



922(g)(1), as charged in a criminal complaint dated February 22, 1999. Although not charged in the criminal complaint, there is also probable cause to believe that, on the same date, the defendant possessed with the intent to distribute marijuana and carried a firearm during and in relation to a drug trafficking crime, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 924(c)(1). The government expects to present an indictment to the grand jury within 30 days of the defendant's arrest which charges the defendant with those three offenses.

2. The evidence against the defendant is strong. On December 23, 1998, the defendant's female accomplice asked two undercover police officers patrolling the 6000 block of Reinhard Street in an unmarked vehicle whether they needed any drugs. The officers responded that they wanted two "nicks" (referring to a quantity of marijuana) and pulled over to the side of the street. The female who took the officers' drug order then yelled "they need two" to the defendant who was standing a short distance away. The defendant walked toward the officers and pulled a plastic baggie from his pocket. The officers then exited their vehicle and placed the defendant and his female accomplice under arrest. During a search of the defendant conducted incident to his arrest, the officers recovered a loaded Beretta Model 950BS .25-caliber handgun from his waistband and a plastic baggie containing 24 packets of marijuana.

3. As discussed in greater detail below, the defendant previously has been convicted of at least two crimes --

possession with the intent to distribute a controlled substance and assault -- which are punishable by imprisonment for a term exceeding one year.

4. The firearm possessed by the defendant on December 23, 1998 is not commercially manufactured in Pennsylvania and, therefore, was possessed by the defendant in interstate commerce.

5. The strength and nature of the case against the defendant and the corresponding probability that the defendant will be incarcerated for a significant period of time establishes his danger to the community and increases the already serious risk that the defendant will not appear as required by the Court.

**B. Penalties**

1. The defendant faces a maximum sentence of 10 years imprisonment, a \$250,000 fine, a three-year term of supervised release and a \$100 special assessment on the charge contained in the criminal complaint. When the additional charges discussed above are also taken into account, the defendant faces a total maximum sentence of 25 years imprisonment, a \$1 million fine, a four-year term of supervised release and a \$300 special assessment.

2. Based on the information available to the government at this time, the government conservatively estimates that, under the Sentencing Guidelines, the defendant will face a sentencing range of 152-175 months.

3. Accordingly, the defendant has a substantial incentive to flee.

**C. Risk of Flight**

1. The defendant presents a serious risk of flight. His criminal history reflects a pattern of brazen disregard for court-ordered supervision. It is clear from this history, which is chronologically summarized below, that no combination of bail conditions will prevent this defendant from engaging in further criminal activity or ensure his appearance in court.

- a. On April 22, 1996, the defendant turned 18 years old.
- b. On April 24, 1997, the defendant was arrested (Case No. CP #9705-0658) for possession with the intent to distribute narcotics ("Criminal Case No. 1").
- c. On August 17, 1997, while on pretrial release for Criminal Case No. 1, the defendant was arrested (Case No. CP #9709-0552) on assault and firearms charges ("Criminal Case No. 2").
- d. On October 2, 1997, while on pretrial release for Criminal Case No. 1 and Criminal Case No. 2, he was arrested (Case No. MC #9709-4666) for possession of narcotics and resisting arrest ("Criminal Case No. 3").
- e. On October 16, 1997, pursuant to a guilty plea, the defendant was sentenced to two years probation on Criminal Case No. 1.
- f. On October 31, 1997, while on probation for Criminal Case No. 1. and pretrial release for Criminal Case No. 2 and Criminal Case No. 3, the defendant was arrested (Case No. CP #9802-0400) for possession with the intent to distribute crack cocaine ("Criminal Case No. 4").
- g. On December 15, 1997, the defendant was found guilty and sentenced to one year probation on Criminal Case No. 3.
- h. On January 1, 1998, while on probation for Criminal Case No. 1 and Criminal Case No. 3

and pretrial release for Criminal Case No. 2 and Criminal Case No. 4, the defendant was arrested (Case No. CP #9804-0788) for possession with the intent to distribute crack cocaine ("Criminal Case No. 5").

- i. On June 1, 1998, the defendant was found guilty and sentenced to 1-2 years in prison on Criminal Case No. 2. It appears that he was released on parole on July 7, 1998.
- j. On November 3, 1998, while on parole for Criminal Case No. 2, probation for Criminal Case No. 1 and Criminal Case No. 3 and pretrial release for Criminal Case No. 4 and Criminal Case No. 5, the defendant was arrested (Case No. MC #9811-0191) on theft charges ("Criminal Case No. 6").
- k. On December 23, 1998, while on parole for Criminal Case No. 2, probation for Criminal Case No. 1 and Criminal Case No. 3 and pretrial release for Criminal Case No. 4, Criminal Case No. 5 and Criminal Case No. 6, the defendant was arrested on the charges which are the subject of this case.

2. As a result of his repeated failures to adhere to the terms of court-ordered supervision, the defendant is presently serving a state prison term for violating his probation.

3. The defendant has failed to appear for state court on at least three occasions when faced with criminal charges and penalties which are far less serious than those he faces here. Here, there is no question that he presents an unacceptable risk of flight.

4. Moreover, the defendant has no employment ties to this district. According to the state pretrial services office, in December 1998, the defendant reported no employment and no

legitimate source of income.

**D. Prior Criminal Record and Danger to Community**

1. The defendant poses a serious danger to the community. Not only did he possess a dangerous weapon -- a loaded .25-caliber handgun -- after having been convicted of two felonies, but he was carrying the firearm while dealing drugs. The dangerous combination of drugs and guns poses an unacceptable threat to the community.

2. As set forth above, in less than three years, the defendant has amassed at least eight arrests, three convictions, three open cases, three failures to appear and four violations of probation. His disregard for the safety of the community is plain.

3. The defendant has been in state custody since December 26, 1998. As the state courts have recognized, it has become clear that detention is the only way to protect the community from this defendant.

4. The defendant has repeatedly engaged in dangerous criminal activity notwithstanding the conditions of pretrial release, probation and parole which have been imposed upon him in a total of six different criminal cases. There are no terms and conditions of release which can adequately protect the community from this defendant.

Therefore, it is ORDERED that:

(1) The defendant be committed to the custody of the Attorney General for confinement in a corrections facility

separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

(2) The defendant be afforded reasonable opportunity for private consultation with counsel; and

(3) On order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which defendant is confined deliver defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

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HONORABLE PETER B. SCUDERI  
United States Magistrate Judge