

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Cause No. 1:17-CR-0183-TWP-TAB
BUSTER HERNANDEZ,)	
)	
Defendant.)	

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by counsel, John E. Childress, Acting United States Attorney for the Southern District of Indiana, and Tiffany J. Preston and Kristina M. Korobov, Assistant United States Attorneys, hereby files its Sentencing Memorandum in support of a sentence of Life Imprisonment for defendant, Buster Hernandez. Buster Hernandez is scheduled to be sentenced on March 12, 2021, at 9:00 a.m.

I. INTRODUCTION

Since beginning in at least 2012, and continuing until the moment of his arrest on August 3, 2017, Buster Hernandez (“Hernandez”) sexually exploited, extorted, and threatened to kill, rape, and kidnap more than 100 children and adults from across the United States and in at least two foreign countries. He threatened to blow up schools and buildings, he encouraged children to commit suicide, and he terrorized entire communities. Hernandez achieved personal and sexual gratification from his

sadistic pursuit to destroy human beings, and he did it because, in his own words, he thought it was “fun.”

Now, Hernandez finally stands before this Court to be sentenced for his crimes—crimes that are so horrific that words fail to adequately capture the magnitude of the suffering he has caused. Few cases cry out for a sentence of Life Imprisonment. This is one of them. Hernandez’s deception, degradation, domination, control, extortion, and exploitation will impact his victims and their families for their lifetimes. His sentence should reflect theirs.

II. PROCEDURAL BACKGROUND

A. The Hernandez Investigation

In mid-December 2015, and in retaliation for Minor Victim 1’s refusal to continue to acquiesce to his sextortion, Hernandez, using the alias “Brian Kil,” threatened to bomb Plainfield and Danville High Schools, the Shops at Perry Crossing, and a Walmart. The Federal Bureau of Investigation (“FBI”) and the United States Attorney’s Office (“USAO”) immediately responded, and devoted thousands of hours of manpower to identify and arrest Hernandez. The investigation included federal search warrants for hundreds of accounts, the analysis of approximately 315 social media accounts, dozens of interviews, a Mutual Legal Assistance Treaty (“MLAT”) request, and a Title III investigation.

As a result of Hernandez’s sophisticated criminal tradecraft and obfuscation, it took more than a year a half to identify and arrest Hernandez. Undeterred,

Hernandez continued to commit these offenses until the moment of his arrest even though he was well aware of the FBI's investigation.

Approximately 16 months later, and with the help of Minor Victim 2, the FBI was finally able to employ a Network Investigative Technique, and to identify Hernandez's true internet protocol address ("IP Address"). The FBI then spent a month analyzing Hernandez's internet data through a Title III investigation, and monitored his residence in Bakersfield, California.

On August 1, 2017, a three-count, sealed Criminal Complaint was filed in the Southern District of Indiana, and a search warrant was authorized in California. The Complaint charged Hernandez with sexually exploiting a minor; threatening to use explosive devices; and threatening to kill, kidnap, or injure others. On August 3, 2017, the FBI executed the warrants, arrested Hernandez, and seized numerous devices from the home he shared with his girlfriend and her grandmother.

The Grand Jury first charged Hernandez on September 7, 2017 in a 26-Count Indictment, and the FBI and the USAO continued to build their case against him. The Government also continued to identify social media accounts attributed to Hernandez, and attempted to locate numerous victims throughout the United States and in at least two foreign countries.

The Government knew that Hernandez stored his collection of child pornography that he obtained through extortion on either his encrypted hard drive,

in his online accounts, or both.¹ So, during the next two and a half year period, the FBI attempted to decrypt Hernandez's devices with the goal of accessing the data to identify victims depicted in the images and videos and provide services to them. Despite running countless attacks against the devices, the encryption was simply too sophisticated, and the codes remained unbroken.

As the Government continued to cull through the complex web of approximately 315 social media accounts attributed to Hernandez, it prepared a Superseding Indictment, and the Government continued in earnest to identify Hernandez's numerous victims whose images were spread over hundreds of social media accounts.

B. Hernandez's Eleventh-Hour Guilty Plea

On April 9, 2019, the Grand Jury returned a Superseding Indictment against Hernandez. Beginning in late 2019, the Government spent hundreds of hours preparing for the two to three-week trial that was scheduled to begin February 9, 2020. The Government filed numerous pleadings and prepared approximately 465

¹ Hernandez's messages contained within Government Exhibits 1-196 included messages during which Hernandez distributed images of child pornography of one victim to another victim to warn them what would happen to them if they didn't comply with his demands. Hernandez also repeatedly referenced masturbating to older images and videos that he had saved. Accordingly, the Government knew that Hernandez was able to access his collection at a moment's notice and must have saved it on his encrypted devices or in online accounts that he could easily access.

exhibits. The Government also prepared approximately 36 witnesses, including 12 victim witnesses and 5 experts, to testify.²

By late January 2020, the Government had already disclosed its Witness List, Expert Disclosures, and trial exhibits. The Court had ruled on nearly all of the pending motions *in limine*. On or about January 28, 2020, and during trial preparation, the FBI was finally able to identify a victim whose information was stored on one of the devices that Hernandez failed to encrypt (because he incorrectly believed that no evidence existed on it).³ She is identified as Victim 12 in Exhibits A and B. The USAO disclosed the newly identified victim and the direct evidence linking her to Hernandez on or about January 29, 2020. The Government moved *in limine* to include the evidence, and Hernandez opposed its admission. On January 31, 2020, the Court granted the Government's motion admitting the evidence, and the Government then prepared Victim 12 to testify at trial.

Prior to January 31, 2020, the Government had assembled a mountain of evidence proving Hernandez's guilt. But, the evidence directly connecting Hernandez to Victim 12 and an account he used to sextort multiple victims was apparently the final straw.

² The Victims were interviewed in preparation for their direct examination on several occasions, and endured mock cross-examinations in preparation for trial. The Victims were also scheduled to travel to Indianapolis throughout the first two weeks of trial, and had mentally prepared themselves to face Hernandez as they testified. It was emotionally and physically exhausting for them.

³ As set forth in pleadings before the Court, it was only through newly available facial recognition technology that the FBI was able to identify the victim.

On February 6, 2020, three days before trial was scheduled to begin, Hernandez pleaded guilty without a plea agreement to every single count in the Superseding Indictment. Given the timing of the plea and the overwhelming nature of the evidence, there is ample evidence to conclude that Hernandez didn't plead guilty because he felt remorseful, or because he finally understood and regretted the gravity of his crimes. Nor did Hernandez plead guilty because he wanted to spare his victims from the trauma of testifying. Hernandez pleaded guilty because he finally accepted that he was caught, it was in his own self-interest to plead guilty.

C. Offenses of Conviction

The charges to which Hernandez pleaded guilty are set forth below:

Counts One through Eight charge that the defendant committed the offense of Production of Child Pornography, in violation of Title 18, United States Code, Section 2251(a). Counts Nine through Eleven charge that the defendant committed the offense of Coercion and Enticement of a Minor, in violation of Title 18, United States Code, Section 2422(b). Counts Twelve through Seventeen charge that the defendant committed the offense of Distributing Child Pornography, in violation of Title 18, United States Code, Section 2252A(a)(2). Counts Eighteen through Twenty-One charge that the defendant committed the offense of Threats to Use an Explosive Device, in violation of Title 18, United States Code, Section 844(e). Count Twenty-Two charges that the defendant committed the offense of Threats and Extortion, in violation of Title 18, United States Code, Section 875(b). Counts Twenty-Three through Thirty-Two charge that the defendant committed the offense of Threats to Injure, in violation of Title 18, United States Code, Section 875(c). Counts Thirty-Three through Thirty-Eight charge that the defendant committed the offense of Witness Tampering, in violation of Title 18, United States Code, Section 1512(b)(3). Count Thirty-Nine charges that the defendant committed the offense of Obstruction of Justice, in violation of Title 18, United States Code, Section 1512(c). Counts Forty through Forty-One charge that the defendant committed the offense of Retaliating Against a Witness, in violation of Title 18, United States Code, Section 1513(e).

III. THE PSR CORRECTLY APPLIED THE 5-LEVEL ENHANCEMENT FOR REPEAT AND DANGEROUS SEX OFFENDERS UNDER U.S.S.G. Section 4B1.5(b).

The United States Probation Officer filed an exhaustive 57-page Presentence Investigation Report (“PSR”). As set forth in the PSR, Hernandez’s Adjusted Offense Level is 50. Two levels are subtracted for acceptance of responsibility for a total of 48. An additional 5-points were subtracted under Chapter 5, Part A comment 2 for “those rare instances where the total offense level is calculated in excess of 43.” Hernandez’s final offense level is 43 and his Guidelines are Life. Notably, Hernandez’s crimes are so serious that he reaches an advisory Guideline sentence of Life without a single criminal history point.

Neither the government nor the defense has an objection to the facts in the PSR setting forth the offense and relevant conduct, and personal characteristics of the defendant. The Government agrees with the Probation Officer’s Guideline Calculations.

Hernandez has only one objection to the PSR, namely, that the 5-level enhancement for repeat and dangerous sex offenders under Section 4B1.5(b) should not apply. Hernandez argues that 4B1.5(B) should not apply because:

“the enhancement provided for under this Guideline and the notes attributed to the definition of ‘prohibited sexual conduct’ is unclear and ambiguous as to whether it should apply to the Defendant in this case. Specifically, whether or not the enhancement requires the Defendant commit a prior offense before committing the prohibited sexual conduct in this case.”

PSR, pg. 56. Hernandez’s objection should be denied.

The Sentencing Guidelines state that Section 4B1.5 should be applied, and 5 levels should be added to the adjusted offense level if:

“(b) In any case in which the defendant’s instant offense of conviction is a covered sex crime, neither §4B1.1 nor subsection (a) of this guideline applies, and the defendant engaged in a pattern of activity involving prohibited sexual conduct” U.S.S.G. 4B1.5(b).

There is nothing ambiguous about the application of the enhancement to Hernandez. First, Hernandez does not dispute that Counts 1-11 are covered sex crimes. Nor could he—because Counts 1 through 11 are covered sex crimes under Chapters 110 and 111. As set forth in Exhibits A and B, Hernandez was convicted of sexually exploiting and coercing minor victims to produce child pornography under Title 18, United States Code Sections 2251(a) and 2422(b)(Counts 1-11). He clearly meets the first prong.

Hernandez also clearly meets the second prong of the application because he engaged in a pattern of activity involving prohibited sexual conduct with minors. As set forth in the Sentencing Guidelines and the PSR:

(A) Definition.—For purposes of subsection (b), “prohibited sexual conduct” means any of the following: (i) any offense described in 18 U.S.C. § 2426(b)(1)(A) or (B); (ii) the production of child pornography; or (iii) trafficking in child pornography only if, prior to the commission of the instant offense of conviction, the defendant sustained a felony conviction for that trafficking in child pornography. It does not include receipt or possession of child pornography. “Child pornography” has the meaning given that term in 18 U.S.C. § 2256(8).

(B) Determination of Pattern of Activity.—

(i) In General.—For purposes of subsection (b), the defendant engaged in a pattern of activity involving prohibited sexual conduct if

on at least two separate occasions, the defendant engaged in prohibited sexual conduct with a minor.

(ii) Occasion of Prohibited Sexual Conduct.—An occasion of prohibited sexual conduct may be considered for purposes of subsection (b) without regard to whether the occasion (I) occurred during the course of the instant offense; or (II) resulted in a conviction for the conduct that occurred on that occasion.

Prohibited sexual conduct includes the production of child pornography. Here, Hernandez pleaded guilty to Counts 1-8 (Sexual Exploitation of Children through the production of child pornography). Accordingly, Hernandez pleaded guilty to eight counts of producing child pornography under Title 18, United States Code, Section 2251(a) which constitutes “engaging in prohibited sexual conduct with minors on at least two separate occasions.” As set forth in the Guidelines, prohibited sexual conduct may be considered without regarding to whether it occurred during the course of the instant offense or resulted in a conviction for that conduct.

There nothing ambiguous here. As the Probation Officer stated in his response, the definition of the second requirement for the enhancement, a pattern of prohibited sexual conduct, does not require that the defendant commit a prior offense before committing the prohibited sexual conduct in the instant offense. The definition of prohibited sexual conduct is provided at Application Note 4(A) of USSG §4B1.5 as: “i) any offense described in 18 U.S.C. § 2426(b)(1)(A) or (B); (ii) the production of child pornography; or (iii) trafficking in child pornography only if, prior to the commission of the instant offense of conviction, the defendant sustained a felony conviction for that trafficking in child pornography.” Because the three factors

are separated by semicolons, the requirement for each is contained within that semicolon.

In other words, and as set forth in the PSR, the fact that Hernandez does not have a prior felony conviction for trafficking in child pornography is irrelevant because he needs to satisfy only one of (i) – (iii) above. Hernandez satisfies the second factor because the actions alleged in Counts 1 through 8 were a pattern (they occurred on at least two separate occasions) of prohibited sexual conduct (production of child pornography).

This guideline applies to offenders whose instant offense of conviction is a sex offense committed against a minor and who present a continuing danger to the public. The notes explain that there are relevant criminal provisions that provide for increased *statutory* maximum penalties for repeat sex offenders available if the defendant previously was convicted of any of several federal and state sex offenses (see 18 U.S.C. §§ 2247, 2426). The application is straightforward, applicable to Hernandez, and 5 levels should be added.

IV. A GUIDELINE SENTENCE OF LIFE IMPRISONMENT IS REASONABLE AND APPROPRIATE UNDER TITLE 18, UNITED STATES CODE, SECTION 3553(a)

The Government provides the following summarized account of Hernandez's extensive criminal conduct, some of which is described in the PSR. For any evidence discussed below that is not described in the Stipulated Factual Basis (Exhibit A), the Change of Plea hearing (Exhibit B), or the PSR, the government offers such information by way of factual proffer, to which Special Agent Andrew Willmann of

the Federal Bureau of Investigation would testify if called at Sentencing. All of the data supporting the proffered information has been disclosed to defense counsel in preparation for trial and sentencing.⁴

A. The Nature and Circumstances of Hernandez's Offenses are so Aggravating that a Life Sentence is the only Just Punishment.

Overview

Buster Hernandez was a resident of Bakersfield, California, who was born in 1990. Since beginning at least 2012, and continuing until the moment of his arrest on August 3, 2017, Hernandez sexually exploited, extorted, and threatened to kill, rape, and kidnap more than 100 children and adults from across the United States and in at least two foreign countries.⁵ As of the evening of February 6, 2020, the Government was aware of at least 100 minor victims who complied with Hernandez's extortionate demands, and sent Hernandez images and videos depicting themselves engaging in sexually explicit conduct. Hernandez typically began extorting victims when they were between the ages of twelve to fifteen years old. He sexually exploited some of his victims for years, even after they turned eighteen years old.

Hernandez deceived his victims, and told them that if they initially complied with his demands and sent a few sexually explicit images or videos, then he would leave them alone forever. Instead, Hernandez continued to extort them. If victims

⁴ Hernandez does not object to the Government proceeding by proffered information.

⁵ The Government hereby incorporates its sealed filing under docket number 166. The Court should consider the facts set forth in docket number 166 under Title 18, United States Code, Section 3553(a), but only with respect to whether the Court believes it entitles Hernandez to a downward variance. The Court may not consider the facts obtained post-conviction as relevant conduct or to his detriment when arriving at Hernandez's sentence.

refused to comply, Hernandez frequently posted the sexually explicit images or videos of the victims online, or sent them to the victims' friends and family via the Internet. Hernandez also threatened to murder, rape, kidnap, and injure his victims and their friends and family.

Hernandez encouraged some of his victims to kill themselves. In some instances, Hernandez promised that he would disseminate their sexually explicit images at their funeral and "trash" their Facebook memorial page if they committed suicide.

Hernandez terrorized communities. He threatened to gun down students and bomb their schools, and said that he would kill law enforcement officers and first responders who arrived at the scene. He used counter-intelligence tactics at a community forum to make it appear as though he was living among his victims and ready to kill them at a moment's notice.

Hernandez also tampered with and retaliated against victims and witnesses who reported his conduct to law enforcement. He used sophisticated means of obfuscation and encryption, and intentionally destroyed evidence when he was arrested.

Hernandez is a sadistic, vicious, and shrewd predator who derived pleasure from the suffering of at least 100 children, their families, and entire communities. As he said many times to his victims, he enjoyed committing his crimes. Hernandez is a cyberterrorist, and the aggravating nature of his criminal offenses more than merits a Life Sentence.

Hernandez's Victims

In this memorandum and during the sentencing hearing, the Court will hear specific details about Minor Victims 1-6, 8 through 13, and Victims 7-10.⁶ Thus far, the Government has only been able to fully identify 24 of the 100 victims about which the Government was aware prior to the evening of February 6, 2020. Even though the Government does not know their names, we know that the other 76 victims exist and that they were sextorted by Hernandez. We analogize the situation to finding a mass grave with unidentifiable bodies: We know that victimization occurred, but we cannot put identities on the bodies and provide their families with closure. Here, that we cannot identify the other individuals whom Hernandez extorted does not lessen their suffering. In fact, it likely makes it worse for them because it is likely that they have no idea that the perpetrator of their crimes has been arrested. They are left to suffer alone, without assistance, and left to wonder whether Hernandez will resurface in their lives to continue his torturous exploitation. Many of these victims' messages are included in Government Exhibits 1 through 196 (admitted by the Court prior to the February 6, 2020 change of plea hearing). Some of their messages are included below.

Minor Victim 1

Minor Victim 1 was a girl living in Plainfield, Indiana, who was born in May 1998. She was 16 years old when Hernandez first began sextorting her. According

⁶ Pursuant to the Crime Victim's Act, victims have opted to either submit letters Court, appear in person or virtually to be acknowledged, or to be interviewed by the Government in advance of the sentencing hearing.

to Minor Victim 1, in high school, she was very involved in extra-curricular activities such as dance, coaching gymnastics, and described herself as very close with her family. Minor Victim 1 told law enforcement that her image was incredibly important to her, and that she aspired to go to college and be an elementary education teacher. According to Minor Victim 1, she made good grades, and was considered by her peers and school staff to be a good kid and a rule follower. At the time, Minor Victim 1 had a Facebook account and her posts made it obvious that she cared about her image, activities, and her future. Hernandez sextorted Minor Victim 1 for approximately 16 months until her mother discovered what had been happening and contacted the police. In retaliation, Hernandez distributed Minor Victim 1's nude or partially nude images, threatened to kill Minor Victim 1, her family and boyfriend, and threatened to blow up her school and several buildings in or near her town.

Minor Victim 1 was ostracized by her community as a result, and was forced to spend months of her senior year being home schooled because too many parents feared that her return to Plainfield High School would be a safety issue for other students.

Minor Victim 2

Minor Victim 2 was a girl living in Brownstown Charter Township, Michigan, who was born in September 1997. She was 12 or 13 years old when Hernandez first began sextorting her. According to Minor Victim 2, she is from an incredibly close family. Her parents are still married and she has three, younger siblings. In junior high and part of high school, Minor Victim 2 was involved in competitive dance.

According to Minor Victim 2's mother, she was a good student, and frequently posted about her activities online.

Hernandez sextorted Minor Victim 2 for nearly 5 years. His messages to Minor Victim 2 were particularly cruel and humiliating, and Hernandez demanded she perform numerous degrading sex acts. On several occasions, Hernandez threatened to sextort and rape Minor Victim 2's sisters, and even posted some of her child pornography.

Hernandez sextorted Minor Victim 2 until June 2017 when the FBI approached her and asked for her assistance. At the FBI's request, and in an effort to finally uncover Hernandez's true identity, Minor Victim 2 agreed to upload a non-pornographic video (Gov. Ex. 1500) containing a Network Investigative Technique ("NIT").⁷ Unbeknownst to Hernandez, the NIT finally revealed his true IP address which the FBI could trace to his home in Bakersfield, California.

Importantly, Minor Victim 2 and her family knew that if they assisted law enforcement that Hernandez would retaliate, and he did. In retaliation, Hernandez threatened to kill Victim 2 and her entire family, and rape, kidnap, and kill her minor brother. (Gov. Ex. 2002-2005). His messages are included in this memorandum, and are indicative of the terror he inflicted not only on Victim 2 but on so many other families from around the country.

⁷ The Government will play the video at the sentencing hearing.

Victim 3

Victim 3 was an 18-year-old girl living in Indianapolis, Indiana, who was born in April 1996. She was just out of high school when Hernandez began extorting her. According to Victim 3, she worked at a restaurant and had done well in high school. Back then, Victim 3 planned to go college. Hernandez sextorted Victim 3 for nearly 3 years. During the three years Hernandez sextorted Victim 3, he vacillated between monstrous and magnanimous. As shown in Gov. Ex. Charts 1-4, over a three-year period, Hernandez messaged Victim 3 incessantly, would “go quiet” for a while, and then resurfaced out of the blue to terrorize her. As set forth in Dr. Reid Meloy’s report (discussed in more detail below), Victim 3 likely suffered from traumatic bonding as a result.

Hernandez’s psychological ploys were so damaging, and his control over his victim was so absolute, that he convinced Victim 3 to attend a Plainfield Community Forum and “spy” for him. During each interview and preparation session with the Government, Victim 3 wept uncontrollably when discussing her presence at the forum.

Minor Victim 4

Minor Victim 4 was a girl living in Monrovia, Indiana, who was born in March 1999. Minor Victim 4 was a high school student when the extortion began in the summer of 2014. According to Minor Victim 4, she was very close to her mother. Her sextortion lasted until the winter of 2014.

Minor Victim 5

Minor Victim 5 was a girl living in the Southern District of Indiana, who was born in April 1999. Her victimization began in late junior high or high school. She is from a very small town in Indiana.

Minor Victim 6

Minor Victim 6 was a girl living in Fortville, Indiana, who was born in March 1999. Hernandez extorted her using nude images that Minor Victim 6 had sent to her boyfriend. This time, Hernandez actually had the images as he had obtained them as a trade from her boyfriend, who is now deceased. Minor Victim 6 also came from a small town, was known to be a good kid, and the daughter of a single mom. She refused to comply with defendant's requests and he immediately posted her nude images on a fake Facebook page.

Minor Victim 11

Minor Victim 11 was a girl living in Florida, who was born in 1998. According to Minor Victim 11, she is very close with her family, and has three siblings. Her parents are still married. Minor Victim 11 was first sextorted in 2011 when she was 15 years old. She was a sophomore in high school and played competitive sports. Like the other victims, she often posted about her activities on Facebook.

Minor Victim 12

Minor Victim 12 was a girl living in Virginia, who was born in 2001. She was 13 years old when Hernandez sextorted her. According to Minor Victim 12, she was from a very close family. When Minor Victim 12 was interviewed in 2020 (6 years

after her sextortion), she was still wearing the same unique necklace that officers used to identify her. She explained that her mother gave her the necklace, and she has never taken it off. According to Minor Victim 12, in October of 2014, she had previously and consensually shared nude images of herself with someone named “Jimmy” (later identified as Hernandez) online. Later on, Hernandez messaged her through an alias account and threatened to post the same nude images of her on the Internet. Minor Victim 12 told her mother and they called the police.

According to Minor Victim 12 and her mother, the police officer accused Minor Victim 12 of lying, threatened her with juvenile detention, and told her that she was just as guilty as the person her sextorted her.⁸ In retaliation for alerting the police, Hernandez posted Minor Victim 12’s nude images on Twitter under her name.

Minor Victim 13

Minor Victim 13 was a girl living in Washington County, Maryland, who was born in January 1999. She was 14 years old and a freshman in high school when Hernandez first began sextorting her. According to Minor Victim 13, her family is very close and she and her sister have lived with their grandparents since they were very young. Minor Victim 13 participated in extra-curricular activities such as drama and band, and helped with special education children as a volunteer for the Special Olympics. Minor Victim 13 worked hard and successfully graduated 1 year early from high school.

⁸ The police report corroborates their account.

Hernandez Used Social Media to Target his Victims

These nine young women have never met one another, and yet they share a terrible bond. As shown in Gov. Ex. 1 – 196,⁹ Hernandez trolled his victims' social media accounts to learn information about them so that it would appear as though he knew them personally and could harm them at any moment. Additionally, many of Hernandez's victims' social media posts made it clear to Hernandez that they were from loving families making it more likely that they would be susceptible to extortion. In other words, Hernandez capitalized on the fact that his victims cared about their image and reputations, and that they loved their families.

Other Victims

In retaliation for their assistance to law enforcement and refusal to comply with his demands, Hernandez threatened to kill and/or rape Minor Victim 1's mother and then 8-year old sister (Victims 7 and 8), and her former boyfriend (Victim 9). He also threatened to blow up and shoot Minor Victim 1's entire high school.

In retaliation for their assistance to law enforcement and refusal to comply with his demands, Hernandez also threatened to kill and rape Minor Victim 2's mother, father, two teenage sisters, and 8-year-old brother. Hernandez also threatened to kill Plainfield Schoolboard member Mark Todisco, who is Victim 10, and Mr. Todisco's wife.

⁹ The Court admitted Government Exhibits 1-196 prior to trial. The data is voluminous. The United States has attached as Exhibits accounts from which it has quoted.

Hernandez's threatened to blow up Plainfield and Danville High schools, the Shops of Perry Crossing, and Walmart, and to kill everyone inside. Hernandez threatened to kill police officers and first responders who responded to the bombings.

Categories of Offense and Relevant Conduct

As set forth above, during his change of plea hearing, Hernandez admitted to the 1) Sexual Exploitation of at least 100 Minor Victims through Extortion; 2) the Production, Distribution, Receipt, and Possession of Child Pornography; 3) Extortion and Threats to Use Explosive Devices and Injure minors, adults, law enforcement officers, and first responders; Witness Tampering and Retaliation Against Victims 1-7 and their families; 5) and Obstructing Justice. The Government will summarize each of the categories of Hernandez's criminal offense and relevant conduct below.

The sextortion of approximately 100 minor victim alone merits a Life sentence particularly given Hernandez's wanton cruelty. But, Hernandez's crimes go far beyond sextortion. He brought the Plainfield, Danville, and surrounding communities to their knees with his terroristic threats. Even after schools and buildings reopened, parents kept their children home, kids carried clear backpacks, and a people blamed the administration, law enforcement, and tragically, even Minor Victim 1. Children, parents, business owners, and entire communities suffered and lived in fear until Hernandez was captured. Many of his victims still experience trauma when they hear a message appear on their phone.

Hernandez's reprehensible crimes deserve the most serious punishment. His victims and the public deserve to know that he will never be free.

1. The Defendant's Sexual Exploitation of at least 100 Minor Victims through Extortion.

As set forth above, for approximately 5 years, Hernandez sexually exploited and extorted at least 100 minor victims. His tactics were ruthless. Hernandez employed deception, fear, control, degradation, and time pressure to coerce his victims. His victims never stood a chance against him because Hernandez had all of the power. He was an adult with unlimited time and resources. He was smart. He was experienced, and unlike the minor victims he exploited and exposed, his sophisticated criminal tradecraft allowed him to hide like a coward behind aliases and internet protocol address obfuscation. As a result, most victims complied over and over to his sadistic demands, and said nothing to their families or to law enforcement. Hernandez's crimes can easily be described as psychological torture and are indicative of the wanton cruelty he inflicted upon so many children and their families.

Below, the Government has set forth the means and methods by which Hernandez coerced his victims to produce sexually explicit images and videos of themselves through extortion, and has provided detailed examples recovered from Hernandez's accounts.¹⁰

¹⁰ The defendant admitted to these facts at the change of plea hearing.

i. Hernandez's Use of 315 Alias E-mail and Social Media Accounts through an Obfuscated Internet Protocol Address

Hernandez used a complex web of at least 315 alias E-mail and social media accounts known to the Government prior to February 6, 2020 to sextort his victims.¹¹ Hernandez couldn't use accounts that could be traced to him so he used aliases (and other methods of obfuscation discussed in more detail below). His victims never knew his real name, and he never shared his photograph. He was a nameless, faceless perpetrator who terrorized them through their devices.

Of the 315 accounts, the Government had admitted through motion *in limine* 196 of them to use at Hernandez's trial. The names of the accounts were attached as an addendum to the Government's Version of the Offense and included in the PSR.

ii. Hernandez used the "Spaghetti Method" to Send Lures to Thousands and Thousands of Prospective Victims

Using his alias accounts, Hernandez contacted individuals (most often minors) by sending a private message, and saying, for example, "Hi [Victim Name,] I have to ask you something. Kinda important." Hernandez then told the prospective victim, "How many guys have you sent dirty pics to cause I have some of you?" Hernandez's message is commonly referred to in law enforcement as a "lure" or "hook," and Hernandez used his lure to trick his victims into believing that he already possessed nude images of them.

¹¹ All accounts were produced in discovery, and 196 of the 315 accounts were introduced as evidence by the Government prior to the scheduled trial, and were admitted by the Court prior to February 6, 2020.

The lure worked often, but not always. So, Hernandez used what’s called the “spaghetti method.”¹² In order to receive the most responses, Hernandez sent his lure to thousands of potential victims from around the United States. Hernandez’s prolific use of the “spaghetti method” is demonstrated below in snippets from only four of Hernandez’s 315 accounts, and capture only a few minutes in a day:

Hernandez Account Closed Door – 100004326708345

100004326708345 Facebook - Closed Door	hi brittany I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi amy I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi ashley I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi breanna I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi kenzie I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi madelyn I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi frances I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi kelsee I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi tessa I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi jena I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi abby I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi paige I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi katlynn I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi michelle I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi veronica I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi abbey I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi haley I have to ask you something. kinda important.
100004326708345 Facebook - Closed Door	hi danielle I have to ask you something. kinda important.

¹² The “spaghetti method” references throwing as much spaghetti as you can on a wall to see what sticks. Here, Hernandez sent as many lures as possible to get as many victims as he could to respond, or “stick.”

Hernandez Account Color Rain-100008337164543

100008337164543 Facebook - Color Rain	Hi amy I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi dona I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi maddie I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi kimberley I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi alanna I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi jamie I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi ashlee I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi abigail I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi roselyn I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi kenzie I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi marissa I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi sydney I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi selena I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi brittney I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi kelly I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi courtney I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi taylor I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi lacie I have to ask you something. kinda important.
100008337164543 Facebook - Color Rain	Hi olivia I have to ask you something. kinda important.

Hernandez Account More Less - 100007367475467

100007367475467 Facebook - More Less	hi lauren I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi savannah I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi sky I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi tamara I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi hannah I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi cheyanne I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi kiley I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi jensen I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi natalie I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi ashlee I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi lindsey I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi haley I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi katie I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi katie I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi ella I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi dianne I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi rhyeli I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi ashley I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi jaylee I have to ask you something. kinda important.
100007367475467 Facebook - More Less	hi taylor I have to ask you something. kinda important.

Hernandez Account Plot Draw - 100008069378451

100008069378451 Facebook - Plot Draw	Hi taylor I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi larissa I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi sierra I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi marijane I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi amber I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi courtney I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi kyah I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi bailey I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi karah I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi kayla I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi danielle I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi jennifer I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi katie I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi hannah I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi hannah I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi alleigh I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi caroline I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi kayla I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi kaley I have to ask you something. kinda important.
100008069378451 Facebook - Plot Draw	Hi molly I have to ask you something. kinda important.

The level of discipline and criminal devotion required to continuously open, monitor, and keep organized 315 accounts and continuously message dozens of victims at a time is stunning. Not surprisingly, and as shown by the Government's Title III investigation and surveillance of Hernandez during the Summer of 2017, Hernandez devoted about a dozen hours a day to sextorting minor victims. He didn't have a job. He didn't possess a driver's license or credit card. He barely left his house. Instead, Hernandez lived off of his devoted girlfriend, and dedicated his adult life to his sadistic exploits. Rather than work or put his computer skills to use in a positive way, Hernandez spent all day, every day, creating alias accounts, sending out lures to thousands of minor children, responding to their messages, downloading their child

pornography, “exposing” them to their families if they refused to comply, threatening to kill them and their families, and masturbating to their images and videos.¹³

iii. Coercion and enticement through psychological tools of deception, false promises, fear, control, and time pressure

After Hernandez sent his lure, the prospective victims either ignored Hernandez or engaged in further conversation. If the potential victims responded, Hernandez demanded that they send him sexually explicit images or videos of themselves, or else Hernandez would send the sexually explicit images or videos that he claimed were in his possession to the potential victims’ friends and family (also known as “sextortion”).

Hernandez knew that not every victim would respond. He knew that not every potential victim would believe him. But, he banked on the fact that many victims would be too scared to not respond. He also banked on the fact that by the time minors reach a certain age, there was a strong likelihood that they have consensually shared a nude, or partially nude image of themselves with a significant other.¹⁴ Put another way, Hernandez used their youthful indiscretions against them. This was

¹³ Hernandez often told his victims that he masturbated to their images, and agents found numerous semen-soaked tissues near his bed and computer when he was finally arrested on August 3, 2017. Gov. Ex. 809.

¹⁴ While experts differ on statistics, a research report in the June 2019 edition of JAMA Pediatrics found that at least one in four teens receive sexually explicit texts and emails. At least one in seven teens send “sexts” According to Common Sense Media, teens engage in this behavior as part of their normal, sexual and psychological development in a digital age. They do it to as a joke, show off, to entice someone, to show interest in someone, or to prove commitment. According to the same study, teens’ developing interest in sex, an impulse to experiment, and apps that make sexting easy -- and acceptable -- create an environment that some teens find irresistible. Hernandez capitalized on this behavior.

particularly damaging to some of Hernandez’s minor victims because they often blamed themselves for their own victimization. Of course, Hernandez intentionally added to their self-blame by calling them “sluts” and “whores.”

For example, and according to Minor Victims 1, 2, 4-6, and 11, and Victim 3, they had previously shared clothed, but provocative, or partially clothed or nude images of themselves to their boyfriends. When Hernandez falsely claimed to have the “nude” images, and threatened to share them with their families, they all chose to comply with Hernandez’s demands rather than risk their parents’ disappointment. Indeed, nearly all of Hernandez’s identified victims have told the Government that the fear that their loved ones, teachers, and friends would look at them differently caused them to spend years suffering in silence. Cruelly, Hernandez often teased his victims by asking them what their loved ones would think of their sexually explicit conduct—even though Hernandez was the person forcing them to engage in it against their will.

Below is just one example of how Hernandez used deception, false promises, fear, control and time pressure against Minor Victim 1 on September 4, 2014:

Def.: hi [Minor Victim 1] I have to ask you something. kinda important.

Minor Victim 1: Okay

Def.: How many guys have you sent dirty pics to because I have some of you.

Minor Victim 1: Who is this

Minor Victim 1: And like 2

Def.: yeah i figured it was more. I already know at least 1 of the guys you sent too since thats who I took from.

Minor Victim 1: What

Minor Victim 1: What do I need to know

Minor Victim 1: And who is this

Def.: Why would I tell you that? I took without permission. I could get in a lot of trouble if it leads back to me. You would just snitch

Minor Victim 1: I wouldn't snitch

Def.: Can you keep whatever I tell you about it between me and you?

Minor Victim 1: I promise

Def.: i dont know if i trust that but ok we can talk about it. I'll text you.

Gov. Ex. 209. During the same exchange, Hernandez used false promises, threats, and time pressure.

Minor Victim 1: "Please don't show anyone."

Def.: "And if I do decide to show your friends and family? What do you think everyone would say about you?"

Minor Victim 1: "Friends and family please no."

Def.: "I want more pics of you. New ones taken right now."

Minor Victim 1: "Like sexual pics?"

Def.: "yes"

Def.: "do it and I'll drop everything."

Gov. Ex. 210.

Here, Hernandez used his infamous lure, and tricked Minor Victim 1 into believing that he had nude images of her (which he did not). He then falsely promised Minor Victim 1 that he would keep whatever she sent between them and demanded

a “new” and completely nude picture of her standing in front of a mirror, immediately. Gov. Ex. 209. Hernandez also threatened to expose Victim 1 to her family and friends, and lied to Victim 1 promising that he would drop everything if she complied. Hernandez also used time pressure. He said, “new ones taken right now” and was messaging Minor Victim 1 relentlessly from three alias accounts at once. Gov. Ex. 209, 210, 211.

Minor Victim 1 pleaded with Hernandez, “please I don’t want to send one with my face in it.” Hernandez said, “That’s what I want next. You have a pretty face. It ruins it when you cut I out. I promised you everything will be deleted.” Gov. Ex. 209, 210, 211. Of course, that was a lie.

According to Minor Victim 1, she believed that Hernandez was being truthful, and that he somehow possessed the images that she had consensually shared with her high school boyfriend. According to Minor Victim 1, the idea that her parents, friends, and teachers would find out that she had engaged in that behavior so horrified her that she sent a complete stranger—Hernandez—a nude image against her will in the hopes that he would go away and leave her alone. Minor Victim 1 was only 16 years’ old. She panicked.

The first image Minor Victim 1 produced as a result of Hernandez’s extortion is the subject matter of Count 1.

An image dated 9.5.2014, ending in14964_n.jpg, depicting Victim 1 using a cellular telephone to take a picture of herself in a bathroom mirror. Victim 1 is seen standing in front of the mirror, completely nude, and Victim 1’s face, breasts, and vagina are clearly visible.

Minor Victim 1's story is but one of 100. Below are messages between Hernandez and Minor Victim 5:¹⁵

Def.: first off. What if i decided to show all your friends and family? big deal or no? what do you think everyone would say about you?

Minor Victim 5: Yeah its a big deal. And they wouldnt think think to good of me..

Def.: I guess that would be fucked up but I want to see what everyone will say about you. should be interesting

Minor Victim 5: Tell me who u are. Im not gonna say anything. And how do u know they are me?

Def.: ok i will prove that its you. I'll post them on facebook like i planned. I'll include all the information i have as well. That should prove to everyone.

Minor Victim 5: Why are you doing this? What did I ever do to you?

Def.: So what do you think I should do instead? just not show anyone? delete? thats asking a lot.

Minor Victim 5: What did I do to you for you to want to do this?

Def.: i dont need a reason. I can do whatever the fuck i want just for fun? what are you gonna do about it? cry?

Minor Victim 5: What do u want from me?

Def.: i'll delete but I want something in return. I want more pics of you. new ones taken right now. do that and I'll delete everything and drop it.

Below are messages between Hernandez and Minor Victim 6:¹⁶

Def.: ok we can talk about it. I haven't shown anyone just yet but that's what we need to talk about mostly.

Minor Victim 6: Okay can we you tell me who you are first? I'll keep it between us

¹⁵ Messages between Hernandez and Minor Victim 5 are taken from Gov. Ex. 201.

¹⁶ Messages between Hernandez and Minor Victim 6 are taken from Gov. Ex. 207.

Def.: no thanks. you still have not answered my earlier question. what do you think all your friends and family will say about you?

Minor Victim 6: I don't know. I only sent that to my boyfriend. And we dated for a Long time. Just tell me who you are please

Def.: why dont you think for a second? why would i tell you who i am if im planning on showing everyone?

Minor Victim 6: Why are you planning on showing everyone anyone what did I do to you?

Def.: so you dont know what everyone will say about you? there is video of you masturbating.

Def.: you never done anything to me. I guess that would be fucked up if i did. But I want to see what everyone would say about you. should be interesting.

Def.: [friend of Minor Victim 6] just texted me so now i know you are telling people. Yeah you're fucked. Im going to ruin you.

Minor Victim 6: I don't even know who you are!

Def.: :).

Def.: get on your facebook. You are missing the show

Def.: last chance. do what i asked and I'll stop now

Def.: you cant escape. You cant hide. I promise you. I will show every single person who has ever met you. I promise you that

Def.: blocking or deleting your facebook wont work. already added your friends. already messaged your family. im waiting for replies

According to Minor Victim 11, she eventually realized that Hernandez had tricked her.

Minor Victim 11: yeah I figured your lies out the next day already after I sent you pictures. and thanks for ruining my life.

Def.: and what lies did you figure out? I think you are to dumb to figure anything out.

Minor Victim 11: that helps the fact that I'm already hard on myself for that reason.

Def.: forget it. I just realized i dont care what you have to say. I wated enough time Def. talking to your skanky ass too much today. k take your clothes off.

Minor Victim 11: I'm not a slut !

Def.: then how did I end up with pics of you in the first place? how did a bunch of guys end up with them.

Minor Victim 11: you're the only guy that I've sent to

Def.: nope. you sure as hell didnt send them to me. I got them from someone else.

Minor Victim 11: I swear I've only ever sent nudes to you I've sent bra and underwear but that's it

Def.: thats what im referring too

Minor Victim 11: Enjoy. from who I honestly don't even care there's nothing I can do

Def.: no skank. lets continue now. i dont got all night. I got a life, unlike you

Gov. Ex. 200.

Minor Victims 1 through 6 and 11's stories are only seven of 100 examples. When interviewed, Minor Victims 1, 2, 3, 4, 6, 11, and 13 told the Government during witness preparation that they wished beyond anything that they had asked for help instead of sending that very first image.

Hernandez's use of time pressure continued throughout the years he sextorted his victims. Victims frequently pleaded with Hernandez that they couldn't deliver the images and videos he requested on his timetable because, for example, their parents were home, they were at volleyball, school, or some other activity. Minor Victims 1, 2, and 11 told the Government that they attempted to slow things down

and used delay tactics in an often-fruitless effort to limit the number of images and videos they were forced to send to Hernandez. But, Hernandez didn't care and typically increased the pressure on them to respond immediately. As the Court will undoubtedly note reading portions of his messages, Hernandez responded harshly to any attempt by his victims to stand up for themselves, refuse to comply, or even behave in what he believed was "rude" manner. Unless they were completely subservient and immediately compliant, he doubled down and punished them severely. After a while, some just gave up.

Def.: hey. continue later today

Minor Victim 1: Maybe

Def: what do u mean maybe? ;(

Minor Victim 1: I have so much going on right now I have finals to study for tons of homework dance performance I don't have Time to deal with you

Def.: That's not very nice. you have too much attitude.

Def.: u are mean so im gonna be mean back. you have to continue right

Def.: now!!!! so go find a bathroom fool

Def.: start

Minor Victim 1: Dude I'm at school

Def.: find bathroom like i said dude

Minor Victim 1: Heck no

Def.: refusing to do what i ask? aww hell naw. we gotta huge problem right now.

Minor Victim 1: I will send later tonight but I'm not sending at school I can't send at school what if someone walked in and caught me

Def.: you should have thought about that before you wanted to be a rude bitch. hurry tf up and get on it idgaf

Minor Victim 1: I wasn't being rude I was being honest I'm just really stressed

Def.: start with 1 normal. then I'll give u a list so you can go quick

Minor Victim1: I will when I get home

Def.: now.

Def.: hurry tf up. you think im playing with your bitch ass?

Minor Victim 1: Ik your not playing but neither am I

Def.: this is gonna end bad....you have 5 minutes to send what i asked.

Gov. Ex. 210.

Over a period of five years, Hernandez also frequently used time pressure against Minor Victim 2. For example, Hernandez over a series of messages in 8 minutes, told Minor Victim 2:

Def: "start. make the video at least a minute long. avoid glare like last time."

Def.: "dont cut out head. be sexier! grab your tits and ass a little if you have to."

Def.: "length is important make sure its at least 1 min. tell me whens its uploading so I can tell you whats next.

Def: is the first uploading?

Minor Victim 2: "No I'm waiting for my parents to fall asleep and I'm doing my hwk"

Def: "dont you think you should tell me that?"

there is a lot i want tonight. i texted you early enough. either im getting everything tonight or tomorrow I'll take it out on you. letting you know now.

Minor Victim 2: "Hmm well my parents aren't going to sleep and I'll be at the kalahari with my family all weekend and idk what to do"

Def: "Im not going to bother you at all this weekend. just get everything done tonight."

Minor Victim 2: "Okay I'll start in a little cause my 'rents"

Def: "dude. you realize you are on last last chance right?"

Def.: "ehh. I kinda hope you do fuck this. give me a reason to show everyone and be done with all this shit. :P"

Gov. Ex. 213.

Hernandez pressured victims to produce images and videos even when they told him that their family members were ill or dying. For example:

Def.: so? you still can. and you have to. we got like nothing done. so it has to be now

Minor Victim2: No I can't dude. Me and him are already about To go to bed I'm not doing this while he is here. Also I get out of dance earlier at like 830 tomorrow so tomorrow is better. I can't tonight today has been horrible. 2 people that are really important to me are about to die. They are in the hospital. Just give me the night off

Def.: you were on your last chance and still nothing has been done. there is no waiting or chances after last. thats it

Minor Victim 2: Please just give me the night off

Def.: tomorrow then. start before 9. it will be even more. no matter what it has to be done tomorrow. deal?

Minor Victim 2: Yep.

Def.: hey [Minor Victim 2]

Def.: [Minor Victim 2] *

Def.: hay hay-hay

Def.: im back to torture you some more

Gov. Ex. 213, 214.

Minor Victim 1: I'm at the hospital my great grandma is dying

Def.: alright? so what time are you gonna be home?

Minor Victim 1: Not sure

Def.: well im glad you arent still mad at me. and I'll text you around 10ish

Def.: hello

Def.: [Minor Victim 1]

Def.: what happened last night?

Def.: hey

Def.: you absolutely need to do this today.

Def.: [Minor Victim 1].

Def.: [Minor Victim 1]

Def.: hey after class

Def. : I cant allow you to not respond and not do what i ask

Def.: hey i want 2 tonight.

Def.: I need you to text me back and say okay or no...

Def: hey.

Def. : hey [Minor Victim 1]. can you please respond.

Def.: i dont wanna hurt you. but you're leaving me much choice.

Def.: i know you read what i sent to you on facebook right now. seriously dont make me do this to you.

Def.: someone on your facebook read it, thats for sure. *shrugs*

Gov. Ex. 213, 214.

Hernandez's methods worked. Since at least 2012, at least 100 minor victims complied with Hernandez's demands and sent Hernandez images and videos depicting themselves engaging in sexually explicit conduct. Hernandez typically began extorting victims when they were between the ages of twelve to fifteen years old. Hernandez sexually exploited some of his victims for years, and continued to extort them even after they turned eighteen years old. Hernandez relentlessly messaged some of his victims, such as Minor Victim 2, almost every single day for nearly a four to five-year period (from 2012 to August 3, 2017). (Exhibits A, B, and Gov. Ex. Charts 1-4).

Hernandez's relentless messaging was particularly damaging. Gov. Ex. Charts 1-4 show the frequency with which Hernandez messaged Victims 1, 2, 3, and 11.¹⁷ Of course, there were periods of time (sometimes days or weeks) during which Hernandez fell silent. As set forth in Dr. Reid Meloy's report filed at Docket Number 170, this resulted in traumatic bonding. Hernandez created a clear power differential between the victimizer and the victim, and 2) the unpredictable use of negative reinforcement (withdrawal of punishment). According to Dr. Meloy, the punishment in this case is not only found in the communications with the victims, but also the unpredictable amount of time between the communications when Hernandez would be silent. None of the victims knew when they would hear from him again with an immediate sexual demand, likely maintaining their anxiety, fear, and hypervigilance between contacts. Traumatic bonding contributes substantially to our understanding of many enigmatic social situations, such as the reason why some battered women have such a difficult time leaving the relationship and the batterer, and often return, even when controlling for such variables as income and social support. See Docket 170.

iv. Hernandez's Controlled his Victims and Gave Precise Instructions on the Type of Child Pornography they Produced

Hernandez sent victims specific instructions on precisely what kind of images and videos he wanted his victims to produce. His requests almost always began with nude "selfies" in a mirror, but progressed overtime to forced acts of penetration of the

¹⁷ The charts only summarize some of the account data. For example, Minor Victim 2's sextortion began in 2012.

vagina and anus with objects such as brushes. Many victims told Hernandez that he was asking them to do things that they had never done before. He didn't care.

For example, in messages between Hernandez and Minor Victim 4¹⁸, he said, "want to see you fuck your brush handle." She said, "Oww it's kinda pointy." He responded, "unless you wanna fuck yourself with what you normally fuck yourself with. I know for a fact you fuck yourself with stuff." She said, "No I really don't I've never put anything else inside of my but my fingers that's it." Uncaring, he asked, "did you already record it?" She said, "Yeah it hurt really really bad it's uploading and I'm like falling asleep I can't stay awake:("

Hernandez typically sent instructions to his victims using several versions of screen shots so that he wouldn't have to type them out each time. They included the following screen shots taken from Gov. Ex. 2417-2419:

¹⁸ See Gov. Ex. 208.

k 2 vids.

1. strip vid first. wear a suggestive outfit.

2. a long vid of you fucking every hole. use a nice fat brush. I wanna see everything there is to see in this 1 vid. make it extra graphic and extra long. leave nothing for me to want to see ever again.

you have to talk dirty in it as well. dont care how much trouble you could get in if you get heard.

and do a bunch of positions in it. lay on side and spread that ass and pussy. also lean back on your elbow and lift your legs up and back so you can get deep with the brush. spread pussy in that position so i can get a good view. tons of spreading. tons of fucking and pulling out brush out. fuck yourself really close to the camera. move back and fuck yourself from afar so face is in it. fuck yourself slow. fast. hard. soft. |

basically just do everything. and back camera or i'll make you redo.

1. fuck yourself. asshole and pussy at the same time. nothing on. be far enough back so i can see full body and face. move up close some times but generally stay back. 3 minutes.

2. strip dance. Actually dance this time. last time i asked for something similar you didnt even try. make it sexy. shake that ass. start pff slow and build up to it. 3 minutes.

3. make a video apologizing to me for being a horrible slave. promise me you will do better to keep my happy. 1 minute.

that's it.



1. nothing on. fuck yourself using 2 fingers. use middle and ring finger. make sure you're really wet. I want your fingers to be soaked. after you finish fucking yourself, pull fingers out and suck on them. Record this vid by placing camera on floor in front of you. bend knees while you sit.

2. record a video sitting down on your knees. start in bra and panties|. rub pussy thru panties. then turn around and stick ass out while on knees. take everything off while turned around. then spread ass and pussy for the camera and hold that pose for a long time. after that just do sexy stuff. jiggle ass with hands. jiggle tits. stuff like that.

3. fuck yourself with something big. Use brush handle. Suck on it before fucking yourself. spit on pussy. get yourself really wet. Sit camera on the floor in front of you. Bend knees. lean back on your arm. dont lay.

all 3 need to be 4 minutes or over.

use BACK camera only.

Face needs to be in all

skim thru vids before sending. redo if not long enough, if blurry, or head out.



Make this a really long video. like 12 minutes. Back camera. flash is a must. Be as perfect as you possibly can. choose what you wear but make sure its overly sexual. nothing lame like pajamas.

you have to make me cum 3 times from 1 video.

- 1 fully dressed.
- 2 in bra and panties
- 3 with nothing on.

use 2 main positions. 1 standing up. in front of the camera. 1 on your knees with the camera on the floor. Find a new spot to record. do not send me anything with your face cut out. go to the bathroom and use the bathroom sink as a stand if you have to. Dont forget to twerk. jiggle ass, and spread asshole/pussy up close to the camera|for me.

towards the end of the video you have to fuck yourself as well. get really close for that part. it's okay if your head gets cut out a bit. Use a brush. fuck yourself but also I wanna see it slide deep inside you and then pulled out and slid back in. do that a bunch of times. I like seeing your pussy tighten as you remove it completely.

use different positions. as well. normal. ride it. turn around and bounce ass on it. laying on your side. etc. face needs to be almost always visible or i'll hate it. find good lighting. moan. talk. talk dirty. give me something to listen to as well.



Exhibit A, B, Gov. Ex. 2417-2419.

If a particular image or video wasn't made to Hernandez's precise instructions, Hernandez either forced the victim to "redo" the video, retaliated by publicly posting her images and videos online, or degraded the victim by calling her names.

For example, Hernandez told Minor Victim 2, "2 (videos) today. probably redos from yesterday, but slightly different. Then im giving you an extremely detailed outline for the next sex vid." Gov. Ex. 213. Hernandez also told Minor Victim 2, "i wanna see how all the vids come out right now. I might have you redo something if its shit." Gov. Ex. 213.

Not only did Hernandez demand specific poses and sex acts, he also required his victims to display a complaint attitude. As set forth in messaging with Minor Victim 4:¹⁹

Def.: next send 1 picture topless. dont use a mirror. Just turn the camera around and take a selfie. dont cut out head.

Def.: there is a lot more. shut up and start

Def.: ok. fuck you then. bye

Def.: too late

Def.: send 1 between legs. show vagina. sit down this time. dont stand

Def.: do it in your room. You wont need a mirror for these.

ok then. send 2. the 1 i just asked for. Then another between legs but this time use your hand to spread open and turn on the camera flash

Def.: yes but i have to see if you do these right first.

Def.: yup. way wrong.

Def.: you stood i said sit.

Def.: but whatever. Im not liking your negative energy. so like i said earlier. fuck you and bye

Def.: what are you talking about. im not showing anyone calm the fuck down. I just said bye cause you are killing my mood

¹⁹ Messages between Hernandez and Minor Victim 4 are taken from Gov. Ex. 204, 206, 208. This section is from Gov. Ex. 208.

In the very last line, the defendant acknowledges “this is not right what I’m doing to you . . . as long as I get what I want I’m not gonna do anything.”

Hernandez often taunted his victims by asking them what their significant other would think of them if Hernandez “exposed” them.

Hernandez to Minor Victim 1:

Def.: you blocked me. That tells me its over. Im showing everyone. I dont think your boyfriend is gonna be very understanding.

Def.: and yea its disgusting that you get your little pussy wet and pretend you arent forced. what would your boyfriend think!!!!!! Ew”

Gov. Ex. 210.

Hernandez also told some of his victims that they had to record sex acts with their significant others (unbeknownst to the significant other). In other words, he forced victims to victimize their loved ones.

Def.: can i see a vid of [Minor Victim 11’s boyfriend] fucking you?

Minor Victim 11: please no

Minor Victim 11: i really don’t want to drag him into this and

Minor Victim 11: i don't want to make a sex tape. I’m scared of it

Gov. Ex. 200.

Def.: good morning love

Minor Victim 11: hey i was in therapy

Def.: damn. you start your days early.

Def.: love you. you're my online valentines.

Def.: Make your boyfriend feel special today and let him believe you are all his. But we both know you are mine and that you really belong to me >:)

Gov. Ex. 200.

Victim 3: Ugh idk. Tell me whatever you wanted me to do Monday and I'll send it this upcoming Monday

Def.: i already told you bitch. a video of you sucking your boyfriends dick. Have him hold the camera and record you

Victim 3: omg I don't know how I'm going to get him to do that!

Gov. Ex. 216.

Def.: 2 things i need from you. both are pretty hard.

Victim 3: I don't know how I feel about the word hard

Def.: #1 is a regular strip vid at least 3 mins long. start normal. but first you have to start it by talking about the experience of being owned. then mention your boyfriend and say how much you love doing do this, especially behind his back. after that you can start the video. talk dirty during it. spend a long time in bra and panties rubbing yourself and posing sexy before you start undressing. dont cut out head. a lot of ass spreading. tons of ass bouncing. etc.

Gov. Ex. 216.

Hernandez to Minor Victim 2:

Def.: I want more of you getting fucked but with specific directions this time. but I was thinking first... Should you wait a while before doing that again. He might get suspicious

Gov. Ex. 213.

According to Victim 3, one of the most difficult parts of Hernandez's extortion was keeping secrets from every single person she knew, including her significant other. Even though Hernandez was coercing her, Victim 3 felt like she was betraying her family and friends, and cheating on her loved one.

v. Hernandez Threatened to “Expose,” Kill, Rape, and Kidnap his Victims, their Siblings, and other Family Members

Once Hernandez received the sexually explicit images and videos from his victims, he continued to extort them, until they refused to comply. If victims refused to comply, Hernandez threatened to “expose” them by sharing their child pornography, and threatened to murder, rape, kidnap, and injure the victim and the victim’s friends and family.

Hernandez to Minor Victim 4:

Def.: times up. continue now.

Minor Victim 4: I told u earlier my cameras aren't working anymore I dropped my phone and my camera is busted and my front camera never worked I'm not lying to u either, and I'm in bed I can't text pass 8 now

Def.: i will show your friends and family [Minor Victim 4]

Minor Victim 4:I'm not Lying to u I swear I'm not I true earlier when u texted and it was completely black non of the pictures were showing up please I will figure something out but I'm in bed right now please

Def.: nah. Im done with you now. The deal is off. Im gonna have fun and expose you. goodnight

Minor Victim 4: Pleas please don't!!!! I'm begging u I will try I promise I will please y don't u call me I can call I won't know who u are and we can dirty talk please I will try to get my cameras to work I swear I will!!! Please please please

Minor Victim 4: Please please please!!! I'm begging u I'm not lying to u I did take pictures earlier but they came out black because my camera is broke, I told u I would try to fix it tho or u could call an we could dirty talk please I really don't want those pictures out there, I will try to fix my camera just please don't show anyone

Def.: nope. too late

Gov. Ex. 204, 206, 208.

Hernandez also targeted the victims' younger siblings. Hernandez to Minor Victim 2 from Gov. Ex. 213:

Def.: im going to target your sister. just an fyi.

Later, and during a different message string,

Minor Victim: And I'm not a whore get real you sound stupid.

Def.: no u are a whore. the biggest one i came across. Ive exposed 10 thousand whores just like you. so u sound stupid.

Minor Victim 2: I'm not a whore like you don't even know me. I'm in a relationship I'm not a whore Hahahaha anyways tomorrow night I get home from school around 530. Does that work for you

Def.: no whore. that doesn't work for me. i want one of your sisters numbers. now.

Minor Victim 2: No

Minor Victim 2: You're not getting it.

Minor Victim 2: Pick a time then

Def.: fine i pick yesterday. like you were supposed to.

Gov. Ex. 213. Hernandez told Minor Victim 11:

Def.: you're gonna do it so just go do it. but hes going to throw you away like trash

Def.: and then I'm going to throw you away like trash.

Minor Victim 11: i'm not going to tell? i was asking can you please let me go

Minor Victim 11: [Minor Victim 11's boyfriend] knows something is up

Minor Victim 11: he has no trust in me

Def.: and that's gonna change if i let you go?

Minor Victim 11: yes, i won't feel the need to tell him and feel guilty and i won't be lying anymore

Def.: no sorry. im not leeting you . you're MINE forever. make it work like you always. If you cant make it work i guess you're fucked

Def.: you're getting kinda ugly tho. Maybe we can work something out for your release.

Minor Victim 11: ugly?!

Minor Victim 11: and what would i have to do?

Def.: your little sister can take your place and you can go free. We'll keep it a family tradition. hahaha. you arent all that anymore anyways.

Minor Victim 11: don't do this to my sister

Def.: i bet shes nice and tight. very innocent just like you were. give me her number. Def.: I'll teach her >:). dont worry she will be in good hands haha

Minor Victim 11: no

Minor Victim 11: i won't do that to her

Def.: alright.

Minor Victim 11: and my sisters aren't as innocent as i was

Def.: you have 2 little sisters right?

Minor Victim 11: yeah?

Minor Victim 11: how do you know all of this

Gov. Ex. 200.

Hernandez threatened to sextort Victim 3's sister, who was only 10-years-old, telling her "I like 'em young."²⁰

Minor Victim 3: Waiting for my sister to fall asleep

Minor Victim 3: She still a freaking wake ugh!!!!

Minor Victim 3: I might have to do it early when I wake up this is making me mad

²⁰ Messages between Hernandez and Victim 3 are taken from Gov. Ex. 202, 203, 205, and 216.

Def.: how'd you know i just got online and was about to text you rn?
Minor Victim 3: no idea. I've done that before too
Def.: and no we said today. not even tonight. >:(. and how old is she? I need a girl. i'm guessing she'd be just as obedient as you.

Minor Victim 3: Yeah no. She's 10 I know but she doesn't have school tomorrow so she's staying up extra late

Def.: i like em young. does she got a phone? and go to the bathroom then or tell her to leave your room.

Minor Victim 3: No she doesn't! Jeez!

In a separate message string,

Def.: well you better step it up or i'll have my way with your lil sister. hahahaha. not even joking >:)

Minor Victim 3: Seriously stop it!!!!!! And why do I have to make a talking video?

Def.: im not stop shit. and why do you have to make it? because i said so? what more reason do you need? because I say so.

Def.: stopping*

Minor Victim 3: I just wanted to freaking know jeez

Def.: You wanted to know, and I told you. dont ask next time if you dont wanna know.

Def.: what's your lil sister wearing rn? hmm i'd love to see. oh, I'd take real good care of her!!!! for years.

Def.: she can be my next [Minor Victim 1] lmao.

If victims refused to comply, or if Hernandez simply decided he was "bored"

with them, Hernandez frequently posted the sexually explicit images or videos of the victims online, or sent them to the victims' friends and family via the Internet.

Hernandez to Minor Victim 2:

Def.: anywaysss. dont wanna talk to ya. redo the video right now and upload. we can chit chat another time

Minor Victim 2: No actually. I'm always either at work, dance, or with [Minor Victim 2's boyfriend]. It's late and I'm going to bed goodnight

Def.: nope continue

Def.: you're so so gay. im gonna end up showing everyone someday watch. hes gonna dump your trashy ass as result, im sure of it. night slut.

Def.: where my videos slut

Def.: bitch

Def.: hey. you need to continue today.

Def.: so do you understand?

Minor Victim 2: What?

Def.: give me the time. Its going to be today

Def.: i asked you a question. What time?

Def.: you need to continue. im not gonna wait any longer

Minor Victim 2: Too bad I'm away I told you that

Def.: Monday, for sure. cancel whatever you have if you need to make time.

Def.: i expect you to be ready today about around 8

Def.: i probably going to show some people today

Def.: i'll see if i can get something out of your nudes from someone.

Gov. Ex. 213. As Hernandez began distributing Minor Victim 2's images to her friends and family, Minor Victim 2 said:

STOP MESSAGING PEOPLE I TOLD YOU I WOULD CONTINUE

Seriously stop

STOP DELETE THE FUCKING ACCOUNT

STOP DELETE THE FUCKING ACCOUNT

STOP DELETE THE FUCKING ACCOUNT

STOP DELETE THE FUCKING ACCOUNT

STOP DELETE THE FUCKING ACCOUNT

STOP DELETE THE FUCKING ACCOUNT

DELETE IT RIGHT THE FUCK NOW

DELETE IT RIGHT THE FUCK NOW

Hello!?!?

Def.: or else what?

Minor Victim 2: Just stop dude I told you I would continue later

Minor Victim 2: Delete the account

Minor Victim 2: FUCKING STOP

Def.: i got a tough decision to make

Minor Victim 2: Like people are blowing up my phone I thought you said continue at 8

Def.: i did say 8. and you said nothing as always. and im tired of that tbh

Def.: but i can probably get something in return for your pics right now I got a few peoples interest. That would be better because you never do shit when i ask

Minor Victim 2: Dude I can't right now I'm with my boyfriend and we just left to go to the mall. I'll continue at 8 like you said

Minor Victim 2: I have to go though because I'm with [Minor Victim 2's boyfriend] I'll text you at 8

Def.: no you arent "getting it", I dont think you understand.

Minor Victim 2: I GET IT I told you I will continue just stop please

Def.: ok bye. we will see how things turn out bye. I will continue to message people and shop around. maybe [Minor Victim 2 boyfriend] will want them lol

Minor Victim 2: Dude please stop what do I have to do

Minor Victim 2: Stop messaging people please I told you I would continue

Minor Victim 2: Hello

Minor Victim 2: HELLO

Minor Victim 2: Hello what do I have to do could you respond faster please

Def.: im trying to ignore you. Im doing "things" right now

Minor Victim 2: Dude please stop Just stop what do I have to do

Minor Victim 2: This is all I can do right now

Def.: I'm leaving please stop shopping around

all you ever had to do was just continue. but you dont. i would even text you every day if you just continued.

Minor Victim 2: I know dude but I was away all weekend you know that. There was no way I could continue. I told you I'll continue tonight just please stop messaging people

Minor Victim 2: And delete the Facebook

Def.: and get this... if you actually did continue with what i ask, you would eventually EVEN FINISH.. wow!! cool right?

Gov. Ex. 213.

Hernandez also threatened to murder, rape, kidnap, and injure the victim and the victim's friends and family if the victim refused to comply, or if the victim was unable to send the images and videos as quickly as Hernandez demanded. For example, Hernandez told MV11:

Def.: k. im calling the guy now. you are getting fucked tomorrow since u are so rude

Minor Victim 11: Im not being rude

Minor Victim 11: Im tired of being treated like this

Minor Victim 11: like you have to understand where i was coming from

Def.: you're tired???? well ok. go ahead & tell [Minor Victim 11's boyfriend] then. that way i can slit his throat and then hunt down your family 1 by 1 with my rifle.

Minor Victim 11: wtf

Def.: ...lol.

The Government will discuss Hernandez's threats to kill, rape, and kidnap Minor Victims 1, 2, 3 and their families in more detail below.

vi. Hernandez showed victims images and videos of other victims and described how he had exposed them as method of extortion.

Hernandez ensured that his victims complied by showing them screen shots, links, and news articles of what happened to other victims when they refused his demands. Hernandez chose pornographic images depicting minor victims crying, and showing how he distributed their images to their friends and family. In doing so, Hernandez ensured that his victims knew that he meant business. Hernandez also bragged to victims that he had been investigated by the police, and not caught adding to their feelings of hopelessness. He wasn't bluffing. Knowing that Hernandez had exposed other victims' child pornography and had threatened to kill them and hadn't been caught added to the terror his victims experienced.

For example with Minor Victim 2:

Def.: i did it before. I sold off a bad little girl. got \$300 for her. You're a little older so i dont think I'd get as much. you got a tight pussy tho.

Def.: selling you off would be better than what i normally do to bad girl >=).

Def.: Normally I dont give em a chance and i just expose them. all over facebook and instagram!!!!!!

Minor Victim 2: Can you please just wait until tomorrow I promise I'll do it.

Def.: nope. you're gonna end up like this little whore >=(

Minor Victim 2: Please don't just please tomorrow I'll do everything you say

Def.: that girl begged me to. but i dont put up with little liars and people who waste Def.: my time tbh. you've been the exception tbh.

Minor Victim 2: Why am I an exception ?

Def.: a bunch of reasons.

Minor Victim 2: Like what???

Def.: my favorite part is when they cry to mommy and daddy for help.
lol. people actually think i give a fuck!

Minor Victim 2: Yeah now tell me why I'm an exception ;p

Def.: you're not gonna be the exception for long little punk. if you keep blowing me off.

Def.: i decided what your punishment will be.

Minor Victim 2: Can we please do it tomorrow

Minor Victim 2: What is it

Def.: im gonna do to you what i did to those 2 whores i just showed you.

Minor Victim 2: No PLEASE don't

Minor Victim 2: Like seriously please don't

Minor Victim 2: Please don't expose me like I cannot have that right now

Minor Victim 2: I will do everything tomorrow after work I promise you

Minor Victim 2: Just PLEASE don't :(

Def.: fine. fine. but your punishment will be to see some of the things ive done recently. that way you know to try a little harder.

Def.: heres 2 links. watch the videos and read the articles when you can. then be ready tomorrow after 8

Minor Victim 2: What do you mean?

Def. sends: <http://www.wmtw.com/news/police-investigate-facebook-page-threatening-to-post-nude-images-of-underage-girls/35063550>

<http://www.wmtw.com/news/facebook-removes-pages-with-maine-girls-explicit-photos/35082248>

<https://wabi.tv/2015/09/02/update-police-investigating-facebook-pages-sharing-nude-photos-of-underage-local-girls/>

Minor Victim 2: Wait what do you mean

Minor Victim 2: What are the article for?

Def.: the articles and videos are just things ive dont to little whores who wasted my time.. kinda like you.

Def.: i want you to see what i do to people like that. so go read up and watch the videos too. thats your punishment. watch and read.

Between in or about 2012 and on or about August 3, 2017, Hernandez distributed images and videos of other minor victims to Minor Victim 2, and agents of the Federal Bureau of Investigation acting in an undercover capacity as Minor Victim 2, to coerce Minor Victim 2 to produce child pornography of Victim 2. Hernandez also sent the following messages to Minor Victim 2:

I know where you live. I come at night.
I come at night for all of my slaves eventually
Have I ever made u cry?

Hernandez then sent the person he believed was Minor Victim 2 (FBI activating in an undercover capacity) images depicting several unknown victims, who appeared to be minors engaging in sexually explicit conduct as they cried. Hernandez messaged Victim 2 saying, "I make girls cry." Hernandez then distributed a sexually explicit image constituting child pornography of an unidentified victim, who is a minor, crying as she took a sexually explicit "selfie" in the mirror. Special Agent Willmann in an undercover capacity said, "stop I don't wanna see that," but Hernandez continued sending additional images depicting other minor victims nude or partially nude who were crying and said, "look at this one. She had a nervous breakdown knowing I would tell mommy and daddy."

vii. Hernandez Encouraged Victims to Kill Themselves

Hernandez also encouraged some of his victims to kill themselves. In some instances, Hernandez promised that he would disseminate their sexually explicit images at their funeral and "trash" their Facebook memorial page if they committed

suicide. For example, from account dmzx3@hush.ai (Gov. Ex. 148) to an unidentified victim,

Victim: Just drop it be mature, & move on with life, & I'll do the same.

Def.: kill yourself slut. You fucked with the wrong person. I wont be exposing you just once. I'll ALWAYS be here. i will NEVER let you live this down

Victim: I don't need this in my life.. Just because I got pissed off you are doing this.

Victim: Please just stop this.

Def.: every time you get a new friend. I'll be sure to share with them the nudes and videos. Fucking slut. burn in hell bitch :)

Def.: NOTHING WILL STOP ME. YOU'RE DONE SLUT.

Victim: What can I do. & I'm not a slut I made bad choices I know I did.

Def.: you think the bullying you had growing up was bad. wait until you see what i have for you.

Victim: Please that's all I ask is stop this.. I don't deserve this in my life.

Def.: even if you kill yourself. I promise you i will print them out and pass around at your funeral.

Victim: Why would you do this to me I never did nothing wrong to you or anything..

Def.: are you fucking retard? do you not remember what you just fucking texted me?

Victim: Do you remember me telling you I suffer from extreme bio polar.

Def.: idgaf. I dont have time for your shit.

Victim: One more chance ?

Def.: I suggest you tell you boyfriend now. then go to the police and show them everything. You will need all the fucking help you can get right now

Victim: Please stop this.

Def.: you must have thought this was a game? you will learn today how serious this really was

Victim: Please I'm begging you. I don't deserve this I was nice to you & then I do one little thing wrong my life's in jeopardy.

Def.: I was even nicer back to you. I waited for your vacation shit to be over... and this is what i get for being nice to you?

Victim: I'm sorry for all of this. I deserve to be dead anyway.

Def.: the world would be better without you tbh. i wouldnt shed a single tear for you. I hope it hurts

Def.: if i give you another chance this same shit is gonna happen. This is the second time this has happened.

Victim: Just tell me who you are.

Victim: It's going not going to.

Def.: what?

Victim: I said it's not going to.

Def.: fine

Def.: 1 more chance you stupid bitch. So lets try this again. Im gonna resend my original message and i want you respond properly.

Def.: "you better continue today. dont blow me off again"

Victim: I won't.

Def.: you wont what? You wont continue? or you wont blow me off?

Victim: I won't blow you off.

Def.: Good girl. & did you already leave for work? continue now if not

Victim: I'm going to work now.

Def.: so that whole time you were being a retard you could have done what i wanted?

Def.: you sicken me. Be ready to take your clothes off at 11 tonights. Thats all you will ever be good for in life. Text you then

Victim: I'm in the process of deleting my Facebook along with with my other social medias lol.

Def.: do you think that would save you?

Victim: No I just don't think there's use in them. I just wanna ask why would you do that to me ? Or anybody for that matter ?

Def.: 2015does that mean you arent going to do what i asked? because thats what it sounds like

Victim: Did I say that ? No.. I just wanna know these things ?

Def.: deleting your social media is a clear indication that you are trying to get out of this. your last chance is up honey

Def.: get on facebook. Im starting. I am smarter than you. I plan ahead. and guess what. even if you delete social media that wont matter. i know you personally

Days later,

Def.: hey

Def.: you fucked up

Def.: lol

Def.: bitch

Def.: kill yourself

In messaging between Hernandez and another unidentified victim using account drawback8@hushmail.com (Gov. Ex. 149):

Victim: If you see something on the news of me dead because I killed myself I hope it hurts you

Def.: even if you killed your self. I swear to god I'll print them out and pass around at your funeral. you wont escape this :)

In messaging between Minor Victim 2 and Hernandez:

Minor Victim 2: Can you please just let me go :(

Def.: No. Why should I reward you for ignoring me for months and then not even touching the things I said I wanted to finally end this?

Minor Victim 2: Because. It's been 4 years. I've literally sent you the absolute most personal videos that I could have. I just hate this

Def.: 4 years? its been less than 1 year to be exact.

Minor Victim 2: You have pictures of me from the 9th grade. It's been 4 years

Def.: If i was in your position i would have just done the fucking list ASAP. ITs like you dont understand the gravity of the situation.

Def.: remember when I contacted your mom and sister? lol

Minor Victim 2: No I do but I'm just asking you to send me some of the List so I can get it done

Def.: I dont even remember the list. But I do remember spending about an hour coming up with it. but that was months ago

Minor Victim 2: Dear fucking lord just tell me what you want

Def.: and I tried to get a hold of you but it never works out.. and I cant really threaten you, even though that works. But i cant because you done so much

Def.: i want you to kill yourself

Minor Victim 2: If I've done so much then can you please let me go. And what?

Def.: you've done so much for me so im reluctant to threaten you. Even though threats are the only thing you respond to. So im in a tough situation

Def.: so because of that we are stuck in this fucked up place and you arent ever going to get out of it lol.

Minor Victim 2: I really don't understand why you can't just let me go

Def.: Sure. make me happy and I'll go away. Lets start today. Right now.

Gov. Ex. 213.

Minor Victim 13 also suffered greatly. According to Minor Victim 13 and a law enforcement officer's report, Minor Victim 13 was so broken down and mentally battered from Hernandez's victimization that the law enforcement officer transported her to Meritus Medical Center. While she was in the hospital, Hernandez continued to post child pornography of her on social media.

viii. Hernandez derived pleasure from his victims' pleas to stop, and routinely degraded his victims.

Hernandez derived pleasure from his victims' pleas to stop, and routinely degraded his victims.

Victim 1: "Please don't." "You are tearing my life apart and you don't even understand please delete this page and please stop."

Victim 1: "Why won't you let me finish how many more can you be wanting?"

Def.: "Until I think its enough."

Def.: "You are my slave. I'm your master and you do what your master says."

Def.: "if you keep ignoring me then you will get your shit posted. You can be another whore on my list that go what was coming to her."

Victim 1: ". . . I wanted a life without you."

"I don't even know who you are."

"Just leave me alone."

". . . I just can't anymore I feel like I'm going to break."

Gov. Ex. 210. Hernandez told Minor Victim 1, "if you're going to be rude about it...I'm the type of person who get extremely hostile when someone is being rude. So keep that in mind..." He wasn't exaggerating.

Hernandez also routinely degraded his victims. He used racial slurs against

Victim 3:²¹

Victim 3: Uh yes. I'm tired I got no sleep last night and got off work late

Victim 3: What do you even want

Def.: fuck you deals off you stupid nigger. I'll do what i had planned for you from the beginning

Victim 3: No ! I just asked you what you wanted

Victim 3: What do you want me to do ?

Victim 3: I changed my mind did you not read that message ?

Def.: probably not the best idea to tell your blackmailer no.

Victim 3: I know. That's why I changed my mind

Def.: i'll wait until tomorrow :l. I just wanted to get that point across

Victim 3: So you don't want anything now anymore ?

Def.: nope. you're cozy in bed already.

Victim 3: Nothing at all

Victim 3: That wasn't nice calling me a nigger

Def.: the manner in which you said no.... just wanted to remind you that you are being forced and im not asking nicely.

Victim 3: Still wasn't nice. You didn't have to use a derogatory word. It wasn't necessary

Def.: alright nigger. sorry dont chimp out on me

Victim 3: Wow. Whatever

Def.: chill out. did you forget to eat your bananas today or what?

Def.: why you fucking around?

²¹ Messages with Victim 3 are taken from Gov. Ex. 202, 203, 205, and 216. Hernandez's messaging shows that when Victim 3 tried to get him to stop using derogatory words, he doubled down and increased his use of slurs.

Victim 3: I told you I fell asleep. And I sent the video what do you mean ?

Def.: there was a lot you had to do. you said you had nothing to do all day so it was the perfect day. then you didnt do shit

Victim 3: No. I said I had to work in the day time

Def.: you nigger

Victim 3: That's so nice

Def.: why fuck around with me huh? you think its funny?

Victim 3: I told you. I fell asleep

Victim 3: And no I don't think it's funny God

Def.: you think u are funny huh?

Victim 3: No ! I don't !!!

Def.: now u screaming at me thru text? Wow

Hernandez told Victim 3 that he his decision whether to post her child pornography depended on matters completely out of her control adding to her feelings of complete hopelessness:

Def.: trump loses im exposing you. sorry hun. make sure you go and vote for him :). tell all your friends and family.

Def: im being serious btw.

Victim 3: You are?! That's not going to be my fault if he loses!! I'm only one person!!!

Def.: make it happen lil nigga.

Victim 3: I can't freaking make that happen!!!! Oh my fucking god

Def.: watch your language.

Def: looks like trump is falling behind. you better make it happen harder!

Victim3: Well I can't do anything about !!!! Oh my god!!!!

Def.: i would hate to lose you but trumop aint doing too hot atm.

Def.: make sure he wins [Victim 3]

Victim 3: Well I'm sorry I can't do anything about it!!! I can't force 300K ppl to vote for him!!! Wtf!!!!

Victim 3: That is so fucking unfair!!! I literally cannot do ANYTHING about that!!!!!!²²

In a separate message string,

Def.: im inspecting every inch of your being. you're mine 1000% bitch. dont ever forget it.

Def.: btw , ready to start our vids ?

Victim 3: Nothing to say

Def.: you seem a lil upset. speak up hun. i dont like tension.

Victim 3: I don't have anything to say at all

Def.: say it nigger

Hernandez also forced victims to choose what he would do to other victims that they didn't even know—making them feel as though they were equally responsible for his crimes. Here, he added to the torture – making the girls feel as though they were complicit in the abuse of others, when really they had no power. Hernandez and Hernandez alone was the decision maker as to how a particular victim would be treated. Statements that he made to the contrary were just mind games.

Hernandez referred to Victim 3 as his “property” and demanded she give him her passwords (as a method of domination and control). Hernandez also did this with Minor Victim 2. He bragged to Victim3 about how many lives he had ruined:

²² Messages with Victim 3 are taken from Gov. Ex. 202, 203, 205, and 216.

Def.: have literally ruined the lives of so many people. Someone even committed suicide and i directly caused it. Then I lol'd and trashed there facebook memorial page.

Def.: ive been emailed and messaged by police countless times. by now i just think its funny. Gov. Ex. 216.

As with Minor Victim 2, Hernandez compelled Victim 3 to give him passwords to her accounts.

Def.: Im gonna pretend like you arent lying to me. you get a pass. I've already forget. so let me ask again. what's your password to your email?

Def.: I'm seriously not lying lol

Victim 3: I can't figure out how to log out

Victim 3: I think it's [password]

Def.: That's a difficult password. Better then most people i've seen.

Victim 3: Lol they usually are. I don't want them getting hacked lmao. My email is mostly junk though idk if that's right or not

Def.: What's your facebook password?

Victim 3: I definitely don't know that. Can you please tell me what you're doing I'm freaking out

Def.: I want it. so you are absolutely going to give me whatever I want from you. & honestly, I dont have to explain myself to you.

Victim 3: I'm sorry I couldn't do your ten minutes this weekend it was busy with Easter I'm doing them now. I didn't mean to disobey you

Victim 3: What's the reason! Did I do something wrong?!?!?!?! I'm literally crying freaking out what did I do?! I'm sorry, I don't even know what to say!!!

Victim 3: Scared and like I'm going to throw up and having a panic attack

Def.: what's the code you were just sent?

Victim 3: What are you doing?!

Victim 3: Did you try and sign into my Apple ID?!

Victim 3: I wasn't sent a code

Def.: obviously

Victim 3: But why? You have everything else! Please don't sign into my Apple ID

Def.: no. lets try again. What's your apple id password? and when you get sent a code, text it to me.

Def.: i exported a copy all your contacts. full of friends and fam. just a heads up

Def.: if i ever had to expose you i'd simply go down the list.

Victim 3: You said you weren't

Def.: yeah im not. but these are some good trust exercises.

Victim 3: Yeah

Def.: you're my property sweetheart. I want you to learn that you have to open yourself up completely to me.

Victim 3: Right now bc I was too busy figuring out my passwords and I had to leave because I was having a panic attack²³

ix. Summary

Hernandez's messages were beyond cruel. He psychologically tortured his victims, and did irreparable damage to them. Hernandez's victims have reported thoughts of suicide, cutting, depression, post-traumatic stress, distrust in relationships, and sexual disfunction. The Court will hear from several victims during the sentencing hearing about the lasting impact Hernandez has had on their lives. Just punishment for these victims is enough to warrant a Life Sentence, but as set forth above, sextortion was only one of Hernandez's many crimes.

²³ Messages with Victim 3 are taken from Gov. Ex. 202, 203, 205, and 216.

2. Hernandez’s Production, Distribution, Receipt, and Possession of Child Pornography

As a result of Hernandez’s coercion and extortion, Hernandez produced, distributed and possessed countless images and videos of child pornography depicting his victims engaged in sexually explicit conduct. At the sentencing hearing, the Government will show the Court (outside of public view) the following exhibits:²⁴

- Images and Still shots of Videos Described in Count 1-17 of the Superseding Indictment. (Gov. Exhibits 1600 through 1616).
- Images and still shots described in Count 22 of Victim 3. (Gov. Ex. 1618).
- Images of Minor Victim 12 (Gov. Ex. 1620).
- Images of Minor Victim 13 (Gov. Ex. MV13).

Importantly, and unlike most other defendants who commit acts of sextortion, Hernandez frequently posted the images of his victims online for public view. For example, Hernandez posted images of Minor Victim 1, 2, 3, 4, 5, 6, 11, 12, and 13. Hernandez, as shown through his taunts to law enforcement, didn’t seem to mind if doing so attracted the attention of law enforcement.

Indeed, Hernandez enjoyed taunting law enforcement, including the FBI. For example, Hernandez posting using the alias “Brian Kil” and tagging the FBI’s Facebook page, “Dear FBI – Federal Bureau of Investigation, have [Minor Victim 1] apologize and I’ll turn myself in instead of killing people.” He also said, “Every

²⁴ Aside from images of Victim 13, which were shown to the defense prior to the sentencing, all of the remaining exhibits were previously shown to counsel in advance of the scheduled February 9, 2020 trial date, and discussed at length during the Final Pretrial Conference.

subpoena will lead to the same dead end. You need to NIT your way in to be sure. You need attack me via email and facebook. Use a damn [Minor Victim 1] decoy, you aren't even trying! I will read tape you to hell. Get creative. You're boring." See also Gov. Ex. 2404-2411.

3. **Hernandez's Threats to Use Explosive Devices and Threats to Injure Minors, Adults, Law Enforcement Officers, and First Responders**

By December 2015, Hernandez had been extorting Minor Victim 1 for approximately 16 months. On December 12, 2015, Minor Victim 1's mother (Victim 7) discovered some of Hernandez's messages to Minor Victim 1 on Minor Victim 1's cell phone. According to Minor Victim 1 and Victim 7 (her mother), Victim 7 was holding Minor Victim 1's cell phone and looking at an application that stored her gymnastics videos. Minor Victim 1 had forgotten to delete the last video that she had produced for Hernandez. Victim 7 watched the video in horror and confronted her daughter. Minor Victim 1 finally broke down and told her mother about Hernandez. Unfortunately, at first, Victim 7 didn't believe Minor Victim 1 (which Minor Victim 1 explained was one of the lowest points of her victimization). Victim 7 confiscated Minor Victim 1's phone as a punishment.

That week, Minor Victim 1 and Victim 7 were at gymnastics, and Hernandez began messaging Minor Victim 1's phone. Victim 7 now believed Minor Victim 1, and pulled aside a police officer who was present at the gym (his daughter attended class there). Victim 7 and the officer began messaging Hernandez. As Minor Victim 1 begged them to stop, Hernandez then began posting nude images of Minor Victim 1 on Facebook tagging Minor Victim 1 so that her friends, family, and teachers would

see them. Hernandez's vicious and retaliatory messages to Minor Victim 1 and her family are horrendous. The Government has attached them in full as Exhibits 1900-1909 and 2200. The messages are the subject matter of Counts 23 through 32 and 33, 38, 40 and 41.

On or about December 17, 2015, and in retaliation for Victim 7's messages, Hernandez, using the name "Brian Kil," posted on his Facebook account multiple images of Victim 1 that Hernandez had obtained via extortion, including:

- a. An image depicting Victim 1 wearing black pants and a pink bra. Victim 1 was holding onto her breasts with both hands.
- b. An image depicting Victim 1 nude from the waist up in a bedroom. Victim 1's breasts were blocked out using photo editing software.
- c. An image depicting Victim 1 wearing pink shorts and a multi-colored shirt, standing in what appears to be a bathroom. One hand is on her hip while the other hand lifts up her shirt, exposing her breast.

Then, Hernandez, using the name "Brian Kil," also posted the following messages:

"(your time is running out. You though the police would find me by now but they didn't.they have no clue. The police are useless. Some of you went and reported this and NOTHING happened. The time is nearly here I'm shaking in excitement. I want to leave a trail of death and fire and Plainfield. I will simply WALK RIGHT IN UNDETECTED TOMORROW. Once in I will wait a few classes before I start my assault. I'm coming for you [Victim 1]. You're fucking dead you slutty bitch. I will slaughter your entire class and save you for last. I will lean over

you as you scream and cry and beg for mercy right before I slit your fucking throat ear from ear. The rest of you will be picked off as you try to run away. Im coming. Believe that. I'd love to see the police try and intervene if they have the nuts to enter. I'll add a dozen dead police to my tally. FUCKING TRY ME PIGS I WILL FINISH YOU OFF AS WELL.)”

Tomorrow will be a fucking bloodbath at plainfield high. I will open fire on all you sickening pieces of shit.

I have in my possession
3 home made pipe bombs,
2 handguns, and
1 semi auto rifle.

I will be targeting this whore [Victim 1] personally.

I know her exact schedule. I will slaughter EVERY SINGLE Peron who happens to have class with her. After I finish killing this whore [Minor Victim 1] I wil turn my sights on her friends. I will methodically pick you off as you all run for your lives in the crowds. Those that I miss will be be blown to hell with the pipe bombs I set around campus. I plan on leaving no survivors.

If you ever talked to [Minor Victim 1], I swear to god I will put a bullet in your fucking skill. I suggest you stay home tomorrow if you value your life. If you think this is a joke then go to class tomorrow. I dare you. If you think the police have enough time to stop me this late at night then you know nothing about IP addresses.

After I kill her friends I will begin to erase all the faggots and nigger at plainfield. You sucking subhumans are ruining everything for everyone. The world will thank me for removing you all. You faggots will have to answer to God for your sins.

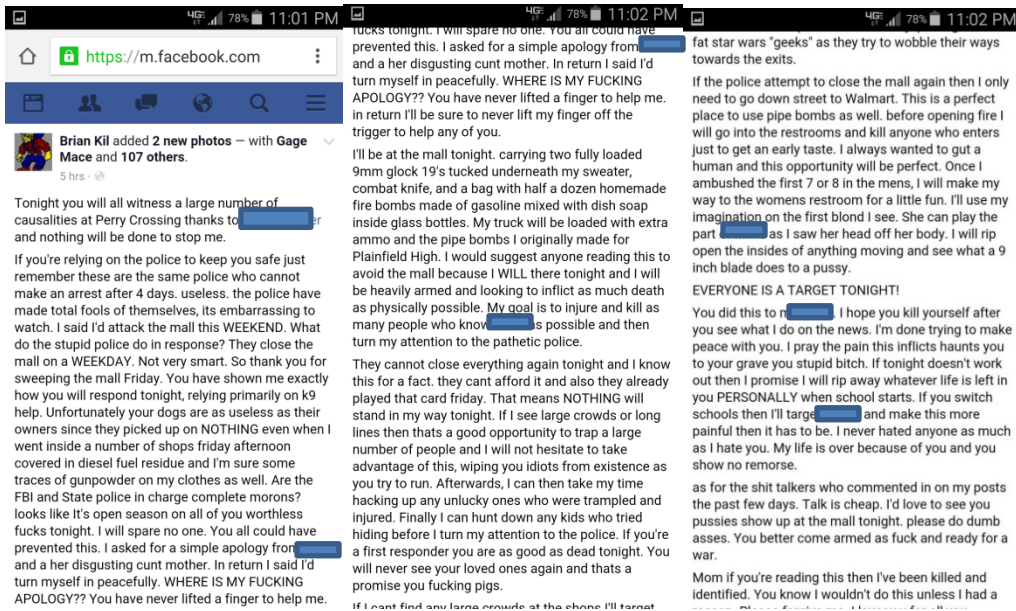
If you want the nudes of [Minor Victim 1] now is the time to get them. I will be gone from this earth tomorrow and so will hundreds of plainfield students.”

Exhibit A and B.

On December 17, 2015, Hernandez, using the name Brian Kil, posted “danville is still open. Maybe I'll settle on some faggots and niggers at Danville.”

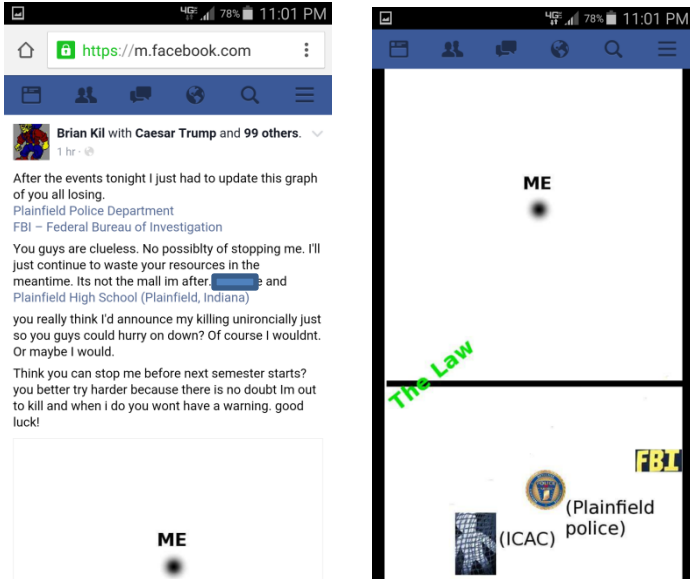
On or about December 17, 2015, and as a result of Hernandez’s threats, school administrators evacuated and closed Plainfield and Danville High Schools.

Between December 18, 2015, and December 20, 2015, Hernandez continued to threaten to kill Minor Victim 1, and Minor Victim 1’s family, friends, and classmates via the Internet. On December 20, 2015, Hernandez, using the name “Brian Kil,” posted the following threat on Facebook to fire bomb the Shops at Perry Crossing and Walmart, and to kill Victim 1, patrons, and first responders:



Exhibits A and B.

First responders arrived at the Shops of Perry Crossing and Walmart and evacuated the buildings, including the movie theater. Subsequently, Hernandez used Facebook to post the following:



Ex. A and B, Superseding Indictment.

Hernandez then posted a video of Minor Victim 1 engaging in sexually explicit conduct that he obtained from Minor Victim 1 via sextortion. Hernandez commented on the video as follows: “I want a new rifle so I can catch (Minor Victim 1) at Plainfield high School –brian.”

On January 3, 2016, Victim 10, a Plainfield High School Board Member, received the following threat from Hernandez on Victim 10’s publicly available E-mail account (Gov. Ex. 1909):

Hello Mr. [Victim 10]:

Want to see a bunch of people slaughtered like pigs in the slaughter house? You should pay close attention to your schools because I’m coming mother fucker.

Why has [Victim 1] been given a free pass? UNACCEPTABLE. I will make this right. I would love to murder you and [Victim 10’s wife] before I go on my killing spree. I’m looking you up your address as we speak. Bye.

Hernandez's messages are attached herein as Government Exhibits 1700-1703, 1900-1909. Hernandez's threats to use explosive devices and threats to kill, injure, and rape as associated with Counts 18-21 and 23-32, 38, and 40-41.

Hernandez Compelled Victim 3 to Attend and Record a Community Forum in Plainfield High School about the "Brian Kil" Investigation

On January 5, 2016, Hernandez used the Internet to communicate with Victim 3 about his sextortion of Minor Victim 1 in a series of messages. At that time, Minor Victim 1's sextortion, and Hernandez's threats to bomb schools had been in the news. In one message, Hernandez stated that, "[Minor Victim 1] was cool, but a little difficult to work with, which is understandable. She was snobby most of the time which I understand and she blew off dates a bunch as well. But at the end of the day I knew I could trust her and she was cool whenever we did talk about stuff." Another message sent approximately 40 minutes later continued the conversation about Minor Victim 1 and ended with, "I've been in this situation a billion times with people I blackmail for money/info or girls for nudes. A lot of times they just fake pretend to be a cop or family member to try and scare you, so I had to test it out..." Additionally, Hernandez wrote, "nah I hope not LMAO. I still a lot more stealing and blackmailing to do. I want become the worst cyber terrotist that ever lived."²⁵

On January 6, 2016, Hernandez sent a message to Victim 3 that said, "yeah. Well I deserve to be thrown in jail tbh. If I ever do get caught just don't come forward with our stuff. That will add another 10 years x.x".

²⁵ See Gov. Exhibits 202, 203, 216.

As discussed by Principal Mel Seifert, who will appear before the Court at sentencing, the Plainfield school community lived in a constant state of fear. In an effort to assist students and parents, law enforcement and the school district scheduled a community forum on January 19, 2016 at Plainfield High School.

On January 12, 2016, Hernandez sent the following messages to Victim 3 relating to the community forum:

“theres gonna be a community forum/meeting at plainfield high next. I need you to go to it. n_-n”

“I need you to go and tell me what they say. Its Tuesday night at 7:30. I need to know what the feds have to say.”

“I can’t go. I fit the profile for the suspect. They will be looking for me. No ones gonna notice a black girl with an afro.”

1.

“you just gotta sit there for an hour and look pretty. Laugh at all the angry moms and drive home.”

“I 1000% need you to go.”

“don’t say “help” because then you become an accomplice. You’re being FORCED to do what I say or else. Always remember that.”

Exhibit A, B, and Superseding Indictment, 202, 203, 216.

On January 19, 2016, law enforcement held the forum. Assistant United States Attorney Tiffany J. Preston, members of the FBI and Indiana State Police, and school officials were present. Attendees were searched at the door, and undercover officers filtered throughout the crowd of approximately 1000 people. TV cameras were not allowed at the forum.

Subsequent to the community forum, Hernandez, using the name “Brianna Killian” and “Brian Mil,” posted the following messages via the Internet about what occurred during the forum and who attended:²⁶

“ONLY 200 subpoenas. What have you been doing for nearly 2 months? Only 200. LMAO. I’m going to kill ‘Minor Victim 1’ and unload on her friends and you only did 200? zzzZZZzzz”.

“Searching for the lady with the 9 year who talked. Red scarf. Short hair.”

“another interesting thing before I go to bed. The fat blonde lady with the glasses on top of her head and the tie-die shirt underneath a white west. “how do we know hes not here.” I was, and I learned a lot. ONLY 200 subpoenas.”

“what happens if hes not caught” -charity I was shaking my damn head when you asked that charity. If I’m not found then i go on to make more threats and then I kill your kids. Dumb bitch. you had an entire week to think of a question and thats what you ask? "what if hes not caught? I'm so stupid please tell me what happens if hes not caught?"

“chicago lady spoke after him.²⁷ She said nothing of importance. Shes useless. Shes coming back here to talk to us about staying safe online. She also lied about why they are so tight lipped. she said it's because “they know best” Later someone asks a question like this and they flip flop. the real answer: They dont know shit 200 court orders later. They are incompetent. arrested poor patrick for no reason.”

Hernandez’s criminal tradecraft included counterintelligence. His posts lead the community to believe (because he used details including what people said and even wore) that he was present at the forum and living among them and their children. It was utterly terrifying for the parents and students.

²⁶ Again, this information is relevant not only to offense conduct, but obstruction and retaliation.

²⁷ During the forum, the AUSA mentioned her background in Child Exploitation and Kidnapping crimes from her first position in the Chicago field office.

4. **Hernandez's Retaliation Against Victim 2 and her Family**

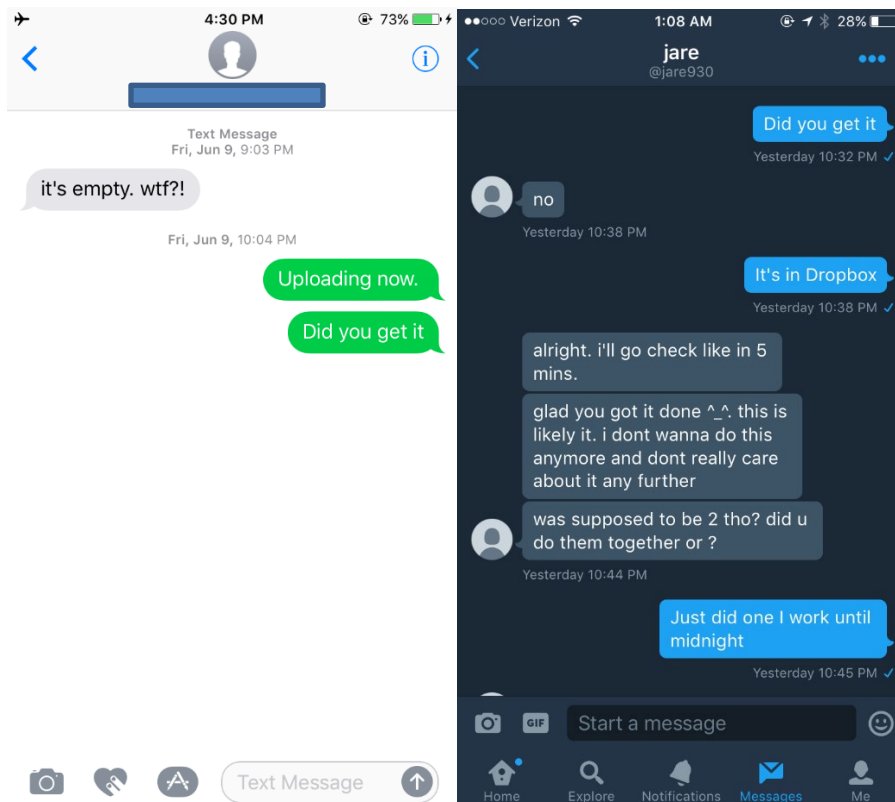
During the investigation, the FBI and the USAO attempted on several occasions to locate a victim who was currently being sextorted by Hernandez, and who would be willing to assist the authorities.

Hernandez had finally made a critical error. When messaging a group of victims who were located in Maine, Hernandez revealed through the use of a screen shot the type of operating system he was using to sextort his victim (the TAILS operating system). That knowledge allowed the FBI to use a "NIT" that could be uploaded onto a video and deployed when Hernandez opened the video. However, the FBI knew that they were on borrowed time. According to the TAILS website, the operating system was scheduled for a routine update that summer. Once updated, the NIT would be useless. The FBI had to act quickly to find a victim who was currently being sextorted by Hernandez and who was also willing to assist the Government by uploading a video and sending it to Hernandez. The USAO obtained federal authority to use the NIT. The, and with the assistance of another law enforcement officer, the FBI identified and located Minor Victim 2, who lived in Michigan.

On June 9, 2017, the FBI drove to Michigan and interviewed Minor Victim 2. The details of that interview will be shared during the hearing. Hernandez was still extorting Minor Victim 2, and had been instructing Minor Victim 2 to upload images and videos to a Dropbox.com account known to investigators. The Dropbox.com account was not publicly accessible. With the consent of Minor Victim 2, law

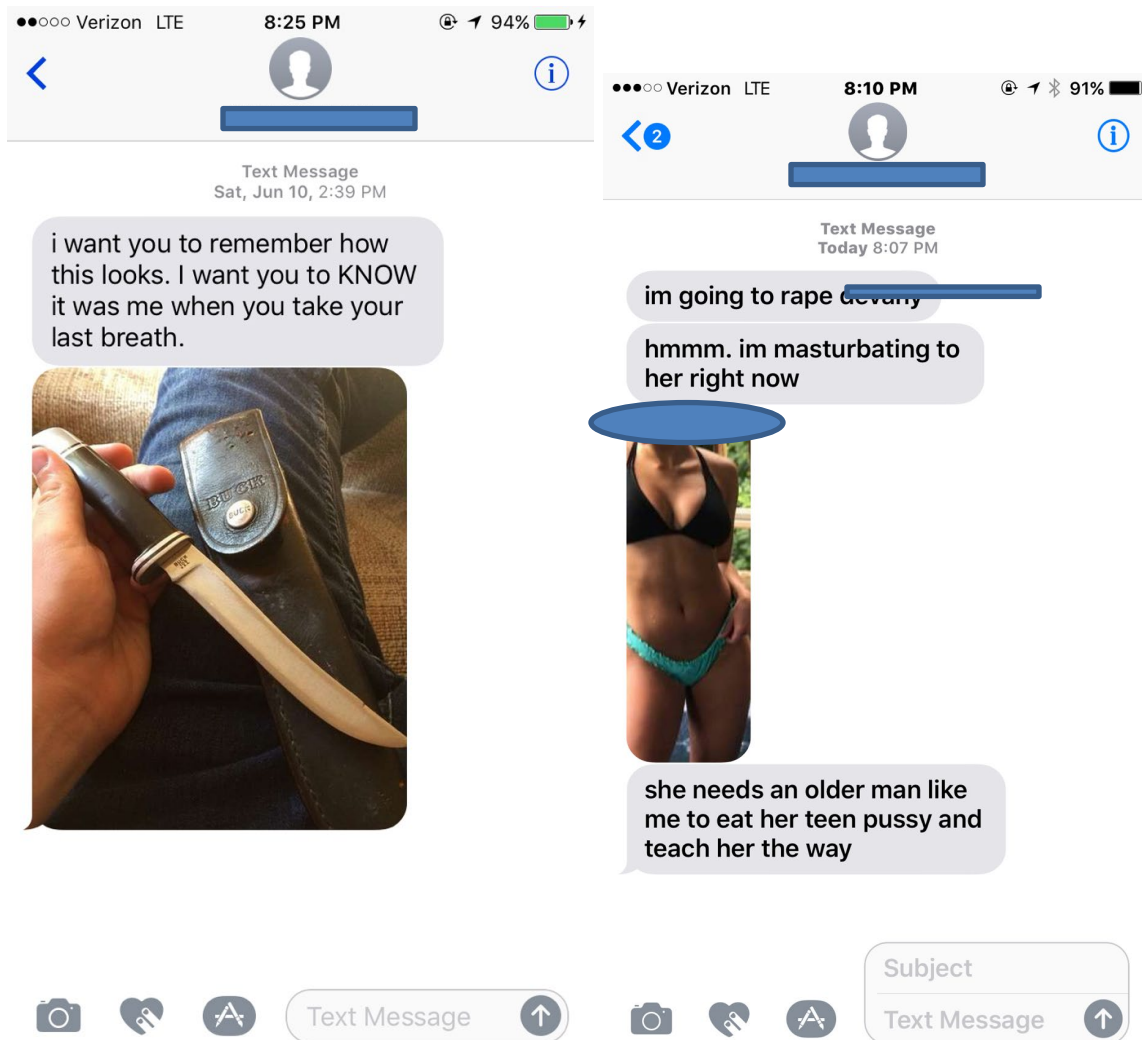
enforcement began communicating with Hernandez as Minor Victim 2 in an undercover capacity. During law enforcement's undercover communications with Hernandez, and under the lawful authority given to them by the Court's order, the FBI uploaded a small piece of code to a video file produced by Minor Victim 2, which did not contain any visual depictions of any minor engaged in sexually explicit activity. The Government will play that video at the sentencing hearing.

As authorized, the FBI then uploaded the video file containing the code to the Dropbox.com account known only to Hernandez and Minor Victim 2. When Hernandez viewed the video containing the code on a computer, the code disclosed the true IP address associated with the computer used by Hernandez. Screenshots of the communications follow:

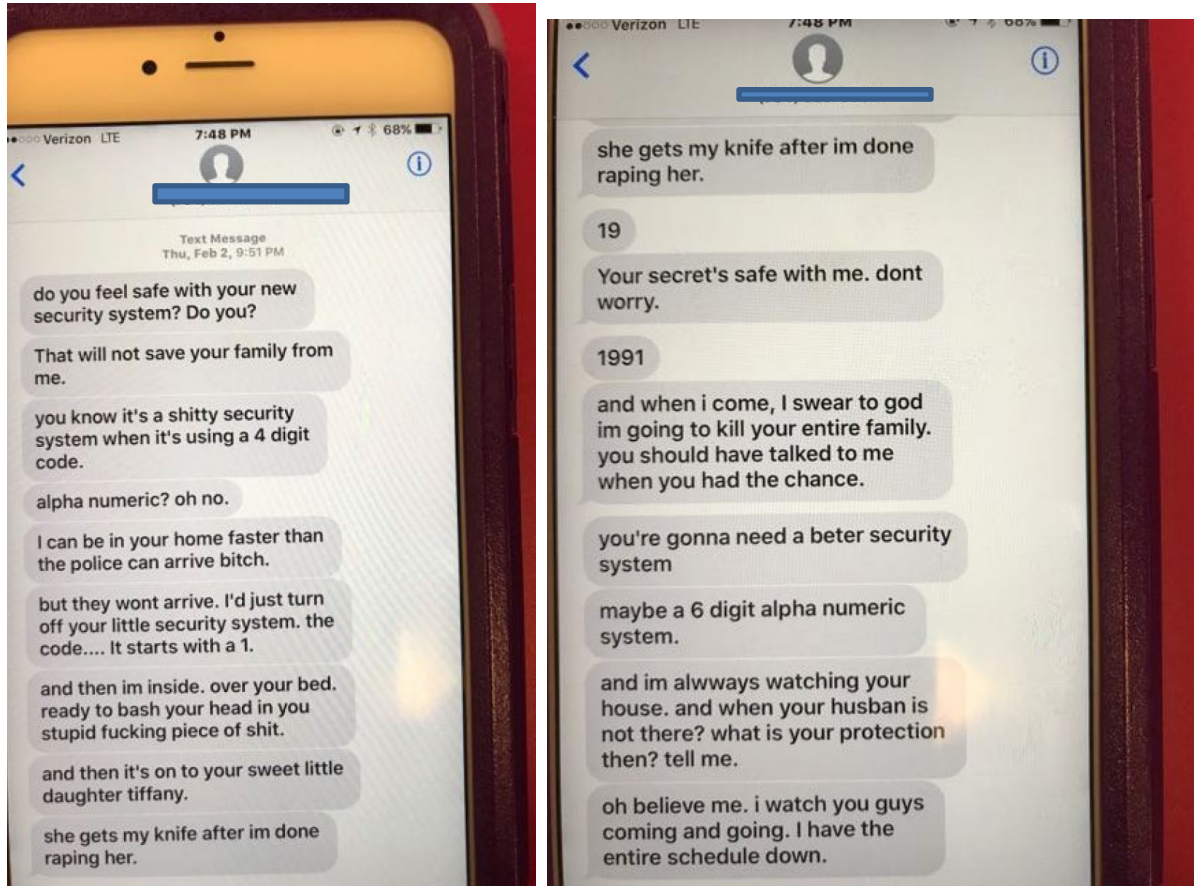


It is impossible to adequately convey the bravery of Victim 2 and her family. They knew that Hernandez would retaliate after Minor Victim 2 sent the video. After receiving the video, and in retaliation for not sending Hernandez the desired sexually explicit images, Hernandez began sending messages to the family of Victim 2 stating that Hernandez was going to murder and rape them.

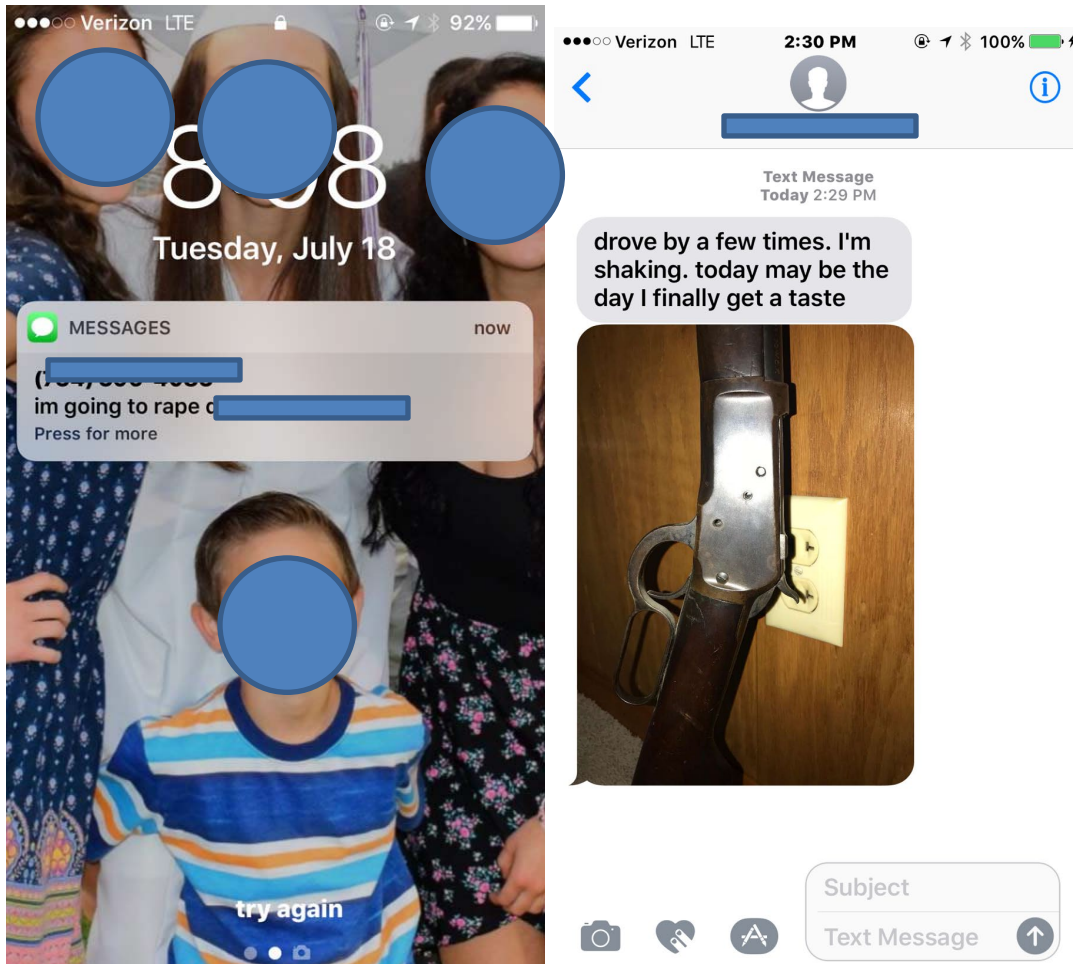
As set forth in Gov. Ex. 2002 and 2003, Hernandez sent the following text message to Victim 2's family:



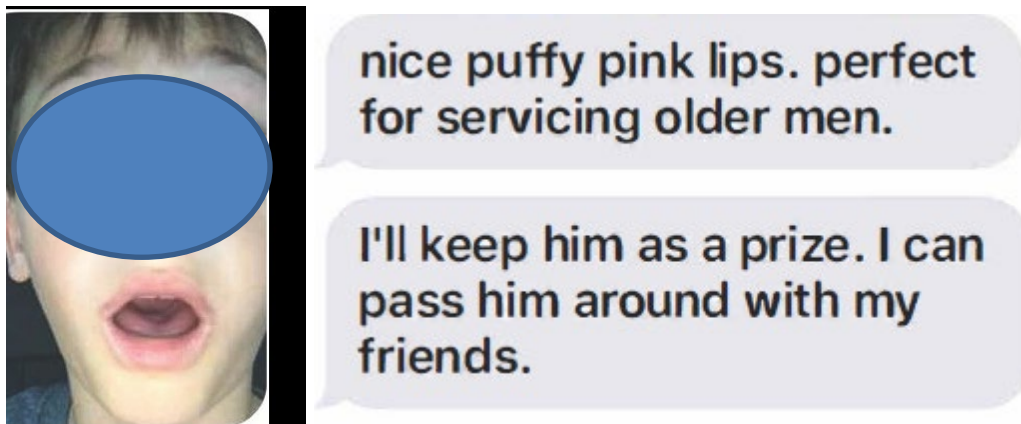
As set forth in Government Ex. 2003, Hernandez sent the following text messages to Victim 2's family:



As set forth in Gov. Ex. 2004:



As set forth in Gov. Ex. 2005:



With the help of Minor Victim 2 and her family, the FBI was finally able to employ the NIT, and to identify Hernandez's true internet protocol address in the summer of 2017.

The FBI then spent a month analyzing Hernandez's internet protocol address data through the use of Title III investigation, and monitored his residence in Bakersfield, California. Without Minor Victim 2 and her family's sacrifice, Hernandez may still be at large.

5. **Hernandez's Tradecraft to Evade Detection and Obstruction of Justice**

As set forth in Exhibits A, B, and the PSR, Hernandez used the following sophisticated methods of tradecraft to mask and obfuscate his true identity and the true location of his IP address in an intentional effort to evade detection by law enforcement and obstruct justice. First, Hernandez used nearly 200 aliases to hide his true identity. As set forth above, Hernandez opened approximately 315 e-mail and social media accounts using numerous aliases then quickly ceased using the accounts in an intentional effort to impede or delay law enforcement investigative action on those accounts.

Hernandez also used multiple e-mail service providers located outside the United States that are commonly discussed in online communities as not having records readily available to United States law enforcement during the course of criminal investigations, and as a method of tradecraft for obfuscation.

Hernandez intentionally removed the password protection on his router to create an open Wi-Fi connection, which is commonly discussed in online communities

as a method of tradecraft designed to create dissociation and obfuscation of identity during the course of a criminal investigation.

On August 3, 2017, the FBI arrested Hernandez at the home he shared with his girlfriend. But, Hernandez was prepared. First, in the event Hernandez was ever arrested or searched, he wanted to ensure that law enforcement could not recover evidence of his crimes. So, Hernandez used methods routinely discussed in online communities to protect against the retention of metadata and forensic artifacts that could reveal to law enforcement evidence of his criminal activities. Namely, Hernandez intentionally removed the hard drive from his computer to impede the success of commonly used law enforcement forensic investigative techniques to search computers. To get around the lack of a hard drive, he used an operating system that ran in temporary volatile memory. That is to say, the operating system ran from external storage media, such as a USB drive. As set forth in the Superseding Indictment and Exhibits A and B, this was intentional.

Hernandez designed his system so that all of the data in the device's memory would be lost as soon as the operating system was shut down or the computer was powered off. This method eliminated Hernandez's need for a hard drive to operate the computer, and it also left no record of his online activities. When he was done using his computer, Hernandez would simply remove the media (in this case, a thumb drive) containing the operating system from his computer. And, in the event law enforcement ever came to his door, all Hernandez had to do was quickly pull the

thumb drive from his computer and all evidence of his online activities would be destroyed.

His efforts worked. Indeed, Hernandez was using his computer at the time agents entered his home on August 3, 2017. Although the FBI had obtained “no knock” authority from a federal Magistrate in California, Hernandez acted quickly, and he immediately and intentionally removed the thumb drive containing the operating system from his computer as agents entered his room, thereby intentionally destroying metadata or forensic artifacts associated with his use of the operating system that constituted evidence of criminality.

Hernandez encrypted multiple hard disc drives, and he created encrypted containers on external storage media in an intentional effort to prevent law enforcement from accessing evidence such as the child pornography he received through extortion. The encryption he used was so sophisticated that the FBI was unable to decrypt despite running attacks against it for months.

Hernandez had also been careful to store some of his criminally obtained child pornography in hundreds of accounts online making it impossible for the Government to identify, seize, takeover, and delete those accounts.

Put another way, as FBI agents entered his home, Hernandez quickly destroyed evidence, and ensured that his devices were protected by sophisticated encryption or otherwise impossible to locate, seize, and search. Importantly, Hernandez’s criminal obstruction, intentional encryption, and sophisticated tradecraft prevented law enforcement, despite its best efforts, from identifying

numerous accounts and hundreds of victims from between at least August 3, 2017 until February 6, 2020.²⁸

B. The History and Characteristics of Hernandez do not Merit a Downward Variance, but rather, support a Guideline Sentence.

As of the date of this filing, the Government has reviewed the PSR and the Defense Mitigation Report prepared by Jacqueline Guy. The Government has not yet received Hernandez's sentencing memorandum nor has it received the report prepared by Dr. Fabian.

Hernandez was 28 years old at the time of his arrest. He had never held a job. He didn't have a driver's license, a credit card, or an ATM card. He was admitted to college twice and began attending classes, but failed to complete his Freshman year. He acknowledged squandering his educational opportunities because he "just wasn't interested." PSR, p. 46.

Hernandez had a long-time girlfriend who bankrolled his entire adult life. She was utterly devoted to him. Hernandez was devoted to his crimes. While she worked to support them, Hernandez spent all day victimizing children. His crimes were his full-time job.

The Government will address Hernandez's arguments regarding his family life during the sentencing hearing. To be clear, the Government has seen nothing that excuses the horrendous nature of Hernandez's 5-year-long crime spree. Unlike other offenders, Hernandez had a loving mother, devoted sisters, a long-time girlfriend, a

²⁸ As set forth in detail below, Hernandez's delay in providing information to the Government has directly impacted its ability to identify newly discovered victims from the encrypted hard drive.

roof over his head, access to electronics and games, and plenty of food. Even after he pleaded guilty, his family immediately forgave him and continues to support him. There is just no excuse or sufficient mitigation for what he has done.²⁹

In summary, the arguments Hernandez has presented in mitigation pale by comparison to the aggravating nature of his criminal offenses and are, to be plain, not close to enough to warrant a downward variance from a Guideline sentence of Life.

C. A Sentence of Life Imprisonment is Reasonable whereas a Downward Variance will Result in an Unreasonable Sentencing Disparity

A Life Sentence is reasonable in light of other sentencings from around the country for much less serious sextortion offenses. The following defendants were all convicted of sextortion cases, and were sentenced to between 50 years and Life imprisonment. As set forth below, Hernandez's crimes are much more serious than the defendants below because his crimes were committed for a longer period of time, against more (and for some, younger) victims, and involved threats to use explosive devices, death, and rape. Compare Hernandez's conduct to the following:

- *United States v. Lucas M. Chansler*, 3:10-cr-0100, M.D. Florida (2014):

Chansler received a sentence of 105 years' imprisonment for sextorting

²⁹ Regarding Hernandez's post-conviction decisions, the Government hereby incorporates its filing under docket number 166. The Court should consider the facts set forth in docket number 166 under Title 18, United States Code, Section 3553(a), but only with respect to whether the Court believes it entitles Hernandez to a downward variance. The Court may not consider the facts obtained post-conviction as relevant conduct or to his detriment when arriving at Hernandez's sentence. For the reasons set forth therein, the Government's position is that that facts set forth in docket number 166 do not merit a downward variance.

approximately 350 girls between the ages of 13 and 18. The duration of his crimes were 2-3 years. Chansler had 26 different poses for 41 different pictures that he wanted from each of his victims. The poses became more sexually graphic as time went on. Chansler used 135 different online IDs to conceal his identify and location. Chansler released 49 of those images. Chansler was a Criminal History Category I. Defense counsel argued that he suffered from depression, social avoidance, and was not a pedophile at the sentencing.

- *United States v. Tremaine Hutchinson*, 1:12-cr-10161, N.D. Georgia (2013): Hutchinson was sentenced to Life, and the 11th Circuit affirmed his sentence. Hutchinson, 27, sextorted approximately 15 minor victims between 11 and 16. He used fake social media to “friend” victims, and obtained nude photographs of the victims by offering to buy them thing. Upon receiving the nude photograph, Hutchinson then extorted the victims, and molested four of them. Hutching’s total offense level was 50. He had no criminal history. Hutchinson expressed remorse at the sentencing.
- *United States v. Gregory Bogomol*, N.D. Texas, (2015): Bogomol was sentenced to 60 years’ imprisonment after sextorting two 15-year old males. Bogomol, 39, was a high school teacher. Bogomol used social media applications such as KIK, Grindr, and Pinger to initiate conversations with underage males. Bogomol posed as a minor female and sent nude images of females to entice the boys to produce sexually explicit pictures. After Bogomol received an image from the minor male, Bogomol would make additional explicit demands. If the

minor male did not comply with his demands, Bogomol would threaten to send sexually explicit pictures of the boy to the boy's friends via social media applications.

- *United States v. Wesley Brandt*, 8:11-cr-58, M.D. Fla. (2011).: Brandt was sentenced to 90 years' imprisonment (affirmed by the 11th Circuit) for committing 13 counts of production, distribution and receipt of child pornography. Brandt used the Internet to coerce seven minor females (between 13 and 16 years' old) to photograph themselves in a sexually explicit manner and then send him the photographs. Brandt's total offense level of 43 and a criminal history category of I, yielding an advisory guidelines range of life imprisonment. Although Brandt argued to the 11th Circuit and the District Court that he had no physical contact with his victims, the Court found that this fact cannot serve to minimize - much less neutralize - the devastating psychological impact that his offenses left in their wake, as exemplified by the poignant statements of one of his teenage victims and the victims' families at sentencing. (See Brandt, No. 12-16321); citing Farley, 607 F.3d at 1345 (“[T]he sexual abuse of children, and the use of the Internet to facilitate that abuse, are serious problems affecting the health and welfare of the nation.”).
- *United States v. Robert Dion Ables*, 4:17-CR-38 (N.D. Texas)(2017). Ables was sentenced to 80 years' imprisonment (5th Circuit upheld on appeal) for sextorting minor females and males using a social media application. Ables

posed as a young girl on social media to trick a 14-year old Canadian girl into sending him sexually explicit images of herself. He then threatened to post them if she didn't send more. The victim sent Ables 25 images. Ables also admitted to sextorting adult men for money. Ables distributing child pornography to other adult men to entice the men to reciprocate with explicit images of themselves.

D. A Life Sentence is Necessary to Afford Adequate Deterrence to Criminal Conduct and to Protect the Public from Further Crimes of the Defendant.

The public must be protected from Hernandez. In support of this argument, the Government has filed under seal the expert report of Dr. Reid Meloy filed at Docket Number 170, and incorporates his conclusions herein.

In summary, Dr. Meloy opines that Hernandez's display all four personality traits known as The Dark Tetrad. They include Machiavellianism, Narcissism, Psychopathy, and Sadism. According to Dr. Meloy, it is reasonably psychologically certain, within the limits of the information he reviewed, that Hernandez's personality will remain the same as he grows older, but his specific behaviors may vary depending on the constraints, opportunities, privileges, and degrees of freedom that he will enjoy.

When it comes to the specific traits of the Dark Tetrad, there are no known mental health treatments for such conditions that have been shown to be effective, with the exception of narcissism. Put another way, years of therapy in the Bureau of Prisons will not change Hernandez's criminal mind and motivations. There is

nothing about Hernandez's crimes that requires strength of physical endurance. In other words, he will not "age out" of his crimes.

The public has to be protected from him indefinitely. The Government will call Dr. Meloy as a witness at the sentencing hearing.

E. A Life Sentence is Just Punishment for Hernandez's Victims

A Life sentence is necessary because there is a 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. It is important to note that Hernandez's crimes extend far beyond the suffering that the identified victims endured. Each and every one of the 100 victims about which the Government was aware prior to the evening of February 6, 2020 is a human being. They too have names. They have families and friends. They had hopes and dreams that didn't involve becoming one of Hernandez's "slaves," as he liked to call them. The trauma Hernandez has caused to so many victims and their families more than justifies a life sentence. His victims and the public deserve to know that he will never be able to hurt another human being. Something about how this is a new kind of trauma.

To suggest that somehow Hernandez's crimes are less serious or that he is less dangerous because he didn't commit a contact offense is insulting to these victims and is a complete misunderstanding of the true nature and circumstances of his offenses. Hernandez forced these victims to victimize themselves. They were made to insert objects into their bodies under duress and masturbate against their will. They were forced to pretend as though they enjoyed their own victimization as they

posed for Hernandez. They were given precise instructions on his degrading requests and were required to bend at the director of their own child pornography. Worse yet, they were forced to victimize others. Hernandez made them choose the type of victimization other victims would receive, and forced them to record sex acts with their own significant others.

Hernandez also chose victims who were in their formative years—when they were supposed to be learning to develop their own sexuality and relationships. The victims themselves can best address the impact these atrocities have had on their lives. However, the last impact of sextortion on victims is still being studied. How it will alter the course of their lives, including their ability to form meaningful attachments and function is not yet known. Hernandez did all of this, as he repeatedly told his victims, because he thought it was “fun.”

For example, when asked why he was sextorting children, Hernandez told Victim 3 “just have that dickish personality people generally don't like that. I cant help it. Its just too much fun. And hilarious.” Gov. Ex. 216. Hernandez said, “I was bored so I exposed some stupid bitch for fun.” And, “its fun causing panic and fucking peoples days up tbh. Im kinda starting to feel bad for [MV1]. ill post some more bullshit tonite to scare the moms. Wed afternoon im threatening 9 schools around Indiana. then ill threaten plainfield again. Then threaten the elementary schools nearby. I'll talk about raping the kids. wed nite im posting [Minor Victim 1's] nudes while I have everyones attention..then ill chalk this one up and move on to something else lol. I saved a bunch of pics of these little kids from elementary. Im blacking their

eyes out and making threats about raping/killing em. I don't enjoy it lol. I just think its funny fucking with people. The kid shit will piss a lot of people off. Cant wait.” Gov. Ex. 216.

Hernandez went on to say, “theres more. School went back in session yesterday and over the weekend I threated to massacre the nearest elementary and her school. The fbi and home land secuity took over the case 3 weeks ago. The school had metal detectors and shit and no backpack policy.” He told Victim 3, “parents are freaked out. No one is sending the kids even with the metal detectors and fbi. and im not done with the bitch!!!! mores coming.” Gov. Ex. 216.

When discussing sending Minor Victim 3o attend the community forum, Hernandez said, “a lot of people think im too far to do anything. Thanks to you ill be quoting shit directly from the forum. People are going to think twice about their kids safety after that.” Gov. Ex. 216. He was right.

V. CONCLUSION

WHEREFORE, and for the foregoing reasons, the United States respectfully requests that the Court sentence Hernandez to Life Imprisonment, which is a Guidelines sentence. The Court may fashion a Life sentence under Counts 9-11 which have a statutory maximum sentence of Life Imprisonment. Given that the eight counts of Sexual Exploitation of Minors have a statutory maximum sentence of 30 years' imprisonment, but are stacked, the Court should also find that Hernandez's crimes warrant an effective life sentence on the sexual exploitation charges through U.S.S.G. Section 5G1.2 by running consecutive the non-grouped production charges to achieve a sentence of 240 years.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2021, a copy of the foregoing GOVERNMENT'S SENTENCING MEMORANDUM was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.