Twitter Thread by Emily of the State



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This is premature, but I want to walk you though why some of the charges coming through are incredible significant. This is one of the recently unsealed complaints.

1512(b) is a very, very strong crime. Section 1512 is about obstruction of the administration of justice. The statute is supposedly about disrupting court proceedings, but it's broader. The way it's written, Congressional Proceedings count.

The statutory maximum for a single violation of 1512(b) is 20 years in prison. That's a lot. Most related federal crimes—231 civil disorder, 2101 riots—are only 5 years on the top end.

But that's not all.

See, federal sentencing is done via a complicated formula that computes sentencing guidelines.

Sentencing guidelines are based on the statute, the elements of the criminal offense, and the defendant's criminal history. It also factors in things like if the defendant takes responsibility, and takes a plea deal, etc.

Basically, you get a point level, and these modifiers either add or detract from that point level, and the final point level, combined with prior criminal history, determines the recommended sentencing range, which a judge can ignore but they usually don't.

Now, for 1512(b), one of the sentencing factors is whether the act was an act of terrorism. This is from https://t.co/drMCkea6OW.

When we look at the definition provided, what constitutes an act of terrorism?

It's a few things, and it's right here defined in the US Code. Don't read this all. Yet.

If we look at that list of things that constitute an act of terrorism, we can find various statutes that are relevant.

I've highlighted the relevant bit.

Let's take a look at that again. Section 1361 qualifies.

Now let's look at the complaint. A violation of section 1361 is charged.

What that means is the feds have set this up to be prosecuted as an act of domestic terrorism.

Now, the defendant is presumed innocent until proven guilty. But what if she even goes so far as to plead guilty? What would the sentence be, giving her the most generous adjustments?

Assuming no criminal history, a plea of guilty, an acceptance of responsibility, and no other enhancements, we're looking at a very harsh sentence: 188-235 months.

That's more than 15 years on the bottom end.

Now, sentencing is very hard to predict and a plea of guilty may not even be a plea to these charges.

The more probable read is that the feds are using this setup to leverage a plea. Threaten decades to get years.

But still, the specifics of these charges matter quite a lot. And by looking at the specific statutes that get charged, one can see an intention starting to form in the mind of the prosecutor.

This is not slow pitch softball.

Correction: I typo'd (b) instead of (c) (because of the 1515 reference below), but it doesn't affect the outcome

https://t.co/MBKnZk8EIz

> 1512(c) is referred to in the third charge. You write about \u201c1512(b).\u201d
> Typo?
>
> — Awake and Alert \u2615\ufe0f (@dontmeanathing) January 19, 2021

you can try it yourself on https://t.co/drMCkea6OW

I should also mention, I added the modifiers pertaining to the administration of justice, based on the facts laid out in the affidavit. These may not be applied. If you take them out, it's still more than 7 years on the bottom end.

(Given that 1512 is a statute about obstructing justice and that congressional hearings apply, it's not unfair to guess that these could be applied)

If these cases proceed to sentencing, then these sentencing factors will be argued over and evidence and case law will be used to decide whether they apply. In addition, if a plea deal is made, the deal could include not applying some factors but applying others.

This is why sentencing is hard to predict, but let's just say that if they want to throw the book at these folks, it's gonna be an unabridged oxford english dictionary.