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6
7 TULARE COUNTY SUPERIOR COURTS
8 STATE OF CALIFORNIA, VISALIA DIVISION
9

10 THE PEOPLE OF THE STATE OF CALIFORNIA,
11
12 Plaintiff,
13 v.
14 TIMOTHY BETHELL,
15 Defendant.

Case No.: VCF437862 and VCF438003
PEOPLE'S STATEMENT IN
AGGRAVATION
Date: March 29, 2023
Time: 8:30 a.m.
Dept.: 3

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19 Comes now the Plaintiff, the People of the State of California, by and through their
20 attorneys, TIM WARD, District Attorney, and JANET WISE, Assistant District Attorney,
21 respectfully submit the following STATEMENT IN AGGRAVATION. The People respectfully
22 request the Court impose the full, aggravated term of 7 years and 8 months local prison (PC
23 1170(h)) for both cases. The Court's indicated sentence at the time of the plea was 5 years and 4
24 months, to be served pursuant to PC 1170(h), with the opportunity for both parties to argue for
25 more or less time at the time of sentencing. There was no offer by the People in this case, and the
26 People have alleged aggravating factors. The People indicated at the time of the plea that the People
27 intended to argue for more time and intended to file this Statement in Aggravation as well.
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1 This motion is based upon these points and authorities, its exhibits, evidence to be presented
2 at the hearing, and any oral argument at the hearing. The People also incorporate by reference the
3 People’s bail motion filed by the People on January 25, 2023. Finally, the People ask the Court to
4 take judicial notice of VCF415478 and VCF420231 pursuant to Evidence Code section 452.
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7 **I. STATEMENT OF THE CASE**

8 **a. VCF437862**

9 On January 20, 2023, the People filed a complaint against the Defendant, Timothy
10 Bethell, charging him with the following felonies:

11 **COUNT 1: Second Degree Burglary of Tri Counties Bank** in violation of Penal Code
12 (“PC”) section 459;

13
14 **COUNT 2: Vandalism of Tri Counties Bank** in violation of PC 594;

15 **COUNT 3: Grand Theft of Tri Counties Bank** property in violation of PC 487;

16 **COUNT 4: Second Degree Burglary of Barrel House Brewing Company** in violation
17 of PC section 459;

18 **COUNT 5: Vandalism of Barrel House Brewing Company** in violation of PC 594¹;

19 **COUNT 6: Second Degree Burglary of Bible House Fellowship** in violation of PC
20 section 459;

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22 **COUNT 7: Vandalism of Bible House Fellowship** in violation of PC 594;

23 **COUNT 8: Second Degree Burglary of SP’s Burgers** in violation of PC section 459;

24 **COUNT 9: Vandalism of SP’s Burgers** in violation of PC 594;

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¹ This charge was subsequently amended to a misdemeanor due to damage less than \$400.

1 **COUNT 10: Second Degree Burglary of Provoke** [Salon] in violation of PC section
2 459;

3 **COUNT 11: Vandalism of Provoke** [Salon] in violation of PC 594;

4 **COUNT 12: Second Degree Burglary of Blend Wine** in violation of PC section 459;

5 **COUNT 13: Vandalism of Blend Wine** in violation of PC 594;

6 **COUNT 14: Second Degree Burglary of Crescent Valley Charter School** in violation
7 of PC section 459;

8 The complaint also alleged the following misdemeanors:

9 **COUNT 15: Vandalism of Crescent Valley Charter School** in violation of PC section
10 594; and,

11 **COUNT 16: Possession of a Smoking Device** in violation of HS 11364

12 The complaint also alleged a factor affecting concurrent or consecutive sentences:

13 **Rules of Court factor 4.425(a)(3):** crimes were committed at different times and
14 separate places.

15 The complaint further alleged the following aggravating factors²:

16 **Rules of Court factor 4.421(b)(3):** prior prison term

COURT NUMBER	CHARGE	CONVICTION DATE	COUNTY	COURT
202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
202240795-332071617	VC10851(a)	11.29.22	RIVERSIDE CA	Superior

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28 ² The complaint also alleged PC 1203(e)(4) alleging same prior convictions

1	202240795-332071617	PC459* ³	11.29.22	RIVERSIDE CA Superior
2	202240795-332071617	PC594(a)*	11.29.22	RIVERSIDE CA Superior
3	202240795-332071617	PC496D(a)*	11.29.22	RIVERSIDE CA Superior

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Rules of Court factor 4.421(b)(3): prior prison term

6	COURT NUMBER	CHARGE	CONVICTION DATE	COUNTY	COURT
7	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
8	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
9	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
10	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
11	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
12	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
13	VCF415478	PC459	09.16.21	TULARE CA	SUPERIOR
14	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
15	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
16	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
17	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
18	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
19	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR
20	VCF415478	PC594(a)	09.16.21	TULARE CA	SUPERIOR

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Rules of Court factor 4.421(b)(3): prior prison term

23	COURT NUMBER	CHARGE	CONVICTION DATE	COUNTY	COURT
24	VCF420231	PC459	09.16.21	TULARE CA	SUPERIOR
25	VCF420231	PC594(a)	09.16.21	TULARE CA	SUPERIOR

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28 ³ *These three counts were dismissed at the time of the plea on 11/29/22. Further references are removed.

1 **Rules of Court factor 4.421(b)(5):** prior poor performance on probation, mandatory
2 supervision, postrelease community supervision, or parole was unsatisfactory

3	COURT NUMBER	CHARGE	CONVICTION DATE	COUNTY	COURT
4	202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
5	202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
6	202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
7	202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
8	202240795-332071617	PC459	11.29.22	RIVERSIDE CA	Superior
9	202240795-332071617	VC10851(a)	11.29.22	RIVERSIDE CA	Superior
10	VCF415478	PC459	09.16.21	TULARE CA	Superior
11	VCF415478	PC459	09.16.21	TULARE CA	Superior
12	VCF415478	PC459	09.16.21	TULARE CA	Superior
13	VCF415478	PC459	09.16.21	TULARE CA	Superior
14	VCF415478	PC459	09.16.21	TULARE CA	Superior
15	VCF415478	PC459	09.16.21	TULARE CA	Superior
16	VCF415478	PC459	09.16.21	TULARE CA	Superior
17	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
18	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
19	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
20	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
21	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
22	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
23	VCF415478	PC594(a)	09.16.21	TULARE CA	Superior
24	VCF420231	PC459	09.16.21	TULARE CA	Superior
25	VCF420231	PC594(a)	09.16.21	TULARE CA	Superior

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27 Defendant was arraigned on the complaint on Friday, January 20, 2023. A not guilty plea
28 was entered.

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b. VCF438003

On January 24, 2023, the People filed another complaint against the Defendant charging him with additional, similar felony charges. The People filed an amended complaint charging:

COUNT 1: Second Degree Burglary of Tulare County Library in violation of PC section 459;

COUNT 2: Vandalism of Tulare County Library in violation of PC section of 594;

COUNT 3: Second Degree Burglary of Planing Mill in violation of PC section 459;

COUNT 4: Vandalism of Planing Mill in violation of PC section 594.

The complaint further alleged PC 1203(e)(4) for three prior felony convictions.

Defendant was arraigned on the initial complaint Tuesday, January 24, 2023. A not guilty plea was entered. He was subsequently arraigned on the amended complaint.

Preliminary hearing conference and hearing dates were set along with an OR/bail motion.

On February 14, 2023, Defendant pled guilty to all counts and to all aggravating factors for both cases, VCF438003 and VCF437862. At the time of the plea, the People orally added two additional aggravating factors: **factor 4.421(a)(2)** [sic] wherein the Defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness; and, **factor 4.421(b)(4)** wherein the Defendant was on probation, mandatory supervision, post release community supervision or parole when the crime was committed. Both defense counsel and the Defendant stipulated to the two additional aggravating factors. Upon further review of this matter since the time of plea, The People discovered the probation hold that was placed on Defendant, along with these cases, was an error and has since been removed by the jail, as reported by Probation. This was the basis for factor 4.421(b)(4). As such, this factor is no longer applicable.

1 Comes now Defendant before the Court for a sentencing hearing to take place on March
2 29, 2023. The People request the Court to impose the straight upper term of 7 years and 8 months
3 1170(h) local prison for both cases. The facts at bar and the Defendant's criminal history surpass
4 the justification of the imposition of a mere mid-term sentence. Indeed, as the People will
5 demonstrate, the maximum term is warranted, justified, and in the interest of justice.
6

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8 **II. STATEMENT OF FACTS**
9

10 The following facts are for both cases and are in chronological order of the events as they
11 occurred. Any reference to any of the losses by the businesses is based on the information known
12 by the People at the time of this writing. By no means is it meant to limit any restitution owed to
13 any business owner from the Defendant.

14 At approximately 2:15am on December 17, 2022, Defendant smashed a window at the
15 Planing Mill (pizza parlor) in downtown Visalia and gained entry. He caused damage to two cash
16 register drawers and a safe as he took more than \$1,161 in cash, gift cards and checks and movie
17 passes. The damage to the glass window, safe and cash register drawers were \$1,143.95.
18

19 In the late afternoon of Monday, January 16, 2023, Defendant smashed a window of the
20 Tulare Library in downtown Visalia and gained entry. Defendant caused damage in the minimum
21 amount of \$2,280 due to damage to the window, safe and drop safe. He took \$697.32 in cash.

22 In the early morning hours of January 17, 2023, Defendant shattered a window of Barrell
23 House Brewing in downtown Visalia and gained entry. He caused \$290 in damage to the window
24 and took \$50 in change as he rummaged through the business.

25 In the early morning hours of January 18, 2023, Defendant embarked on a crime spree of
26 the businesses in downtown Visalia. His destructive path ended at Tri Counties Bank where he
27
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1 was caught by the Visalia Police Department (“VPD”) as he crawled out of a smashed window,
2 dragging a black bag filled with more than \$2,000 in coins.

3 Approximately an hour and a-half prior to his capture, the alarm at SP’s Burgers, located
4 at Church and Main Street in downtown Visalia, went off at 12:50am. VPD officers arrived to
5 discover a smashed front window which is where Defendant gained entry. Defendant was seen
6 on surveillance video footage walking around the inside, appearing to look for cash and other
7 boxes as well as going to the fuse box and messing with the security system, causing it to fall to
8 the ground and become damaged. Despite causing more than \$500 in damage to the window, and
9 unknown loss to the security system, nothing was missing.

11 Shortly thereafter, at approximately 1:38am, the alarm at Visalia Bible Fellowship (aka
12 Echo Church) in downtown Visalia went off. Defendant busted a glass door of the church and
13 gained entry. He caused almost \$700 in damage to the glass door. This was the third church
14 Defendant has burglarized. The first one occurred at New Life Church in Visalia on August 3,
15 2021 as represented in Count 7 (burglary) and 8 (vandalism) in VCF415478. There, Defendant
16 pried open a door to the church at 5:00am, causing the alarm to go off. The second burglary of a
17 church was on June 2, 2022. Defendant burglarized the Truevine Pentecostal Church in Riverside
18 County of which he was convicted in case number 202240795-332071617 (SWF2201181) on
19 November 29, 2022.

22 The third alarm that Defendant triggered on the night of the 18th was at Tri Counties Bank
23 on Main Street in downtown Visalia. The silent alarm went off at approximately 2:25am when
24 Defendant smashed a window and made entry. He ransacked the bank, prying open merchant
25 teller drawers (causing unknown loss in repair) and stealing more than \$2,000 in coins. As
26 previously stated, he was caught by VPD as he crawled out the shattered window which caused
27 \$886 in damage to the window.

1 Upon canvassing the downtown area, VPD discovered three additional businesses that had
2 been vandalized and burglarized. Defendant later admitted to burglarizing these businesses along
3 Main Street in downtown Visalia that same night. One of the businesses was Provoke Salon
4 where he busted another window which caused the owner almost \$1,200 to repair. Defendant did
5 not make entry into the salon. Defendant also burglarized the business directly next door to the
6 salon, Blend Wine. Defendant, again, busted the glass widow and made entry, causing the owner
7 almost \$1,200 in repairs. Defendant was unable to pry open the cash register drawer so he threw
8 it into a trashcan outside of the business. Although he was unable to pry open the drawer and
9 steal its contents, he nonetheless took a black Amazon tablet. The third business he victimized
10 that night in downtown Visalia on Main Street was Crescent Valley Charter School (aka the
11 Learning Center). The school is directly across the street from Provoke Salon and Blend Wine.
12 Defendant busted the glass window of the school which caused an estimated \$628 in damage. He
13 did not make entry.
14
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16 17 **III. SENTENCING OBJECTIVES** 18

19 Before commencing an analysis to determine what the appropriate prison term should be
20 for this particular Defendant, Timothy Bethell, and the sound reasoning of the People's request for
21 the aggravated term, it is beneficial to review California's sentencing objectives.
22

23 The preamble of Penal Code section 1170 states the Legislature's intent. PC 1170(a)(1)
24 says:

25 The Legislature finds and declares that the purpose of sentencing is *public safety* achieved
26 through punishment, rehabilitation, and restorative justice. When a sentence includes
27 incarceration, this purpose is best served by terms that are proportionate to the seriousness
28

1 of the offense with provision for uniformity in the sentences of offenders committing the
2 same offense under similar circumstances. (Emphasis added.)
3

4 The California **Rules of Court 4.410** provides the finer points of the declaration. It states
5 the general objectives in sentencing include:
6

- 7 (1) Protecting society;
- 8 (2) Punishing the defendant;
- 9 (3) Encouraging the defendant to lead a law-abiding life in the future and deterring him or
10 her from future offenses;
- 11 (4) Deterring others from criminal conduct by demonstrating its consequences;
- 12 (5) Preventing the defendant from committing new crimes by isolating him or her for the
13 period of incarceration;
- 14 (6) Securing restitution for the victims of crime;
- 15 (7) Achieving uniformity in sentencing; and
- 16 (8) Increasing public safety by reducing recidivism through community-based corrections
17 programs and evidence-based practices.
18

19 (b) Because in some instances these objectives may suggest inconsistent dispositions, the
20 sentencing judge must consider which objectives are of primary importance in the particular case.
21 The sentencing judge should be guided by statutory statements of policy, the criteria in these rules,
22 and any other facts and circumstances relevant to the case.
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1 **IV. AGGRAVATED SENTENCING TERMS**

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3 Despite significant changes in California’s sentencing laws in the past several years, courts
4 do in fact maintain the discretion to impose aggravated terms provided there exists certain
5 conditions. This specific change in sentencing law, albeit not a completely new unfamiliar change,
6 was introduced as SB 567 in 2021 and took effect January 1, 2022. SB 567 made amendments to
7 PC 1170(b). Those changes restricted the imposition of the upper term to one of the following
8 three instances (*inter alia*):
9

10 (b) (1) When a judgment of imprisonment is to be imposed and the statute specifies three
11 possible terms, the court shall, in its sound discretion, order imposition of a sentence not to exceed
12 the middle term, *except as otherwise provided in paragraph (2)*.
13

14 (2) The court may impose a sentence exceeding the middle term only when there are
15 *circumstances in aggravation* of the crime that justify the imposition of a term of imprisonment
16 exceeding the middle term, and the facts underlying those circumstances have been *stipulated to*
17 *by the defendant*, or have been found true beyond a reasonable doubt at trial by the jury or by the
18 judge in a court trial.
19

20 (3) Notwithstanding paragraphs (1) and (2), the court may consider the defendant’s prior
21 convictions in determining sentencing based on a certified record of conviction without submitting
22 the prior convictions to a jury. This paragraph does not apply to enhancements imposed on prior
23 convictions. (Emphasis added.)
24

 The above provisions were mirrored in recent amendments to Rules of Court 4.420:

25 (a) When a judgment of imprisonment is imposed, or the execution of a judgment of
26 imprisonment is ordered suspended, the sentencing judge must, in their sound discretion, order
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1 imposition of a sentence not to exceed the middle term, *except as otherwise provided in paragraph*
2 *(b)*.

3 (b) The court may only choose an upper term when (1) there are *circumstances in*
4 *aggravation* of the crime that justify the imposition of an upper term, and (2) the facts underlying
5 those circumstances have been (i) *stipulated to by the defendant*, (ii) found true beyond a reasonable
6 doubt at trial by a jury, or (iii) found true beyond a reasonable doubt by the judge in a court trial.

7
8 (c) Notwithstanding paragraphs (a) and (b), the court may consider the fact of the
9 defendant's prior convictions based on a certified record of conviction without it having been
10 stipulated to by the defendant or found true beyond a reasonable doubt at trial by a jury or the judge
11 in a court trial. This exception does not apply to the use of the record of a prior conviction in
12 selecting the upper term of an enhancement. (Emphasis added.)

13
14 Not only is the court clearly permitted to impose the upper term, the law also holds that the
15 court can do so based on a single aggravating factor. *People v. Black* (2007) 41 Cal4th 799, 813.
16 In other words, the People do not need to prove, nor the court find, multiple aggravating factors
17 before it can impose the upper term.

18
19 **V. FACTORS IN AGGRAVATION**

20 a. Factors Relating to the Crime

21
22 The People did not seek aggravating factors related to the crimes pursuant to Rules of Court
23 4.421(a).

24 b. Factors Relating to the Defendant

25 The People alleged specific aggravating factors and the Defendant stipulated or admitted
26 them.

1 **Factor 4.421(b)(2):** The defendant’s prior convictions as an adult or sustained petitions in
2 juvenile delinquency proceedings are numerous or of increasing seriousness;

3 **Factor 4.421(b)(3):** The defendant has served a prior prison term in prison or county jail
4 under section 1170(h). There are three allegations of prior prison terms under 1170(h); and,
5

6 **Factor 4.421(b)(5):** The defendant’s prior performance on probation, mandatory
7 supervision, postrelease community supervision, or parole was unsatisfactory.
8

9 c. The Following Factors of Mitigation Do *Not* Apply to the Crime

10 An examination of the facts presently of record establishes that there are certain facts
11 relating to the crime charged that should *not* be considered circumstances in mitigation pursuant to
12 California Rules of Court Rule 4.423(a).
13

14 Those facts are as follows:

15 **Factor 4.423(a)(1):** The defendant was not a passive participant or did not play a minor
16 role in the crime.

17 **Factor 4.423(a)(2):** The victim was an initiator of, willing participant in, or aggressor or
18 provoker of the incident.

19 **Factor 4.423(a)(3):** The crime was committed because of an unusual circumstance, such
20 as great provocation, that is unlikely to occur.
21

22 **Factor 4.423(a)(4):** The defendant participated in the crime under circumstances of
23 coercion or duress, or the criminal conduct was partially excusable for some other reason not
24 amounting to a defense.
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1 **Factor 4.423(a)(5):** The defendant, with no apparent predisposition to do so, was induced
2 by others to participate in the crime.

3 **Factor 4.423(a)(6):** The defendant exercised caution to avoid harm to persons or damage
4 to property, or the amounts of money or property taken were deliberately small, or no harm was
5 done or threatened against the victim.
6

7 **Factor 4.423(a)(7):** The defendant believed that he or she had a claim or right to the
8 property taken, or for other reasons mistakenly believed that the conduct was legal.

9 **Factor 4.423(a)(8):** The defendant was motivated by a desire to provide necessities for
10 his or her family or self.

11 **Factor 4.423(a)(9):** The defendant suffered from repeated or continuous physical,
12 sexual, or psychological abuse inflicted by the victim of the crime, and the victim of the crime, who
13 inflicted the abuse, was the defendant's spouse, intimate cohabitant, or parent of the defendant's
14 child; and the abuse does not amount to a defense.
15

16
17 d. The Following Factors of Mitigation Do *Not* Apply to the Defendant

18 **Factor 4.423(b)(1):** The defendant has no prior record, or has an insignificant record of
19 criminal conduct, considering the recency and frequency of prior crimes;
20

21 **Factor 4.423(b)(2):** The defendant was suffering from a mental or physical condition that
22 significantly reduced culpability for the crime.

23 **Factor 4.423(b)(3):** The defendant experienced psychological, physical, or childhood
24 trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence and it was a
25 factor in the commission of the crime.

26 **Factor 4.423(b)(4):** The commission of the current offense is connected to the defendant's
27 prior victimization or childhood trauma, or mental illness as defined by section 1385(c).
28

1 **Factor 4.423(b)(5):** The defendant is or was a victim of intimate partner violence or human
2 trafficking at the time of the commission of the offense, and it was a factor in the commission of
3 the offense;

4 **Factor 4.423(b)(6):** The defendant is under 26 years of age, or was under 26 years of age
5 at the time of the commission of the offense. Defendant is 31 years old.

6 **Factor 4.423(b)(7):** The defendant was a juvenile when he committed the current offense;

7 **Factor 4.423(b)(9):** The defendant is ineligible for probation and but for that ineligibility
8 would have been granted probation;

9 **Factor 4.423(b)(10):** Application of an enhancement could result in a sentence over 20
10 years;

11 **Factor 4.423(b)(11):** Multiple enhancements are alleged in a single case;

12 **Factor 4.423(b)(12):** Application of an enhancement could result in a discriminatory racial
13 impact;

14 **Factor 4.423(b)(13):** An enhancement is based on a prior conviction that is over five years;

15 **Factor 4.423(b)(14):** The defendant made restitution to the victim; and

16 **Factor 4.423(b)(15):** The defendant's prior performance on probation, mandatory
17 supervision, postrelease community supervision, or parole was satisfactory.

18 There is only one mitigating factor that is applicable to this Defendant which is factor
19 4.423(b)(8), the Defendant voluntarily acknowledged wrongdoing at an early stage of the criminal
20 proceedings. He pled prior to the preliminary hearing.

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1 **VI. Penal Code section 1170(h)(5)(A): Full Term**

2 PC section 1170(h)(5)(A) states “[u]nless the court finds, in the interest of justice, that it is
3 not appropriate in a particular case, the court, when imposing a sentence pursuant to paragraph (1)
4 or (2), shall suspend execution of a concluding portion of the term for a period selected at the court’s
5 discretion.”
6

7 Rules of Court 4.415 outlines considerations for denying mandatory supervision:
8

9 (b) Criteria For Denying Mandatory Supervision in the Interests of Justice

10 In determining that mandatory supervision is not appropriate in the interests of justice under
11 section 1170(h)(5)(A), the court's determination must be based on factors that are specific to a
12 particular case or defendant. Factors the court may consider include:
13

14 (1) Consideration of the balance of custody exposure available after imposition of
15 presentence custody credits;

16 (2) The defendant's present status on probation, mandatory supervision, postrelease
17 community supervision, or parole;

18 (3) Specific factors related to the defendant that indicate a lack of need for treatment or
19 supervision upon release from custody; and,

20 (4) Whether the nature, seriousness, or circumstances of the case or the defendant's past
21 performance on supervision substantially outweigh the benefits of supervision in promoting public
22 safety and the defendant's successful reentry into the community upon release from custody.
23

24
25 As the People have and will demonstrate, it is completely appropriate for the court to impose
26 the straight term for both cases for this Defendant, Timothy Bethell. In truth, based on the
27 Defendant’s criminal history and unrelenting crime spree(s) which caused thousands and thousands
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1 of dollars in theft and destruction, the only reasonable finding by the Court (after weighing relevant
2 information), in the interest of justice, is to impose a straight sentence. Any sentence short of that
3 will not achieve justice – and it certainly will not promote public safety. The People’s position is
4 supported by the same facts, evidence and arguments for the imposition of an aggravated term.
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7 **VII. REQUESTED SENTENCING**

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9 We hereby request, based upon the points and authorities, including authorization for a
10 sentencing court to impose an aggravated full term; evidence to be presented at the hearing; any
11 oral argument at the hearing; the People’s bail motion, cases VCF415478 and VCF420231
12 (pursuant to Evidence Code section 452); and, the attached letters in Exhibit 1 (pursuant to PC
13 1170(b)(4)) , that the court impose the full, aggravated term of 7 years and 8 months (1170(h))
14 local prison for these cases.
15

16 This Defendant epitomizes the term “recidivist.” Timothy Bethell, at the age of 31, chose
17 to commit and be ultimately convicted of 40 felonies. His first felony conviction is from Fresno
18 County from March 2014 for violating HS 11377. He has earned the aggravated term for his
19 current crimes. Defendant has displayed utter disregard for our community and business owners.
20 Defendant has displayed excessive recidivism at the detriment of our local businesses in
21 downtown Visalia. Defendant has displayed blatant disrespect for the courts by violating court
22 orders and committing new, destructive crimes.
23

24 It is undeniable that Defendant Bethell is single-minded in his crimes. Thirty-nine of the
25 forty felony convictions that he has amassed were crimes specifically aimed at businesses in our
26 community as well as businesses in Riverside County. The breadth of scope of his targets is
27 appalling. He spares no one. He has victimized three churches, restaurants, coffee and wine
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1 houses, financial advisors, a learning center, a non-profit, an eye doctor's office, a bank, a real
2 estate management company, our community's downtown library, and others. Since August of
3 2021 Timothy Bethell has chosen to cause thousands and thousands of dollars in theft and
4 damages and has chosen to victimize:

- 5 • Nurses Boutique
- 6 • Kentucky Fried Chicken
- 7 • Round Table Pizza
- 8 • New Life Church
- 9 • Spraying Devices store
- 10 • Stifel Nicolaus Financial Advisors
- 11 • IHOP
- 12 • Walgreens
- 13 • Pentecostal Church
- 14 • Clear Sight Optometry
- 15 • Avalon Management
- 16 • Intazza Coffee
- 17 • Assistance League of Temecula
- 18 • Planing Mill
- 19 • Tulare County Library
- 20 • Barrell House Brewing
- 21 • SP's Burgers
- 22 • The Learning Center
- 23 • Provoke Salon

- 1 • Blend Wine
- 2 • Bible House Fellowship (aka Echo Church)
- 3 • Tri Counties Bank

4
5
6 A total of twenty-two businesses and thirty-nine felony convictions for burglary,
7 vandalism, theft and even taking one of the business's cars, undoubtedly warrant an upper term.
8 Business owners are safer when he is in custody. The aggravating factors Defendant stipulated
9 and admitted to also speak to recidivism – his recidivism. The People alleged Rule of Court
10 factor 4.421(b)(2), numerous prior convictions, due to the sheer volume of felony convictions that
11 he has amassed.

12
13 Three aggravating factors address Defendant's three prior prison commitments. The first
14 one represents the prison commitment for the Riverside County crimes where Defendant
15 burglarized Pentecostal Church (6/2/22), Clear Sight Optometry (6/2/22), Avalon Management
16 (and took its vehicle) (6/8/22), Intazza Coffee (6/22/22); and, Assistance League of Temecula
17 (10/7/22). The second one represents the prison commitment for the August 2021 crime spree in
18 Visalia where Defendant vandalized and burglarized: Nurses Boutique, Kentucky Fried Chicken,
19 Round Table Pizza, New Life Church, Spraying Devices Store, Stifel & Nicolaus; and, IHOP in a
20 two day period (VCF420231). The third one represents the prison commitment for the November
21 2021 vandalism and burglary of Walgreens (VCF415478).

22
23 Finally, the People alleged the aggravating factor that Defendant's prior performance on
24 probation, mandatory supervision, postrelease community supervision, or parole was
25 unsatisfactory (RC 4.421(b)(5). Defendant admitted this. Defendant has been a complete disaster
26 while on probation or mandatory supervision. This conclusion is gleaned from the probation
27 reports from both Tulare County cases. In VCF415478, Defendant pled to fourteen felony
28

1 counts. On October 27, 2021, this Court imposed a suspended (mid-term) of four years pursuant
2 to PC 1170(h) so Defendant can go into a residential treatment program. On October 29, 2021,
3 Defendant was released to the Faith Fighters. Defendant not only failed to report to probation
4 within 72 hours, but he absconded from that program as reported by a Pastor on November 1,
5 2021.
6

7 While on the run, Defendant vandalized and burglarized the Walgreens at Walnut and
8 Court in Visalia on November 9, 2021 which constitutes VCF420231. Defendant pled to two
9 felony charges. On December 22, 2021, Defendant was then given the mitigated term of sixteen
10 months for VCF420231, plus 8 months for violating his terms in VCF415478, for a total of two
11 years for both cases, to be served “one in and one out.” Defendant was ordered to obey all laws
12 for both cases. In VCF415478, he was also ordered to “participate in any substance abuse
13 treatment program, including aftercare component at the direction of the Probation Officer based
14 upon his identified needs. The Defendant remain in said program until the program director and
15 the Probation Officer agree that the Defendant has successfully completed the program.”
16

17 Defendant’s mandatory supervision was transferred from Tulare County to Riverside
18 County in May of 2022 where he carried on his criminal activity and burglarized additional
19 businesses. Charges were filed against him in four separate Riverside County cases.⁴ On
20 November 29, 2022, Defendant pled to the Riverside County cases (six felony convictions) and
21 the court terminated his mandatory supervision. Defendant was sentenced to the upper term of
22 three years PC 1170(h), with all four of his cases running concurrently.
23

24 Defendant was released from Riverside County custody on or about December 2, 2022.
25 He soon traveled back to Tulare County and resumed his destructive criminal activity, this time
26

27 _____
28 ⁴ SWF2201094, SWF2201181, SWF2201397, and SWF2201731 (collectively referred to as 202240795-
332071617)

1 on the businesses of downtown Visalia, starting with the Planing Mill on December 17, 2022 and
2 ending when he was caught on January 18, 2023 crawling out of Tri-Counties Bank with a bag
3 filled with more than \$2,000 in coins. To say Defendant’s prior performance on probation or
4 mandatory supervision was unsatisfactory is an acute understatement of the evidence which is
5 why the People alleged it as an aggravating factor.
6

7 Finally, the People urge the Court to please consider the letters attached to this Statement
8 in Aggravation as Exhibit 1. They express a (firsthand) position in this matter that the People
9 have strived to do throughout this brief. This Court has the power to say “no more!” by handing
10 down a meaningful consequence so as to *not* “leave our community in peril.” These letters speak
11 volumes to California sentencing objectives. “The lack of justice in these cases only emboldens
12 thieves and leaves small businesses feeling vulnerable and helpless.” The detrimental impact
13 these burglaries have on business owners is not limited to a financial one but a psychological one
14 as well. Imposing the full aggravated term for such destructive, recidivist criminality promotes
15 confidence in our system that “this kind of behavior will not be tolerated,” as the Court advised
16 this Defendant during the plea on February 14, 2023. Confidence flowing from not just our
17 business owners but from our community at large.
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V.
CONCLUSION

For all the foregoing reasons, the People respectfully request the Court sentence the Defendant to a straight 7 years and 8 months PC 1170(h) local prison. The Court has full authority and power to do so and the aggravating circumstances completely justify the Court to exceed a mid-term sentence. To do otherwise, would not be in the interest of justice.

DATED: March 30, 2023

Respectfully submitted,
TIM WARD
DISTRICT ATTORNEY

By: _____
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Assistant District Attorney