

Exhibit 2 Continued

shadow of what will happen to all people across these United States if we do not put an end to it. . . . Please understand that we must exhaust all prudent measures before taking a physical stand against the horrific actions that the People of Harney County are enduring (including the Hammond's). If this Notice is ignored, then one more Notice of Demand will be sent, it will list the many petitions that have been ignored and demand that the Hammond's rights be restored. If that final Notice is rejected then People across the Union will have justification to assemble and once again restore individual rights. . . .
Thank you,

The Bundy Family

The Hammonds were scheduled to report to federal prison on January 4,

2016. The following message was posted to the Bundy Ranch Facebook page:

FOR IMMEDIATE PRESS RELEASE:

CLIVEN D. BUNDY

PO Box 7175

Bunkerville, NV 89007

702-346-5564

January 1, 2016

With great concern and love and much consideration from prayer, I come to you Harney County Sheriff of Oregon David M. Ward, rancher Steven Dwight Hammond, and rancher Dwight Lincoln Hammond, Jr.,

I, Cliven D. Bundy, have been involved for several weeks in the background striving to understand and comprehend your dilemmas in Harney County, Oregon. . . .

The United States Justice Department has NO jurisdiction or authority within the State of Oregon, County of Harney over this type of ranch management. These lands are not under U.S. treaties or commerce, they are not article 4 territories, and Congress does not have unlimited power. These lands have been admitted into statehood and are part of the great State of Oregon and the citizens of Harney County enjoy the fullness of the protections of the U.S. Constitution. The U.S. Constitution limits United States government.

It is my suggestion, Steven Hammond, that you go and check yourself into Harney County jail asking for protective custody. It is my suggestion, Dwight Hammond, that you go and check yourself into

Harney County jail asking for protective custody. It is my suggestion, Harney County Sheriff David Ward, accept these two ranchers into your jail, notify the United States Solicitor in Washington DC that you have these two ranchers in Harney County jail, that they will remain there indefinitely under your protective custody and the protection of We the People of Harney County and We the People of the United States of America.

I suggest an Evidentiary Hearing or a Grand Jury be formed by We the People.

I feel that this action is immediately important, that it should be taken place before 10:00 am Saturday, January 2, 2016. I will hold these suggestions private until that time then I will release this letter to those having state and county jurisdiction and to the media.

Cliven D. Bundy

Despite Bundy's efforts otherwise, the Hammonds reported for their federal sentence as directed to do so on January 4, 2016. However, on January 2, 2016, Ammon Bundy, Ryan Bundy, Ryan Payne and others took over the MNWR, occupying it with guns and openly stating their intention to prevent federal officers from returning to do their work on the refuge.

Bundy made statements in the media, linking the April 12, 2014, assault to the MNWR occupation. In a video and article from a Las Vegas television channel website, titled "Rancher responds to calls for his arrest," posted on or about January 19, 2016, Bundy stated, "I'm not gonna ever let the federal government come here and abuse me, and my ranch, and my cattle and the public again. . . . We have really enjoyed our freedom and liberty out here and enjoyed the land, and that's what the Bundy standoff was all about. It was to give access to the people, and I would be able to continue ranching and tradition. . ." With respect to the

MNWR takeover, Bundy stated, "Somebody has to stand up, and it happened to be my sons that stood, and they will stand. They're not going to give up."

<http://www.lasvegasnow.com/news/rancher-responds-to-calls-for-his-arrest> (last visited February 13, 2016).

On January 22, 2016, weeks into the MNWR occupation, in a video and an article from another Las Vegas television channel website, titled "Activists call on government to arrest Cliven Bundy, sons," Bundy stated about the MNWR occupation, "They did something they had to do. It has been extreme but the world has been listening." In the same interview, addressing the April 12 assault, Bundy stated, it was "very much a success. We are standing in the freest place on earth. . . Quit worrying about the Bundys, and if we're terrorists, so what? We're terrorists We the People are enjoying freedom here."

<http://www.fox5vegas.com/story/31036532/activists-call-on-government-to-arrest-cliven-bundy-sons> (last visited February 13, 2016).

On January 26, 2016, in a video and a caption from a Las Vegas newspaper article titled "Rancher Cliven Bundy responds to sons' arrests in Oregon standoff," Bundy stated "What's going to happen tomorrow, I don't know. You know there's going to be a rally across America, maybe around the world. I don't know what side they are going to take. You know, this will be a wakeup call to America. This whole battle is over a constitutional issue, where the Federal Government has no rights within the state, or at least rights within a sovereign state. . . ."

(<http://www.reviewjournal.com/news/nation-and-world/rancher-cliven-bundy-responds-sons-arrests-oregon-standoff-video>) (last visited February 15, 2016).

On January 30, 2016, in a video and article on a local Utah news website titled "Cliven Bundy: It was murder," Bundy stated:

[S]omebody had to make a stand. Well, if you make a stand without guns, what kind of stand do you make? You know, the government just come in there with bang bangs and smoke bombs and you don't you don't have no strength. . . . You know, I hate to see me sons and anybody suffer and I don't believe that Federal Government has any jurisdiction authority, I believe it's up to the public. It's going to be a public opinion and I don't even know at this point if the public opinion makes any difference. Those people are murderers; they threatened Dwight Hammond to the point that he was scared. They basically had the community scared and they proved how powerful they was when they assassinated LaVoy Finicum, and I don't think there is any limit to the Federal government's wickedness . . . You sign contracts with the Federal Government giving them unlimited power. You wind up in their Federal courts and you never win. Why don't you stand up for your preemptive grazing right? Why don't you stand up for property rights? That's what LaVoy would tell you today

<https://www.stgeorgeutah.com/news/archive/2016/01/30/tds-cliven-bundy-it-was-murder/> (last visited February 13, 2016).

In a national media online article dated on or about January 31, 2016, titled "Bundy clan leader unrepentant even as Oregon protest collapses," Bundy stated: "They're leaving me alone . . . In this part of Clark County and on Bundy Ranch, we say we're the freest place on Earth . . . They [the federal government] have no jurisdiction or authority, and they have no policing power . . . They have no business here . . . " https://www.washingtonpost.com/national/health-science/bundy-clan-leader-unrepentant-even-as-oregon-protest-collapses/2016/01/30/842a4750-c6c5-11e5-8965-0607e0e265ce_story.html (last visited February 15, 2016).

Gov't's Memo in Support of Its Motion for PT Detention

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On February 1, 2016, Bundy sent the following notarized "Notice to Harney County Sheriff" which was addressed also to the Governor of Oregon and the President of the United States, indicating that "We the People," intended to retain possession of the "Harney County Resource Center," the name given to the MNWR by the occupiers.

CLIVEN D. BUNDY
 PO Box 7175
 Bunkerville, NV 89007 February 1, 2016

NOTICE TO HARNEY COUNTY SHERIFF

To: Harney County Sheriff David M. Ward
 485 N. Court Ave. #6
 Burns, OR 97720

CC: Oregon Governor Kate Brown
 160 State Capitol
 900 Court Street
 Salem, OR 97301

President Barack Obama
 The White House
 1600 Pennsylvania Ave. NW
 Washington, DC 20500

Mailed Certified & Emailed to the above
 Internet to the World

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 Domestic Mail Only

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For delivery information, see back of this receipt.

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☐ Registered Mail with Return Receipt (RM 3800)
☐ Certified Mail Restricted Delivery (RM 3800)
☐ Registered Mail Restricted Delivery (RM 3800)
☐ Signature Restricted Delivery (RM 3800)
☐ Signature Restricted Delivery (RM 3800)

Postage: _____

Postage and Fees: _____

Send to: Harney County Sheriff David Ward
485 N. Court Ave. #6
Burns, OR 97720

7015 0140 0000 6426 6721

Dear Sheriff Ward,

This is notice that We the People of Harney County and also We the People of the citizens of the United States **DO GIVE NOTICE THAT WE WILL RETAIN POSSESSION OF THE HARNEY COUNTY RESOURCE CENTER.** (Malheur National Wildlife Refuge)

Remove all federal and state policing agents out of Harney County.

Place a Harney County sheriff guard post at the entrance road of the Harney County Resource Center stopping all from entering or exiting, for a time.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

2/1/16
 Date

Cliven D. Bundy
 Cliven D. Bundy

WITNESSED BY:

Mayra P. Cuellar

MAYRA P. CUELLAR
 Notary Public - State of Nevada
 Appointment Recorded in Clark County
 No. 04-01256-1 Expires December 1, 2016

State of Nevada
 County of Clark
 this instrument was acknowledged
Cliven D. Bundy
02/01/2016

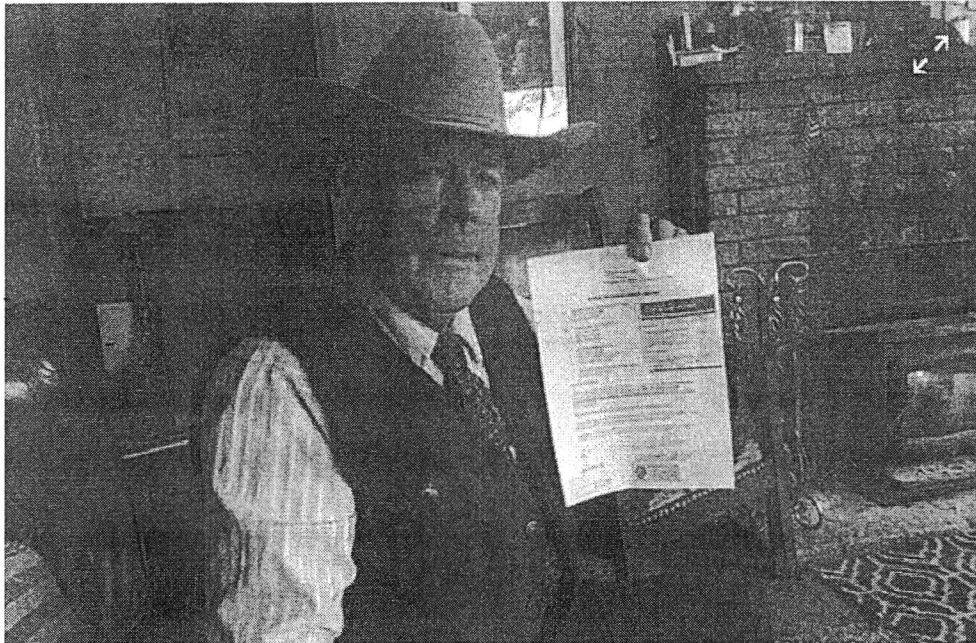
In an interview quoted in an article posted to a news website, Bundy explained the letter as follows, “What this is saying is that Cliven Bundy is taking control of things . . . If we don’t retain it, then we’ve lost everything that we’ve done in the last two months. We’re not gonna give up.” He added: “This is not Ammon’s message. This is my message . . . We’ve made a decision to retain it . . . The feds are going to get out of there.” Bundy once again reiterated his stance that “the federal government doesn’t have any jurisdiction or authority.” http://www.theguardian.com/us-news/2016/feb/01/oregon-armed-militia-standoff-cliven-ammon-bundy-malheur-national-wildlife-refuge?CMP=share_btn_tw (last visited February 13, 2016).

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Cliven Bundy defies son Ammon in call for Oregon militia to stand their ground

After Ammon Bundy called on final occupiers to leave refuge, his father sent a letter to government officials declaring armed militia would not back down



What this is saying is that Cliven Bundy is taking control of things,' he said of the Oregon standoff in an interview from his ranch in Bunkerville, Nevada. Photograph: Sam Levin for the Guardian

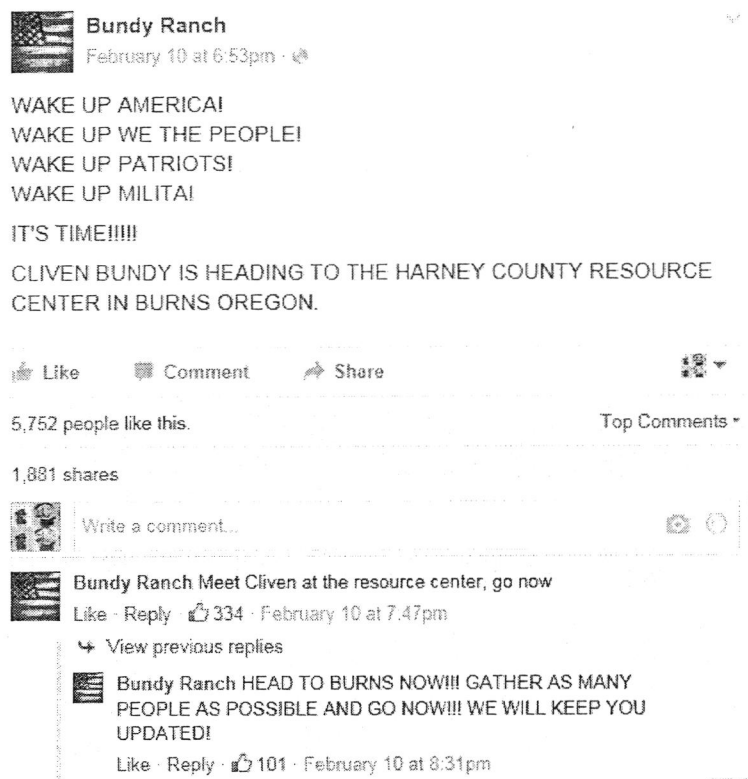
In a video posted to Youtube titled, "Cliven Bundy speaks after Kanab funeral for LaVoy Finicum," published on February 6, 2016, by a local Utah newspaper, Bundy stated:

It don't matter who we elect to the President of the United States, it don't matter who we elect for Congress, it don't matter who we elect for our Judges or the appointed Judges, the legal part don't work and political part don't work, and do you know why? It's because the bureaucrat has got so fat and so healthy, that he is the one that prospers, he is the one that has life liberty and the pursuit of happiness, we are feeding him, and when you get to this point, I've

been to this point for twenty years. I said no, I'm not going to sign contracts with you and I'm not going to pay you anymore, but I said twenty years ago, if ten ranchers would follow me, we would have had this thing beat a long time ago. Today we still don't have it beat. . . . You [ranchers] you have terms and conditions you have to follow, and if you don't follow them, you know what happens? You [ranchers] end up in a federal court and where in federal court did anyone ever win? Where in a federal court did a rancher, a resource user, ever win in a Federal court. You can't win at that Federal court, and it's their court."

<https://www.youtube.com/watch?v=BHvCLZTrRGc> (last visited February 13, 2016).

On February 10, 2016, Bundy Ranch Facebook page posted the following status update:



When other Facebook users commented on the post, Bundy Ranch continually reiterated its call to "head to Burns now!" and advised others to "meet Cliven at the resource center, go now." That same night, Bundy flew

unaccompanied by his bodyguards to Portland, Oregon, where he was taken into federal custody at the airport.

While Bundy was traveling, another subject who had days earlier traveled from MNWR to Mesquite, Nevada, posted a status update to his Facebook page, stating, "Need contacts in PORTLAND to PM me ASAP!!!! [subject name] Safety is why I need contacts!!! I need some Warfighters if at all possible."

A subject who was questioned following his/her arrest in connection with his/her activities at MNWR told law enforcement officers that MNWR occupiers had made their way to Bundy Ranch and were staying there. According to this person, an individual armed with an AR-15 was providing security for MNWR occupiers who were staying at Bundy Ranch.

II. ARGUMENT

The Bail Reform Act provides that a judicial officer shall detain a defendant pending trial where "no conditions or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. § 3142(e). Detention is appropriate where a defendant poses either a danger to the community or a risk of non-appearance and it is not necessary to prove both. *See United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985). The Government must establish by clear and convincing evidence that the defendant presents a danger to the community and by a preponderance of the evidence that the defendant is a risk of non-appearance. *Id.*

In determining whether pretrial detention is appropriate, Section 3142 provides four factors for the Court to consider: (1) the nature and circumstances of the offense charged, including whether the offense charged is a crime of violence; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger posed by the defendant's release. *United States v. Townsend*, 897 F.2d 989, 994 (9th Cir. 1990); 18 U.S.C. § 3142(g).

Where, as here, there is probable cause to believe that the defendant has committed an offense under Title 18, United States Code, Section 924(c), the court shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community. 18 U.S.C. § 3142(e)(3)(B).

At the detention hearing, the Court may properly rely upon a proffer by counsel in determining a defendant's danger to the community or risk of flight. *See United States v. Winsor*, 785 F.2d 755, 756 (9th Cir. 1986) ("[T]he government may proceed in a detention hearing by proffer or hearsay.")

A. The Offenses Charged Are Based on Bundy's On-Going Defiance of Federal Court Orders and Include Crimes of Violence

Crimes of violence for purposes of the Bail Reform Act include any offense that has as "an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another," and is a felony that "by its nature, involves a substantial risk that physical force against the person or

property of another may be used in the course of committing the offense.” See 18 U.S.C. § 3156(a)(4)(A). Here, five of the Counts contained in the Criminal Complaint against Bundy are crimes of violence: assault on a federal officer with a firearm and deadly weapon; extortion by force and violence; Section 924(c) counts as to each; and conspiracy to commit same.

Bundy’s charges are grounded not only in violence and his lawless acts, but also in his continued refusal to abide by federal court orders and other laws. Bundy continues to be in violation of no less than four federal Court Orders and each day enjoy the proceeds of his criminal activity, generating income through grazing over a thousand head of cattle on federal lands for free and selling these cattle for thousands of dollars each as he deems necessary.

Every day that Bundy is loose on Bundy Ranch is a day that he is in violation of the law. He continues to run his cattle in violation of federal law. He continues to flout the authority of federal law enforcement officers and threaten violence if they try to enforce the law.

Bundy’s rhetoric and his conduct relating to these charges makes clear that he has not changed his mind about the BLM or the federal government. As demonstrated above, Bundy has declared a personal war against the BLM and the federal government and there has been no evidence adduced during this massive investigation to suggest that he has changed his mind about any of that.

In the past, he has used gunmen to man checkpoints and conduct security patrols to prevent his arrest. His threats of force and past use of force have, to date,

prevented law enforcement officers from carrying out the court orders to remove Bundy's cattle from the public lands and kept them from patrolling and enforcing the laws and regulations pertaining to the large swath of public lands known in the Gold Butte area.

If Bundy were allowed to return to Bundy Ranch, the continued absence of a law enforcement presence in the Gold Butte area directly threatens the safety of others who wish to enjoy or use the same land that Bundy now has free reign over.

If released, Bundy would pose a significant risk of non-appearance, allowing him to bunker down at his ranch, fortify it with armed guards and thereby requiring federal officers to face the dangerous task of apprehending him.

Thus, there are no conditions or combination of conditions that any federal court could impose to protect the community from his lawless activity, whether that community is comprised of the citizens using the public lands or federal law enforcement officers and civilian employees attempting to manage the resources and enforce the laws. All are subject to Bundy's threats of violence.

B. Substantial Evidence Exists Establishing Bundy's Guilt

In the immediate aftermath of the April 12 assault, federal law enforcement officers were forced to abandon the impoundment site, precluding them from conducting an immediate investigation. Out of safety concerns and the need to deescalate the violence and restore order, the remaining local law enforcement officers – who themselves were outnumbered by Bundy's Followers – allowed the gunmen and the conspirators simply to leave the site without making any arrests,

conducting any interviews, taking any statements, or obtaining any identification of the gunmen and other assaulters.

Absent contemporaneous arrests and identifications, the investigation became purely historical in nature. The presence of many gunmen in and near the area of Bundy Ranch, the armed checkpoints and patrols, the presence of assault weapons in the militia camps, including (by some accounts) a .50 caliber machinegun, further increased the difficulty of conducting a physical investigation of Bundy Ranch or the impoundment site.

All of that said and despite those obstacles, the investigation began the day after the assault and continues to this day, identifying the assaulters, where they came from, how they got to Nevada, their connections to Bundy and others and their role in the assault and the aftermath.

To date, the government has conducted hundreds of witness interviews; executed over 40 search warrants; reviewed, organized and analyzed hundreds of thousands of pages of documents (mostly from social media); reviewed, organized and analyzed thousands of pages of telephone records; and organized, reviewed and analyzed hundreds of hours of audio and video recordings.

In addition to his numerous statements captured on social media, Bundy is captured on video directing his followers to go get his cattle on April 12. Numerous witnesses describe his involvement in the conspiracy and the ongoing activities at Bundy Ranch both during and after the assault. The evidence overwhelmingly establishes that Bundy was the leader, organizer and main beneficiary of the

conspiracy to impede and assault the federal officers conducting impoundment operations on April 12.

C. Bundy's History and Characteristics Demonstrate the Danger and Risk of Non-Appearence He Poses

For two decades, Bundy has grazed his cattle on federal lands without complying with BLM regulations or paying any grazing fees or other penalties, despite four federal court orders directing him to cure these violations. When Bundy was presented with the impending court-authorized impoundment of his cattle, he fomented and recruited his own army who expressed a willingness to raise weapons against federal law enforcement officers.

Bundy's rhetoric and his conduct relating to these charges makes clear that he has not changed his mind about the BLM or the federal government. As demonstrated above, Bundy has declared a personal war against the BLM and the federal government and there has been no evidence adduced during this massive investigation to suggest that he has changed his mind about any of that.

Further, there simply is no indication in any of the evidence that an Order for less restrictive conditions from this Court will get Bundy to do what three previous Courts could not: follow federal law. He does not recognize federal law and has said so repeatedly. He does not follow federal law or federal court orders and has demonstrated that repeatedly. There is no assurance that Bundy will in the least adhere to pretrial restrictions contained in yet another court order, which restrictions will no doubt include that he comply with and follow all federal laws

which would include federal court orders that require him to remove his cattle from public lands.

D. Bundy Poses A Significant Danger to the Community

Bundy's conduct in April, 2014, risked hundreds of people's lives – he incited and directed approximately four hundred people to travel to the BLM impoundment site to face off with federal law enforcement officers. But for the courageous restraint of these officers, this violent assault would likely have met with violent and deadly ends.

Bundy continues to put federal law enforcement officers, civilian employees, and community members at risk with his conspiracy to impede BLM in performing their duties around the country. Bundy was willing to put these people at risk in April 2014 when faced with the impoundment of cattle. He continued to do so with his patrols of the Gold Butte region and with his involvement in the MNWR takeover, ostensibly over lands rights issues. That Bundy now faces a lengthy incarceration if convicted of the charges can only bode more dangerous conduct if he is released.

E. Only Pretrial Detention Will Reasonably Assure the Safety of Others and the Community and Bundy's Future Appearance

A presumption applies that Bundy shall be detained and Bundy cannot overcome that presumption. The charges, the evidence, Bundy's history and the danger posed establish that there are no conditions or combination of conditions that can address these risks. As already discussed, any terms of release would have

to include Bundy's adherence to all laws. He has demonstrated and stated that he will not follow federal court orders.

Even the most stringent of conditions are insufficient to assure the safety of the community or Bundy's appearance, given that ultimately, they must rely on Bundy's good faith compliance. *See United States v. Hir*, 517 F.3d 1081, 1092 (9th Cir. 2008) (Noting that although the defendant and pretrial services proposed "strict conditions," "they contain[ed] one critical flaw. In order to be effective, they depend on [the defendant's] good faith compliance."); *see also United States v. Tortora*, 922 F.2d 880, 886 (1st Cir. 1990) (concluding that an extensive set of release conditions contained "an Achilles' heel ... virtually all of them hinge[d] on the defendant's good faith compliance"). In *Tortora*, an alleged member of a prominent mafia family stood trial for crimes under the racketing and organized crime statute. The First Circuit considered the elaborate conditions proposed that would restrict any communications with the defendant's cohorts. Ultimately, the court rejected those conditions, recognizing that "the conditions as a whole are flawed in that their success depends largely on the defendant's good faith-or lack of it. They can be too easily circumvented or manipulated." *Tortora*, 922 F.2d at 886.

Such considerations are doubly present here, given that Bundy's crimes in this case are rooted in his defiance of federal court orders directed specifically to him, and that his commitment to flouting federal authority has been maintained in word and deed through the present.

CONCLUSION

For the reasons stated herein, Bundy is a danger to the community and poses a risk of non-appearance. Bundy cannot overcome the presumption that he should be detained and no conditions or combination of conditions will reasonably assure the safety of others or his appearance at future proceedings. Accordingly, the Government respectfully requests that the Court order Bundy detained pending trial.

DATED this 16th day of February 2016.

Respectfully Submitted,

BILLY J. WILLIAMS
United States Attorney
District of Oregon

s/Charles F. Gorder, Jr.
CHARLES F. GORDER, JR.
Assistant United States Attorney

DANIEL G. BOGDEN
United States Attorney
District of Nevada

s/Steven W. Myhre
STEVEN W. MYHRE
NICHOLAS D. DICKINSON
Assistant United States Attorneys
NADIA J. AHMED
ERIN M. CREEGAN
Special Assistant United States Attorneys

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the **GOVERNMENT’S MEMORANDUM IN SUPPORT OF ITS MOTION FOR PRETRIAL DETENTION** was emailed to Defendant Cliven Bundy’s attorney Noel Grefenson on February 16, 2016, at ngrefenson@aol.com.

s/Charles F. Gorder, Jr.
CHARLES F. GORDER, JR.
ASSISTANT U.S. ATTORNEY

CERTIFICATE OF SERVICE