes, in violation of RCW 9.68A.090(1), and Patronizing a Prostitute, in violation of RCW 9A.88.110(1)(a)-(c). The prosecutor’s Motion to Permit Filing of an Amended Information states: “The requested amendment is pursuant to Plea Negotiations after considering extensive mitigation materials including the defendant’s psychosexual deviancy evaluation.”

Also on October 6, 2021, CHS-2 entered into a plea agreement and was sentenced in King County Superior Court. CHS-2 pled guilty to both counts of the Amended Information. The court imposed the sentence that the parties jointly recommended pursuant to the plea agreement, which included: a 12-month deferred sentence on Count 1; a 12-month suspended sentence on Count 2; a seven-day term of confinement in the King County Jail on both counts; a 12-month term of probation; and the requirement that CHS-2 register as a sex offender. The Court’s Judgment includes a notation that: “Court heard from several of D’s friends, employer, and community members. Court also heard from federal law enforcement officer who spoke on behalf of D.” That law enforcement officer was CHS-2’s FBI handler.

Your letters also request information about any compensation provided to CHS-2. At the outset of the investigation, and throughout the investigation, FBI agents told CHS-2 that he would not be compensated for his services as a CHS. As a result, CHS-2 had no expectation that he would be paid. Instead, his motivation to work as a CHS was the hope of consideration regarding the pending state charges. During the investigation, CHS-2 was provided money and/or reimbursement only for operational expenses, such as paying for hotel rooms and food for Williams and CHS-2; Uber rides; money to help Williams pay his cell phone bill so that the phone remained active, etc. More recently, on July 18, 2022, the FBI paid CHS-2 \$10,000 for his work as an informant. The FBI made the decision to pay CHS-2 unilaterally; the payment was not expected by CHS-2. The payment was primarily based on CHS-2’s work on this investigation, although it also accounted for continued work CHS-2 performed on unrelated matters.

In terms of the other information you request about CHS-2: We are not aware of any adverse credibility findings made by a court with respect to CHS-2; we are not aware of any false or misleading statements CHS-2 made to a government agent; and CHS-2 is a college graduate.

In responding to your letters, I realized that some FBI reports about CHS-2 were not produced in discovery. I had designated these reports to be produced, but they did not get to the U.S. Attorney's Office through the FBI Headquarters declassification/discovery process. These reports are enclosed with this letter (bates 19,527-19,536). At this point, the government has produced all discoverable FBI reports documenting CHS-2's involvement in this investigation, the overwhelming majority of which were produced in the initial batches of discovery. These reports collectively contain all the information regarding CHS-2's involvement in the matters raised in your September 2 letter (*i.e.*, CHS-2's involvement with Williams related to preparation for travel, COVID protocols, hotel rooms, food and clothing, etc.).

Also enclosed with this letter are bates stamped versions of the documents the government previously produced in response to your letters dated August 4 and 5, 2022, specifically:

- FBI 302 and agents notes of the interview of Williams on November 17, 2017, when he was a 17-year-old high school student;
- Documentation of the interview of Jamie Kuhn (Williams' mother) on November 17, 2017, during which she requested that the FBI conduct the above-referenced interview of Williams; and
- Documentation of a phone call Ms. Kuhn placed to the FBI on January 10, 2018.

As a final matter, I note that the government disagrees with the claims in your letter that the information contained in the above-referenced 2017 and 2018 interviews constitutes "withheld *Brady* information" or that there is any basis under the Due Process Protection Act for Williams to seek to breach the plea agreement by contesting the application of the enhancement under USSG § 3A1.4 ("Terrorism").

Yours truly,

/s/ Todd Greenberg

TODD GREENBERG
Assistant United States Attorney

United States v. Williams, CR21-099-JCC

Exhibit 5 to Defense Sentencing Memorandum

Filed Under Seal

Dear Honorable Judge John Coughenour, First I'd like to say I am not the same person I was nearly two years ago. I'm not the same stupid kid who said "I want to leave America and help my brothers fight in the cause of Allah." I'm not the same gullible kid who believed the best thing I could ever do is in this life to die somewhere far off in the desert for some god because I thought I could never amount to anything being who I was. I so desperately wanted to be apart of something and belong. I had put such great faith in my "brothers" (The Informants) and looked up to them, loved them like my own family, and was indebted to them after all the years they helped me that I wanted to impress them at every turn. I had no father figure who was there emotionally and spiritually and they were my only example I had to look up too. My Mother and her boyfriends were always too busy or stressed to be there for me and teach me the ways of life and how to be an adult. I was so confused, lost, and angry at a world that seemed against me from the very beginning. I saw some sick, warped, desperate sense of hope and belonging from the videos and content that was sent to me online. I obsessed over them and in them I saw a way out. Away to be important, →

bigger than myself, and be free from my mental health struggles. I spent hours of my day pouring over the videos, music, and websites sent to me by the Informants. I openly talked about and repeated the things I read and saw. I acted and posed like the people in the videos. I even tried to speak and talk like the people I saw. I lied about my devoutness and who I was, even claiming I was a real member of ISIS. These lies and personas kept my mind away from the fact that I was the opposite of what I preached. My personal life around my friends that I had was a polar opposite to what I showed outwardly to others, especially online, and to other Muslims. I constantly felt as if God resented me and so would say "brothers" too (The Informants) if they found out who I truly was. I was awash in a sea of deep depression, loneliness, anxiety, fear, and guilt. Everyday I was living a lie, and feeling this along with the constant pressures, support, and encouragement of the Informants is what drove and enabled me to act out this lie. I had no money to my own name. The FBI Informants, paid for my passport, my birth certificate, food, housing, a cell phone so that I could get a job, and earn the money I needed to pay for my own plane ticket. The FBI Informant

repeatedly encouraged me to travel over seas and fight, to isolate myself from others including my family, encouraging me not to be around them, making the informants my only support system. This along with my weakness and insecurity is what drove me to go overseas and attempt to join, to make this lie a reality, and leave my real self and life behind. Words cannot properly explain how guilty I feel for the things I said and attempted to do. Every day I wake up and think about the embarrassment and stress I've put my family through and the years of life with them being so young that I'm going to miss out on. The amount of time and resources I've cost the federal government. I also think about the experiences and years of life I've missed out on and will continue to miss because of my actions. Despite all this I have a bright outlook towards the future. Since my incarceration I've been focusing on bettering myself spiritually and mentally, as well as how to make something of myself and provide a stable future for my life on the outside. I've fallen a lot in life, it hasn't been the easiest growing up, but it's not about how many times you fall or how hard, it's about how many times you dust yourself off and get back up and continue working on staying up. Not a lot of people have this opportunity in life to be able to look back at everything

and see all the faults and hardships, to see all the mistakes and wrongs you've made before, and to be able to change that. To be able to make something of yourself, to make others and your family proud and most of all yourself. Because I owe it to myself your Honor to succeed, I owe it to myself after all these years of self hate and hardship to be happy and to rise to the challenge that is life. Your Honor, I ask that you see that, I ask that you will see that I can and will be a productive young man and make something of myself. That I am not a danger to society. That I was just a lost, sad, and angry kid who made a mistake in life but is going to turn it around. I also ask that you take into consideration my long standing mental health struggles and the fact that I am still young and growing up. I sincerely apologize to you, to the Western District Court of Washington, to my family and to myself for my words and actions leading up to May 28 of 2020.

Thank You Your Honor For Taking Your Time To Read This.

- Elvin Hunter Bgorn Williams