

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

2012 JUL 13 P 4: 31

Alexandria Division

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA	)	UNDER SEAL <sup>1</sup>
	)	
	)	CRIMINAL NO. 1:11cr494
v.	)	
	)	Sentencing Date: July 20, 2012
MOHAMAD ANAS HAITHAM SOUEID	)	
	)	The Honorable Claude M. Hilton
Defendant.	)	

**POSITION OF THE UNITED STATES  
WITH RESPECT TO SENTENCING**

**I. INTRODUCTION**

The United States of America, through its attorneys, Neil H. MacBride, United States Attorney, Dennis M. Fitzpatrick and W. Neil Hammerstrom, Jr., Assistant United States Attorneys, and Brandon L. Van Grack, Trial Attorney, United States Department of Justice, in accord with 18 U.S.C. § 3553(a) and the United States Sentencing Commission, *Guidelines Manual*, § 6A1.2 (Nov. 2011), files this Position of the United States with Respect to Sentencing. The United States requests that the Court to impose a sentence within the Offense Level 27 guidelines range (70 to 87 months imprisonment),<sup>2</sup> which appropriately accounts for the factors set forth in 18 U.S.C. § 3553(a).<sup>3</sup>

On March 26, 2012, before the Honorable Claude M. Hilton, the defendant pled guilty to

<sup>1</sup> Pursuant the Court's Order of July 13, 2012, this matter becomes unsealed at 9:00 a.m. on July 20, 2012.

<sup>2</sup> Base Offense Level 26: U.S.S.G. § 2M5.1(a)(1)(Evasion of Export Controls)  
+ 4 levels (Obstruction of Justice (2 levels) and Role in Offense (2 levels))  
- 3 levels (Acceptance of Responsibility).

unlawfully acting as an agent of a foreign government without notifying the Attorney General, in violation of Title 18, United States Code, Section 951. Section 951 does not have a corresponding guidelines provision within the United States Sentencing Guidelines Manual (“U.S.S.G.”), and therefore the United States submits that U.S.S.G. § 2M5.1(a)(1) (Level 26 –Evasion of Export Controls) is the most analogous guideline provision in this case. The defendant violated 18 U.S.C. § 951 by acting as an agent of the Syrian government. Specifically, he provided services to the Syrian government, including President Bashar al-Assad, the Syrian intelligence service, and the Syrian military. Providing services to those entities also violated the U.S. government’s sanctions against the Syrian government under the International Emergency Economic Powers Acts, 50 U.S.C. § § 1702, 1705, and Executive Orders 13572, 13573 (collectively “Syrian Sanctions”). Violations of the Syrian Sanctions are covered in the Sentencing Guidelines under Section 2M5.1(a)(1). The United States further submits that the evidence in this case supports two guideline enhancements: (1) Obstruction of Justice pursuant to U.S.S.G. § 3C1.1 (2 levels); and, (2) Role in Offense pursuant to U.S.S.G. § 3B1.1(c) (2 levels).

## **II. SUMMARY OF DEFENDANT’S CRIMINAL CONDUCT**

Beginning in March 2011, while the Syrian government killed, kidnaped, intimidated, and silenced thousands of Syrians to maintain its grasp on power, the defendant spearheaded efforts in the United States to provide information, intelligence and recordings to the Syrian government on Syrian-Americans and others who protested against the Syrian government (collectively “dissidents”). The defendant provided information and recordings to an official within the Syrian intelligence service (“Syrian Official”), who distributed the information and recordings to highest levels of the Syrian government. The defendant subscribed to the Syrian

government's repressions of its citizens, as demonstrated in a three-page handwritten letter he wrote on April 30, 2011, to the Syrian Official. The letter was delivered under the subject heading "what we talked about" and states, in part:

The conditions that our beloved country is currently experiencing require us to think carefully and look for any solution that would let us emerge out of this crisis stronger than we previously have been.

...

Every Syrian, loyal to his country and believes in its leadership, does not doubt for a second that disposing of dissension is a must and should be decisive and prompt.

...

Sir, this is a war; a psychological, media and military war that seeks to destroy Syria and its political independence.

...

Thus, negative aspects would become positive and justified. Violence will be justified against them; home invasions would be justified; and arrests would be justified.

(Ex. A and Statement of Facts ("SOF") ¶10.) The defendant's services to the Syrian government during this time are demonstrated in the signed Statement of Facts jointly filed in this case, as well as in the thousands of pieces of evidence collected in this case, including hundreds of email communications the defendant sent to the Syrian government.

The defendant's scheme to infiltrate and collect information on the dissident community was extensive and systematic. He collected at least nine video recordings of protests against the Syrian government in the United States that were not publicly available, all of which he sent to the Syrian Official. He also collected and forwarded to the Syrian government at least 23 audio recordings of dissidents in the United States. These dozens of recordings provided unassailable proof to the Syrian government concerning the identity and activities of Syrian-American dissidents within the United States. Many of the recordings were private conversations with dissidents that the dissidents never knew would be distributed to others, least of all to the Syrian

government and its intelligence apparatus.

In addition to the recordings, the defendant provided the Syrian government with contact information for key dissident figures in the United States, including phone numbers and email addresses. He sent the Syrian government details about the financiers of the dissident movement, logistics for protests and meetings, internal conflicts within the movement, and the movement's future plans. With such information, the Syrian government obtained critical information that it could use to undermine, disrupt and ultimately silence the dissidents. On July 15 and 18, 2011, the defendant talked with the Syrian Official about providing satellite phones to a key dissident in Syria so that the Syrian government could surreptitiously monitor the dissident's activity. On July 19, 2011, the defendant discussed with the Syrian Official a device used to track satellite phone signals. (Ex. C.)

The defendant also reported on meetings and rallies, such as a dissident conference on May 24, 2011, at the Hyatt Regency Hotel in Washington, D.C. (Ex. B.) His reporting provided the Syrian government with complete details of the meeting and participants.

The timing of the defendant's criminal conduct was calculated. He began his collection and infiltration efforts against dissidents during the same month that civil unrest began in Syria, a period commonly referred to as the "Arab Spring." Since March 2011, the Syrian government has engaged in a brutal campaign to eliminate popular dissent. The United Nations estimates more than 10,000 Syrians, mostly civilians, have been killed in the conflict. According to the United Nations Human Rights Council, the Syrian security services and military have committed gross violations of human rights. *See* U.N. High Comm'r for Human Rights, Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *Periodic Update* (May 24, 2012). The Human Rights

Council on Syria also describes instances of torture and violations of children's rights.

In late June 2011, the Syrian government paid for the defendant to travel to Syria to meet with President al-Assad, among other government officials. (Ex. D.) During a private conversation with President al-Assad, the defendant told the president that "we [are] in a state of war" and handed him an envelope with information. (Ex. E.)

The defendant returned to the United States from Syria on July 6, 2011. On July 11, 2011, the defendant made an unannounced visit to a government source and took him to a firearms dealer and shooting range in Lorton, Virginia. The defendant purchased a Beretta model handgun, numerous rounds of ammunition, and related material. The defendant and the government source engaged in rounds of target practice at the shooting range. Later that evening, the defendant spoke with the Syrian Official about the government source's proficiency shooting a weapon, as well as the defendant's own proficiency with the firearm. (Ex. Q.)

The defendant has repeatedly attempted to deceive the United States government. On August 3, 2011, two Federal Bureau of Investigation ("FBI") Special Agents met with the defendant at his home in Leesburg, Virginia. Over the course of a 55 minute interview, the defendant repeatedly lied to the FBI agents, forfeiting any chance to minimize the danger to others and to acknowledge his activity on behalf of the Syrian government. (SOF ¶19.)

Similarly, the defendant lied to a Customs and Border Patrol ("CBP") officer upon his return to the United States from Syria in July 2011. (SOF ¶12.) The defendant destroyed evidence related to this case and counseled others to destroy evidence. (PSR ¶16.) On July 2011, the defendant knowingly and unlawfully provided a false address on a Bureau of Alcohol, Tobacco, Firearms

and Explosives firearms transaction application in order to purchase a firearm.<sup>4</sup> In April 2011, the defendant directed a relative to wire \$160,000.00 from an account in France to an account controlled by a car dealership in Arlington County. (Ex. F.) At the same time, the defendant had an outstanding tax obligation to the IRS in excess of \$111,000.00. Although the defendant had access to large sums of money, he had no intention of fulfilling his obligation to the IRS. From April 2011 until the day of his arrest, the defendant used that money for various expenses. (Ex.F.)

### **III. THE UNITED STATES SENTENCING GUIDELINES**

Although the Supreme Court rendered the federal Sentencing Guidelines “effectively advisory” in *United States v. Booker*, 543 U.S. 220, 245 (2005), “a sentencing court is still required to ‘consult [the] Guidelines and take them into account when sentencing.’” *United States v. Clark*, 434 F.3d 684, 685 (4th Cir. 2006) (quoting *Booker*, 543 U.S. at 264). The Supreme Court has directed that district courts “begin all sentencing proceedings by correctly calculating the applicable Guidelines range.” *Gall v. United States*, 552 U.S. 38, 49 (2007). While the sentencing Court may not presume that the guidelines are reasonable, the “Guidelines should be the starting point and the initial benchmark,” and the sentencing Court must also “consider all of the § 3553(a) factors” in determining the appropriate sentence. *Id.* Ultimately, the sentence imposed must meet a standard of reasonableness. *See Booker*, 543 U.S. at 260-61.

#### **1. U.S.S.G. § 2M5.1(a)(1) Addresses the Defendant’s Criminal Conduct**

Section 2X5.1 of the guidelines instructs that “the most analogous offense guideline” should apply when “no guideline expressly has been promulgated.” The most analogous offense guideline for the defendant’s conduct is U.S.S.G. § 2M5.1(a)(1)(Evasion of Export Controls), which covers violations of U.S. government sanctions against the Syrian government. *See* 50

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<sup>4</sup>The defendant also provided a false address when he purchased an AK-47 in April 2010.

U.S.C. §§ 1702, 1705; Exec. Order Nos. 13572, 13573 (collectively “Syrian Sanctions”). The defendant’s “acts in the United States as an agent of a foreign government” violated both 18 U.S.C. § 951 and the Syrian Sanctions. The offense conduct at issue is the defendant’s provision of services, mainly providing non-public information and recordings of dissidents, to members of the Syrian Government including President al-Assad, officials in the Syrian General Intelligence Directorate, and high-level military officials. The Syrian Sanctions prohibit providing services to members of the Syrian Government responsible for repressing the people of Syria, including President Al-Assad, officials in the General Intelligence Directorate, and officials in the military.

**A. The Defendant Violated the Syrian Sanctions**

The International Emergency Economic Powers Act (“IEEPA”) gives the President broad authority to regulate international transactions in times of national emergency. *See* 50 U.S.C. § 1702(a)(1). IEEPA controls are triggered by an executive order declaring a national emergency based on an “unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy or economy of the United States.” *See* 50 U.S.C. § 1701. Executive orders issued under IEEPA may bar U.S. persons from engaging in a broad range of transactions involving the offending foreign government or its nationals.

On April 29, 2011, President Obama issued Executive Order 13572, which declared a national emergency with respect to the Syrian government. The executive order was based on a presidential finding that the Syrian government’s repression of the people of Syria, manifested by “the use of violence and torture against, and arbitrary arrests and detentions of, peaceful protestors by police, security forces, and other entities that have engaged in human rights

abuses,” constitute a threat to the national security of the United States. Exec. Order No. 13572. To stem that national security threat, the President prohibited U.S. persons from (i) providing funds, goods, or services to or for the benefit of any person or entity whose property is blocked pursuant to this order, or (ii) receiving any funds, goods, or services from any such blocked person or entity.

The annex of Executive Order 13572 listed the General Intelligence Directorate (“GID”), which is part of Syrian intelligence service, and Ali Mamluk, the director of the GID, as blocked persons/entities. On May 18, 2011, President Obama issued Executive Order 13573, which added to the blocked person list President al-Assad and high-level military officials such as the Head of Syrian Military Intelligence.

Accordingly, beginning in May 2011, it was illegal under the Syrian Sanctions for the defendant to provide goods or services to or for the benefit of President al-Assad, the GID, Director Mamluk, or high-level military officials. The Syrian Sanctions also prohibited the defendant from receiving goods or services from these individuals and entities. As detailed below, the defendant repeatedly and willfully violated both provisions of the Syrian Sanctions.

**B. The Defendant Provided Invaluable Services to the Syrian Government**

As described *supra*, from March 2011 until his arrest in October 2011, the defendant provided invaluable services to blocked persons and entities, including President al-Assad, Director Mamluk, the GID, and high-level Syrian military officials. Specifically, he provided them with non-public information, intelligence, and recordings. He sent dozens of recordings of dissidents and dissident protests to these individuals and entities *via* the Syrian Official. The Syrian government prized these recordings, as demonstrated by the defendant’s constant pleas to



a government source to make recordings. (PSR ¶14.) The defendant also provided the Syrian government with the identities of key dissidents, contact information for those dissidents, and insight into the dissident movement. (PSR ¶6.) The information and recordings, along with the defendant's insight, provided the Syrian government with critical information that could be used to silence the dissidents.

The recipients and beneficiaries of the defendant's services were blocked parties under the Syrian Sanctions – the GID, Director Mamluk, President al-Assad, and high-level military officials. The defendant's primary link to the Syrian government, the Syrian Official, is a powerful figure in the Syrian government able to arrange meetings with President al-Assad. As the defendant's primary contact, the Syrian Official was in charge of funneling the defendant's information and recordings to the GID and the military. For example, on July 19, 2011, the defendant asked the Syrian Official whether "these" [recordings] had reached "Abu al-Khil." (Ex. C.) "Abu al-Khil" is a nickname for Brigadier General Ghassan Khalil, a high ranking official within the GID. That same day, the *Washington Post* published a story that FBI Special Agents met with Syrian dissidents in the United States to express concern for their safety. See Alice Fordham, *FBI Interviews Syrian Activists in Washington*, WASH. POST, July 19, 2011, at [http://www.washingtonpost.com/national/national-security/fbi-interviews-syrian-activists-in-washington/2011/07/19/gIQAJ5BmOI\\_story.html](http://www.washingtonpost.com/national/national-security/fbi-interviews-syrian-activists-in-washington/2011/07/19/gIQAJ5BmOI_story.html); (see also Ex. G.) Worried that he may have been exposed, the defendant told the Syrian Official a couple days later that he was going to return "the money" to "Abu al-Khil." (Ex. H.) In another conversation, the defendant expressed concern for maintaining his good relationship with the Brigadier General. (Ex. H-1.) When the defendant returned from Syria on July 6, 2011, he told a government source that he met with and

obtained the business card of GID Director Ali Mamluk. Soon after the defendant's return to the United States, on July 16, 2011, a Brigadier General, in full military uniform, visited the defendant's father to express his appreciation for what the defendant had done for the Syrian government. (Ex. I.) In a phone call the next day with his father, the defendant stated that he was part of "a special section . . . a small one" with the Brigadier General. (Ex. D.) In October 2011, the defendant stated he received a call from the Head of the Syrian Military Intelligence, a blocked person, about a personal matter involving the defendant's step mother. (Ex. J.)

The defendant also knew his services were benefitting President al-Assad since he directly provided information to the president. He had a private meeting with President al-Assad during his Syria trip in June 2011 at which they discussed dissident activity in the United States. (SOF ¶11.) At the meeting, the defendant told President al-Assad that "we were in a state of war" and handed him an envelope with information. (Ex. E.) In return, an associate of President al-Assad gave the defendant a Hablut watch worth \$6,000. (SOF ¶11 and Ex. P.)

### **C. The Defendant Received Goods and Services from the Syrian Government**

The defendant's services to the Syrian government were significant, as evidenced by the goods and services he received from the aforementioned blocked persons/entities. As mentioned *supra*, in July 2011 the defendant discussed returning money that he had received from the GID, specifically from Brigadier General Khalil. He received an expensive Hablut watch for his services to President al-Assad. The Syrian intelligence service gave the defendant an Arabic laptop. (SOF ¶13.)

The Syrian government also provided the defendant with countless services. During the period in question, he received preferential treatment from the Syrian embassy. For example,

when the defendant sought to leave the country after the FBI interviewed him in August 2011, the Syrian embassy provided him with a Syrian passport that contained an alternative English spelling of his name. (Ex. R.) The spelling differs from all other known spellings of the defendant's name, and would have stifled U.S. law enforcement agents if the defendant attempted to leave the country. More broadly, in an autocratic society like Syria, the defendant's direct access to high-level government officials, including President al-Assad, undoubtedly afforded both him and his family in Syria many benefits and services. These untold benefits are evidenced by the personal attention his father received from a Brigadier General in July.

**D. The Defendant Knew He Was Violating the Syrian Sanctions**

A criminal violation under IEEPA and the Syrian Sanctions requires that the person acted willfully. *See* 50 U.S.C. § 1705. Here, the defendant was well versed in the Syrian Sanctions during the period at issue. During the May 24, 2011, dissident conference in Washington, DC, the Deputy Assistant Secretary of State for Near Eastern Affairs discussed Executive Orders 13572 and 13573. The next day, the defendant sent an email to the Syrian Official that attached the defendant's own handwritten notes on the conference, including a summary of the U.S. government official's comments on the Syrian Sanctions. The defendant's notes state, in part, "President Obama has effectively started to put pressure on the regime, issuing two executive orders placing sanctions on symbols of the regime. This coincided with sanctions that he placed on the regime's ally, Iran." (Ex. B.)

The defendant's efforts to mask his actions on behalf of the Syrian government further demonstrates that he knew his conduct was unlawful. In an attempt to hide his identity, the defendant periodically sent emails from the Syrian Official's email account to his own. The

Syrian Official and defendant communicated in code when discussing dissidents and dissident activity. The defendant also lied, repeatedly, to law enforcement officials. When he returned from Syria on July 6, 2011, the defendant falsely told a CBP officer that the purpose of the trip was to see his father. On August 3, 2011, the defendant repeatedly lied to FBI Special Agents about his activities in the United States.

#### **E. The Defendant Should Be Sentenced for Violating the Syrian Sanctions**

The defendant's violation of 18 U.S.C. § 951 mirrors a violation of the Syrian Sanctions. As an agent of the Syrian government, the defendant directly provided services to and for the benefit of multiple blocked parties and entities. He also received goods and services from those blocked parties and entities. The defendant knew about the Syrian Sanctions, wrote about the Syrian Sanctions, and violated the Syrian Sanctions. Accordingly, the most analogous guideline is U.S.S.G. § 2M5.1(a)(1), which applies to violations of IEEPA, 50 U.S.C. § 1705, and the Syrian Sanctions. Base Offense Level 26 applies, corresponding with U.S.S.G. § 2M5.1(a)(1), because the defendant was evading national security controls, i.e. the Syrian Sanctions. The Syrian Sanctions were based on a presidential finding that the Syrian government's repression of the people of Syria constitutes a threat to the national security of the United States. *See* Exec. Order No. 13572 ("the Government of Syria's human rights abuses, including those related to the repression of the people of Syria . . . constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States"). The defendant's conduct directly undermined the U.S. government's efforts to pressure the Syrian government to cease its violent tactics. Underscoring his actions is the fact that the U.S. government has designated the Syrian government a state sponsor of terrorism since 1979.

**2. Manager pursuant to U.S.S.G. § 3B1.1 (2 levels).**

A two-level adjustment under U.S.S.G. § 3B1.1 is appropriate because the defendant was a manager and supervisor of others who also sought to undermine that dissident community in the United States. In April 2011, the defendant recruited a person living in the United States who supported the Syrian government (“Person 1”). As their relationship evolved, the defendant began instructing Person 1 on what to do and say. On May 4, 2011, the defendant guided Person 1 on how to compose a message to Syrian government supporters. (Ex. K.) On June 21, 2011, the defendant discussed with Person 1 an upcoming trip to Allentown, Pennsylvania by the Syrian Ambassador. Later in July 2011, the defendant asked Person 1 to send him “raw” footage of a dissident protest. (Ex. L.)

The defendant managed others in the United States. On May 18, 2011, the defendant asked the Syrian Official to write an encouraging message about the situation in Syria because “[t]he guys here are feeling down.” (Ex. M.) On July 16, 2011, the defendant told the Syrian Official that he talked with Person 1 and the “guys” about sending U.S. supporters of the Syrian government to Syria to show their support. (Ex. N.) The defendant asked the Syrian Official if he could arrange for the “guys” to get the red carpet treatment in Damascus and be granted an audience with President al-Assad. (Ex. N.) Later in July 2011, the defendant gave a second person in the United States permission to call the Syrian Official about arranging the aforementioned trip to Syria. (Ex. O.)

Collectively, these communications demonstrate that the defendant actively worked with and managed other individuals in the United States to undermine the dissident movement.

**3. Obstruction of Justice pursuant to U.S.S.G. § 3C1.1 (2 levels)**

The government agrees with the Presentence Report that the “defendant obstructed justice during the course of the offense,” PSR ¶ 23, and therefore a two-level adjustment under § 3C1.1 is appropriate. The defendant made materially false statements on multiple occasions to multiple law enforcement agents and destroyed incriminating evidence.

The defendant’s first effort to thwart the investigation began when he returned from his trip to Syria on July 6, 2011. Upon his arrival at Dulles International Airport, the defendant falsely told a CBP officer that the purpose of his trip was to see his father, when instead he met with GID officials and had a private meeting with President al-Assad. At the airport, the defendant also possessed two laptops: one that contained many of the recordings and reporting he had provided to the Syrian government and another provided by the Syrian intelligence service. After the interview with CBP, the defendant told the Syrian Official he was going to destroy both laptops, which he later did.

The defendant’s obstruction efforts continued in August 2011. During the 55 minute interview with FBI Special Agents, the defendant made numerous materially false statements, including denying that he collected information on U.S. persons and transmitted that information to Syria. When the FBI Special Agents left, the defendant destroyed documents in his backyard.

**IV. A 70 TO 87 MONTH SENTENCE IS JUSTIFIED BY  
THE SENTENCING FACTORS UNDER 18 U.S.C. § 3553**

Regardless of whether this Court finds a sufficiently analogous guidelines range, this Court must consider factors under 18 U.S.C. § 3553(a) to provide statutory support for the sentence imposed. The factors in 3553(a) are purposefully broad and the sentencing court may

consider a sweeping array of evidence in fashioning the appropriate sentence. *See Pepper v. United States*, 131 S.Ct. 1229 (2011). The government submits that the weight of the aggravating factors in this case supports a sentence between 70 and 87 months. The defendant operated in the United States as a agent of the Syrian government, a state sponsor of terrorism. He targeted individuals exercising their First Amendment rights. The entire time, the defendant knew he was violating the law. He operated in secret, repeatedly lying to U.S. law enforcement agents.

**1. Nature and Circumstances of the Offense – 18 U.S.C. § 3553(a)(1)**

The defendant's conduct as an agent of the Syrian government was serious and aggravated. He surreptitiously operated in the United States as an agent of the Syrian government, a state sponsor of terrorism that was killing and harming its citizens. The purpose of 18 U.S.C. § 951 is to prevent foreign operatives from engaging in illegal conduct in the United States. The notification requirement was intended to keep the U.S. government informed of potential threats to its citizens. As such, violations of 18 U.S.C. § 951 implicate national security and affect the safety of people within the United States.

As is set forth in greater detail elsewhere in this position, the defendant aligned himself with the goals and objectives of the Syrian government. Critically, over a six-month period, the defendant never wavered from his commitment to assist the Syrian government. The defendant's conduct cannot be blamed on a momentary lapse in judgment. He had countless opportunities to alert the U.S. government of the efforts by the Syrian government to collect information on Syrian dissident activity on U.S. soil. Yet, the defendant chose to continue working for the Syrian government and lie when confronted about that work.

The defendant's disregard for the well-being of others is striking. As noted in greater detail above, the defendant advocated that "[v]iolence will be justified against them; home invasions would be justified; and arrests would be justified." (Ex A.) The defendant counseled a government source to develop a "deep relationship" with a particular female Syrian dissident in order to gain access to her residence and to gain an advantage in acquiring information about the dissident community. (PSR ¶12.) As described in the Statement of Facts, the defendant emailed a coded message to the Syrian Official describing a meeting of protestors in the United States that was held in Alexandria, Virginia. Attached to the email was a link listing who was missing and dead in the April demonstrations in Syria against the Syrian government. The defendant also emailed the Syrian Official the contact information, including phone numbers and email addresses, for dissidents in the United States.

## **2. History and Characteristics of the Defendant – 18 U.S.C. § 3553(a)(1)**

The defendant is smart, articulate and enterprising. Those traits were on full display as the defendant engaged in his criminal conduct in this case. First, the defendant worked with officials at the highest levels of a significant autocratic government. (*See, e.g.*, SOF ¶¶ 11, 21.) Second, the defendant's actions demonstrate his ability to act strategically. The defendant developed codes to communicate with Syrian government officials and used multiple strategies to try to mask his identity. (SOF ¶¶ 8-9, 14.) Third, the defendant was able to recruit others to assist him in fulfilling his objectives.

The government submits that the defendant is manipulative. In a letter to the Probation Office, the defendant alleges he did not purposefully hurt the interests of the United States or violate the law. (PSR ¶24.) Yet, the only logical consequence of the defendant's conduct was



harm, potentially to United States persons or their family and friends in Syria. Harm is the only result the defendant could have expected when he provided otherwise unavailable details of and recordings on dissidents to an autocratic regime that has killed thousands of dissidents in Syria.

The defendant's claim that he sought to do no harm is also belied by his countless false statements to U.S. government officials and agencies. On July 6, 2011, he lied to a CBP agent about the purpose of his travel to Syria. On July 11, 2011, he lied on a Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives firearms transaction application (ATF FORM 4473) in order to purchase a Beretta firearm. On August 3, 2011, he told multiple lies to FBI Special Agents about his conduct in the United States on behalf of the Syrian government. In April 2011, the defendant devised an elaborate plan to have a relative wire \$160,000.00 from a bank in France to a car dealership in Arlington County. The defendant then proceeded to use the account at the car dealership as a *de facto* bank for himself. At the while, he had an acknowledged debt to the IRS of approximately \$111,000.00.

If the defendant did not intend any harm, then he would not have operated in secret and would not have engaged in a pattern of deceit. As detailed above, he spoke and wrote in code, used multiple email addresses to mask his identity and location, and lied repeatedly in encounters with various agencies of the U.S. government. Such actions do not demonstrate the characteristics of a law-abiding citizen.

**3. Seriousness of the offense, promote respect for the law, and just punishment**

The seriousness of the defendant's conduct cannot be overstated. The defendant chose to work within the United States on behalf of a state sponsor of terrorism. As a consequence, he

betrayed this country. His conduct potentially endangered the lives of individuals here and abroad. The defendant's own words demonstrate the consequences he believed were at stake:

Sir, this is a war; a psychological, media and military war that seeks to destroy Syria and its political independence.

...

Thus, negative aspects would become positive and justified. Violence will be justified against them; home invasions would be justified; and arrests would be justified.

(Ex. A.) During a private conversation with President al-Assad, he told the president that "we [are] in a state of war." (Ex. E.)

The defendant not only sought to harm Syrians and Syrian-Americans, he also attempted to stifle the First Amendment right of persons in the United States. He sent recordings and information about individuals in the United States who were lawfully exercising their constitutional right to speak and assemble. Those rights, to speak and to assemble, are as sacred as any other in the United States and our nation's history. They are the pillars on which our democracy was founded, and on which it continues to thrive. While the dissidents were using those rights to establish their own democracy in Syria, the defendant took steps to undermine them.

It is far from certain whether the defendant has the moral judgment to be a law abiding citizen. If faced with an opportunity to serve his self-interest, the record plainly indicates that the defendant will seize upon that opportunity to deceive. The record in this case demonstrates over and over again the defendant's utter lack of respect for the law. He lied to a CBP agent. He lied to the FBI. He destroyed incriminating evidence. He lied on firearms applications. He deceived the IRS. A 70 to 87 month sentence is a reasonable and sufficient sentence to promote respect for the law.

#### **4. Deterrence – general and specific**

The 3553(a) factors also convey the congressional intent that sentences should afford adequate deterrence to criminal conduct, both generally and specifically in relation to protecting the public from further crimes committed by the defendant. *See* 18 U.S.C. § 3553(a)(2)(B), (a)(2)(C). A sentence between 70 to 87 months would send a message that (i) state sponsors of terrorism have no place to operate within the United States and (ii) the right to protest within the United States will not be trampled upon by agents of foreign governments. The defendant's egregious conduct in this case, directed towards particular individuals<sup>5</sup>, requires the imposition of a sentence between 70 to 87 months as a strong message to the community that this conduct is not tolerated.

#### **5. Need to Avoid Unwarranted Disparities**

Prosecutions for which 18 U.S.C. § 951 is the most serious offense do not usually include a direct nexus to violence. Here, however, the defendant failed to register as an agent of the Syrian government while knowing that the information he provided could be used to harm Syrians and Syrian-Americans. As mentioned *supra*, the defendant endorsed the Syrian government's violent tactics. Accordingly, the defendant's conduct merits the highest of sentences for convictions under 18 U.S.C. § 951.

Courts have imposed sentences at or near 120 months, the statutory maximum, in those rare instances where there is a link between the defendant's conduct on behalf of a foreign government and violence. *See, e.g., United States v. Campa, et al*, 529 F.3d 980, 1011-12 (11th

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<sup>5</sup>For example, the defendant directly targeted the woman referred to in ¶12 of the presentence report. The defendant proposed invading this woman's privacy in order to further his goals of collecting intelligence about the Syrian dissident community on behalf of the Syrian government.

Cir. 2008) (upholding the 120-month sentence of Rene Gonzalez under 18 U.S.C. § 951 for his role in infiltrating a Cuban-American dissident group on behalf of the Cuban intelligence agency and relaying information to the Cuban military, which ultimately led to the death of two individuals).

There are also numerous examples of courts imposing significant sentences, including the statutory maximum, on defendants who have been charged under 18 U.S.C. § 951 where no nexus to violence exists. For example, in *United States v. Dongfan Chung*, the district court sentenced the defendant to 120 months for violating 18 U.S.C. § 951, even though there were no allegations that the defendant knew or should have known that individuals would be harmed on account of his conduct. *See United States v. Dongfan Chung*, 659 F.3d 815, 824 (9th Cir. 2011) (affirming Chung's sentence for acting as an unregistered agent of China by committing economic espionage); Judgment & Probation/Commitment Order at 1, *United States v. Chung*, No. CR-08-00024 (C.D. Cal. Feb. 8, 2010) (sentencing Chung to 120 months under 18 U.S.C. § 951); *see also* Judgment & Probation/Commitment Order at 1, *United States v. Chi Mak*, No. CR-05-00293 (C.D. Cal. Mar. 24, 2008) (sentencing Mak to 120 months under 18 U.S.C. § 951 for related activities). In *United States v. Alvarez*, the defendant Carlos Alvarez pled guilty to conspiring to violate 18 U.S.C. § 951 and was sentenced to 60 months. *United States v. Alvarez*, 506 F. Supp. 2d 1285, 1288-89 (S.D. Fla. 2007). Once again, there were no allegations that Alvarez knew or should have known that individuals would be harmed on account of his conduct.

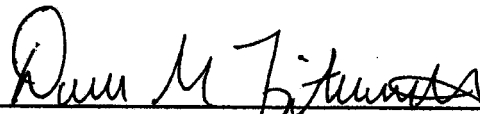
## V. CONCLUSION

Therefore, for the above-stated reasons, the United States submits that a sentence between

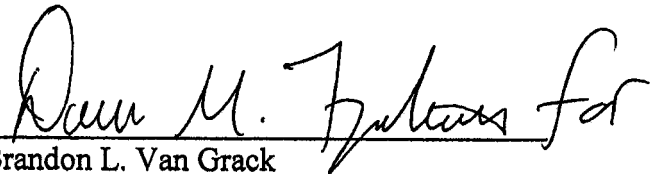
70 and 80 months imprisonment is justified by the Sentencing Guidelines and accounts for each of the factors set forth in 18 U.S.C. § 3553(a). The defendant's actions in the United States as an agent of the Syrian government were a clear and wilful violation of the Syrian Sanctions, and therefore U.S.S.G. § 2M5.1(a)(1) should serve as the Base Offense Level. Moreover, his assistance to the Syrian government during its brutal repression of the dissident movement and his efforts to subvert the First Amendment rights of people in the United States merit a significant sentence.

Respectfully submitted,

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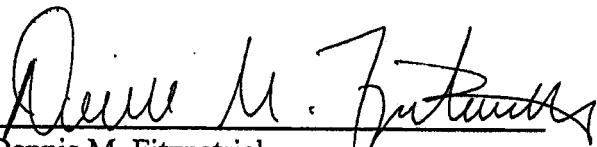
CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2012, I filed the foregoing with the Clerk of Court, and I delivered a copy of this document via interoffice delivery from the Clerk's office to the following:

Michael Nachmanoff, Esq.  
Attorney for Mohammad Anas Haitham Soueid

And I hereby certify that I have sent the foregoing to the following individual:

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