
UNITED STATES DISTRICT COURT
District of Kansas

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 16-CR-10141-EFM

**CURTIS WAYNE ALLEN,
PATRICK EUGENE STEIN, and
GAVIN WAYNE WRIGHT,**

Defendants.

MOTION FOR PRETRIAL DETENTION
(18 U.S.C. § 3142)

APPEARS NOW the United States of America, by and through Thomas E. Beall, Acting United States Attorney for the District of Kansas, Anthony W. Mattivi, Assistant United States Attorney, and David P. Cora, Trial Attorney, Counterterrorism Section of DOJ's National Security Division, and submits the following information in support of its position seeking pretrial detention of the defendants, Curtis Wayne Allen, Patrick Eugene Stein, and Gavin Wayne Wright. Each defendant poses a significant danger to the community, and defendant Allen's history shows he is a risk of flight, and the Court should enter an order that each defendant be detained pending the final resolution of this matter.

1. Introduction

The Federal Bureau of Investigation (FBI) spent several months investigating a militia organization that called itself “The Crusaders,” which was led by the defendants in this case. The Crusaders first came to the FBI’s attention because a member of the organization approached FBI agents when he became very concerned about the heightening discussion of violence within the organization. The agents convinced this person to continue providing information and, eventually, to become the Confidential Human Source (CHS) for the FBI.

Over the next several months, the CHS allowed the FBI to monitor conversations among the Crusaders as they discussed plans to exact violence against members of the Somali refugee community in southwest Kansas, most of whom were Muslims. As the plans became more specific, the FBI had the CHS introduce an undercover FBI employee (UCE) to the Crusaders. The Crusaders informed the UCE that they planned to attack an apartment complex occupied mostly by Muslim members of the Somali community, and they asked the UCE to provide them with explosive devices and automatic weapons with which they could conduct the attack. They told the UCE that they were planning the attack for November 9, 2016, the day after the general election. The UCE agreed to provide the requested explosives and weapons, and the FBI began planning to take down the Crusaders shortly before the Crusaders executed their plan.

Weeks before November 9th, however, defendant Curtis Allen was accused of and arrested for beating his girlfriend. As the local authorities began investigating the domestic violence charge, they learned about Allen’s involvement with the Crusaders and about the Crusaders’ plan of attack. At that point, the FBI quickly stepped in and dismantled the Crusaders organization, arresting

Patrick Stein and Gavin Wright.

Allen, Stein, and Wright have now been indicted on one count of conspiracy to use a weapon of mass destruction, in violation of Title 18, United States Code, Section 2332a. The government respectfully submits that each of the defendants poses a significant risk to the community, and the government urges the Court to detain the defendants pending trial.

2. Facts

The Early Plotting

Between February and October 2016, these defendants conspired to carry out a domestic terror attack by using multiple improvised explosive devices (IEDs), ultimately deciding to destroy two apartment buildings in Garden City, Kansas, that contained more than 100 units. The complex also contains a mosque and is home to many Muslim members of the Somali refugee community, including a substantial number of women and children. They have routinely expressed a hatred for Muslims, individuals of Somali descent, and immigrants. They chose the target location based on their hatred of these groups, their perception that these groups represent a threat to American society, a desire to inspire other militia groups, and a desire to “wake people up.”

On three separate occasions, defendant Stein conducted surveillance on potential target locations around Garden City and other parts of southwestern Kansas. These surveillances were conducted on a mall frequented by members of the Somali community, and a mosque located in an apartment complex, as well as on various vehicles Stein apparently believed were occupied by individuals of Somali descent or Muslims. On one such surveillance in February 2016, when the CHS was driving Stein, Stein at various times yelled at Somali women dressed in traditional garb, calling them “fucking raghead bitches.” Stein also referred to Somalis as “cockroaches” and said

several times that they needed to eliminate the Somalis. Stein told the CHS that, during the surveillance, he had with him a pistol, an assault rifle with several magazines, a ballistic vest, and a night vision scope. He also mentioned to the CHS that he had done several surveillances like this on his own in the past and that he always made sure he was armed. Stein also discussed Oklahoma City and the bomb used (referring to the fuel oil and ammonium nitrate device used by Timothy McVeigh to destroy the Murrah Building in Oklahoma City). He was looking for any more explosives or things he could use to blow things up.

During a Zello¹ conference call in April 2016, Stein stated, “Make sure if you start using your bow on them cockroaches, make sure you dip them in pig’s blood before you shoot them.” This conversation was recorded via consensual monitoring by the CHS.

In a May 6, 2016 meeting, defendant Curtis Allen stated to Stein, the CHS, and others:

“We need to get some signs made up...hundreds of them, kind of like the redneck deal, ‘here’s your sign’ and just put right there on it: I SUPPORT ILLEGAL IMMIGRATION, I GO AGAINST THE CONSTITUTION ON A DAILY BASIS, I DO NOT HAVE ANY CARE FOR MY FELLOW CITIZENS IN THE STATE OR IN THE TOWN THAT I REPRESENT...and then for every one of them that we blow the top of their head off we just put that around their neck.”

Defendant Stein responded that he liked the idea. This conversation was recorded via consensual monitoring.

During a phone call to the CHS in May 2016, Stein expressed frustration that the plan was not progressing more quickly. He said he wanted to get a .22 caliber rifle, go over to Garden City,

¹ Zello is a phone-based application that allows the user to communicate with other Zello users as if their cellular telephones were push-to-talk walkie-talkies. The application displays usernames of each participant in any given call, thus providing an additional layer of security for its users. Allen’s Zello username, for example, was “Commander,” Stein’s was “orkinmanIII%SWKSDVC1;” and Wright’s was “Sparky1943.”

Kansas, start kicking in the doors of the Somali apartments, and kill them one by one. He wanted to use a .22 because it was quieter, and he also mentioned he wanted to buy or make a silencer.

On June 14, 2016, Stein called for a meeting of the Crusaders. Attendees included Stein and the CHS, along with others. They met in a field with the stated intention of avoiding surveillance by the FBI. During the meeting, Stein brought up the Orlando night club shooting and said that something needed to be done in response to this act of terrorism. He proposed carrying out an attack similar to the Orlando shooting against a Muslim refugee location in Garden City. The group discussed how they could carry out such an attack. During this meeting, Stein stated:

“Garden City for example, I know exactly where probably a majority of those motherfuckers are at in their homes...in Garden City...and...they’ve got these apartment complexes over there where literally every fucking apartment...that’s all it is, fucking goddamn cockroaches...and...I mean I wouldn’t be against if I could get a hold of some RPG’s (rocket propelled grenades), I’ll run some RPG’s right through...I’ll blow every goddamn building up right there...boom...I’m outta there.”

This was recorded via consensual monitoring by the CHS.

During a group Zello call in which the CHS participated on June 16, 2016, Stein, Allen, Wright and others discussed conducting surveillance in Garden City at the African Community Center, the mosques, and apartments inhabited mostly by members of the Somali community. They wanted to get photos and videos of the places during the day and also conduct surveillance throughout the night to see what the members of the Somali community were doing. Allen stated that the purpose of the surveillance was to begin to put a plan into action. Stein said he wanted to know where they are so they can “kill all of the motherfucking cockroaches.”

During another consensually monitored Zello conference call late on June 18 or early on June 19, 2016, Stein said to Allen, the CHS, and others:

“The only fucking way this country’s ever going to get turned around is it will be a bloodbath and it will be a nasty, messy motherfucker. Unless a lot more people in this country wake up and smell the fucking coffee and decide they want this country back...we might be too late, if they do wake up...I think we can get it done. But it ain’t going to be nothing nice about it.”

During a consensually monitored Zello conference call later in June 2016, all three defendants and the CHS, along with a larger group, discussed targeting churches in Garden City that have supported refugees. While discussing a particular church, Stein said, “That motherfucker needs burnt to the ground.” When the discussion turned to burning mosques, defendant Wright said, “Yeah, during prayer time.”

Targeting in Garden City

In July 2016, the defendants Stein, Allen and Wright met with the CHS at G&G Mobile Home Center (“G&G”), a business in Liberal, Kansas owned by defendant Wright, and at which defendant Allen works. During the meeting, Stein and Allen proposed and discussed a wide range of potential targets, including Muslim-occupied apartment complexes, residences, and places of worship, city/county commission meetings, local public officials, landlords who rent property to Muslim refugees, and organizations providing assistance to Muslim refugees. While they were discussing these plans, Wright pulled up Google Maps on the computer at G&G and began dropping pins on the map at these various locations using the label “cockroaches.” Prior to the meeting, Wright researched instructions for making explosives and printed off a substantial number of pages. The group brainstormed various methods of attack, including murder, kidnapping, rape, and arson. They decided to that at their next meeting they would pick a specific target. At one point, Allen stated: “We’re going to talk about killing people and going to prison for life. Less than sixty days, maybe forty days until something major happens. We need to be preemptive before

something happens.” Stein responded: “The only good Muslim is a dead Muslim.” At another point in the conversation, Stein said: “If you’re a Muslim I’m going to enjoy shooting you in the head.” Then he told the group, “When we go on operations there’s no leaving anyone behind, even if it’s a one-year old, I’m serious. I guarantee if I go on a mission those little fuckers are going bye-bye.”

Mary Street Apartment and Mosque Targeted for Bombing

On August 14, 2016, Stein, Allen and Wright again met with the CHS at G&G. During this meeting, the group ultimately decided on an apartment complex on Mary Street in Garden City, Kansas, as the target location of their attack, due to the number of members of the Somali community that live there and the fact that one of the apartments is used as a mosque. They decided that they would obtain four vehicles, fill them with explosives, and park them at the four corners of the apartment complex to create a large explosion. Allen stated that he could make the explosives and mentioned aluminum powder and ammonium nitrate, among other components. Later he said he already had the materials needed to make the explosives. Once he had assembled the explosives, Allen said the group would need to test them prior to the execution of the plan to make sure they worked. He also mentioned that he could detonate the bombs with a cell phone, and they discussed having militia members in different states purchase prepaid cell phones for them so that they could not be traced. The group researched mosque prayer times online to determine when the most people would be around. Defendant Wright was tasked with ordering glassware in order to make the bombs. Defendant Stein was instructed to get a rock tumbler to crush cans into aluminum powder. The CHS was told to do reconnaissance at the complex to look for security cameras and take pictures. Defendant Allen decided he would work on the group’s manifesto to

release in conjunction with the attack. They discussed not wanting to get caught and wanting for this to be the first of several things they do. This meeting was recorded by the CHS via consensual monitoring.

On September 2, 2016, Stein, Allen and Wright met with the CHS and discussed the possibility of purchasing explosives. They mentioned potentially manufacturing methamphetamine and then exchanging it for the explosive materials they wanted. When the CHS inquired as to the type of explosives they wanted to get, Stein said, “C-4.” Allen asked, “What do you want to do?” Stein said, “Blow the building up.” Allen responded, “C-4 is not going to do that. Not unless you go around the whole building with it.” Later Allen made the statement, “Use ammonium nitrate. I’m saying we don’t need anything like that (C-4). What I would try to get is dynamite, hand grenades, or mortars.” A while later, Stein referred to the apartment building they chose as their target and said, “I think our goal is to blow that whole thing down.” Wright responded, “I think that transportation hub² is a good place to start. Do both at the same time (transportation hub and the apartment building with the mosque).” Allen later mentioned, “We need to find the busiest time to hit the mosque.” The group continued to discuss making an explosive device from fertilizer, aluminum powder, and diesel fuel. They also discussed modifying the plan from using vehicles to using dumpsters or trash cans with false bottoms instead, placing the explosives inside them and staging them around the apartment complex. They talked about the possibility of using a utilities truck and posing as maintenance workers to place the trash cans with the bombs inside. This meeting was recorded by the CHS via consensual monitoring.

² The government believes that “transportation hub” referred to a location in the area where refugees were processed and first introduced to the community.

On September 11, 2016, Stein, Allen and Wright again met with the CHS. Prior to this meeting, the defendants had asked the CHS to obtain a mortar and pestle for use in preparing chemicals for an explosive device. During this meeting, the CHS provided the group with the mortar and pestle, and Wright said he would put it with the rest of the stuff. Wright and Allen commented that they had everything they needed and would start making "it." Allen reminded group that the attack in Garden City was not intended to be a singular event, but rather a call to action, and that it would be followed by other attacks. Stein questioned how long it would be until they were ready to carry out the attack plan. Allen advised they still needed to acquire ammonium nitrate and test the explosives. He also asked the CHS to find trash cans for them to use in their plan.

On September 13, 2016, Stein and the CHS spoke over Zello, during which Stein stated they would need a 35-gallon container (trash can) if not a 55-gallon container in which to store explosive material. Stein suggested the group would need four to six trash cans in order to avoid suspicion. Stein stated he believed the trash cans should be in place at a mosque no earlier than three hours prior to detonation in order to avoid suspicion.

On September 14, 2016, the CHS spoke with Stein by telephone. During the call, Stein revealed his intentions to begin discussing project strategies via an encrypted mobile messaging application. The CHS and Stein briefly discussed installing this app on their phones. Stein indicated he and the CHS would only discuss conversations about projects on the app.

On September 18, 2016, Stein, Allen and Wright again met with the CHS. Allen and Wright mentioned that they had tested some materials in a sink at G&G. Allen said he burned the hair off of his index finger from the flame that shot up during the testing. Allen also mentioned

having tested “two other batches,” at least one of which did not work very well. Overall, though, they were pleased with the test results. This meeting was recorded by the CHS via consensual monitoring.

The Undercover Agent

During the course of the investigation, agents had the CHS introduce an undercover FBI employee (UCE) to Stein, under the ruse that the CHS worked for the UCE delivering money and contraband and that the UCE could provide automatic weapons and components for explosive devices to Stein and the others. On September 25, 2016, the CHS arranged for a meeting with the UCE, who was posing as the leader of a criminal organization that could obtain and build explosives for the group. Stein met personally with the CHS and the UCE on that date.

On September 27, 2016, Stein and the UCE had a text exchange via a smartphone application. During the conversation, Stein stated:

“So nice to find people that are as sick and tired of that shit as I am and starting to put some wheels in motion to address the infestation of these fucking cockroaches!! For me it has been a real struggle to restrain myself every time I see one of them fucks!! This could work out well for all of us. I Will tell you this about the other people I work with they feel exactly the same way I do and we are all ready to take action but we want to do it smart and thoroughly...The main reason for contacting you was we had the need for things that we could not get out hands on readily...We all know how Sirius the problems are and how serious the solution is and we want to have every advantage we can get at our disposal if possible. Meaning high explosives automatic weapons RPG shit brother if I could get a hold of a warthog or Apache helicopter I would be after that too.”

In response to a question about what equipment they would need from the UCE, Stein said:

“We are in need of (4) ruger mark 2 or 3’s 22’s w/ threaded barrels. We have the ability to build our own silencers and have a few of them built already. We have some very specific missions

planned that would require those guns... Grenades, dynamite, blasting caps, det cord, electronic detonation devices etc. etc.”

Stein also mentioned the current plan to the UCE:

“So we were going to use trashcan’s that were modified on the inside to make a directional blast and set them on the outside of the mosque both sides of the building set them off at the same time and throw a fucking party! LOL.”

On September 29, 2016, Stein and the UCE had a text exchange via that same smartphone application. Stein said, “I’m gonna have fun with the cockroaches!! Orkinman enjoys his work and really gets into it. Making canoes out of their fucking heads is my specialty.”

On October 4, 2016, STEIN and the UCE had a text exchange via WhatsApp.

Stein: “I can add another caveat into the equation if you want...Where the S first job is to take place right across the street and about a half a block east is another community like the one we are talking about with another mosque.

UCE: “So, you want both to go?”

Stein: We have been debating whether or not we are going to take out both at the same time or do them one at a time. Myself I’m kind of thinking take them both at the same time.”

Allen is Arrested for Domestic Battery

On October 11, 2016 at 4:33 p.m., the Liberal Police Department (LPD) was contacted by a female who identified herself as Allen’s girlfriend at a residence she shares with Allen in Liberal, Kansas, regarding a domestic battery. This female advised the LPD dispatcher that she was battered by Allen during an argument over money and her leaving their residence. She also advised the LPD dispatcher that Allen had access to firearms and had already fled the scene. Finally, she showed LPD officers a room in the residence containing a large amount of ammunition, brass casings, components and tools for use in the manufacture of ammunition and firearms.

At approximately 5:10 p.m. that same day, officers located Allen's vehicle, a maroon 1999 GMC Yukon, at G&G. As LPD officers were planning on making contact with Allen, Wright and Allen left the business and traveled south on Highway 83 from Tucker Road in separate vehicles. LPD officers stopped both vehicles and Allen was taken into custody. A search of Allen's vehicle revealed a large amount of ammunition, multiple AR-15 magazines, an AK47 magazine, and a Glock handgun magazine, all loaded with ammunition. Also located was a tool used to create baffles for firearm silencers or suppressors. Wright was contacted by officers and was asked if he would agree to a consent search of his vehicle, a white colored 1999 Dodge Ram 2500 pickup truck bearing Kansas license plate 818DUE. Wright refused. Wright was released and agents believe he immediately traveled to his residence in Beaver County, Oklahoma.

Local Law Enforcement Learns of the Plot

Later in the day on October 11, 2016, Allen's girlfriend provided the following information to the FBI: Within the last two weeks she had witnessed a white powdery substance being produced on the counter at G&G in a manner consistent with YouTube videos she observed with Allen depicting the process of manufacturing explosives. She also observed glassware and a long glass stirring stick being used to manufacture the explosives while at G&G. She saw hydrogen peroxide, fuel tablets and cheesecloth being used for the manufacture of explosives. In addition, she describes the substance being cooled in an ice bath (she stated the substance was so unstable it needs to be produced in a climate controlled environment).

A Kansas Highway Patrol Bomb Technician reviewed statements made by Allen's girlfriend and, based on his training and experience, believes them to be consistent with the manufacturing of a homemade explosive known as hexamethylene triperoxide diamine (HMTD).

This is known as a primary explosive, which is very sensitive to heat, shock and friction. This primary explosive presents a significant public safety hazard and is usually used to create homemade blasting caps to initiate a larger explosive.

Searches of Allen's Residence and G&G

On October 12, 2016, search warrants were conducted at Allen's residence and G&G. A possible detonator was found inside G&G. The detonator was believed to contain HMTD. Agents also found a black thermometer, bamboo chopsticks with a white substance, hydrogen peroxide 3%, hydrogen peroxide 35% (food grade), possible urea, and possible urea fertilizer. All of the substances can be used in the production of improvised explosive devices. Agents used a chemical testing tool to test the white substance on the bamboo chopsticks. The white substance tested positive for hexamine, an ingredient in HMTD. A yellow binder and paperwork labeled "The Anarchist Cookbook" was also found inside G&G.

Allen's residence was also searched. Inside, agents found a Sharps .22 caliber handgun and a Glock 19 handgun. Agents also found at least four "ammo cans" full of ammunition, at least 13 boxes of ammunition and countless loose ammunition. LPD officers estimated that they found and seized close to a metric ton of ammunition in Allen's residence. Allen is barred by federal law from possessing any firearms or ammunition due to a prior conviction for domestic battery.

The Undercover Investigation Continues

Even knowing of Allen's arrest, the FBI continued its investigation. Agents continued the undercover operation by conducting a previously-scheduled meeting between Stein and the UCE. At this meeting, on October 12, 2016, Stein met with the UCE at a rural location in Finney County, Kansas (the county in which Garden City is located). The UCE (and other FBI UCEs who were

present in a support capacity) were displaying automatic weapons that were provided from federal stock. Stein asked the UCE if he could shoot the weapons. Stein was given the opportunity to shoot the weapons, and he handled, possessed, and shot both a 5.56 fully automatic rifle and a 7.62X39 fully automatic rifle – in fully automatic mode.

After Stein shot the machine guns, he spoke to the UCE regarding the price of the rifles as well as the location of the apartment complex. Stein agreed to go to Garden City and show the UCE the apartment complex that housed the mosque. Stein then directed the UCE to the apartment complex on Mary Street in Garden City. This apartment complex houses a mosque and a large number of members of the Somali community. When the UCE drove by the apartment complex, Stein told the UCE that the apartment complex is “full of goddamn cockroaches.”

While in the vehicle with the UCE, Stein discussed trading methamphetamine for explosives. Stein also told the UCE that Wright and Allen have previously mixed explosives at G&G. Stein and the UCE discussed making an explosive device. Stein stated that he has fertilizer (ammonium nitrate) for the device and the fertilizer was located about sixty miles away. (Both Stein’s residence and G&G are located approximately 60 miles away from Garden City and Finney County.) Stein offered to supply the ammonium nitrate used in the device. Stein also told the UCE that he can come up with \$200-\$300 along with ammonium nitrate for the explosive device. The UCE agreed to this arrangement and promised to contact Stein in the near future to finalize the plan.

Stein told the UCE about the recent arrest of Allen and stated that Allen’s girlfriend “needs to disappear” because she is a concern. Stein stated he believed that Allen’s girlfriend is giving information to local law enforcement.

On October 13, 2016, the UCE contacted Stein via a smartphone application. The UCE asked whether he could get the “stuff” tomorrow (meaning October 14, 2016) that Stein had talked about. The “stuff” is ammonium nitrate that Stein had agreed to provide to the UCE in order to manufacture an explosive device. Stein said, “Yes. Can you make it either early morning or late evening? Will be in the field otherwise I guess if not that is ok too. I can just leave the shop unlocked for you. Give you directions to pick it up.” The UCE replied, “Does around seven in the morning work.” Stein answered, “Yes it does.” Later in the conversation, and referring to the ammonium nitrate, the UCE said, “I’m gonna need all 300 lbs.” Stein answered, “Not a problem. There is probably a little over 300 pounds if it was weighed up but I know there’s at least 300.”

Search Warrants

Also on October 13, 2016, in addition to continuing the undercover operation, agents executed a federal search warrant on Allen’s vehicle, which had been impounded as a result of his arrest earlier in the week. During the search, agents found keys and a receipt for a storage unit at Space Station Storage, 1120 East 2nd Street in Liberal. After speaking with the owner of Space Station Storage, agents learned Allen had rented storage unit D032 at the facility since October 23, 2015. Also, they discovered that storage unit F002 had been rented in the name of Garrett Wright (Gavin Wright’s brother) since February 20, 2014. Even though the storage unit was being rented in Garrett Wright’s name, the owner had seen and knew Gavin Wright was the person accessing the storage unit.

Agents learned that the storage facility has a gate that is closed after business hours. In order to access the facility an access code must be entered into a keypad, and the access code is unique to the individual renter of the storage unit. Agents found that, on October 13, 2016 at 3:51

a.m. someone using Wright's access code (meaning the access code for unit F002) entered the storage facility. The person using the access code exited the facility at 3:59 a.m.

Agents were able to determine that Allen had accessed D032 within the last week. Agents also were told by an informant that Allen kept equipment for his work with the alarm company in unit D032, but that Allen may also have also put firearms in the storage unit. These storage units were searched the following day pursuant to federal warrants, and the results of these searches are discussed below.

Stein is Arrested Delivering Bomb-Making Materials to the Undercover Agent

On October 14, 2016, Patrick Stein met with the UCE at the McDonalds on Central Avenue in Dodge City, Kansas. Stein and the UCE moved six 50-pound bags of ammonium nitrate from Stein's vehicle to UCE's vehicle. Stein and UCE then met inside of McDonalds. During the meeting, UCE and Stein discussed the explosive device UCE planned to manufacture for Stein. The UCE told Stein the explosives would be big enough to level the apartment complex on the north side of Mary and the apartment complex on the south side of Mary (more than 100 units in total). Stein asked how long it would take for the explosives to be ready. The UCE said it would take approximately one week for him to manufacture the explosives, and then the UCE would deliver them to Stein. The explosives would be in two vans, and the UCE would instruct Stein on how to detonate the explosives. Stein said he would store the vans at his farm and then place them on the target. The UCE asked if Stein would have the money they had agreed upon when the UCE returned with the explosives. Stein said he would. The UCE asked if there would be children at the target location. Stein said he assumed there would be children present, but had not seen a lot of children at the complex. Stein claimed most of the people he saw at the apartment complex were

men of fighting age. The UCE asked if Stein had decided about whether he needed to take care of the girl. Stein said he was unsure. Stein was not worried about the girl hurting them now, but was concerned she may hurt them after things were done (meaning after the explosives were deployed). Agent's believe the girl Stein was referring to was Allen's girlfriend. Stein was arrested as he walked out of McDonald's to leave the area.

Searches of Stein's Residence and Vehicle

A search of Stein's house was conducted the following day, on October 14, 2016. Located inside Stein's residence was a scoped rifle and ammunition. There were handwritten notes regarding a Mosque with an address and also several handwritten documents claiming to be about Stein's constitutional beliefs. Also located inside the residence was a pipe believed to be used to smoke methamphetamine.

After Stein's arrest, his vehicle was towed to the Dodge City Police Department, where a search was conducted. The following items were located in Stein's vehicle:

1. a loaded Sig Sauer 9mm handgun (between the seat and the middle console);
2. approximately 100 rounds of various caliber ammunition;
3. a small zip lock bag containing a small amount of white crystal substance believed to be methamphetamine; and
4. five or six aerial photographs.

The aerial photographs appear to be apartment complexes marked with large x's; an aerial photo appearing to be a church; and an aerial photo bearing a notation that it depicted a Burmese Mosque. The aerial photographs appear to depict locations in Garden City, Kansas. Agents also found handwritten notes regarding the owner of the target apartment complex being "a cockroach

slumlord.” Agents found a gallon-size zip lock bag containing white powder was found in the driver’s side door of Stein’s vehicle. Testing determined the white powder to be potassium nitrate and sugar, which agents believe to be some kind of homemade smoke powder.

Wright is Arrested and Remaining Searches Conducted

Gavin Wright was arrested without incident outside of G&G on October 14, 2016. Wright denied having any hazardous materials at his residence. When Wright was arrested, agents found a Glock 19 9mm pistol in his vehicle and a large amount of cash on his person.

Wright’s residence was searched subsequent to his arrest. The following items were seized from Wright’s residence:

1. approximately 12,158 rounds of ammunition;
2. commercial fireworks, which can be disassembled and used to manufacture explosives;
3. approximately 34 weapons (some of which Wright identified as being a family inheritance);
4. banded U.S. currency in the amount of \$5,000, including \$31 of U.S. currency which appeared to be stained with dye packs.

On October 14, 2016 agents searched storage unit F002, which was determined to be used by Gavin Wright. Inside the storage unit the following items were located:

1. two crates containing various caliber ammunition;
2. one crate containing printed material explaining how to make explosives;
3. a notepad with instructions on how to make HMTD;
4. a five-pound container of aluminum powder; and

5. a scale that can be used to measure components for making explosives components.

Agents also found a safe inside the storage unit, and located inside the safe were five semi-automatic rifles and three handguns. Agents also searched Allen's storage unit, unit D032, but nothing was found or seized.

After being seized on October 14, 2016, and impounded by agents, Gavin Wright's vehicle was searched pursuant to a federal warrant. Inside, agents found:

1. an Alcatel One Touch cellular flip phone;
2. a manual for a digital hot plate with magnetic stirrer; and
3. 9mm ammunition.

The digital hot plate with a magnetic stirrer was significant to the FBI bomb technicians involved in the investigation because they recognized it as something useful in the manufacture of explosives.

Defendants' Criminal Histories

Gavin Wright has no criminal history.

Curtis Allen's criminal history includes a 2008 conviction in Wichita Municipal Court for misdemeanor domestic battery, and the record shows that he was terminated from a deferred judgment program because he failed to pay fees and restitution and failed to provide verification that he completed counseling. It also includes a 2008 conviction in Sedgwick County District Court for operating a motor vehicle with an expired license. This conviction is significant less for the offense of conviction than for the fact that the defendant twice failed to appear for proceedings in the case.

Patrick Stein's criminal history is even more serious. He has a felony conviction in Ford County District Court for attempted burglary and attempted criminal damage to property, and he

violated probation in the case. He also has a diversion for passing a worthless check, although the case is quite old. Significantly, his criminal history shows four separate instances of failing to appear for court proceedings.

3. Legal Analysis and Argument

The government moves to detain these defendants pursuant to Title 18 United States Code, Sections 3142(e), (f)(1)(A), (f)(1)(B), (f)(1)(E), and (f)(2)(A), on the grounds that the defendants are charged with offenses that involve a crime of violence, a maximum sentence of life imprisonment, the possession of a destructive device, and – in light of the lengthy sentences they face – a serious risk the defendants will flee if released. Further, defendant Allen’s criminal history demonstrates that he poses a heightened risk of failing to appear. The government also invokes the presumption of detention found at 18 U.S.C. § 3142(e)(3)(C), in that the defendants are charged with conspiracy to use a weapon of mass destruction, in violation of 18 U.S.C. §2332a, which is a federal crime of terrorism listed in 18 U.S.C. § 2332b(G)(5)(B), and for which a maximum term of imprisonment of ten years or more is prescribed.

The controlling statutory and case law on the issue of pre-trial detention is well-settled. Under the Bail Reform Act of 1984 (“the Act”), 18 U.S.C. § 3141 *et seq.*, the Court must order the accused’s release unless it is determined that no condition or combination of conditions will reasonably assure the defendant’s appearance and the safety of other persons and the community.³ The Act recognizes that for a person charged with conspiracy to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a, a rebuttable presumption of both a risk of flight and a danger to the

³ 18 U.S.C. § 3142(b), (c), and (e); *United States v. Cisneros*, 328 F.3d 610, 616 (10th Cir. 2003).

community exists.⁴

- (3) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed—

...

- (C) an offense listed in section 2332b(g)(5)(B) of title 18, United States Code [18 USCS § 2332b(g)(5)(B)], for which a maximum term of imprisonment of 10 years or more is prescribed;

18 U.S.C. § 3142(e). Conspiring to use a weapon of mass destruction is specifically enumerated in 18 U.S.C. § 2332b(g)(5), as triggering the statutory presumption in section 3142(e) of the Bail Reform Act. All defendants have been indicted for this offense, thus the grand jury has found probable cause that they have committed the offense.

Once the presumption is invoked, the burden shifts to the defendant to produce some evidence warranting release.⁵ The government remains obliged to demonstrate flight risk by a preponderance of the evidence,⁶ and “must prove dangerousness to any other person or to the community by clear and convincing evidence.”⁷

In determining whether there are conditions of release that will reasonably assure the appearance of the person and the safety of any other person and the community, the judicial officer must consider the factors found in 18 U.S.C. § 3142(g). Those factors are: (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence;

⁴ 18 U.S.C. § 3142(e)(3)(C).

⁵ *United States v. Stricklin*, 932 F.2d 1353, 1354-55 (10th Cir. 1991).

⁶ *United States v. Burks*, 141 F.Supp.2d 1283, 1286 (D.Kan. 2001).

⁷ 18 U.S.C. § 3142(b), (c), and (e); *Cisneros*, 328 F.3d at 616.

(2) the weight of the evidence against the person; (3) the history and characteristics of the person; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.⁸

Here, considering the factors enunciated in 18 U.S.C. § 3142(g) for determining whether any conditions will reasonably assure the appearance of the defendants and the safety of any other person in the community, it is clear that the government has met its burden. The defendants not only conspired to kill and maim innocent men, women and children at the Mary Street address, but Stein showed a willingness to kill another member of the southwest Kansas community, Allen's girlfriend, to protect the conspiracy. Furthermore, the defendants voiced a willingness to rape women of Somali descent and the wife of the landlord of Mary Street, to "send a message" of their intolerance and support of violence. They were surreptitiously recorded talking about shooting Somali residents of southwest Kansas with guns and bows and arrows, again evidencing that they wished to commit crimes of violence. The defendants are charged with an egregious crime of violence. The evidence is overwhelming that the defendants not only intended to commit the offense, but that they fully intended to kill as many people as possible on the morning of November 9, 2016. These factors by themselves compel an order of detention pending trial.

The government recognizes that defendant Wright has no criminal history and that all the defendants are life-long members of their communities with substantial ties to the area. Considering the factors found in 18 U.S.C. § 3142(g), however, it is clear the defendants pose a substantial danger to the community. The government respectfully submits there exists no

⁸ *United States v. Stricklin*, 932 F.2d 1353, 1354-55 (10th Cir. 1991).

condition or combination of conditions that will reasonably assure the safety of the community should the defendants be released. Accordingly, all three defendants should be detained pending trial.

WHEREFORE, the government respectfully requests that its motion for pretrial detention of these defendants be granted and that the defendants be ordered detained pending trial of this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2016, I electronically filed the foregoing pleading with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record in the case.

/s/ *Anthony W. Mattivi*

Anthony W. Mattivi