

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

\*\*\*\*\*

UNITED STATES OF AMERICA

Case No. 5:17- CR 00106-001(TWD)

GOVERNMENT'S SENTENCING  
MEMORANDUM

v.

JACQUELINE B. JONES,  
Defendant.

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The United States of America, by and through its counsel of record, the United States Attorney for the Northern District of New York, hereby files its sentencing memorandum requesting that the court sentence the defendant to a one-year period of probation, the first sixty (60) days of which to be served in prison, a fine in the amount of \$15,000.00 and a \$100 special assessment. The United States requests that the conditions of probation include a requirement that the defendant complete 250 hours of community service in addition to any other provisions the Court deems necessary.

**I**

**INTRODUCTION**

On August 18, 2017, the defendant will enter a plea of guilty to an information charging one count of Falsely Reporting an Incident in the Third Degree, in violation of 18 U.S.C. § 13 New

York State Penal Law Section 240.50(1). The defendant is scheduled to be sentenced immediately after she pleads guilty.

## II

### APPLICABLE STATUTORY AND GUIDELINES PROVISIONS

#### 1. Statutory Maximum Sentences

The defendant's conviction for Falsely Reporting an Incident in the Third Degree, in violation of 18 U.S.C. § 13 and New York State Penal Law Section 240.50(1), subjects the defendant to a statutory maximum term of not more than one year's imprisonment, pursuant to New York Penal Law Section 70.15(1); a maximum term of supervised release of up to one year, *see* 18 U.S.C. § 3583; and a fine of \$ 100,000.00. *See* 18 U.S.C. § 3571

#### Guidelines Provisions

##### a. Plea Agreement

The parties agree that the base offense level is 6, pursuant to U.S.S.G. § 2X5.2.

The government will recommend a 2-level downward adjustment to the applicable federal sentencing guidelines offense level pursuant to U.S.S.G. §3E1.1(a) if, (i) through the time of sentencing, the government is convinced that the defendant has demonstrated "acceptance of responsibility" for the offense(s) to which the defendant is pleading guilty and all relevant conduct, as defined in U.S.S.G. § 1B1.3; and (ii) the government does not determine that the defendant, after signing this agreement, committed any other federal, state, or local crimes, or engaged in conduct that constitutes "obstruction of justice," as defined in U.S.S.G. §3C1.

**d. Criminal History Category**

According to the presentence report, the defendant's criminal history category is I. The government *agrees* with the Probation Office's determination of the defendant's criminal history category.

**e. Guidelines Range and Sentence**

As described above, the combined offense level is 4 and the criminal history category is I. This is *consistent* with the calculations in the presentence report. As a result of the above-described calculations, absent any departures, the federal sentencing guidelines advise that the defendant receive a sentence of zero to 6 months imprisonment; a fine of \$250 to \$5,000; and a supervised release term of up to one year.

**III**

**GOVERNMENT'S SENTENCING RECOMMENDATION**

Based on all of the information before the Court, the government respectfully requests that the Court sentence the defendant to a one year term of probation, the first sixty (60) days of which should be served in prison, a fine in the amount \$15,000.00 and a \$25 special assessment. The United States requests that the conditions of probation include a requirement that the defendant complete 250 hours of community service in addition to any other requirements the Court deems necessary. The sentence that the government recommends here is sufficient, but not greater than necessary to comply with the sentencing purposes in 18 U.S.C. § 3553(a)(2).

The defendant's commission of this crime is offensive in the extreme. On February 20, 2015 she placed a call to *The Children's Beginnings Daycare Center* on the first floor of the James

Hanley Federal Building in Syracuse, NY during which she advised that there was a bomb in the Federal Building (PSR paragraphs 5-9). She could have chosen any federal agency or office in the Hanley Federal Building to convey this threat, including several law enforcement agencies (U.S. Secret Service, U.S. Probation, U.S. Bureau of Alcohol, Tobacco, Firearms & Explosives, U.S. Marshals, Social Security-Office of Inspector General and IRS-Criminal Investigations). Instead, she chose a private daycare provider with the obvious intent to sow the maximum fear and response in order to achieve her goal of disrupting all business in the Federal Building, including that of United States District Court, and thereby avoiding a contentious court appearance. The personnel at the daycare center were suitably terrified, as is demonstrated by their letter (PSR paragraph 10). The defendant, a lawyer for twenty years and partner in a large and prestigious law firm, attempted to cover-up her crime by writing and filing a letter to the Court (U.S.M.J. D.N. Peebles) containing false information about the reasons for her failure to appear (PSR paragraph 6). In making the threatening call, the defendant used a public telephone at the Amtrak Train Station in Syracuse (PSR paragraph 6). Notably, the defendant apparently told nobody of her actions and continued in her practice of law until contacted by an FBI Task Force officer on August 3, 2016 (PSR paragraph 8). The defendant's false report of a bomb in the federal building affected up to 600 people, including an estimated 70 pre-school age (infant to 5 years of age) children and their parents who took them away (PSR paragraph 9).

These actions and the provisions of Title 18, United States Code, Section 3553(a) suggest that a sentence that includes imprisonment is appropriate. Such a sentence will reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the

offense. The defendant was uniquely aware, by virtue of her legal training, experience and education, that her act was illegal and she intended it to disrupt operations in the federal building and thereby relieve her of an inconvenient and stressful court appearance. The defendant put her private goal above the law and the peace of mind of hundreds of people, including small children and their parents. She had to have been aware that federal buildings have previously been the target of violence and terrorism, including the 1995 bombing of the federal building in Oklahoma City, which also included a daycare center. She took steps to avoid being detected and she did not report to the Court the true facts of her nonappearance as scheduled in a proceeding until she was confronted by an FBI Task Force Officer.

The defendant offers that she committed this crime as the result of a stressful circumstance. This is not an excuse or even an explanation that the Court should consider. The stresses described by the defendant in the Presentence Report are of the kind experienced by people and lawyers routinely. They are not insubstantial but neither are they at all unusual. As this Court knows, the practice of law can at times be stressful, especially when coupled with the normal burdens of life and family. However, it is clear that her commission of this crime cannot be justified, explained or rationalized by anything in the record of this case. For this reason, it is essential that the defendant remain under the supervision of the Court so her behavior can be monitored and any special conditions be adhered to and completed. Defense Counsel has suggested that the background of the defendant indicates that this crime was an aberration in an otherwise law-abiding life, and this may be true. That being the case, the safety of the public requires that she be supervised for a period. Prior to her commission of this crime, nobody would have predicted that

she would do something remotely like it. It defies explanation and for this reason, the Court should supervise her through a one-year term of probation as her past actions defied prediction.

Under no circumstances should the Court treat the defendant as a “victim” for she is not. By virtue of her status as a licensed professional, she has already experienced consequences from her actions. However, these consequences were all known risks to the defendant when she committed this crime. A sentence that includes 60 days in jail will be a deterrent to others and will promote respect for the law, lest the community at large feel that the defendant received preferential treatment that would not be available to a non-lawyer defendant.

The Court should impose a fine in the amount of \$15,000.00 The Presentence report makes clear that the defendant possesses more than adequate financial resources to pay a fine in this amount (PSR paragraphs 42-47). The Presentence Report notes at paragraph 62 that:

The Court may want to consider an upward departure from the applicable fine guideline range, as the harm and loss (e.g., government expenditures to investigate the bomb threat and harm to building occupants) were not adequately taken into consideration in determining the guideline range. See U.S.S.G. §5K2.0(a)(2). Additionally, a greater fine may be appropriate pursuant to U.S.S.G. §5K2.7, Disruption of Governmental Function. According to the fine guideline at §5E1.2(d), the Court should consider, among other factors, the need for the combined sentence to reflect the seriousness of the offense (including harm or loss), to promote respect for the law, to provide just punishment, and to afford adequate deterrence. The amount of the fine should always be sufficient to ensure that the fine, taken together with other sanctions imposed, is punitive. According to Application Note 1 of §5E1.2, a fine may be the sole sanction if the guidelines do not require a term of imprisonment. If, however, the fine is not paid in full at the time of sentencing, it is recommended that the court sentence the defendant to a term of probation, with payment of the fine as a condition of probation.

A fine in the amount \$15,000.00 would fulfill both the spirit and letter of the provisions of Title 18, United States Code, Section 3553(a). The defendant’s conduct certainly warrants a financial sanction at this level and the paltry amount suggested by the Sentencing Guidelines does

not take into account the egregious conduct engaged in by the defendant in the commission of this crime or her substantial economic resources.

In the same fashion, the Court should require the defendant to complete 250 hours of community service. This penalty would also act as a deterrent to others and provide for the defendant give back something to the community at large. Her actions disrupted the lives of many people and it seems fair that the sanctions for her conduct include her doing something for others in the form of community service.

“[I]n the ordinary case, the Commission’s recommendation of a sentencing range will ‘reflect a rough approximation of sentences that might achieve § 3553(a)’s objectives.’” *Kimbrough v. United States*, 552 U.S. 85, 89 (2007); *see, e.g., Gall v. United States*, 552 U.S. 38, 46 (2007) (Guidelines are “the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions”). Moreover, within-guidelines sentences promote Congress’s goal in enacting the Sentencing Reform Act – “to diminish unwarranted sentencing disparity.” *Rita v. United States*, 551 U.S. 338, 354 (2007).

Based on all of the information before the Court, the United States respectfully requests that the Court impose a sentence consistent with the federal sentencing guidelines, except as noted herein. Under the facts present here, such a sentence will be sufficient, but not greater than necessary to comply with the sentencing purposes in 18 U.S.C. § 3553(a).

### **Conclusion**

This is an unusual case and one which requires the Court to exercise its discretion in

formulating a sentence that meets the statutory requirements of Title 18, United States Code, Section 3553(a) as well as being fair and just to the defendant and the victims of her crime. The United States urges the Court to impose the sentence suggested herein, which is believed to balance those interests within the bounds of the law.

Respectfully submitted this 15th day of August 2017,

Grant C. Jaquith  
Acting United States Attorney

By: \_\_\_\_\_  
Richard Southwick  
Assistant United States Attorney  
Bar Roll No. 506265