

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

JULIAN ELIE KHATER

Defendant.

Case No. 1:21-CR-00222-001 (TFH)

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this sentencing memorandum in connection with the above-captioned matter. For the reasons set forth herein, the government requests that this Court sentence Julian Elie Khater to 90 months of incarceration, three years of supervised release, a restitution payment of \$2,000, and \$200 as a mandatory special assessment on each count of conviction. The sentencing guidelines range for this defendant, as detailed further below and agreed to by the parties, is 78 to 97 months of incarceration, and the government’s requested sentence falls at the approximate midpoint of the guidelines range.

I. FACTUAL BACKGROUND

A. The January 6, 2021 Attack on the Capitol

The government refers the Court to the stipulated Statement of Offense filed in this case, ECF No. 80, for a short summary of the January 6, 2021, attack on the United States Capitol by hundreds of rioters who attempted to disrupt the peaceful transfer of power after the November 3, 2020, presidential election.

Attempted Breach of the Capitol Building and Assaultive Conduct on the West Front of the Capitol Grounds

Assaults against police on the West Front of the Capitol Grounds made the rioters' entry into the United States Capitol Building on January 6, 2021, possible. Initiated by the most fervent smaller groups and individuals within the crowd and using the mob itself as a cloak for their actions, each blow helped the crowd penetrate further into the United States Capitol Police's ("USCP") defenses until the building itself was accessible and the occupants were at risk. The physical breaches of the building can therefore be traced directly back to the assaultive conduct on the grounds of the West Front.

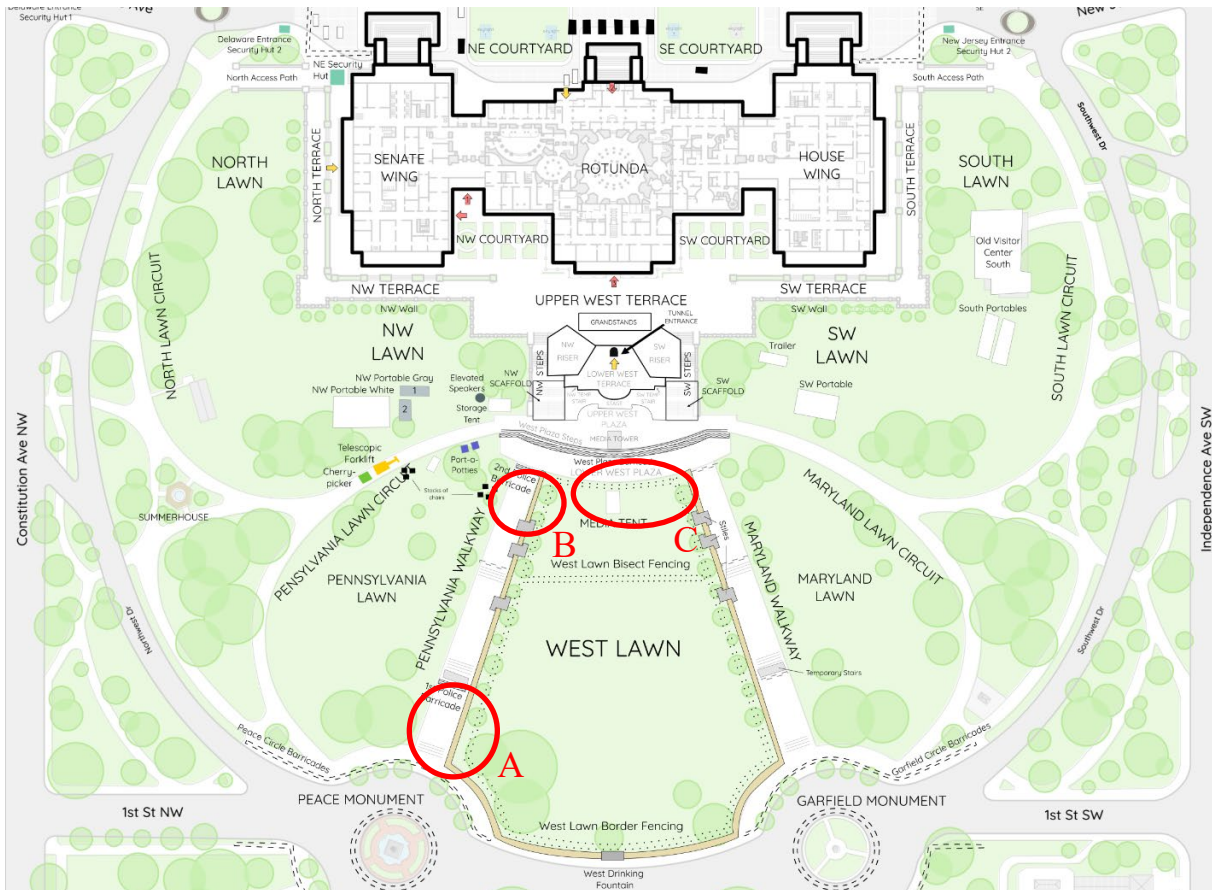


Figure 1: Open-Source Rendering of Capitol Building and Grounds as they appeared on January 6, 2021, credited to Twitter users @ne0ndistracton & @sansastark525.

The outer perimeter of the Capitol Grounds, made up of bicycle-rack style fencing, bore

numerous signs stating, “AREA CLOSED – By order of the United States Capitol Police Board[.]” These fences were not actively manned, but members of the USCP were stationed nearby as well as patrolling throughout the grounds. At approximately 12:45 p.m., a crowd began to gather against the barricades near the Peace Monument, which led to the Pennsylvania Walkway. Seeing this, a half dozen USCP officers began to gather behind what is labeled in Government’s Figure 1¹ as “1st Police Barricade,” circled in red and marked as Area A. At 12:52 p.m., the first breach of the outer perimeter occurred, with several members of the crowd jumping over and pushing down the unmanned bicycle-rack barricades at the Peace Circle and advancing into the restricted area to engage with USCP officers at the first manned barrier. Less than a minute later, with the crowd already numbering in the hundreds, the handful of USCP police officers in and around the barrier were shoved out of the way by the mob. By 12:58 p.m., the rioters had crossed the unmanned barrier halfway down the Pennsylvania Walkway and overwhelmed the second manned police barrier, Area B on Government’s Figure 1. They flooded the area labeled “Lower West Plaza” Area C on Government’s Figure 1, pushing against the barricade there.

¹ Figures 1-4 in this memorandum are provided to the Court and the parties as additional factual evidence relating to the January 6 riot at the Capitol. Exhibits 1-17, previously produced to the Court and the parties during prior detention proceedings for both Khater and his co-defendant, George Tanios, are hereby incorporated into this memorandum and will be referred to by their original Exhibit numbers, as the government anticipates referencing these exhibits during sentencing. Time stamp references followed by “p.m.” refer to the actual time stamp marked on the video footage, located in the upper left (surveillance footage) or upper right (body worn camera) of the video frame. Otherwise, the time reference will refer to the time of the video clip itself.



Figure 2: Stills from USCP security footage showing the progression of the crowd, from the outer barricades (top left), to the first manned police barricade (top right), to engaging with USCP at the second manned police barricade (bottom left), and beginning to fill the Lower West Plaza (bottom right).

Despite the more-permanent nature of the metal fencing at the West Plaza barricade and the growing number of USCP officers responding to the area, the crowd remained at this location for less than a minute, pushing through and over the fence to the front of the plaza. For the next hour and a half, a growing number of police officers were faced with an even faster growing number of rioters in the restricted area, the two sides fighting over the establishment and reinforcement of a police defensive line on the plaza with fists, batons, makeshift projectiles, pepper spray, pepper balls, concussion grenades, smoke bombs, and a wide assortment of weaponry brought by members of the crowd or seized from the inaugural stage construction site.



Figure 3: The breach of the West Plaza barricades (top left) was followed by the formation of a USCP officer wall (top right) until MPD officers arrived with bike rack barriers for a defensive line at the top of the West Plaza stairs (bottom left). In the photo of the nearly completed bicycle rack barrier line as of 1:39 pm, a large Trump billboard which would later be used against the police line like a battering ram is visible (bottom right).

Following the conclusion of President Trump's speech at approximately 1:15 pm, the crowd began to grow even more rapidly, supplemented by those who had walked the mile and a half from the Ellipse to the Capitol. At 2:03 pm, Metropolitan Police Department officers responding to USCP officers' calls for help began broadcasting a dispersal order to the crowd. It began with two blaring tones, and then a 30-second announcement, which was played on a continuous loop:

This area is now a restricted access area pursuant to D.C. Official Code 22-1307(b). All people must leave the area immediately. This order may subject you to arrest and may subject you to the use of a riot control agent or impact weapon.

Despite the warning and the deployment of riot control agents and impact weapons, few members of the crowd left. On the contrary, the mob in the restricted area continued to grow as crowds streamed towards the West Front, which looked like a battle scene, complete with an active melee and visible projectiles.

After having actively defended their line for over an hour, the hundreds of officers at the front of the inauguration stage were flanked, outnumbered, and under continuous assault from the thousands of rioters directly in front of them as well as members of the mob who had climbed up onto scaffolding above and to the side of them, many of whom were hurling projectiles. Because many of the thousands of people surrounding the officers were not engaged in assaultive conduct, it was difficult for officers to identify individual attackers or defend themselves. By 2:28 pm, with their situation untenable and openings in the perimeter having already led to breaches of the building, several large gaps appeared in the police defensive line at the West Front and a general retreat was called. With their defensive lines extinguished, several police officers were surrounded by the crowd. The rioters had seized control of the West Plaza and the inauguration stage. There were now no manned defenses between the crowd and several entrances into the United States Capitol Building, allowing the stream of rioters that had started entering the building around 2:13 pm to build to a torrent.

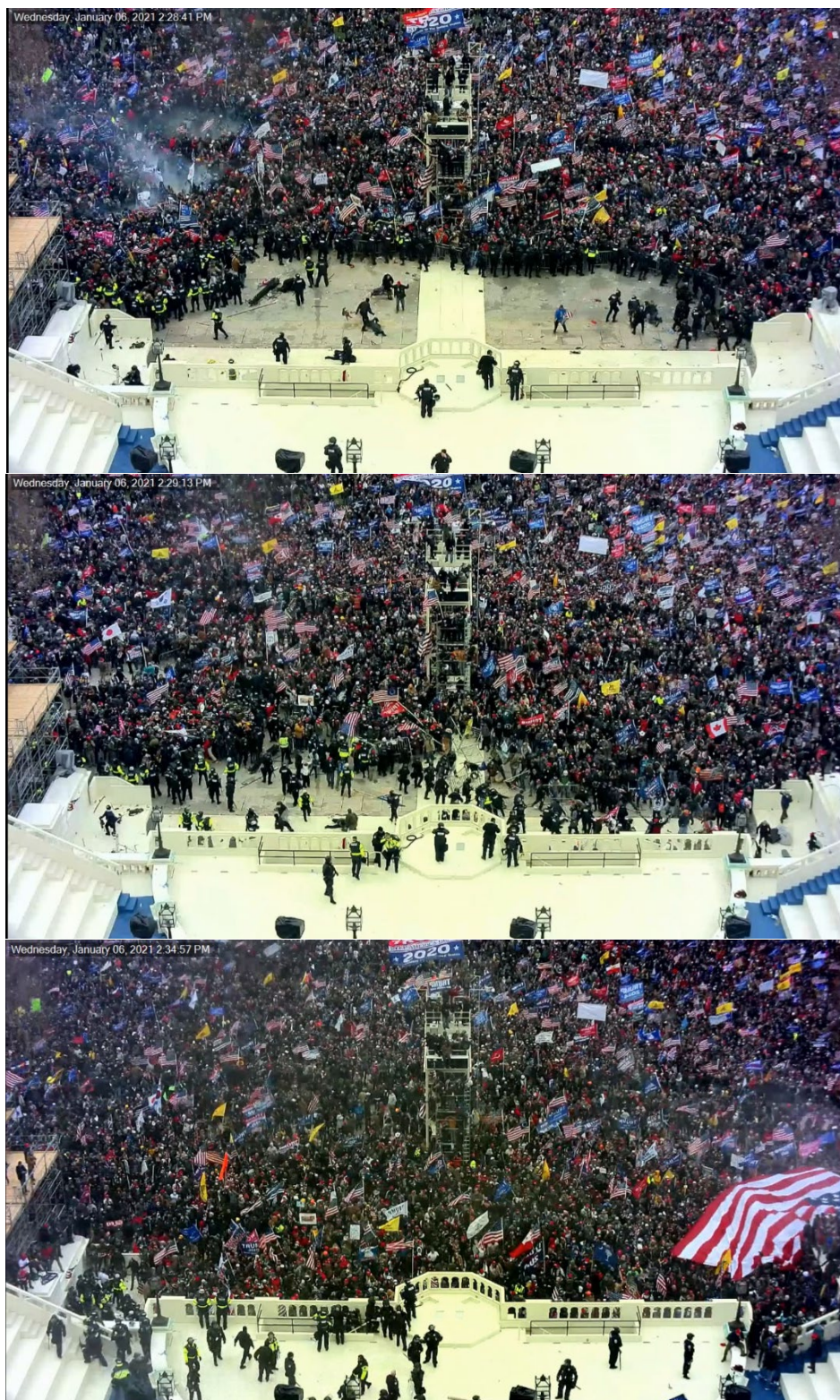


Figure 4: Breakthroughs in the defensive line on both the left and right flanks (top) caused the entire police line to collapse and individual officers were swallowed by the crowd (middle) and many officers were assaulted as they waited in a group to retreat through doors and stairwells up onto the inaugural stage (bottom).

Injuries and Property Damage Caused by the January 6, 2021 Attack

The D.C. Circuit has observed that “the violent breach of the Capitol on January 6 was a grave danger to our democracy.” *United States v. Munchel*, 991 F.3d 1273, 1284 (D.C. Cir. 2021). Members of this Court have similarly described it as “a singular and chilling event in U.S. history, raising legitimate concern about the security—not only of the Capitol building—but of our democracy itself.” *United States v. Cua*, No. 21-cr-107, 2021 WL 918255, at *3 (D.D.C. Mar. 10, 2021) (Judge Moss); *see also United States v. Foy*, No. 21-cr-108 (D.D.C. June 30, 2021) (Doc. 41, Hrg. Tr. at 14) (“This is not rhetorical flourish. This reflects the concern of my colleagues and myself for what we view as an incredibly dangerous and disturbing attack on a free electoral system.”) (Judge Chutkan); *United States v. Chrestman*, 535 F. Supp. 3d 14, 25 (D.D.C. 2021) (“The actions of this violent mob, particularly those members who breached police lines and gained entry to the Capitol, are reprehensible as offenses against morality, civic virtue, and the rule of law.”) (Chief Judge Howell); *United States v. Matthew Mazzocco*, 1:21-cr-00054 (TSC), Tr. 10/4/2021 at 25 (“A mob isn’t a mob without the numbers. The people who were committing those violent acts did so because they had the safety of numbers.”) (Judge Chutkan).

In addition, the rioters injured more than one hundred police officers. *See* Staff of Senate Committees on Homeland Security and Governmental Affairs and on Rules and Administration Report, Examining the Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6 (June 7, 2021), at 29, *available at* https://www.hsgac.senate.gov/imo/media/doc/HSGAC&RulesFullReport_ExaminingU.S.CapitolAttack.pdf (describing officer injuries). Some of the rioters wore tactical gear and used dangerous weapons and chemical irritants during hours-long hand-to-hand combat with police officers. *See*

id. at 27-30.

Moreover, the rioters inflicted significant emotional injuries on police officers and others on scene that day who feared for their safety. *See id*; *see also* Architect of the Capitol, J. Brett Blanton, Statement before the House of Representatives Committee on House Administration (May 19, 2021), *available at* https://www.aoc.gov/sites/default/files/2021-05/AOC_Testimony_CHA_Hearing-2021-05-19.pdf (describing the stress suffered by Architect of the Capitol employees due to the January 6, 2021, attack).

Finally, the rioters stole, vandalized, and destroyed property inside and outside the U.S. Capitol Building. They caused extensive, and in some instances, incalculable, losses. This included wrecked platforms, broken glass and doors, graffiti, damaged and stolen sound systems and photography equipment, broken furniture, damaged artwork, including statues and murals, historic lanterns ripped from the ground, and paint tracked over historic stone balustrades and Capitol Building hallways. *See id*; *see also* United States House of Representatives Curator Farar Elliott, Statement Before the House Appropriations Subcommittee on the Legislative Branch (Feb. 24, 2021), *available at* <https://docs.house.gov/meetings/AP/AP24/20210224/111233/HHRG-117-AP24-Wstate-ElliottF-20210224.pdf> (describing damage to marble and granite statues). The attack resulted in substantial damage to the U.S. Capitol, resulting in losses of more than 2.7 million dollars.

B. Julian Khater's Role in the January 6, 2021, Attack on the Capitol

The defendant, Julian Khater, violently participated in the January 6, 2021, attack on the United States Capitol. Khater arrived in Washington, D.C. on the evening of January 5 after driving with his friend and co-defendant, George Tanios, from West Virginia in a rented car. Khater and

Tanios stayed in a Virginia hotel and then made their way by rideshare to the White House area where they attended the “Stop the Steal” rally and listened to those speaking at the event. *See Exhibit 18.*



Exhibit 18² - Khater (green circle) and Tanios (yellow circle) at Washington Monument

At the conclusion of the rally in front of the White House, Khater and Tanios joined the throngs of protestors marching towards the Capitol. The government’s investigation has uncovered no evidence that either Khater or Tanios planned to advance to the Capitol prior to January 6 or that, prior to January 6, they intended to either enter the Capitol building or interfere with the lawful counting of the Electoral College votes. According to Khater’s own admission in his post-arrest statement to FBI agents, he did not know what to expect when he joined the throngs of people marching from the White House to the Capitol. Defendant’s Statement at 1:47:37.³ At the

² Available at <https://www.youtube.com/watch?v=1Bk0wBcle64&t=373>, timestamp 6:12, last visited on January 23, 2023.

³ See Defendant Khater’s Motion to Suppress, Exhibit B, filed on February 24, 2022 (ECF No. 54). The government incorporates this exhibit by reference and refers to it as Defendant’s

same time, Khater and Tanios had arrived in Washington, D.C., armed with two containers of bear spray, which were never used, and two containers of hand-held pepper spray, one of which Khater ultimately did use in his assault on officers, as described further below. These cannisters were purchased by Tanios the night before, ostensibly, as Khater later told FBI agents, for their own protection during a political event. Defendant's Statement at 00:08:25 – 00:09:10.

Whether or not Julian Khater planned to participate in a riot the day before, or even the morning of, January 6, 2021, once he arrived at the U.S. Capitol around 2:00 p.m., his intentions became clear. Khater observed the raging violence occurring against police officers, as described in detail *supra* at Section I-A, and he willingly and voluntarily joined that attack. As shown in Government Exhibit 3, at 2:09:45 p.m., Khater and Tanios walked from the south grassy area of the Capitol grounds toward the Lower West Terrace. In this video, Khater is wearing a beanie with a pom-pom on top, a dark jacket, and has a beard. Tanios is wearing a red hat, black backpack, dark hooded sweatshirt, and has a beard.



Exhibit 3.1 (Tanios under yellow arrow) and 3.2 (Khater under red arrow)

Khater quickly worked his way towards the center of the Lower West Terrace, separating from Tanios. For the next few minutes, Khater could see exactly what was unfolding at the Capitol: outnumbered officers, some in riot gear and some unprotected, fending off hundreds of violent rioters; chemical spray being deployed by rioters against officers, and officers using spray to try and control the mob; rioters throwing batteries, makeshift spears, and other blunt objects directly at officers; and a continuous press of rioters against officers in an attempt to move the makeshift barricade line further back. Government Exhibits 3 and 4 show Khater moving closer towards this ongoing violence. All of this was accompanied by the deafening roar of the crowd, which can be heard on the body-worn camera (“BWC”) exhibits previously submitted to the Court, as the rioters screamed vitriol and hate against police. *See* Government Exhibits 7 and 10. Against this backdrop, in the midst of a lawless, violent riot aimed at attacking police officers and reaching the U.S. Capitol Building, Julian Khater did not walk away from this effort—he decided to join it.

When Khater reunited with Tanios at 2:14 p.m., he was visibly incensed and ready to join the fray. Surveillance video shows Khater reaching inside Tanios' backpack and retrieving one of the cannisters of chemical spray they had brought to Washington. *See* Government Exhibit 3. This same moment in time was captured by open-source video, which has been provided to the Court as Government Exhibit 5. That video, which bears a stamp entitled "The Convo Couch" on the top right of the frame, shows Khater making his way towards Tanios. Khater then clearly states, "Give me that bear shit," and reaches into the backpack on Tanios' back. Tanios then states, "Hold on, hold on, not yet, not yet... it's still early." Khater then emphatically tells Tanios, "They just fucking sprayed me." The video shows Khater holding a white can with a black top that appears to be a can of chemical spray. His right hand, which is holding the spray, has a black glove on it with the word "Trump" visible on the glove. *See* Government Exhibit 5.1, below.



Exhibit 5.1 (Still shot from Government Exhibit 5 at timestamp 00:36)

Khater's tone of voice and his facial expressions in this video betray his emotion, his anger, and his loss of control. He is incensed at having been personally sprayed by police chemical spray while standing on the front line of a riot, as if he had been an innocent victim. Government Exhibit 3 shows Tanios and Khater engage each other in animated conversation while they are standing together. At one point, Tanios appears to lunge for the spray Khater is holding. Then Khater appears to calm down and continues to speak to Tanios and other unidentified individuals.

The next six minutes offered Khater a substantial opportunity to cool down and come to his senses. The surveillance video shows he is standing still and engaging in conversation with those around him. After having ample time to contemplate his actions, he made the decision to physically join the riot and aid the massive effort to breach the police lines by launching a timed and coordinated pepper spray attack on the officers manning the barricades.

At 2:20 p.m., Khater walked away from Tanios to get closer to the front line on the Lower West Terrace. He weaved his way through the crowd and positioned himself within a few feet of the bike rack barrier. *See* Government Exhibit 4. It took approximately two minutes for Khater to squeeze his way forward to the front of the line. Then he stood and waited. He stared straight ahead, waiting for the right moment to attack the line. *See* Government Exhibits 4 and 7. At approximately 2:23 p.m., that moment arrived when multiple unidentified rioters positioned to Khater's right attached long straps to the bike rack barricades and began pulling them away. Government Exhibit 7. At this precise moment, in conjunction with the other rioters, Khater began his attack. He aimed his cannister of pepper spray towards the defenseless officers who were distracted by the group effort to remove the barricade. Khater held his right arm up high in the air and began spraying the smaller, hand-held cannister of pepper spray at any officer he could find.



Government Exhibit 7.1 (Still shot of Government Exhibit 7 at 2:23:10 p.m.)

As described further below, Khater sprayed at least three officers at close range on the Lower West Terrace. He continued spraying, pointing his cannister at any officers he saw guarding the barricade.



*Government Exhibit 8.1 (Still shot of Government Exhibit 8 at 2:23:13 p.m.).
The red arrow points to Khater, the green arrow points to Ofc. Caroline Edwards,
and the yellow arrow points to Ofc. D.C.*

MPD Lt. Jason Bagshaw saw Khater spraying the police. Surveillance video and body worn camera captured Lt. Bagshaw observing Khater continuing to spray officers, and then pursuing Khater, and deploying police issued chemical spray on Khater at 2:23:26 p.m. *See* Government Exhibit 4 and Government Exhibit 16, below. Khater did not stop spraying the officers until he was himself sprayed by Lt. Bagshaw. Khater's spraying spree lasted for nearly half a minute.



Government Exhibit 16

Khater's attack, in conjunction with attacks from hundreds of other rioters, resulted in the collapse of the police line. Police officers retreated from the Lower West Terrace approximately five minutes after Khater's spray assault on the police line. Government Exhibit 17 shows that the area where Khater committed his assaults quickly became overrun with rioters, allowing people to access and climb the scaffolding supporting the presidential inauguration podium, and to access the stairs leading to the Upper West Terrace.

The government's investigation has not uncovered evidence that Khater committed any more assaults or acts of violence that day. By his own admission, he climbed up the scaffolding in order to take a picture. *See* Defendant's Statement at 01:54:00 – 01:55:17. The government's investigation has not uncovered evidence that he entered the U.S. Capitol Building, and by his own admission, after taking pictures and reuniting with Tanios, the two lingered on the Capitol grounds for awhile and then left the area. *Id.* The government's investigation has not uncovered evidence that Khater posted on social media or made any public comments regarding his involvement in the assault on the Capitol.

Injuries to Police Officers

Julian Khater was directly responsible for injuries inflicted on three police officers during his attack on the police line. All three officers had strong, visible reactions to Khater's spray attack, and all three were forced to immediately retreat from the police line on the Lower West Terrace to try and wash off the pepper spray, contributing to the rioters' ability to breach the Capitol.

Khater's first victim was United States Capitol Police Officer Brian Sicknick. Officer Sicknick was guarding the police barricade on the Lower West Terrace, wearing a blue uniform and a bicycle helmet. He was sprayed in the face by Khater at a close distance of approximately 5 to 10 feet. Officer Sicknick immediately recoiled from the spray and stumbled backwards while rubbing his eyes.



Government Exhibit 4.1 (Still shot of Government Exhibit 4 at 2:23:25 p.m.)

Struggling to recover from the assault, Officer Sicknick retreated up the stairs of the Capitol, being assisted up the stairs by another officer, to an empty terrace just outside the Capitol building. He remained on this terrace for approximately 20 minutes, pouring water on his eyes, pacing around the terrace, and sometimes leaning over on the wall as he tried to decontaminate and recover. Government Exhibits 11 and 12.

By the time Officer Sicknick had recovered from the assault, the police line had already broken down on the Lower West Terrace and other officers had joined him at the top of the stairs. Officer Sicknick, along with a group of other officers, then responded to a call of shots fired on the House floor at 2:44 p.m. After re-entering the Capitol building, he continued on duty for the remainder of the siege until approximately 6:30 p.m., when the building was cleared of rioters. Officer Sicknick remained on duty at the Capitol into the evening. Just before approximately 10:00 p.m., Officer Sicknick began slurring his speech while talking to fellow officers. He slumped

backwards and lost consciousness, and emergency medical technicians were summoned for assistance. He was transported to the George Washington University Hospital where he remained on life support for nearly 24 hours and was pronounced dead at 8:51 p.m. the following day.

An autopsy conducted by the Office of the Chief Medical Examiner for the District of Columbia concluded that the manner of Officer Sicknick's death was natural. Specifically, according to the medical examiner, Dr. Francisco Diaz, Sicknick suffered two strokes that evening at the base of the brain stem, caused by a clot in an artery that supplies blood to that area of the body.⁴ Dr. Diaz further noted that Sicknick had engaged with rioters on January 6, and "all that transpired played a role in his condition."⁵

While Julian Khater's spray assault on Officer Sicknick ultimately was not determined to be the direct cause of his death, Officer Sicknick's tragic demise, so close in time to the traumatic events of that day, underscores the seriousness of the offense committed by Khater and his fellow rioters. Officer Sicknick's death should serve as a solemn reminder to Khater, and to all of the rioters who committed acts of violence against police officers on that day, that their actions contributed to immense trauma, stress and suffering for all police officers who were physically attacked at the Capitol. Officer Sicknick's family members have provided victim impact statements to the Court, attached to this memorandum as Exhibits 1-5, and will address the Court at the time of sentencing.

⁴ "Capitol Police officer Brian Sicknick, who engaged rioters, suffered two strokes and died of natural causes, officials say," by Peter Hermann and Spencer S. Hsu, *The Washington Post*, April 19, 2021, available at: https://www.washingtonpost.com/local/public-safety/brian-sicknick-death-strokes/2021/04/19/36d2d310-617e-11eb-afbe-9a11a127d146_story.html.

⁵ *Id.*

Khater's second victim was United States Capitol Police Officer Caroline Edwards. After spraying Officer Sicknick, Khater advanced closer to the line, and sprayed Edwards directly in the eyes, at close range, while she was looking in the other direction. *See Government Exhibit 8.1, supra.* Edwards was wearing no helmet and no protective eyewear. Khater's deliberate advance towards and assault of Officer Edwards, captured in Government Exhibit 4, is particularly egregious, as she was completely defenseless and not even looking in his direction. Officer Edwards immediately lost her ability to see and required assistance from another officer to escape to safety. *See Government Exhibit 4.2, below, and Government Exhibit 10.* Officer Edwards intends to provide a victim impact statement directly to the Court on the day of sentencing.



Government Exhibit 4.2 (Still shot of Government Exhibit 4 at 02:23:15 p.m.)

Khater's third victim was Officer D.C. Officer D.C.'s reaction to the spray is evident in his own BWC footage, and as captured in additional video footage. *See Government Exhibit 7.* He began jumping up and down in reaction to the pain and sting of the pepper spray in his eyes. He was forced off the line and required time to recover, further weakening the police presence on the line that fell only minutes later. Officer D.C. has declined to provide a victim impact statement to the Court.

II. THE CHARGES AND PLEA AGREEMENT

On March 17, 2021, a federal grand jury returned an indictment charging Julian Khater with ten counts, including assaulting, resisting, or impeding certain officers using a dangerous weapon, in violation of 18 U.S.C. §§ 111(a)(1) and (b). *See* Indictment (ECF No. 8). On September 1, 2022, Julian Khater was convicted of those offenses based on a guilty plea entered pursuant to a plea agreement. ECF No. 79.

III. STATUTORY PENALTIES

Julian Khater now faces sentencing on two counts of assaulting, resisting, or impeding certain officers using a dangerous weapon, in violation of 18 U.S.C. §§ 111(a)(1) and (b). As noted by the plea agreement and the Presentence Report issued by the U.S. Probation Office, Khater faces a maximum sentence of 20 years of imprisonment, a term of supervised release of not more than three years, a fine up to \$250,000, and a mandatory special assessment of \$100 for each count.

IV. THE SENTENCING GUIDELINES AND GUIDELINES ANALYSIS

As the Supreme Court has instructed, the Court “should begin all sentencing proceedings by correctly calculating the applicable Guidelines range.” *United States v. Gall*, 552 U.S. 38, 49 (2007). The government agrees with the pre-sentence report’s calculation of the applicable Guidelines range, based on a total adjusted offense level of 28, PSR ¶ 56, and a criminal history category I. PSR ¶ 65. Specifically, the defendant’s guidelines are calculated as follows:

U.S.S.G §2A2.2(a)	Base Offense Level	14
U.S.S.G §2A2.2(b)(2)(B)	Dangerous Weapon Used	+4
U.S.S.G §2A2.2(b)(3)	Bodily Injury	+3
U.S.S.G §2A2.2(b)(7)	Convicted Under 18 U.S.C. § 111(b)	+2
U.S.S.G §3A1.2	Official Victim	+6
U.S.S.G. §3D1.2-1.4	Grouping of both counts at level 29 (2 units)	+2

Total Offense Level:	31
Acceptance of Responsibility	-3
Total Adjusted Offense Level:	28

Accordingly, Khater's Guidelines imprisonment range is 78 to 97 months' imprisonment. The defendant's plea agreement contains an agreed-upon Guidelines range calculation that mirrors the calculation contained herein. PSR ¶ 56 and Plea Agreement at p. 2-3 (ECF No. 79).

V. SENTENCING FACTORS UNDER 18 U.S.C. § 3553(A)

In this case, sentencing is guided by 18 U.S.C. § 3553(a). As described below, on balance, the Section 3553(a) factors weigh in favor of a lengthy term of incarceration.

A. Nature and Circumstances of the Offense

As detailed in Section I(B) of this memorandum, Julian Khater's felonious conduct on January 6, 2021, was part of a massive riot that almost succeeded in preventing the Certification Vote from being carried out, frustrating the peaceful transition of Presidential power, and throwing the United States into a Constitutional crisis. The nature and circumstances of Julian Khater's offenses were of the utmost seriousness, and fully support the government's recommended sentence of 90 months of incarceration.

B. The History and Characteristics of the Defendant

The defendant, 32 years old at the time of the assault, was a resident of New Jersey at the time of his arrest. He has a minor record of violations involving charges of consuming alcoholic beverages in public in 2011, driving under the influence in 2014, and traffic infractions in 2020, PSR ¶ 63-65, none of which affect his criminal history score. The government submits that

Khater's lack of a serious or violent criminal record is reflected in the plea agreement offered to the defendant and the government's request for a sentence at the approximate midpoint of the sentencing guidelines range.

C. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense and Promote Respect for the Law

As with the nature and circumstances of the offense, this factor supports a sentence of incarceration. Julian Khater's criminal conduct on January 6, 2021, was the epitome of disrespect for the law. His willingness to attack defenseless, uniformed police officers, and to enthusiastically join a violent, unruly mob as it attacked the United States Capitol Building calls for a lengthy period of incarceration that will reflect the gravity of his crimes against police and promote respect for the law.

D. The Need for the Sentence to Afford Adequate Deterrence

General Deterrence

A significant sentence is needed "to afford adequate deterrence to criminal conduct" by others. 18 U.S.C. § 3553(a)(2)(B). The need to deter others is especially strong in cases involving domestic terrorism, which the breach of the Capitol certainly was.⁶ The demands of general deterrence weigh strongly in favor of incarceration, as they will for nearly every case arising out of the violent riot at the Capitol.

Specific Deterrence

The need for the sentence to provide specific deterrence to this particular defendant also weighs heavily in favor of a lengthy term of incarceration. While the government investigation

⁶ See 18 U.S.C. § 2331(5) (defining "domestic terrorism").

may have uncovered no evidence that Julian Khater planned to join the violent attack on the Capitol prior to January 6, his purchase of multiple cannisters of bear and pepper spray notwithstanding, his actions at the front line reflect the actions of a man with malice and hatred in his heart. By his own admission, Julian Khater became “emotional” and “riled up” by the crowds and the speakers. Defendant’s Statement at 00:12:30 and 01:46:00. This susceptibility to extreme violence, at the urging of violent ringleaders, is an example of conduct that requires the utmost deterrence to ensure that law and order continue to govern our society. The attack on the Capitol required the willing contributions of hundreds of individuals like Julian Khater – people who may not have actively planned, advanced or coordinated the riot prior to January 6, but who jumped into the fray and supported the attack on police once it got underway. Julian Khater’s willingness to resort to such extremes requires a sentence sufficient to provide specific deterrence from committing future crimes of violence.

E. The Importance of the Guidelines

“The Guidelines as written reflect the fact that the Sentencing Commission examined tens of thousands of sentences and worked with the help of many others in the law enforcement community over a long period of time in an effort to fulfill [its] statutory mandate.” *Rita v. United States*, 551 U.S. 338, 349 (2007). As required by Congress, the Commission has ““modif[ied] and adjust[ed] past practice in the interests of greater rationality, avoiding inconsistency, complying with congressional instructions, and the like.”” *Kimbrough v. United States*, 552 U.S. 85, 96 (2007) (quoting *Rita*, 551 U.S. at 349); 28 U.S.C. § 994(m). In so doing, the Commission “has the capacity courts lack to base its determinations on empirical data and national experience, guided by professional staff with appropriate expertise,” and “to formulate and constantly refine national

sentencing standards.” *Kimbrough*, 552 U.S. at 108 (cleaned up). Accordingly, courts must give “respectful consideration to the Guidelines.” *Id.* at 101.

F. Unwarranted Sentencing Disparities

Section 3553(a)(6) of Title 18 directs a sentencing court to “consider ... the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” So long as the sentencing court “correctly calculate[s] and carefully review[s] the Guidelines range, [it] necessarily [gives] significant weight and consideration to the need to avoid unwarranted disparities” because “avoidance of unwarranted disparities was clearly considered by the Sentencing Commission when setting the Guidelines ranges.” *Gall v. United States*, 552 U.S. 38, 54 (2007). In short, “the Sentencing Guidelines are themselves an anti-disparity formula.” *United States v. Blagojevich*, 854 F.3d 918, 921 (7th Cir. 2017); *accord* *United States v. Sanchez*, 989 F.3d 523, 540 (7th Cir. 2021). Consequently, a sentence within the Guidelines range will ordinarily not result in an unwarranted disparity. *See United States v. Smocks*, D.D.C. 21-cr-198 (TSC), Sent. Hrg. Tr. at 49 (“as far as disparity goes, ... I am being asked to give a sentence well within the guideline range, and I intend to give a sentence within the guideline range.”) (statement of Judge Chutkan).

Moreover, Section 3553(a)(6) does not limit the sentencing court’s broad discretion “to impose a sentence sufficient, but not greater than necessary, to comply with the purposes” of sentencing. 18 U.S.C. § 3553(a). After all, the goal of minimizing unwarranted sentencing disparities in Section 3553(a)(6) is “only one of several factors that must be weighted and balanced,” and the degree of weight is “firmly committed to the discretion of the sentencing judge.” *United States v. Coppola*, 671 F.3d 220, 254 (2d Cir. 2012). The “open-ended” nature of

the Section 3553(a) factors means that “different district courts may have distinct sentencing philosophies and may emphasize and weigh the individual § 3553(a) factors differently; and every sentencing decision involves its own set of facts and circumstances regarding the offense and the offender.” *United States v. Gardellini*, 545 F.3d 1089, 1093 (D.C. Cir. 2008). “[D]ifferent district courts can and will sentence differently—differently from the Sentencing Guidelines range, differently from the sentence an appellate court might have imposed, and differently from how other district courts might have sentenced that defendant.” *Id.* at 1095. “As the qualifier ‘unwarranted’ reflects, this provision leaves plenty of room for differences in sentences when warranted under the circumstances.” *United States v. Brown*, 732 F.3d 781, 788 (7th Cir. 2013).⁷

In cases for which the Sentencing Guidelines apply, “[t]he best way to curtail ‘unwarranted’ disparities is to follow the Guidelines, which are designed to treat similar offenses and offenders similarly.” *United States v. Bartlett*, 567 F.3d 901, 908 (7th Cir. 2009). *See id.* (“A sentence within a Guideline range ‘necessarily’ complies with § 3553(a)(6).”).

VI. RESTITUTION

The Victim and Witness Protection Act of 1982 (“VWPA”), Pub. L. No. 97-291 § 3579, 96 Stat. 1248 (now codified at 18 U.S.C. § 3663), “provides federal courts with discretionary authority to order restitution to victims of most federal crimes.”⁸ *United States v. Papagno*, 639

⁷ If anything, the Guidelines ranges in Capitol siege cases are more likely to understate than overstate the severity of the offense conduct. *See United States v. Knutson*, D.D.C. 22-cr-31 (FYP), Aug. 26, 2022 Sent. Hrg. Tr. at 24-25 (“If anything, the guideline range underrepresents the seriousness of [the defendant’s] conduct because it does not consider the context of the mob violence that took place on January 6th of 2021.”) (statement of Judge Pan).

⁸ The Mandatory Victims Restitution Act, Pub. L. No. 104-132 § 204, 110 Stat. 1214 (codified at 18 U.S.C. § 3663A), which “requires restitution in certain federal cases involving a subset of the crimes covered” in the VWPA, *Papagno*, 639 F.3d at 1096, does not apply here. *See* 18 U.S.C. § 3663A(c)(1).

F.3d 1093, 1096 (D.C. Cir. 2011). Generally, restitution under the VWPA must “be tied to the loss caused by the offense of conviction,” *Hughey v. United States*, 495 U.S. 411, 418 (1990); identify a specific victim who is “directly and proximately harmed as a result of” the offense of conviction, 18 U.S.C. § 3663(a)(2); and is applied to costs such as the expenses associated with recovering from bodily injury, 18 U.S.C. § 3663(b). At the same time, the VWPA also authorizes a court to impose restitution “in any criminal case to the extent agreed to by the parties in a plea agreement.” *See* 18 U.S.C. § 3663(a)(3). *United States v. Anderson*, 545 F.3d 1072, 1078-79 (D.C. Cir. 2008).

Those principles have straightforward application here. The parties agreed, as permitted under 18 U.S.C. § 3663(a)(3), that Khater must pay \$2,000 in restitution to the Architect of the Capitol, which reflects in part the role Khater played in the riot on January 6.⁹ Plea Agreement at ¶ 15, ECF No. 79. As the plea agreement reflects, the riot at the United States Capitol had caused “approximately \$2,734,783” in damages, a figure based on loss estimates supplied by the Architect of the Capitol in mid-May 2021. *Id.*

Paragraph 15 of the plea agreement states that, in addition to paying restitution for the damage to the Capitol Building and its contents, Khater must pay restitution to the individual victims of his assaults, Officers Sicknick, Edwards, and D.C. ECF No. 79. If the MPD had expenses for medical treatment of any of those officers that are not covered by the \$1.4 million loss figure identified above, the MPD is entitled to restitution from Khater for expenses attributable to the offenses of conviction. *See* 18 U.S.C. § 3664(j)(i) (“If a victim has received compensation

⁹ Unlike under the Sentencing Guidelines for which (as noted above) the government does not qualify as a victim, *see* U.S.S.G. § 3A1.2 cmt. n.1, the government or a governmental entity can be a “victim” for purposes of the VWPA. *See United States v. Emor*, 850 F. Supp.2d 176, 204 n.9 (D.D.C. 2012) (citations omitted).

from insurance *or any other source* with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation,”) (emphasis added). A violation of 18 U.S.C. § 111(b) is a crime of violence under the MVRA, *see* 18 U.S.C. § 3663A(c)(1)(A)(i) (requiring mandatory restitution for “a crime of violence, as defined in [18 U.S.C.] section 16”). That means that restitution for that offense is mandatory. 18 U.S.C. § 3663A(a)(1). The Court should delay a final determination of the amount of any loss to the MPD for 90 days following the sentencing hearing to give the government and the MPD sufficient time to calculate the amount of those expenses. *See* 18 U.S.C. § 3664(d)(5). Khater’s final restitution payment must be made to the Clerk of the Court, who will forward the payment to the Architect of the Capitol and, if applicable, the MPD. *See* PSR ¶ 122.

VII. CONCLUSION

For the reasons set forth above, the government recommends that the Court impose a sentence of 90 months of incarceration, three years of supervised release, a restitution payment of \$2,000, and \$200 as a mandatory special assessment on each count of conviction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 23rd day of January, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

By: /s/
Gilead Light
Assistant United States Attorney

Victim Impact Statement

Your Name: Gladys Sicknick

Case#: 22-CR-00222

Defendant's Name: United States v Khater

Sentencing Date: January 27, 2023

To the Honorable Judge Thomas Hogan:

Seven hundred fifty one days: that's how much time has passed since January 6th, 2021.....and each -- and every -- day, I, and my family are reminded of what you did to my son Brian. There's hardly an hour's respite; with every news report, newspaper.....on the internet.....we are pummeled by the horrific images of that day. But, we also see the face of my son, and those of courageous men and woman who stood their ground to protect our Democracy from a vicious mob. And I see you, Mr. Khater; you are center stage in our recurring nightmare.

Just when raw nerves have begun to heal, we are carried back to the scene of your crime. You, among all the other crazies -- you are the reason Brian is dead, Mr. Khater.

And, for what? While you were assaulting police officers whose duty is to keep the peace and secure our Capitol, you can't possibly have thought you were doing the right thing. A Congressman -- from Georgia I think -- described January 6th as being like any other day....just another Monday with "tourists" admiring the Rotunda. Did you feel like a tourist, Mr. Khater? Watching my son fighting for his life? Thank God the footage of Brian facing off with you and your fellow "Patriots" is kept secure as evidence by the FBI. At least we've been spared that torture.

The rioters who breached the Capitol that day, whether or not they've been charged with crimes.....all of you are culpable in Brian's death. All of you bear responsibility for the injuries sustained by Brian's fellow officers -- the broken bones, head trauma, and the continuing mental anguish they suffer -- and will endure -- for the rest of their lives. Imagine the emotional pain that would cause someone to take his own life, Mr. Khater. Four officers committed suicide. You, and your "movement" caused their deaths.

"Footsoldiers" you call yourselves -- you -- with your flags, used like pikes. My son was a soldier, Mr. Khater. Soldiers don't erect gallows and call for the Vice President to be hanged. Soldiers don't attack the seat of their own government brandishing pipes, and clubs, and bats. They don't plant pipe bombs. They don't drag a police officer into their midst, beat him senseless, and tase him repeatedly while he begs for his life. And they don't beat and blind policemen with chemicals, like you did to Brian. You attacked my son like he was an animal; you are the animal, Mr. Khater.

In defense of their actions, some in the mob have relied upon the fact that the former President invited them to Washington. That he whipped them into a frenzy and sent them marching to do his bidding: to stop the peaceful transfer of power. To overturn our election. That man will get his due -- his day in court. That's my hope. But you should have known better....in this great country, we go to the voting booth to make a difference. We don't start an armed rebellion, no matter the President encouraged you to "fight like Hell"....to "take your country back."

We are called as citizens to honor the Constitution--to support our police in maintaining law and order. You can speak your mind under the First Amendment, because of law abiding Americans and dedicated law enforcement officers. Your right of free expression didn't entitle you to attack my son that day. What you did happens in places like Russia, China, Venezuela.....not the United States.

I don't know what kind of upbringing you had...what might have happened in your childhood that contributed to your deluded sense of right and wrong. If I were your mother, I'd be embarrassed to have a son like you. I couldn't bear to look at you -- ever again. Which is how I feel right now. Let this be the last time, Mr. Khater.

Lawlessness, misplaced loyalty, and hate, killed my son...and I hope you are haunted by your crimes behind bars. Whatever jail time you receive is not enough. I leave it to Judge Hogan to set your just reward, for having been part of the darkest days of my life, and among the worst in American history.

Thank you, Your Honor, for the opportunity to comment here today.

Impact Statement:

On Jan 6, 2021 you decided to follow former President Trump down a dark path with many other misguided miscreants. I really would like know how someone can be so easily duped into doing the dirty work of another with no facts, no potential rewards, and a high likelihood of facing serious repercussions for one's actions. Was it fun? Did you really think you would be rewarded for your idiotic efforts?

Over two years have passed since your actions led to the death of my brother. Did you think you would wind up here, in this court room after being involved in the first insurrection in U.S. History? Did you think you would bask in the glory of Trump's stupidity? I wish I were not in the same room as you as you make me physically sick. Your actions that day led to the death of my kid brother who was by any measure more of man than you will ever hope to be.

Not a day goes by where I am not reminded of your actions. I start every day by coming down the stairs of my home and seeing a painting of Brian in his U.S.C.P., uniform, a slight smile on his face reminding me of what my family and our nation has lost. He was 42, far too young to die, especially due to the actions of a madman and sycophant followers. After looking at the painting for a moment, I turn on the morning news before work. More often than not, I am reminded again of your actions with some bit of news on Trump, the Jan 6th Committee, or another piece on the events of Jan 6th in which you willingly participated with misplaced rage and a cultish desire to follow your narcissist in chief, willingly attacking Brian and his fellow officers who was simply doing their job protecting the Capitol Building and those within it on a day that has been one of peaceful transition since our country was founded.

Brian was a U.S.C.P. officer for 12 years and not once did he have to deal with someone such as yourself and your mindless fury that day. Before he became a U.S.C.P. officer, he served honorably in the Air National Guard overseas where he faced all kinds of dangers as part of his duties. He managed to survive that experience physically unscathed and went on to a career in law enforcement at the United States Capitol where he continued to protect our country. After twelve years as a United States Capitol Police Officer, his fate was sealed, not by any foreign enemy, but by the actions of you and your loathsome co-conspirators that day.

Your selfish actions have caused more pain than you can ever imagine. My family is a wreck and none of us have been even remotely unscathed as the results of your actions that day. Brian's coworkers are still reeling from his death. I myself have been both physically and emotionally damaged to the point where I left a great job I loved as I could no longer handle being in the high adrenaline environment that went with the job. Thanks to you, I now suffer from ulcers as every reminder of Brian's death still hits me like a hammer. I have lapses in memory which I never had before which also make it much harder to function at work and at home.

I also suffer every day seeing what you have done to my family, knowing you took away a son and a brother, a friend and a coworker, and a gentle soul who chose the path of protecting others instead of choosing another, easier path. He was the youngest of three siblings, ten years my junior and should have easily outlived me as he had a better lifestyle, was in great physical shape, and took great care of himself.

I have seen my parents appear to age a decade at least in the past two years. I see my brother Ken suffering in his own way and the face I see in the mirror is not the same one I became used to seeing every morning. Where I used to see a face with a small grin, full head of hair, and clear bright eyes staring back at me, I now see a balding, greying face with new wrinkles and more mornings than not, a haunted look due to poor sleep and uneasy dreams.

Your participation in the Jan 6th insurrection took away more than you can ever understand. Whatever sentence the judge gives you today will not be long enough or severe enough for my satisfaction as our laws are far more lenient than your actions were towards Brian and the other officers of the U.S.C.P and the D.C. Metro Police you attacked on Jan 6th. I

hope you have a long time behind bars to think about your actions and how they affected others. Your deviant behavior on that day has altered the lives of me, my family, our extended family, and the nation.

I would like to thank the court for allowing me to voice my thoughts.

Sincerely,

Craig Sicknick

Victim Impact Statement

Kenneth Sicknick

Case# States v. Khater (22cr-00222)

Defendant: Khater & Tanios

Sentencing Date: 27 January 2023

To the Honorable Judge Hogan;

I am the brother of Brian Sicknick. His job was an officer with the United States Capitol Police. But that is not his only identity, He is a brother, a son, a co-worker that was embraced by his peers. He was loved because of the person that he was. He is also a hero.

Today is a terrible day, even if this is the day that justice is to be served. There are probably some details I do not know regarding the attack on Brian and his subsequent death when it comes to what was pleaded by the defendants. However, asking about those things, digging deeper, just brings too much pain. I cannot read books about that day. Reading articles and seeing newscasts just bring me down. There is a constant reminder EVERY SINGLE DAY. I hesitate to ask his coworkers that were there that day, because I know how hard that day was for them, and how much they loved Brian. I do not ask because I do not want them to be in any more pain than they already are. I know the pain. In time, I will delve deeper into that day from the people that were there. People...human beings...family...sons and daughters, husbands and wives. People that were brutally attacked. A few, like my brother, who died from the actions of inconsiderate animals that only saw my brother and his fellow officers as targets.

It has been just over two years since Brian was attacked and killed. Yes, I said killed. Two years of reading or hearing one conspiracy theory after another. Seeing the testimony of the defense attorney explaining away the attack from these defendants as self-defense. It sounds almost humorous. Defending oneself from being attacked by USCP officers because the defendants were on the attack. It's been two years of hearing people of the same ilk as the

defendants try to justify what they did as righteous. Two years of hearing that Brian didn't die because of the attacks on January 6th, 2021, so his death does not matter. Two years of election deniers forgetting or conveniently ignoring the statement from the medical examiner's office that, "All that transpired on that day played a role in his condition."

The two defendants (I will not use their names as it humanizes them. Humans have names. Dogs have names. Pet rocks are given names. The two defendants are not worthy of having names or being addressed as such) came to Washington D.C. that day looking for a fight. They brought with them chemical sprays (plural). They were not there to be peaceful. What they did was not an accident. It was not a lapse of judgment. Make no mistake that what they did that day is who they are.

The only thing that surpasses my anger is my sadness. Sadness that the only time I can communicate with Brian is to speak into the nothingness and hope that he is listening. I am sad that I am now hyper aware regarding my surroundings hoping to see signs that he is still here. A price on a receipt with his badge number, A cardinal showing up at random, a blue and black butterfly that flies across my path. I stop when I see these things. I listen, I remember, I hope that he is OK, because I know that myself and my family are not.

Brian was never one for the spotlight. He preferred to go about his business, not bringing attention to himself. My family and I quietly smile at each other when we attend an event honoring and remembering Brian and the weather turns bad. We know it's Brian telling us that it is OK, he is OK, please don't make a big deal about me, take care of the others that need it. That's what he would have done.

Brian served in the NJ Air National Guard. He joined because, among other reasons, he could attain veteran's status and go on to serve as a police officer. He ultimately got to serve his country. As an airman and as an officer. That is all he wanted. His goal was never to be a hero. He was humble.

Brian and I bonded largely through our sense of humor. There was hardly a day that went by that we did not send a funny meme or gif to each other. No explanation needed. We both understood the humor, no matter how off-the-wall it was. Two years later, I still will see something that we both think we would find funny and reach for my phone. I stop. Angry and sad, I can't share that moment with him. There is no replacing the small moments like those. Friends that I have had for longer than one of the defendants has been alive wouldn't understand. Some of those same friends cannot talk to me because they just do not know what to say. So they just feel sorry for me and my family. Never comfortable to bring up anything that happened that day in

conversation. These are my closest friends. Friends that would do anything for me, as I would do for them. I can no longer have the usual conversations with my friends. They all walk on egg-shells, hoping not to have to breach this uncomfortable topic. It has changed relationships with people I have known over 40 years.

Brian is my "little brother" . He is seven years younger than me and 9 years younger than my older brother Craig. He would hang out with us as that little kid, but rarely was he a nuisance that would get in our way. He was looked after by his older brothers, as well as, his older brother's friends. He would quietly observe what we were doing, picking up a thing or two along the way. Craig would work on cars, Brian would pick up some knowledge. I would do whatever I would be doing, he would be happy just being there. We would, in our own brotherly way, look after him. When he became older, he would lean on us for advice from time to time. Eventually, we would do the same with him. I always admired his determination. We never really worried about him when he was on his own. We knew he was going to be OK.

One of the things most sought after when a family member loses a loved one is closure. However, for my family and myself, I believe that there will never be closure. Quoting author Stephen Grose, "Closure is delusive - it is the false hope that we can deaden our living grief." I will forever want to know "why". Why did these individuals do this? Why did they think that assaulting someone would make their lives better? How can you better your own life by attacking and taking the life of an innocent person? Why did they not look around and see that what they were doing was very wrong and walk away? I suspect it was indifference to someone else's life. Indifference is the same thing that stopped them from turning themselves in, instead of going about their lives like nothing had happened. Not worrying about what they did until they got caught. I cannot imagine living a life knowing that you attacked someone, getting caught, and then pleading not guilty until you got tired of sitting in custody. These morons were on video and they had the balls to plead not guilty. Once again. No remorse. The only remorse they had was getting caught.

Sometimes the only way to get closure is by accepting that you will never get it. However, I believe forgiveness for these two will never come from me. It would not bring me any closer to closure. In some way, in some form, I hope that the individuals that attacked Brian are constantly reminded of what they have done and that they are perpetually tortured by it, as I am.

I am in a constant state of anxiety now. Not something that ever affected me. I could always just jump into a new situation, because I knew that whatever the situation was, I could make the best out of it. The best way to explain how I have gone through life since the attack on Brian and his subsequent passing is

by quoting a T.V. show that focuses on the grief of losing a loved one. Comedian and actor Ricky Gervais in his show "Afterlife" explains perfectly how I am now going through life.

"I feel sad all of the time. I'm not the person I was...(Brian) dying is like I lost a large part of me. And all the good things, all of the happiness, the joy in anything. I feel like I'm nothing.

People think I'm OK. They think I'm moving on with my life. I'm my sarcastic self and that my sadness, my moodiness is the lapse. BUT IT IS NOT. This is me all of the time now. Everything else is ~~front~~ front. I'm not well, but I do remember what it was like to be normal...So, I do my best impression of that. But this is what I really am now.

I want to be normal again. I have tried (since Brian's death) to be positive. To put that face on. But it is just for show. That is to keep the people I love in a place so that they don't worry."

I continued on with my job as a manager at a retail store after Brian's death, but ultimately could not handle the normal stresses of retail. I used most of my savings and took 6 months off from work. Never to return to a job, that for the most part, I enjoyed. I excelled at customer service, now I just want to avoid people in general. I ultimately found a job that is largely stress free and the only people I have to interact with are my co-workers on rare occasions. It's just a job. A place holder. Just enough to pay my bills. I work 60 hours a week. My coping mechanism has become working so that I don't have to think about anything else. This leaves little time for myself or my family. For down time. For hanging out with friends. For going out on the town with my wife, who because I work so many hours, I see less than 1/3 of a day per week. I'm embarrassed to tell you that I cry at random moments, no warning. Luckily I am usually by myself when this happens.

There are triggers everywhere. A phrase that is uttered, a meme that comes across my social media, a scene in a movie or a T.V. show that I have to leave the room for or turn off. My wife constantly worries that something on the T.V. will trigger me and pausing and asking me if I'm OK before we continue watching. Politics used to be something to joke and complain about. Now it is a constant reminder of what happened to Brian that day.

I would like to share a quote that was provided by a member of a support group I now belong to. A group of other siblings who also lost their loved ones in the line of duty. We call ourselves the best family that you never want to be a part of. This quote reflects, how I believe, is how myself and others that loved Brian feel.

"The reality is that you will grieve forever. You will not "get over" the loss of a loved one; you will learn to live with it. You will heal and you will rebuild yourself around the loss that you have suffered. You will be whole again, but you will never be the same. Nor should you be the same, nor would you want to."

These two defendants, who grew up literally 10 minutes away from where Brian and I grew up. They have taken away my brother's future, as well as mine. Not only was Brian hurt, so were his family, his co-workers, his friends, his partner. My healing will consist of getting used to the pain, not overcoming it. Learning to exist while still being damaged. I suspect that goes for everyone else Brian came across in his life.

Judge, I ask that you consider these things when passing sentencing. One of the defendants, if given what was suggested, will still be free and still be younger than Brian was when he died. Meaning that he will be given another chance at life, something that cannot be said for Brian. The other defendant is asking for time served. Whatever the extenuating circumstances were to put him in that situation, please be reminded that he participated. He bought the chemical irritants that Brian was attacked with. He was part of the crowd that overwhelmed the police 58-1. He was not there by mistake.

It is well documented that extreme stress can cause blood clots that can lead to a stroke. Brian was a mountain bike officer, exercised, ate healthy. They may both be pleading for a lesser charge than homicide, but there is little doubt in my mind that their actions led to my brother's death.

I miss my brother dearly. I agonize everyday that my remaining sibling and my parents are doing OK. That his partner Sandra is OK. That his co-workers are OK. The United States Capitol Police are so busy taking care of my family, I wonder who is taking care of them. But there is no longer OK. It's just moving forward knowing that we will never get Brian back.

Respectfully,

Kenneth Sicknick

Nicholle Sicknick – Impact Statement

Nearly twenty-three years ago while putting myself through college, having lived for years in rented rooms, I went on a date with the most thoughtful, gentle man I knew. His name was Craig, we'd been friends for a year, and I was terrified. I was terrified because I loved him dearly, but also valued his friendship, and didn't want to risk losing it. I was terrified because he talked about his family, and without knowing them I knew they were good people, and where I come from, good people kept their distance from penniless nomads who lived in rented rooms and worked two jobs to afford both groceries and tuition. But I went on that date, anyway, being scared, because I knew Craig was a good person who knew where I came from and wanted to take me out anyway. A few weeks later I met his family, and I'm not sure they knew how to take me. Not many people did back then. I was suspicious, scrappy, and sarcastic, and didn't know how to act in a family, so I winged it. And they gave me a chance. They gave me a chance when many others didn't. They listened even when I was difficult to understand. They didn't always know if they were saying the right things; neither did I. But they opened their hearts and gave me a place. They welcomed me as family, and though I'd never felt settled in my life, eventually, here, I was. In time I found myself as much a member of the family as any of them - Craig, Gladys, Chuck, Ken, or Brian. After years of existing rootless and surrounded by callous indifference, I was for once surrounded by people who loved, valued, and protected one another. It was a tough adjustment, but I made it, and it made a difference in my life.

Then late morning on January 7, 2021, after I'd watched hours of mayhem on the news, my phone rang. It was Craig, and his voice was choked. His brother, my brother-in-law, Brian, had collapsed in his office. It made no sense, because Brian had texted the night before, shaken but in good spirits, having said nothing about being injured or feeling ill. My stomach turned. Brian had always been healthy. Why would he collapse? But Craig didn't know either. I waited hours for another call, and then it came. Brian had had two strokes, he was unresponsive, and his prognosis was grim. I asked my husband in disbelief if this meant Brian would die, and he frantically answered yes. After I heard myself scream, "Why?" the voices on T.V. slurred into the background and a fist clutched my throat. I sobbed on the floor for not sure how long. How could Brian die? He sounded fine yesterday. How could Brian die? He was only 42. How could Brian die? He was my friend. How could Brian die? He was an amazing person. How could Brian die? We all loved him. How could Brian die? He was only doing the right thing. My mind raced on but no answers came.

What followed was a blur. Reporters pounding the doors. Silencing my phone to stop all the ringing. Photographs of Brian flashing repeatedly on the TV until I turned that off, too. Crying. Then hearing my family crying. All of them. Crying in the bathroom till I threw up. Listening to my family crying some more. Listening to them scream at one another in confusion and rage. Blue and red lights, miles and miles of them, for hours. Sirens. More crying. Until I was physically ill from electrolyte loss. The sounds of everyone's voices turned unbearable because all I could hear in those voices was fear and loss. Then the sound of nobody knowing what to say for a long time. The silence was as maddening as the noise. Filling it with more crying. Till I was sick again. And asking why. But never getting an answer. Just angry voices and sad faces all around me. From people I'd never seen angry and sad in twenty years. Where I came from anger and sadness were all over, wherever you turned, but not in this family. What happened? There was once joy. There was once comfort. There was once laughter. There was once a sense of shelter. So many memories and moments were once cherished.

I was lucky to find a family who helped my heart to become better. And you, Mr. Khater, snuffed all that out with a spray can of chemicals. Just because you could. You took it away from us with your malice and hatred. Just because you could. Now, because of you, the comfort, the joy, the laughter, the safety, the memories, became drowned in rage and sadness and terror and tears. How could this happen?

Because of Hate. Your hate did this. The same hate that rallied thousands to take up arms against the nation that allowed their rights and freedoms, and attack that same nation and those who defended those very rights and freedoms. All because some malignant, self-important egomaniac told them to do so. Many times this has happened in history, the world over. Any American with basic knowledge of history knows - or should know - where this leads. And yet, American citizens like you, took it upon yourselves to brutally attack, maim, and kill, fellow Americans, because you fancied one man - one woefully misguided man - wished you to do it? When did it become okay to commit violent crime - or any crime - just because someone else wished it? Never. The S.S. officers on trial at Nuremberg learned this the hard way, and if there's any justice in the world, so will you.

What did my brother-in-law Brian - someone you'd never even met - ever do to justify your vicious abuse of him? He was here doing his job, protecting the people he'd sworn to protect, and for doing this, you felt he deserved to be attacked and sprayed with npoison? You didn't even belong in the Capitol. You were there for the sole purpose of destruction, and Brian died protecting the innocent from people like you. You destroyed Brian Sicknick, my brother-in-law and friend, because it suited your whims. You destroyed the hearts of every member of Brian's family, just because it suited your whims. An innocent man, a loving brother, and a good friend, and the hearts of the people who loved him, have been destroyed by you, just because it suited your whims. My, my, I hope that makes you proud of yourself.

Sandra Garza – Victim Impact Statement

Judge Hogan, thank you for allowing me to speak before you today and give my victim impact statement. This is something I have been waiting two years for and it means a lot to me that I am finally allowed to have my voice heard regarding the two defendants, Tanios, and Khater.

Since the insurrection and since Brian Sicknick's death on January 7, 2021, I have seen ZERO remorse from either defendant. I have not heard any statements of sorrow for participating in the insurrection, for assaulting my long-time partner of over 11 years or any statements from any of their family members. I find this reprehensible. I understand that their attorneys probably advised them not to make any statements regarding Brian, BUT from a place of humanity, this is not acceptable and disturbing. Expressing sorrow for the passing of someone to their loved ones is not an expression of guilt, but an expression of being human!! I know if I assaulted someone or participated in the planning of someone who was assaulted who later died, I would be filled with remorse, pain, and anguish. Clearly, these two defendants do not feel any empathy. Any sorrow they may feel is for themselves and the consequences they now face.

This is further demonstrated by their actions in the days leading up to January 6th and the day of. Both defendants went to great lengths to plan their attack on law enforcement with defendant Khater having full knowledge that defendant Tanios was going to a gun store to purchase items for the insurrection. Tanios originally tried to buy firearms, but when he was told that was not legal by the gun store manager still would not back down and tried to buy pepper ball guns. When that failed because he was told those weren't legal either, EXASPERATED, he settled on buying four cans of two types of bear spray. He knew FULL WELL bear spray is not meant for human beings. Bear spray is meant to take down over 650-pound grizzlies, yet he bought them intending to use them on innocent law enforcement officers.

Though there is no "proof" defendants Tanois and Khater used bear spray on Brian and the other officers, considering Tanios bought bear spray and Khater yelled, "Give me that bear shit" once they were in the crowd in Washington, D.C., a reasonable person can infer that was the chemical substance used on Brian.

Once Brian was sprayed in the face, he was incapacitated. Khater and Tanios thought nothing of the fact that approximately over 30,000 angry people were wanting law enforcement officer's heads and that while he was incapacitated, he could have easily been overpowered and rioters could have taken his gun. This angers me that even after he was sprayed in the face, they continued to stay in the crowd having no remorse for what just occurred. Further, after the dust settled and defendants Tanios and Khater left the grounds, for MONTHS they knew Brian had died, they knew they participated in the insurrection, and they did not turn themselves into the FBI. This shows a callousness and maliciousness that disgusts me.

Brian was such a wonderful, warmhearted, and caring person. He suffered and his life was taken from me. I love Brian and I miss him dearly. I cried myself to sleep most nights after his death. Just two nights ago, I was crying because I saw a movie on television we both loved and watched frequently.

After his death, which was so public, not one single person had anything negative to say about him. That's why it hurts me so much that defendants Tanios and Khater assaulted him. Had they gotten to know him, they would have liked him, and that is why it's very sad and very painful for me to accept what they did.

When he first died, I was disregarded by some in power because we weren't married, and I have been forced to minimize my own suffering. But we were together longer than some marriages last.

When you're talking about a death, a death is extremely stressful on an individual and on a family. The stress from January 6th has given way to a point of no return for many in law enforcement and their families. The stress has had a significant impact on our health and well-being. There are times when I have felt beaten down. Every day, I have to muster the strength to be a powerful voice for Brian. It's hard for me, and it takes its toll on my health and well-being. But I am willing to go the extra lengths to ensure justice for Brian. All individuals that participated in the insurrection need to be held accountable for their actions.

Prior to having fully processed all of this, I did have some empathy for defendants Khater and Tanios. I saw them as people who were brainwashed by our former President. Two young men who were fed lies and thought they were doing the right thing by America. As a clinical social worker, I know we are all shaped by genetics, early childhood experiences, adult life experiences, any trauma we have encountered and that some brains are more vulnerable to persuasion by charismatic characters in our world. However, as I reflected on everything, I realized I didn't see a shred of remorse, or sorrow or any attempts for them to make a statement through their attorneys or family members. It was then I realized they aren't sorry for their actions.

For this reason, Judge Hogan, I am asking for the maximum sentence you can impose. I realize it will not bring back Brian, nor give him peace in his last moments on earth, but it will give some sense of justice in my universe.

Thank you.