IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
v.	:	**CRIMINAL NO. 08-450-1**
CHRISTOPHER WRIGHT	:	

GOVERNMENT'S SENTENCING MEMORANDUM

The United States of America, by Michael L. Levy, United States Attorney for the Eastern District of Pennsylvania, and Michael J. Bresnick and Jennifer Arbittier Williams, Assistant United States Attorneys, respectfully submits this Sentencing Memorandum to assist the Court in sentencing the defendant on August 10, 2009.

I. INTRODUCTION

A federal jury of Christopher Wright's peers has declared loudly and unmistakably that he has violated the public's trust by depriving it of his fair, honest, and impartial services as a public employee. The jury's verdict was the deliberate response to weeks of evidence that demonstrated that Wright allowed himself to be the personal "public servant" of Ravinder Chawla and Andrew Teitelman, a powerful real estate developer and his general counsel. Wright's price was a free apartment, free parking, free legal services, and a $1,000 check, the total value of which was more than $20,000. In return, Wright provided Chawla and Teitelman with unfettered access to his public office and, ultimately, assistance in public matters that were of great consequence and value to them. The River City matter, alone, was worth between $33 million to $42 million to Chawla and Teitelman. In bribing Wright, who gladly accepted their largesse, they bought access to the public process that was unavailable to the

average citizen. And Wright, in return for the bribes he enjoyed for more than one year, made certain that the needs of his benefactors always were well attended.

The citizens of Philadelphia and all who visit and do business here must be satisfied that this sort of "business as usual" that has become a hallmark of City politics of late will not be countenanced. Only a sentence at the top of the applicable Guideline range, discussed in more detail below, adequately will deter public officials and those who would bribe them from continuing this cycle of corruption. The Court must send a clear and unequivocal message that public corruption and the insidious effect it has on an otherwise law-abiding society will be met with fair but harsh treatment. See United States v. Spano, 411 F. Supp. 2d 923, 940 (N. D. Ill. 2006) ("Unlike some criminal justice issues, the crime of public corruption can be deterred by significant penalties that hold all offenders properly accountable.").

II. SENTENCING ISSUES

A. Guidelines Calculations

The PSR has calculated Wright's total offense level as 18 (PSR ¶ 35) and his criminal history category as I (PSR ¶ 41). This calculation results in a Guideline range of 27-33 months (PSR ¶ 75). The Probation Officer, however, made several critical errors that resulted, ultimately, in this erroneous Guideline range, which the government will now address:

1. Paragraph 17

The PSR indicates that the defendant occupied the apartment at 2000 Delancey Street, Apt. 3W, until May 18, 2007, without paying rent. In fact, the defendant did not move out of the apartment until at least August 2007. Therefore, he lived at the Delancey Street apartment rent-free for at least fourteen months (June 2006 to August 2007). See Trial Day 11,

pages 13-15. In addition, the PSR indicates that the value of the apartment was $1,200 per month. In fact, the testimony of Colin McCann, the property manager for the building at the time the defendant first moved in the apartment, was that the value for that apartment was $1,500 per month. See Trial Day 3, pages 152-153. Accordingly, the value of the gift to Wright was at least $23,100 ($1,500 (value of apartment) times 14 (months), plus $150 (value of parking) times 14 (months)). Moreover, even if the value of the apartment was $1,200 per month (the previous rent paid for that apartment before the defendant moved in), the total value of the gift to the defendant was at least $18,900 ($1,200 (value of apartment) times 14 (months), plus $150 (value of parking) times 14 (months)).

2. Paragraph 27

The PSR gives a two-level enhancement for more than one bribe, under U.S.S.G. § 2C1.1(b)(1), but failed to list the $1,000 check to Wright as a bribe. That should be included as well. Count One charged the $1,000 check as a bribe and the defendant was convicted of Count One. Although the government understands that the defendant was acquitted of bribery in Count Fourteen, charging a violation of 18 U.S.C. § 666, that count has separate and distinct elements from those necessary for Count One. Just by way of a simple example, the jury could have concluded that the bribe did not involve anything of value of $5,000 or more, an essential element in order to prove a violation of § 666. To the contrary, there is no such requirement for conspiracy to commit honest services fraud, as charged in Count One. Accordingly, since the defendant was convicted in Count One, and the $1,000 was charged as a bribe in Count One, it is a mistake to exclude that as one of the bribes the defendant received. Moreover, the free parking space should be considered distinctly from the free apartment Wright received. Each had its own

value. Therefore, the bribes to Wright included the following: (1) the free apartment; (2) the free parking space; (3) the free legal services; and (4) the $1,000 check.

3. Paragraph 28

For the reasons explained above, the value of the Delancey Street apartment (and parking) was at least $18,900 (when using the $1,200 per month value of the apartment), and at least $23,100 (when using the $1,500 per month value). In any event, since the value of the apartment and parking vastly exceeds $10,000 (this does not even include a valuation of the free legal services Wright received), a four-level enhancement in offense level is appropriate under U.S.S.G. §§ 2C1.1(b)(2), 2B1.1(b)(1)(C). Moreover, this calculation grossly understates the value of the benefit Ravi Chawla and Andrew Teitelman received. Guideline Section 2C1.1(b)(2) tells the Court to consider not just the value of the payment, but the value of "the benefit received or to be received in return for the payment, the value of anything obtained or to be obtained by a public official . . ., whichever is greatest . . . ." Therefore, the Court could consider not just the value of the gift provided to the defendant Wright, but the value of what Wright did for Chawla and Teitelman. Of course, "intended loss," as defined in U.S.S.G. § 2B1.1 application note 3(A)(ii), makes it clear that the Court should consider "the pecuniary harm that was intended to result from the offense . . . ." The evidence at trial revealed that the defendant undertook many significant actions for Ravi Chawla and Teitelman, the intended value of which was in the tens of millions of dollars. For example, the mechanical parking legislation, the proposed purchase of property from the Philadelphia Parking Authority, and the River City issues all were worth well in excess of the range of loss attributable merely to the free apartment and parking space. The River City issue alone, with the attendant height restriction proposed by

City Councilman Darrell Clarke, was worth from $33 million to $42 million to Chawla. See Government's Exhibit 141. Therefore, the government's calculation of the loss amount is exceedingly conservative. Moreover, for the same reason, the government objects to the characterization in this paragraph that "Chawla did not receive any benefit from the offense . . . ." This is plainly incorrect, which the jury found by its conviction. Although Chawla ultimately was not successful in his opposition of the height restriction in River City, he received substantial assistance from Wright as a result of the bribes paid. In any event, it is simply absurd to value the free apartment and free parking Wright received as nil, as the PSR indicates in this paragraph.

4. Paragraph 29

This paragraph failed to award a four-level enhancement in offense level under U.S.S.G. § 2C1.1(b)(3). Specifically, the PSR stated that defendant Wright was not a public official in a high-level decision-making or sensitive position. This is an error. As Councilman Jack Kelly testified at the trial, the defendant, as his chief of staff, was like an "assistant councilperson." Councilman Kelly's trial testimony (Tr. Day 5, at pages 84-85) was as follows:

> Q Can you just explain for the jury what his duties were, as your Chief of Staff?
>
> A Yes. Well, a chief of staff is really, you might say, the **assistant council person**, because when I'm not there, he would, of course, handle the entire staff. He would make sure they were doing their jobs. He, also, of course, would from time to time, get direct -- direct the person who was going to handle each problem. If there was some complex problems, then he would, of course, call me, but he was also -- be able to handle them himself.

Q Did you consult with Mr. Wright regarding upcoming votes and what your positions would be?

A Yes, mm-hmm.

Q And did you rely on him to bring you accurate information with regard to those matters?

A Yes.

Q Did you ever ask for his opinion regarding what your position on an issue should be?

A Yes, mm-hmm.

Further, Holly Maher, a legislative assistant within Councilman Kelly's office, testified (Trial 2/3/09, at page 87) about Wright's duties in the office as follows:

Q And in fact did you consider him as sort of your boss?

A Him and the Councilman, yes.

Q Right, okay. And you reported to whom?

A To Chris and the Councilman.

Q And could you tell what Christopher Wright's responsibilities were as chief of staff in the office?

A Pretty much anything that Councilman asked, a little bit of everything, he was in charge of overseeing everything.

Q Kind of a right-hand man?

A Yes.

Application note 4(A) states that an enhancement under this section is appropriate for someone who had "substantial influence over the decision-making process." As an "assistant councilperson," defendant Wright certainly had such influence. See, e.g. United States v. Mills, 208 F.3d 216, at *3 (6th Cir. 2000) (unpublished opinion) (holding that the chief deputy sheriff "unquestionably" qualified for an enhancement as a high-level decision-maker under USSG § 2C1.1(b)(3)'s predecessor section 2C1.1(b)(2)(B) because he ran the day to day operations of the sheriff's department and operated as the sheriff's "right hand man"); see also United States v. Box, 50 F.3d 345, 358 (5th Cir. 1995) (chief deputy sheriff deserved enhancement); United States v. Rivera-Rangel, 2007 WL 670531, at **1-2 (D.P.R. Feb. 28, 2007) (applying enhancement to assistant to governor who could "expedite matters for contractors" and "arrange meetings" between officials; in addition, people believed that when she made calls they were made on behalf of the governor, noting that it was "irrelevant" that she lacked ultimate authority to affect government business). Notably, in United States v. Tomblin,46 F.3d 1369, 1391 (5th Cir. 1995), the Fifth Circuit Court of Appeals upheld the enhancement for the top administrative aide of a United States Senator by observing that "[a] senator's top administrative aide holds a position of substantial influence, because he often serves as the senator's functional equivalent." Id. *(citing Gravel v. United States,* 408 U.S. 606, 616-17, 92 S.Ct. 2614, 2623, 33 L.Ed.2d 583 (1972) ("[I]t is literally impossible . . . for Members of Congress to perform their legislative tasks without the help of aides and assistants; . . . the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latter's alter egos . . . ."')). As an assistant councilperson, Chris Wright held similar influence over Councilman Kelly's office.

Indeed, the mere fact that Wright would sign off assorted e-mails with the tag-line, "Chris Wright, Chief of Staff to Jack Kelly's Office" (Exhibit 96), "Chris Wright, COS to Councilman Kelly" (Exhibit 61), or "Chris Wright, Chief of Staff to Councilman Kelly's Office" (Exhibit 90) demonstrates that Wright himself attributed a substantial degree of importance to his position within the office and influence over his boss. Further, in the following Government Exhibits the Court saw during trial, it is clear that not only did Wright view himself as having a substantial influence over the councilman's office, but others did as well:

- Government Exhibit 95--James Rappaport, an urban planner, sent Wright an e-mail regarding mechanical parking in which he noted, "Chris, Following our discussion on Monday, I prepared this draft of a letter you might want to send to Councilman Kelly's colleagues in City Council." Wright clearly was considered as a man having substantial influence over Councilman Kelly's office.
- Government Exhibit 110--Rappaport recounted his "recent phone conversation" with Wright in which he told Wright he wanted to "begin a direct dialogue with someone in Philadelphia Government" who could help him and Ravi Chawla with River City. Rappaport also noted that Ravi wanted to keep this project a secret for the time being and that "we have had no direct contact with any elected official until this email to you." Surely such sentiments would only be meant for someone of great importance and influence like Wright.
- Government Exhibit 144--Wright wrote to Ravi Chawla that "[I] wanted to remind you that you need someone to contact and monitor City Planning efforts on creating the new zoning for the Logan Square community. We need to

propose our views to them. . . . My role as Jack's Chief of Staff should be to keep City Planning's focus on what river city will be bring to the Philadelphia tax base/economy for the next twenty years." (emphasis added). Wright's statement here is clearly an admission that the enhancement applies.

- Government Exhibit 140--after Ravi Chawla had been told by his real estate lawyer that the height ordinance would decrease the value of Chawla's property by 75%, Chawla e-mailed Wright to "please call Andy or me ASAP." Chawla would not have sent such an email to someone of little consequence.
- Government Exhibit 431-- after Ravi Chawla sent an e-mail to Teitelman and Wright, among others, telling them they need to attend an event Councilman Clarke, author of the height ordinance, was planning to host, Teitelman wrote, "Ravi: I will definitely go. We should buy several tickets for this. I will arrange for Chris Wright to be there and possibly Councilman Kelly as well." Thus, it seems that Teitelman was among the list of people who viewed Wright as having such authority and influence within Councilman Kelly's office that he would ensure Wright was present at an event for the councilmember who was authoring the critical height ordinance.

It was, quite simply, a critical mistake for the PSR to place any emphasis on the relative influence Councilman Kelly may or may not have in City Council as an At-Large Member, and Wright's concomitant influence over Councilman Kelly's office. This is not the decisive factor. All city councilmembers are elected officials with the power to sit on committees, raise public awareness as to specific issues of importance to them, propose

legislation, and, of course, vote on legislation, regardless of the relative influence he or she might have in City Council. As Councilman Kelly's chief of staff, Wright had substantial influence over those functions and deserves the enhancement under U.S.S.G. § 2C1.1(b)(3) that the Probation Officer denied.

5. Paragraph 89

This paragraph claims there was a "lack of a clear harm to Philadelphia residents . . . ." This finding demonstrates a complete lack of understanding of the crime of honest services fraud. The evidence demonstrated, and the jury confirmed by their verdict, that Wright was bought and paid for with valuable gifts and services, all in order to have him be Chawla's and Teitelman's personal public servant in City Government. In short, Wright deprived the citizens of Philadelphia of Wright's fair, honest, and impartial services as a public employee. Public officials should not have their judgment and actions influenced by private financial gains. Sadly, Wright did. Moreover, the paragraph's statement that Wright's deteriorating marriage, financial strains, and alcoholism appeared to have "affected his judgment" is not based on the record at trial. The jury rejected this defense, which was proffered by defense counsel for more than a month during the openings, the testimony, and, indeed, the closing arguments. The jury rejected this by its verdict of guilty on Count One. Wright's judgment was affected by the bribes he was receiving. Last, the mere fact that the defendant was acquitted of several substantive counts is meaningless. It is impossible to divine the intent of the jury. It could have been that they did not think the particular e-mails charged were in furtherance of the fraud charged. It could have been that they did not believe that the government proved the e-mails were sent in interstate commerce. We simply cannot tell. On the other hand, we know Wright was convicted of the

conspiracy, which charged that Wright assisted Chawla and Teitelman by conducting a variety of official actions in exchange for the bribes. The PSR should account for this.

6. Paragraph 90

For reasons previously articulated, the government objects to this paragraph as well. Councilman Kelly had a vote in City Hall. His vote counted as much as any other councilmember's. It is simply wrong to claim, as this paragraph does, that Wright's crimes, for which he has been convicted, are less serious because Councilman Kelly was an At-Large member of Council with, perhaps, "less clout" than other councilmembers. The public deserved to have its public officials working diligently for them, unaffected by personal financial gain. Wright abused his position and deprived the citizens of Philadelphia of his honest efforts. In particular, the government objects to the following sentence: "The efforts of a conflicted, and at times desperate, assistant, perhaps seeking favor with wealthy businessmen, do not equate with the harm posed by a corrupt elected official neglecting the office for personal gain." First, the use of the word "perhaps" plainly ignores the jury's verdict. There is nothing ambiguous about what Wright did. The jury found, by a reasonable doubt, that Wright sold his office. Second, Wright did more than simply try to "seek[] favor with wealthy businessmen . . . ." He violated the public's trust in public officials. Again, the jury told us that by its verdict.

7. Paragraph 91

The defendant's alcoholism is not a mitigating factor. Wright was not guided by his alcoholism. He was lured by the bribes. The government objects to this paragraph to the extent it implies his alcoholism has anything to do with his crimes.

8. Paragraph 92

The government objects to the characterization of the loss to Philadelphia residents as "negligible." The government further objects to an downward variance based on the jury's acquittal on certain substantive counts. As stated before, we cannot divine the intent of the jury by this verdict.

If the Court were to enhance Wright's offense level by 4 pursuant to U.S.S.G. §§ 2C1.1(b)(2) and 2B1.1(b)(1)(C) based on the value of the bribes he received as more than $10,000, and by 4 levels pursuant to U.S.S.G. § 2C1.1(b)(3) because Wright was a public official in a high-level decision-making position, then his total offense level would be 26. Based on that calculation, his final Guidelines range would be 63 to 78 months.

9. Obstruction

It should be noted that the Probation Officer has decided that Wright deserves a two-level enhancement for obstruction under U.S.S.G. § 3C1.1 for his perjurious testimony during trial. The government agrees that this enhancement is proper.

Perjury at trial such as that committed by Wright calls for a two-level enhancement under U.S.S.G. § 3C1.1. That provision states:

> If (A) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and (B) the obstructive conduct related to (I) the defendant's offense of conviction and any relevant conduct; or (ii) a closely related offense, increase the offense level by 2 levels.

Application note 4(b), as part of a non-exhaustive list of conduct covered by this guideline, includes "committing, suborning, or attempting to suborn perjury . . . ."

In United States v. Dunnigan, 507 U.S. 87 (1993), the Court upheld this guideline against an allegation that it impermissibly chills the right to testify at trial. The Court stated:

> It is rational for a sentencing authority to conclude that a defendant who commits a crime and then perjures herself in an unlawful attempt to avoid responsibility is more threatening to society and less deserving of leniency than a defendant who does not so defy the trial process. The perjuring defendant's willingness to frustrate judicial proceedings to avoid criminal liability suggests that the need for incapacitation and retribution is heightened as compared with the defendant charged with the same crime who allows judicial proceedings to progress without resorting to perjury.

Id. at 97-98.

Once the district court determines that a defendant has obstructed justice, or has attempted to do so, the two-level enhancement is mandatory. United States v. Williamson, 154 F.3d 504, 505 (3d Cir. 1998). The Supreme Court has held that the familiar definition of perjury is applicable with respect to Section 3C1.1: "A witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory." United States v. Dunnigan, 507 U.S. 87, 94 (1993). The Court added:

> Of course, not every accused who testifies at trial and is convicted will incur an enhanced sentence under § 3C1.1 for committing perjury. As we have just observed, an accused may give inaccurate testimony due to confusion, mistake, or faulty memory. In other instances, an accused may testify to matters such as lack of capacity, insanity, duress, or self-defense. Her testimony may be truthful, but the jury may nonetheless find the testimony insufficient to excuse criminal liability or prove lack of intent. For these reasons, if a defendant objects to a sentence enhancement resulting from her trial testimony, a district court must review the evidence and make independent findings necessary to establish a willful impediment to or obstruction of justice, or an attempt to do the same, under the perjury definition we have set out. . . . When doing so, it is preferable for a district court to address each element of the alleged perjury in a separate and clear finding. The district court's determination that enhancement is required is sufficient, however, if, as was the case here, the court makes a finding of an obstruction of, or impediment to, justice that encompasses all of the factual predicates for a finding of perjury.

Id. at 95.

The facts underlying a sentencing enhancement need only be proven by a preponderance of the evidence. United States v. Miller, 527 F.3d 54, 60 n.5 (3d Cir. 2008). The

fact that a jury disbelieved the defendant is not alone sufficient, United States v. McLaughlin, 126 F.3d 130, 140 (3d Cir. 1997), but is certainly relevant. In Dunnigan, the Supreme Court upheld the imposition of an obstruction enhancement where a district court stated:

> The court finds that the defendant was untruthful at trial with respect to material matters in this case. The defendant denied her involvement when it is clear from the evidence in the case as the jury found beyond a reasonable doubt that she was involved in the conspiracy alleged in the indictment, and by virtue of her failure to give truthful testimony on material matters that were designed to substantially affect the outcome of the case, the court concludes that the false testimony at trial warrants an upward adjustment by two levels.

Dunnigan, 507 U.S. at 91. The Supreme Court reviewed the record and found, "given the numerous witnesses who contradicted respondent regarding so many facts on which she could not have been mistaken, there is ample support for the District Court's finding." Id. at 95.

Likewise, the Third Circuit has routinely affirmed the application of the obstruction adjustment for perjury at trial. See, e.g., United States v. Gricco, 277 F.3d 339, 362 (3d Cir. 2002) (district court properly imposed obstruction enhancement for perjury because defendants denied any involvement in conspiracy and jury found defendants guilty); United States v. Fiorelli, 133 F.3d 218, 221 (3d Cir. 1998) (district court properly imposed obstruction enhancement for false testimony during trial); United States v. Boggi, 74 F.3d 470, 478 (3d Cir. 1996) (district court's obstruction enhancement was appropriate where it stated: "I don't see how, in view of his flat denials and the jury's conviction, that you can find otherwise than that he testified falsely on the stand."). Cf. Miller, 527 F.3d 54 (obstruction enhancement was not warranted based on answer to a single, ambiguous question).

In this case, a finding of perjury is inescapable. Wright did not evince any confusion, mistake, or faulty memory on the stand, but rather, on point after point which was central to the charges against him, testified in marked contradiction to the overwhelming

documentary evidence and to the testimony of witnesses. The jury, in finding Wright guilty on the conspiracy count, decisively rejected his testimony and credited the opposing evidence.

The government provides below with a list of several areas where Wright testified untruthfully. This list is not exhaustive, but amply provides the Court with a sufficient basis upon which to award a two-level enhancement for obstruction:

General

Direct Exam by Wright (2/9/09, Page 96)

Q Mr. Wright, did you sell your office?
A No.
Q Did you cheat the people of Philadelphia?
A No.

By its verdict, the jury concluded that these self-serving statements were lies. The Court could conclude the same.

Delancey Street Apt.

Direct by Wright (2/10/09, Page 139)

Q When you first started staying at the Delancey apartment, what condition was it in?
A Nothing really worked. It was just really -- I mean the kitchen wasn't functioning, the stove didn't work. You couldn't use the kitchen sink because if you did run water in it, it would never go down. The shower didn't work. It was just a place that you knew, as soon as you walked in you knew that you didn't want to stay there. You couldn't visualize being there for a long time.

This testimony is flatly contradicted by Colin McCann, who worked for the management company for the Delancey Street apartment. McCann testified that at the time Wright moved in, all that was needed was a fresh coat of paint and some general work. Wright clearly was trying to argue, and did argue to the jury, that the apartment was not a gift because it was in such bad condition. This was a lie.

See McCann testimony, 1/29/09, at pages 101-104:

Q At the time the building was sold in June of 2006 are you aware of whether the building had heat?
A Yes.
Q Did it have heat?
A Yes, it did.

Q Did it have hot water?
A Yes.
Q Did you have the opportunity to be inside the building in early 2006?
A Yes.
Q Did you see Apartment 3W at the time?
A Yes, I did.
Q And is that one of the apartments that was being rehabilitated or one of the apartments that had been recently vacated?
A That was had been recently vacated.
Q So there had been a tenant recently in there?
A Mm-hmm, yes.
Q And when you went into the apartment was it vacant?
A It was vacant.
Q Did you see any structural problems with Apartment 3W?
A No.
Q Did you see any rats crawling around on the floor?
A No.
Q Any broken windows?
A No.
Q As a property manager was the apartment habitable?
A Yes.
Q Are there any mailboxes in the building 2000 Delancey Place?
A Yes.
Q And where, where are the mailboxes located?
A It's in between the front door and the vestibule door to the property.
Q Okay. While you were managing that property did any tenants complain to you about problems with the mailbox?
A No.
Q Did any postal delivery person complain to you about problems with the mailbox?
A No.
Q Now was there a tenant in the building who at one point complained about mice?
A Yes.
Q And what floor was that tenant?
A It was the first floor.
Q And as a property manager is that a typical or atypical complaint of a first floor tenant in a center city apartment?
A It's a typical complaint.
Q Okay. And what did Walter Wood do upon receiving that complaint?
A We sent an exterminator out to the first floor unit and to the basement.
Q And were these mice or rats that were complained of?
A Mice.
Q Okay. Now are you aware of any code violations that were happening at 2000 Delancey while you were managing the property?
A No, I'm not.

Q The apartments that were being rehabilitated, had they been declared uninhabitable or were there code violations on them?
A No, they were not in that kind of condition.
Q So who makes the decision that they should be rehabilitated?
A I, I had made the decision that they needed to have upgrades done to them before we could rent them again.
Q And why is that, is that because of a code violation, why was that?
A No, just because of the condition that when the prior tenants left they weren't in the best of condition, needed paint jobs, needed a fresh look, new kitchens needed to be installed.

On PPA

Direct by Wright (2/10/09, pages 29-30)

Q Okay. Let's look, please, at Government Exhibit 158.
(Pause.)
MS. MATHEWSON: If you could highlight the bottom portion, please, Kim, the e-mail from Christopher Wright?
BY MS. MATHEWSON:
Q You're e-mailing Ravi and you say, "Pick up the RFP on Wednesday," you tell him where it's available.
A Mm-hmm.
Q You say, "The party must sign in." And then you say, "It would not be a good thing for me to sign for this RFP." Do you see that?
A Yes.
Q What did you mean by that?
A I just meant that it made more sense for him to pick it up, he's going to be the guy doing the bidding, you have to sign in. Also, I didn't want to get involved in offering to run, you know, a deposit check over there. So, it just made more sense for him to pick it up. I wasn't against picking it up, I just thought it would make more sense for him to pick it up.
Q Okay. You mentioned signing it; did you know the purpose of the sign-in sheet?
A It was to identify the applicant and how to get a hold of them. So...
Q So, would it have made sense for you to be the ongoing contact person --
A No --
Q -- listed on that sign-in sheet?
MR. BRESNICK: Objection to the leading, your Honor.
THE WITNESS: -- it wouldn't have made any sense.
THE COURT: Yes, it's a leading question, please rephrase.
BY MS. MATHEWSON:
Q Would -- well, if your name had been listed on the sheet as the contact person, what would have happened?
A They would have been contacting me.
Q And would that have worked well?
A It would have confused the situation. I mean, any correspondence should be forwarded to World Acquisition, not to Jack Kelly's office.

Q Okay. And, if you had gone in person, would you have had to pay the fee?
A Yes.

Wright's explanation for the reason he told Ravi Chawla to pick up the RFP was a lie. In Government Exhibit 158 he said, "Ravi, I advise you to pick up the RFP on Wednesday. It will be available at PPA, 31st and Market Streets. **The party must sign in and this will be public record. It would not be good thing for me to sign for the RFP so you should do it or someone from World should do it.**" (emphasis added). In an effort to avoid the import of this email, which clearly demonstrates the conspiratorial relationship between the two, Wright told the jury he picked up the RFP simply because "it made more sense for him to pick it up." This was a lie, as demonstrated during the subsequent cross-examination, from pages 136 to 137:

Q All right. Now, let's look at Exhibit 158. Now, this says --
MR. BRESNICK: -- let's look at the bottom of the e-mail, Agent.
BY MR. BRESNICK:
Q This is regarding the PPA property, right?
A This is regarding the -- yes, the 19th and Walnut property, yes.
Q And again you say, "The party must sign in and this will be public record, it would not be a good thing for me to sign for this RFP. So, you should do it or someone from World should do it." That's what you wrote to Ravi Chawla, right?
A Correct.
Q Now, you said on direct that the reason why you didn't want to go in and sign for it is because, well, it just made more sense for him to pick it up, is that what you said on direct?
A Yes, something like that, yes.
Q Well, what does that have to do with this document being public record?
A <u>Well, if you sign in, Chris Wright, forwarding address, you know, Councilman Kelly's office, any correspondence, anything coming from that point on would be coming to Councilman Kelly's office.</u>
Q Why were you concerned that it would be public record?
A I wasn't concerned it would be public -- I mean, you're kind of --
Q What am I doing? That's what it says, isn't it?
A Well, I'm answering your question, you're asking me why I didn't sign in.
Q And you wrote, "The party must sign in and this will be public record, it would not be a good thing for me to sign for this RFP." That's what you wrote?
A <u>When you send an e-mail, sometimes you don't have complete thoughts. The main thing was I was trying to convey to Ravi he could go to that location, pick it up himself, and another motive is I didn't want to get involved in putting -- you know, have to go to him, get a deposit check, give it to PPA, all I'm telling him is that he can pick it up himself.</u>
Q Well, that's not all that you said in the e-mail, sir. You don't say anything about a deposit in this e-mail, do you?
A Well, I knew that.
Q You didn't say anything about a deposit in this e-mail, did you?
A Yeah.
Q Did you?
A Well, I'm giving you my -- I'm giving you my personal notice.

Q Answer my question, sir.
A I'm trying.
Q No, it's a yes or no question. You didn't put anything about a deposit in this e-mail, did you?
A No, I didn't.

On Mechanical Parking, Legal Services, and the Free Apartment

Direct Exam by Wright (2/10/09, page 36)

Q Okay. Now, mechanical parking, this issue was going on, let's see, that was October of '06. You're using the Delancey Street apartment at this point, right?
A Yes, mm-hmm.
Q Okay. And Andy is helping you with some of your domestic relations lawsuits at that time, is that right?
A Well, he is communicating with -- yes, he's communicating with Angie Roca, yes.
Q Communicating with Angie Roca? Okay.
Any connection in your mind between supporting mechanical parking and the apartment or the legal services?
A No, no.

On Financial Disclosure Form

Direct by Wright (2/10/09, page 70)

Q What year is this one?
A This would be filed May 21st, 2007, so it would be for the year of 2006.
Q Okay. And what did you write in your sources-of-income block on this one?
A I listed my current real estate office, Coldwell Banker Commercial, their address downtown, and also First Platinum Abstract up in Bensalem.
Q And you didn't disclose any gifts in this year?
A No.
Q This was for 2006, why didn't you disclose the apartment?
A I did not look at it as a gift, I looked at it as a lawsuit, something totally different than a gift.
Q Again, 2006, why didn't you disclose the legal services from Andy Teitelman?
A To me, it wasn't -- it was no -- it wasn't, like, something tangible, it was a guy helping me out with some legal work and it was my best friend; I didn't look at it as a gift, I looked at it as a friend helping a friend.

On Legal Assistance

Re-Direct by Wright (2/10/09, page 163)

Q Let's look at Government Exhibit 420.
(Pause.)

Q A single e-mail. "Chris: Can you get me a City cert? On another note, your loan documents are ready." Do you see that?
A Yes.
Q Does it say, on a related note, your loan documents are ready?
A I'm sorry, can you repeat that question again?
Q Does it say, on a related note?
A On a related note? No, it does not.
Q It says, "On another note"?
A Correct.
Q How did you understand the two topics of this e-mail?
A One --
Q In other words, did you see a connection --
MR. BRESNICK: Objection, your Honor, I think is --
MS. MATHEWSON: Okay.
THE COURT: Rephrase the question.
BY MS. MATHEWSON:
Q Did you see a connection between the two topics of this e-mail?
A No, I didn't.

Re-Direct by Teitelman (2/10/09, Pages 167-168)

Q The legal help that Andy gave you that's been discussed in this courtroom and during your testimony, did you ever have an understanding or belief that this help was being given to you because -- well, in order to assure your continuing constituent services for Andy's clients?
A No, no.
Q Why did you believe the help was given to you, the legal help?
A Because Andy is my best friend.

On Bribes

Q You're aware, Mr. Wright, that the Ethics Act prohibits conflicts of interest, right?
A Yes, yes, I am.
Q Would you take a look at the definition of conflict of interest?
(Pause.)
Q Why don't you read that to us, at least the first portion of it?
A "Conflict or conflict of interest used by a public official or public employee of the authority of his office or employment of any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of the immediate family or business for which he or a member of the immediate family is associated."
Q You don't need to read the attachments.
Did you ever use your office for your own private pecuniary benefit?
A No.
Q Did you ever take something with an understanding that it would influence your judgment or your actions?
A No.

Q Did you ever believe that you were acting with a conflict of interest, sir?
A No.
Q Mr. Bresnick showed you the purposes of the act toward the end of his cross-examination. Sir, did you act impartially in the interests of the City at all times?
A Did I act impartially?
Q Do you know what that means?
A I'm sorry, I don't.
Q Did you always act in the interests of the City?
A Yes.
Q Did you always act honestly in the interests of the City?
A Yes.
Q And did you disclose all of your financial interests as required by law?
A Yes, I did.

Any one of the false statements discussed above warrants an increase in the offense level in this case. As the Supreme Court stated in Dunnigan, he engaged in "an unlawful attempt to avoid responsibility," thus revealing himself as "more threatening to society and less deserving of leniency than a defendant who does not so defy the trial process." His "willingness to frustrate judicial proceedings to avoid criminal liability suggests that the need for incapacitation and retribution is heightened as compared with the defendant charged with the same crime who allows judicial proceedings to progress without resorting to perjury." Dunnigan, 507 U.S. at 97-98. Wright should not get a free pass for his stunning and extensive perjury before this Court. The government accordingly agrees with the Probation Officer's report that a two-level increase in the offense level, based on Wright's extensive perjury at trial, is appropriate here.

Accordingly, the government recommends a period of incarceration of 78 months, which is at the top of the Guidelines range as calculated above.[1]

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[1] In the event the final advisory sentencing Guidelines range as determined by the Court differs from the government's position above, the government will nonetheless recommend a Booker variance resulting in a sentence of 78 months based on an analysis of the § 3553(a) factors, discussed *infra*.

B. 18 U.S.C. § 3553(a) Analysis

A thorough consideration of all of the sentencing factors set forth in 18 U.S.C. § 3553(a) suggests that the most appropriate sentence is one at the top of the advisory guideline range.

The Supreme Court has declared: "As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and the initial benchmark." Gall v. United States, 128 S. Ct. 586, 596 (2007). Thus, the Sentencing Guidelines remain an indispensable resource for assuring appropriate and uniform punishment for federal criminal offenses.

This Court must also consider all of the sentencing considerations set forth in Section 3553(a). Those factors include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need to afford adequate deterrence to criminal conduct, and to protect the public from further crimes of the defendant; (4) the need to provide the defendant with educational or vocational training, medical care, or other correctional treatment in the most effective manner; (5) the guidelines and policy statements issued by the Sentencing Commission; (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense. 18 U.S.C. § 3553(a).[2]

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[2] Further, the "parsimony provision" of Section 3553(a) states that "[t]he court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection." The Third Circuit has held that "district judges are not required by the parsimony provision to routinely state that the sentence imposed is the minimum

1. **Characteristics of Defendant**

Section 3553(a)(1) instructs the Court to consider the defendant's characteristics in fashioning a reasonable sentence. The defendant betrayed the public by accepting the bribes in this case. In addition, the defendant has demonstrated a complete lack of remorse for any of his crimes; instead, he has placed blame on anyone and anything else in order to turn attention away from his own failures. He has blamed his ex-wife, engaging in character assassination repeatedly during trial. He has blamed his alcoholism, which, rather than a mitigating factor, is actually an aggravating one.[3] And he has blamed the management company of the apartment in which he lived rent free for more than one year for not doing more to collect rent from him. His repeated cries that he "tried to pay rent" ring completely false and contrary to common sense. To cap it off, Wright lied repeatedly and consistently during his time on the witness stand, where the blames, and lies, flowed freely. Surely such egregious behavior warrants a sentence of 78 months' imprisonment.

2. **Nature and Circumstances of the Offense**

Section 3553(a)(1) also instructs the Court to consider the nature and circumstances of the offense. Wright violated the sacred public trust that every public official owes to the public. Rather than serve the public interest, he chose to serve himself. In addition to the shame and disgrace that he has brought upon himself, defendant Wright's actions have

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sentence necessary to achieve the purposes set forth in § 3553(a)(2). . . . '[W]e do not think that the "not greater than necessary" language requires as a general matter that a judge, having explained why a sentence has been chosen, also explain why some lighter sentence is inadequate.'" United States v. Dragon, 471 F.3d 501, 506 (3d Cir. 2006) (quoting United States v. Navedo-Concepcion, 450 F.3d 54, 58 (1st Cir. 2006)).

[3] The defendant's four arrests for driving under the influence of alcohol indicate that he has put the public in peril in more ways than one.

caused immeasurable harm to the public's confidence in the integrity of our public officials in City Hall.

The decline of public confidence in our democratic institutions in general and in our public officials in particular is a loss that cannot be lightly cast aside. Courts have repeatedly recognized that the type of harm caused by defendant Wright is an intangible harm that can never be measured in dollars, and is one that cannot easily be remedied. See, e.g., United States v. Ganim, 2006 WL 1210984, at *5 (D. Conn. May 5, 2006) ("Government corruption breeds cynicism and mistrust of elected officials. It causes the public to disengage from the democratic process because, as the Court stated at sentencing, the public begins to think of politics as 'only for the insiders.' Thus corruption has the potential to shred the delicate fabric of democracy by making the average citizen lose respect and trust in elected officials and give up any hope of participating in government through legitimate channels.").

Further, courts have recognized that the harm to the public's confidence in its elected officials is one that is not adequately considered by the sentencing guidelines. See, e.g., United States v. Saxton, 53 Fed. Appx. 610, 613 (3d Cir. 2002) (not precedential) (affirming three-level upward departure where fraud caused non-monetary harm of "loss of public confidence and trust in elected officials").

3. Need For Deterrence And To Protect The Public

Section 3553(a)(2)(B) and (C) refer to the need to deter future criminal conduct and to protect the public from further crimes of the defendant. The sentence imposed in this case must clearly signal that such conduct will not be tolerated, and promote respect for the law, which is one of the most important sentencing principles established by Congress. See Gall, 128 S. Ct. at 599 (recognizing "[t]he Government's legitimate concern that a lenient sentence for a

serious offense threatens to promote disrespect for the law . . ."). Indeed, in a House Committee Report on one of the competing bills that led to passage of the 1994 Crime Bill, which was codified as Title 18, United States Code, Section 3553, the House Judiciary Committee provided:

> [This] [p]aragraph . . . provides that a criminal sentence must not cause disrespect for the law. This purpose is avoided when excessively lenient sentences are avoided.

H. Rep. 98-1017, 98th Cong. 2d Sess., Judiciary Committee Report on Sentencing Revision Act of 1984, at 39.

When passing the Sentencing Reform Act, Congress explained:

> [It is our] view that in the past there have been many cases, particularly in instances of major white collar crime, in which probation has been granted because the offender required little or nothing in the way of institutionalized rehabilitative measures ... and because society required no insulation from the offender, without due consideration being given to the fact that the heightened deterrent effect of incarceration and the readily perceivable receipt of just punishment accorded by incarceration were of critical importance. The placing on probation of [a white collar criminal] may be perfectly appropriate in cases in which, under all the circumstances, only the rehabilitative needs of the offender are pertinent; such a sentence may be grossly inappropriate, however, in cases in which the circumstances mandate the sentence's carrying substantial deterrent or punitive impact.

S. Rep. No. 98-225, at 91-92 (1983), reprinted in 1984 U.S.C.C.A.N. 3182, 3274-75.

As numerous courts have recognized, the Guidelines serve a particularly important purpose in the area of white-collar crime. For instance, the Supreme Court in Mistretta v. United States, 488 U.S. 361, 375 n.9 (1989), noted that the Senate Report on the Sentencing Reform Act "gave specific examples of areas in which prevailing sentences might be too lenient, including the treatment of major white-collar criminals." Accord United States v. Ebbers, 458 F.3d 110, 129 (2d Cir. 2006) ("[T]he Guidelines reflect Congress' judgment as to the appropriate national policy for [white-collar] crimes...."); United States v. Mueffelman, 470 F.3d 33, 40 (1st Cir. 2006) (noting the importance of "the minimization of discrepancies between

white- and blue-collar offenses"). In United States v. Martin, the Court of Appeals for the Eleventh Circuit provided the following explanation:

> Our assessment is consistent with the views of the drafters of § 3553. As the legislative history of the adoption of § 3553 demonstrates, Congress viewed deterrence as 'particularly important in the area of white collar crime.' S.Rep. No. 98-225, at 76 (1983), reprinted in 1984 U.S.C.C.A.N. 3182, 3259. Congress was especially concerned that prior to the Sentencing Guidelines, '[m]ajor white collar criminals often [were] sentenced to small fines and little or no imprisonment. Unfortunately, this creates the impression that certain offenses are punishable only by a small fine that can be written off as a cost of doing business.' Id.

455 F.3d 1227, 1240 (11th Cir. 2006).

A sentence at the top of the Guideline range advocated by the government (78 months imprisonment) for a corrupt public official who abused the power of his office, violated the public trust, and then committed perjury during his trial, will send a critically important message of deterrence, *i.e.*, that the punishment will be so severe that it is not worth committing the crime. See, e.g., Stephanos Bibas, White-Collar Plea Bargaining & Sentencing After *Booker*, 47 Wm. & Mary L. Rev. 721, 724 (2005) ("[W]hite-collar crime is more rational, cool, and calculated than sudden crimes of passion or opportunity, so it should be a prime candidate for general deterrence. An economist would argue that if one increased the expected cost of white-collar crime by raising the expected penalty, white-collar crime would be unprofitable and would thus cease."); Martin, 455 F.3d at 1240 ("Defendants in white collar crimes often calculate the financial gain and risk of loss, and white collar crimes therefore can be affected and reduced with serious punishment.").

This is a case in which deterrence is perhaps the most important of all of the Section 3553(a) factors. The federal government simply does not have the resources to investigate every public official, or to perform integrity audits of public officials to ensure that

taxpayer funds are not being diverted for private benefit.[4] We rely, as we must, on the integrity of our public officials. The sentence in this case must, therefore, be sufficiently severe to deter public corruption by elected officials, as well as the employees of these public officials, who need to see that such conduct is not tolerated and should not be accepted by them as the way that government service is provided.

In short, all of the above facts indicate that a sentence at the top of the Guidelines is required in this case. Only a prison sentence at the top of the Guidelines adequately will reflect the history and characteristics of the defendant, the nature and seriousness of the offense, and protect the public and deter the defendant.

4. The Need to Avoid Unwarranted Sentence Disparities Among Defendants with Similar Records Who Have Been Found Guilty of Similar Conduct.

A sentence of 78 months is particularly necessary when considering the importance of avoiding unwarranted sentencing disparities, another factor that is set forth in Section 3553(a). As an initial matter, this Section 3553(a) factor is not primarily concerned with sentencing disparities in a particular case; it is designed to ensure sentencing consistency among similarly situated defendants across the entire nation. See United States v. Parker, 462 F.3d 273 (3d Cir. 2006); United States v. Carson, 560 F.3d 566, 586 (6th Cir. 2009) ("Although it is true that § 3553(a)(6) requires a sentencing judge to consider 'the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of

[4] To understand this fact, consider that, during the 20-year period between 1988 and 2007, the total number of persons prosecuted by the U.S. Department of Justice across the entire United States in public corruption cases was 23,415. Of that amount, 20,446 were convicted. See *Report to Congress on the Activities and Operations of the Public Integrity Section for 2007*, at p. 67. This report can be found at http://www.usdoj.gov/ criminal/pin/docs/arpt-2007.pdf.

similar conduct,'" that "factor 'concerns national disparities between defendants with similar criminal histories convicted of similar criminal conduct – not disparities between codefendants.'").

A comparison and analysis of several recent public corruption prosecutions and sentences in the Eastern District of Pennsylvania also reveals that a sentence of 78 months imprisonment for Wright is just and proper.

a. Corey Kemp.

The recent prosecution and conviction of Corey Kemp, the former treasurer of the City of Philadelphia who received a 10-year prison sentence, must be considered in examining the issue of sentencing disparities. Kemp was convicted at trial in connection with his illicit relationship with attorney Ron White, who plied Kemp with gifts in exchange for Kemp's assistance in steering city contracts to White's allies and business associates. To be sure, Kemp was proven to be a corrupt public official who abused his office for personal gain. The evidence established that White arranged for Kemp to receive tickets to the NBA All-Star Game and related festivities; cash totaling $10,000; a $10,350 deck; transportation and tickets to the Super Bowl in San Diego as well as accommodations and meals; four tickets to a USA basketball game; trips to New York and Detroit; and numerous meals. White also promised to help Kemp advance his post-treasurer career. United States v. Kemp, 500 F.3d 257, 265 n.5 (3d Cir. 2007). In addition, Kemp participated in a separate scheme to defraud his church.

b. Richard Mariano.

The recent prosecution of former Philadelphia City Councilman Richard Mariano provides further insight regarding the issue of sentencing disparities. A jury convicted Richard Mariano of one count of conspiracy to commit honest services fraud, eleven counts of honest

services mail and wire fraud, two counts of money laundering, three counts of bribery, and one count of filing a false tax return. The court sentenced him to a 78-month term of imprisonment, the top of the range for defendant Wright in this case. At trial, the government presented evidence that Mariano acted to further the interests of a scrap metal business in his district. In February 2003, Mariano recommended that the scrap metal firm's property be included as one of the new properties in a taxpayer-subsidized program, and in May 2003, Mariano twice voted in favor of legislation to accomplish that objective. See United States v. Mariano, 2008 WL 2470911, at *1 (3d Cir. June 20, 2008).

The evidence established that, for his efforts, Mariano received financial rewards, including payments of over $23,000 between the months of May 2002 and December 2002, consisting of a check payable to one of Mariano's credit card issuers in the amount of $5,873.75, a check payable to a third party in the amount of $6,672 that Mariano converted to his personal benefit, and another check payable to a third party in the amount of $10,900 which Mariano used toward the payment of his personal credit card expenses.

Like Mariano, who received more than $23,000 in bribes, Wright was bribed by receiving payments and gifts totaling approximately $24,100. This figure consists of $23,100 ($1,500 (value of apartment) times 14 (months), plus $150 (value of parking) times 14 (months), plus $1,000 "happy holidays" check.

c. Vincent Fumo

The Court is aware of the recent sentence of 55 months imprisonment imposed on the former state senator Vincent Fumo. The Fumo sentence was, as scores of citizens stated in unsolicited letters and phone calls to our office and to the district judge's chambers, a travesty. Besides imposing insufficient punishment for the offenses at issue, its worst legacy will arise if

other judges follow that court's mistaken lead, and use the Fumo sentence as a baseline for public corruption offenses. That should not happen. This Court should not follow a path of condoning and lightly punishing breaches of the public trust by public officials.

In order to avoid unwarranted sentencing disparities, a sentence of 78 months' imprisonment is both fair and just under the circumstances.

Respectfully submitted,

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/s/ Michael J. Bresnick
MICHAEL J. BRESNICK
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that, by E-filing and e-mail, I have served or caused to be served a copy of the foregoing upon:

Lisa Mathewson, Esq.

/s/ Michael J. Bresnick
MICHAEL J. BRESNICK
Assistant United States Attorney

Date: August 3, 2009