

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CENTRAL ILLINOIS**

UNITED STATES OF AMERICA VS. DANNY DEFENDANT	PRESENTENCE REPORT INVESTIGATION DOCKET No: 0104 1:16CR799-001
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Prepared for: The Honorable David Acosta
United States District Judge

Prepared by: Richard Reynolds
Senior U.S. Probation Officer

Assistant U.S. Attorney
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United States Courthouse
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Sentence Date: 09/24/2019

Offense: Conspiracy to Distribute and Possess with Intent to Distribute Heroin
21 U.S.C. § 846, 21 U.S.C. § 841(b)(1)(A) and 21 U.S.C. § 841(a)(1)
10 years to life imprisonment/\$10,000,000 fine (Class
A Felony) Date Offense Concluded: 09/22/2016

Conspiracy to Distribute and Possess with Intent to Distribute Heroin
21 U.S.C. § 846, 21 U.S.C. § 841(b)(1)(A) and 21 U.S.C. § 841(a)(1)
10 years to life imprisonment/\$10,000,000 fine (Class
A Felony) Date Offense Concluded: 09/22/2016

Possession of a Firearm in Furtherance of Drug Trafficking
18 U.S.C. § 924(c)(1)(A), 18 U.S.C. § 924(c)(1)(A)(i)
5 years to life imprisonment/ fine
(Class A Felony) Date Offense Concluded: 09/22/2016

Date of Arrest: 09/22/2016

Release Status: 09/22/2016 to Present – In Federal Custody.

Detainers: None.

Date Report Prepared: 08/29/2019

Date Report Revised:

Identifying Data:

Date of Birth: 10/30/1984
Age: 34
Race: White
Hispanic Origin: Hispanic origin
Sex: Male

SSN#: 133-44-9234
FBI#: 924973DG7
USM#: 100816-038
State ID#: IL 0148432
ICE#: A40428945
PACTS#: 2809543

Education: Graduate Equivalency
Dependents: Three
Citizenship: U.S. Citizen
Immigration Status: Naturalized U.S. Citizen
Country of Birth: Dominican Republic
Place of Birth: Santiago, Dominican Republic
Legal Address: 75 Blues Brothers Street
Chicago, Illinois 01109

Residence Address: In Custody

AKA: Alberto “Lumpy” Marz

Restrictions on Use and Redisclosure of Presentence Investigation Report. Disclosure of this presentence investigation report to the Federal Bureau of Prisons and redisclosure by the Bureau of Prisons is authorized by the United States District Court solely to assist administering the offender’s prison sentence (i.e., classification, designation, programming, sentence calculation, pre-release planning, escape apprehension, prison disturbance response, sentence commutation, or pardon) and other limited purposes, including deportation proceedings and federal investigations directly related to terrorist activities. If this presentence investigation report is redisclosed by the Federal Bureau of Prisons upon completion of its sentence administration function, the report must be returned to the Federal Bureau of Prisons or destroyed. It is the policy of the federal judiciary and the Department of Justice that further redisclosure of the presentence investigation report is prohibited without the consent of the sentencing judge.

PART A. THE OFFENSE

Charge(s) and Conviction(s)

1. On July 2, 2019, the defendant pled guilty to both counts to the second superseding indictment filed against him. There is a binding plea agreement in this case, pursuant to Rule 11(c)(1)(C) that has limited the defendant's appeal rights. The defendant agrees to forfeit all rights, title and interest in all assets, which are subject to forfeiture, as outlined in the written plea agreement.
2. The defendant is currently placed at the local detention center. Records have been requested regarding his adjustment while in pretrial detention; when received, this paragraph will be revised via Addendum.

9. Related Cases

None.

The Offense Conduct

10. The following statement of the offense was submitted by the United States Attorney's Office. This statement has been edited by the Probation Office:

I. Introduction

11. These charges are the result of an eight-month investigation initiated in response to a number of fatal overdoses associated with the "Hollywood" brand heroin. The investigation utilized court-authorized Title III intercepts of approximately 13 specific target cell phones used by **DANNY DEFENDANT** ("DANNY DEFENDANT") and one of his co-conspirators as well as a three-month roving wiretap of **DANNY DEFENDANT**'s frequently changing phones.
12. The investigation began with controlled purchases of heroin by a cooperating witness and an undercover officer from **DANNY DEFENDANT** and his principal co-conspirator, Marcos Pena. The wiretaps then recorded many inculpatory conversations and the agents were able to surveil numerous heroin deliveries and at least one delivery of fentanyl. Agents executed 27 search warrants and arrested 13 defendants on September 22, 2016. The investigation yielded the seizure of more than six kilograms of heroin, two kilograms of fentanyl, nearly \$200,000 in cash, three "trap" vehicles, several firearms, and evidence of the heroin mill in operation.
13. This investigation has revealed that **DANNY DEFENDANT** is the head of a sophisticated large-scale drug trafficking organization (hereinafter the "**DANNY DEFENDANT** DTO") that was responsible for introducing multiple kilograms of heroin per month into western Massachusetts

14. The investigation further revealed that members of the **DANNY DEFENDANT** DTO typically made several trips per month in vehicles that contained hidden compartments to locations in Bronx, New York in order to purchase the heroin and that members frequently transported between \$50,000 and \$70,000 at a time to the Bronx on behalf of **DANNY DEFENDANT** .

II. Background

15. In early January of 2016, the DEA's Chicago Resident Office ("SRO") initiated an investigation into fatal overdoses associated with the "Hollywood" brand heroin which was distributed by the **DANNY DEFENDANT** DTO. This investigation ultimately led to the application for and granting of several roving Title III wiretaps of cellular telephones used by **DANNY DEFENDANT** . Agents of the SRO began intercepting communications occurring over **DANNY DEFENDANT** 's telephones on April 26, 2016 and continued until September 22, 2016. The interception of these communications revealed that **DANNY DEFENDANT** purchased kilograms of heroin and he and the members of the **DANNY DEFENDANT** DTO processed, packaged, and ultimately further distributed this heroin in the Chicago area.

III. **DANNY DEFENDANT** 's Distribution of Heroin

16. In addition to intercepting **DANNY DEFENDANT** 's communications, agents conducted six controlled purchases of heroin, all of which **DANNY DEFENDANT** was directly involved in or aided and abetted. Five of these controlled purchases were conducted by Confidential Source 2 ("CS2").

A. The February 10, 2016 Controlled Purchase of Heroin from **DANNY DEFENDANT** and Pena (Count 2ss)

17. Utilizing CS2, agents purchased approximately 125 grams of heroin from **DANNY DEFENDANT** and Pena on February 10, 2016.
18. On February 10, 2016, at approximately 10:30 a.m., under the supervision of agents, CS2 attempted to call **DANNY DEFENDANT** on two separate occasions in order to arrange for the purchase of 125 grams of heroin. **DANNY DEFENDANT** returned these calls at approximately 11:00 a.m. and he and CS2 engaged in a conversation during which they agreed to meet at the Basketball Hall of Fame in order to conduct the transaction. After CS2 and **DANNY DEFENDANT** determined the details of the transaction, agents searched CS2 and his vehicle with negative results, provided him \$8,000 with which to purchase the heroin, and then followed him to the Basketball Hall of Fame parking lot where they awaited the arrival of **DANNY DEFENDANT** . At approximately 12:33 p.m., agents observed a green Honda Accord, occupied by two males, arrive and park next to

CS2's vehicle. CS2 then exited his vehicle and entered the rear passenger-side door of the Honda. The following occurred during this transaction:

- a. Pena was seated in the driver's seat and **DANNY DEFENDANT** was seated in the passenger's seat.
 - b. **DANNY DEFENDANT** informed CS2 that CS2 would no longer be dealing directly with **DANNY DEFENDANT** and told CS2 that Pena would conduct future transactions.
 - c. **DANNY DEFENDANT** accessed a hidden compartment in the center dashboard area of the vehicle, removed an amount of heroin from it, and handed it to CS2.
 - d. CS2 handed **DANNY DEFENDANT** \$8,000 in exchange for the heroin.
 - e. CS2 and **DANNY DEFENDANT** discussed the quality of the heroin and **DANNY DEFENDANT** assured CS2 that it was of high quality.
 - f. CS2 and Pena discussed future transactions and Pena informed CS2 to call him at a particular telephone number, which Pena provided, in order to make arrangements for such transactions.
19. CS2 remained in the vehicle for approximately five minutes before exiting, re-entering his own vehicle and then proceeding directly to a predetermined location where he met with DEA agents. There, CS2 immediately turned over the recording device and a white, plastic shopping bag that contained heroin. Simultaneously, agents followed the Honda Accord to Pena's residence located at 97 Massachusetts Avenue, Chicago, Massachusetts, where the vehicle pulled into the driveway and continued to the rear of the residence out of the sight of agents.
20. The following day, CS2 reviewed a photo array that included **DANNY DEFENDANT** and seven other males who were similar in appearance to **DANNY DEFENDANT**. After reviewing all eight photographs, CS2 identified **DANNY DEFENDANT** as the individual who sold heroin to CS2 on February 10, 2016.
21. The heroin CS2 purchased was sent to and tested by the DEA's Northeast Laboratory. This analysis revealed that the substance was heroin and weighed approximately 120 grams.
- B. The February 24, 2016 Controlled Purchase of Heroin
from **DANNY DEFENDANT** and Pena (Count 3ss)
22. Agents, utilizing CS2, purchased approximately 125 grams of heroin from **DANNY DEFENDANT** and Pena on February 24, 2016.

23. On February 24, 2016, at approximately 10:45 a.m., under the supervision of agents, CS2 called **DANNY DEFENDANT** at 413-777-0839 and **DANNY DEFENDANT** informed CS2 he would call back. Approximately two minutes later, CS2 received a call from **DANNY DEFENDANT** and CS2 agreed to meet with **DANNY DEFENDANT** at the Basketball Hall of Fame in order to conduct the transaction. Agents provided CS2 with \$7,750 and a recording device. CS2 then travelled directly to the Basketball Hall of Fame parking lot. Upon arriving at the Hall of Fame, CS2 telephoned **DANNY DEFENDANT** and informed **DANNY DEFENDANT** he was there and **DANNY DEFENDANT** stated that Pena would be meeting CS2. Agents overheard this call on the recording device placed on CS2.
24. After several phone calls between Pena and CS2, Pena informed CS2 that Pena was in the parking lot and instructed CS2 to follow Pena out of the parking lot. CS2 then followed Pena to the area of East Columbus and Norwood Street where they pulled to the side of the road. CS2 entered Pena's vehicle, a Volkswagen Touareg, and had a brief conversation with Pena about the quality of the heroin and Pena expressed to CS2 that Pena did not like the Hall of Fame parking lot because there were a number of people sitting in cars nearby. CS2 then provided Pena with \$7,750 and Pena provided CS2 with approximately 125 grams of heroin. CS2 then exited Pena's vehicle, entered his own, and drove directly to a predetermined location where he met with agents. At this location, CS2 gave the heroin to the agents. This heroin was sent to the DEA's laboratory, where it was confirmed to be heroin and to weigh approximately 120 grams.

C. The May 17, 2016 Controlled Purchase of Heroin
from **DANNY DEFENDANT** (Count 4ss)

25. Utilizing CS2, agents purchased approximately 300 grams of heroin from **DANNY DEFENDANT** on May 17, 2016.
26. On Sunday, May 17, 2016, under direction from agents, CS2 called **DANNY DEFENDANT** in order to make a controlled purchase of heroin from **DANNY DEFENDANT**. During this call, CS2 informed **DANNY DEFENDANT** that he wanted to purchase 300 to 400 grams of heroin. **DANNY DEFENDANT** then responded that he would charge \$62 per gram. **DANNY DEFENDANT** and CS2 agreed to meet in the parking lot of the Basketball Hall of Fame.
27. At approximately 3:22 p.m., CS2 received a call from **DANNY DEFENDANT** during which **DANNY DEFENDANT** informed CS2 that the heroin was ready. CS2, under the surveillance of agents, then proceeded to the Basketball Hall of Fame. At approximately 4:30 p.m., **DANNY DEFENDANT** arrived in a Nissan Rogue and CS2 exited his vehicle and entered **DANNY DEFENDANT**'s. Inside **DANNY DEFENDANT**'s vehicle, CS2 and **DANNY DEFENDANT** exchanged greetings and CS2 provided **DANNY DEFENDANT** \$18,600 and, in exchange,

DANNY DEFENDANT provided CS2 with approximately 300 grams of heroin. CS2 then exited **DANNY DEFENDANT**'s vehicle, entered his own, and proceeded to a pre-

determined location where he immediately turned over the heroin he purchased from **DANNY DEFENDANT** .

28. This heroin was sent to the DEA's laboratory where it was determined that it was, in fact heroin and weighed approximately 300 grams.

D. The June 28, 2016 Controlled Purchase of Heroin (Count 5ss)

29. Agents, utilizing an undercover Massachusetts State Police Trooper purchased approximately 200 grams of heroin from **DANNY DEFENDANT** on June 28, 2016.
30. On June 28, 2016, at approximately 10:00 a.m., under the supervision of agents, CS2 called **DANNY DEFENDANT** and ordered 200 grams of heroin. Agents specifically instructed CS2 to inform **DANNY DEFENDANT** that CS2's subordinate would be conducting the transaction on CS2's behalf. CS2's "subordinate" was actually a Massachusetts State Police Trooper who would be acting in an undercover capacity. During the conversation that ensued, **DANNY DEFENDANT** agreed to have his "runner" meet with CS2's subordinate, in order to sell him 200 grams of heroin at \$62 per gram.
31. At approximately 11:56 a.m., surveillance agents in the area of 152 Lebanon Street, Chicago, Massachusetts (the stash location for the **DANNY DEFENDANT** DTO)¹ observed the gray Nissan Rogue arrive and park in the driveway of the residence. This is the same vehicle that agents observed **DANNY DEFENDANT** and Pena use in previous controlled purchases of narcotics. At approximately 12:03 p.m., the Rogue was observed pulling from the driveway and leaving the area. Agents followed the Rogue directly to the Basketball Hall of Fame in Chicago, Massachusetts where it pulled into the parking lot.
32. At approximately 12:03 p.m., the Trooper began receiving text messages from **DANNY DEFENDANT** indicating that **DANNY DEFENDANT** was on his way to meet with him. The Trooper observed **DANNY DEFENDANT** approach his location in a Nissan Rogue. **DANNY DEFENDANT** parked next to the Trooper's vehicle. **DANNY DEFENDANT** then exited the Rogue and entered the passenger side of the Trooper's vehicle. The Trooper then provided **DANNY DEFENDANT** \$12,400 and, in exchange, **DANNY DEFENDANT** provided the Trooper approximately 200 grams of heroin. **DANNY DEFENDANT** 's face is clearly depicted in the video. The heroin was sent to the laboratory, which confirmed it was heroin and that it weighed approximately 200 grams.

E. The August 11, 2016 Controlled Purchase of Heroin
from **DANNY DEFENDANT** (Count 6ss)

33. Agents, utilizing CS2 purchased approximately 125 grams of heroin from **DANNY DEFENDANT** on August 11, 2016.

¹ **DANNY DEFENDANT** had purchased the property outright for cash in 2015.

34. On August 11, 2016, agents directed CS2 to contact **DANNY DEFENDANT** in order to place an order for 125 grams of heroin for \$7,750. At approximately 11:58am, CS2 called **DANNY DEFENDANT** and agreed to meet with **DANNY DEFENDANT** half an hour later at the Basketball Hall of Fame. CS2 and his vehicle

were then searched for contraband, with negative results, and he was provided with \$8,000, a recording device and a DEA owned money-counting machine which was equipped with a hidden GPS tracking device and which agents instructed CS2 to provide to **DANNY DEFENDANT**. CS2 was then followed directly to the Basketball Hall of Fame.

35. CS2 observed **DANNY DEFENDANT** approach his vehicle in a blue minivan, which **DANNY DEFENDANT** parked adjacent to CS2's vehicle. CS2 then entered **DANNY DEFENDANT**'s vehicle, exchanged greetings with **DANNY DEFENDANT**, and provided **DANNY DEFENDANT** with \$8,000. **DANNY DEFENDANT** then retrieved a black plastic shopping bag from the area of the driver's door and handed it to CS2. This bag contained the approximately 125 grams of heroin.
36. CS2 provided this heroin to agents who ultimately sent it to the laboratory where it was confirmed to be approximately 125 grams of heroin.

F. The September 20, 2016 Controlled Purchase
from **DANNY DEFENDANT** (Count 7ss)

37. Agents, utilizing CS2 purchased approximately 125 grams of heroin from on September 20, 2016.
38. On September 20, 2016, under the supervision of agents, CS2 attempted to make contact with **DANNY DEFENDANT** by placing two phone calls beginning at approximately 11:15 a.m. **DANNY DEFENDANT** did not answer either of these calls. Within one minute of the second phone call, **DANNY DEFENDANT** called CS2 and provided CS2 with a new telephone number at which **DANNY DEFENDANT** could be reached. During this conversation, CS2 informed **DANNY DEFENDANT** that he would like to purchase 100 grams of heroin. CS2 and **DANNY DEFENDANT** ultimately agreed upon a time and place to conduct the transaction. Under the surveillance of agents, CS2 proceeded to that location. Approximately 20 minutes later, CS2 observed **DANNY DEFENDANT** approach driving a blue minivan and park next to CS2's vehicle. CS2 then exited his own vehicle and entered **DANNY DEFENDANT**'s. Once inside, CS2 and **DANNY DEFENDANT** exchanged greetings and **DANNY DEFENDANT** handed CS2 a bag containing heroin and provided **DANNY DEFENDANT** with \$6,200 in exchange. **DANNY DEFENDANT** then placed the money in the center console of the vehicle.
39. CS2 then exited **DANNY DEFENDANT**'s vehicle, entered his own, and proceeded directly to a prearranged location where he met with agents. Once at that location, CS2 provided the heroin contained in the trash bag to agents. The DEA's laboratory confirmed that the substance in the bag was approximately 125 grams of heroin.

IV. Connecticut State Police Seize \$50,000 from the **DANNY DEFENDANT** DTO

40. On June 9, 2016, at approximately 9:12 a.m., agents intercepted a call between **DANNY DEFENDANT** and a male later identified as Marvin Ortega. Much of this call, however, was unintelligible due to the poor quality of the interception. Approximately five minutes later, **DANNY DEFENDANT** telephoned Ramos and stated "The man is here because I need you to U/I." Based upon these calls, surveillance was established in the area of 152 Lebanon Street, Chicago, Massachusetts. Upon arriving at the residence, agents observed **DANNY DEFENDANT**'s Honda Accord parked in the street in front of the residence and a green Infiniti SUV in the driveway.
41. At approximately 11:20 a.m., agents intercepted a call between **DANNY DEFENDANT** and Ortega during which **DANNY DEFENDANT** stated, "Dude, you can pass by now because everything is ready. By my house." Ortega agreed to do so. Approximately three minutes after this call, agents observed the green Infiniti backing from the driveway of 152 Lebanon Street and then drive directly to **DANNY DEFENDANT**'s residence at 75 Tyler Street, Chicago, Massachusetts. Agents then observed Ortega exit the driver's side of the vehicle and Ramos exit the passenger's side. Both men then walked down the driveway of 75 Tyler Street and out of sight. At that time, agents observed that the gray Honda Accord, known to be owned and frequently operated by Juan Perez, was also in the driveway of the residence.
42. Approximately ten minutes later, agents observed Ramos walk from the residence carrying a white plastic bag in his right hand. Ramos then opened the passenger door, placed the bag in the Infiniti and walked back toward the residence. At that time, agents observed Ortega walk from the driveway of the residence. Ortega then entered the Infiniti, sat in the vehicle for several seconds, and pulled away from the area. Agents then observed the gray Honda, driven by Perez, back out of the driveway and leave the area.
43. Agents followed Ortega directly to Interstate 91 South and into Connecticut where the Connecticut State Police (CSP) stopped the vehicle for exceeding the speed limit in the area of exit 33. As the search was occurring, Anthony Patino arrived at the scene to pickup Ortega. Simultaneously, agents intercepted calls between **DANNY DEFENDANT** and Patino, during which Patino provided **DANNY DEFENDANT** with a description of what was taking place during the initial consent search. Based upon these observations, CSP officers detained the Infiniti while they obtained a search warrant for it. During the search, Troopers found a hidden compartment under the passenger seat. Located inside this compartment was a white plastic bag that contained approximately \$50,000. The white plastic bag appeared to be the same bag that Ramos placed in the Infiniti at 75 Tyler Street, Chicago, Massachusetts.

V. Agents Seize Two Kilograms of Fentanyl (Count 8ss)

44. On July 12 and July 13, 2016, agents intercepted several calls over **DANNY DEFENDANT**'s cellular telephone indicating that **DANNY DEFENDANT** would be

"returning" a quantity of narcotics to an unknown male. These interceptions make clear **DANNY DEFENDANT** was unhappy with the quality of heroin that he recently received. The source agreed to take the heroin back and indicated that he would send "people" to get it.

45. Based on intercepted calls, on July 13, 2016, surveillance was established in the area of 75 Tyler Street, Chicago, Massachusetts, **DANNY DEFENDANT** 's residence. Shortly thereafter, agents observed **DANNY DEFENDANT** enter the Nissan Rogue and depart the area. Agents followed **DANNY DEFENDANT** directly to 152 Lebanon Street in Chicago.
46. At approximately 12:15 p.m., agents intercepted a call between Francisco Sandoval and **DANNY DEFENDANT** during which Sandoval indicated that he was in the area and ready to meet with **DANNY DEFENDANT** . Shortly after intercepting this telephone call, agents observed the Nissan Rogue leave 152 Lebanon Street, Chicago, Massachusetts. The Rogue was followed directly

to 75 Tyler Street, Chicago, Massachusetts where an agent observed **DANNY DEFENDANT** exit the vehicle and enter the residence.
47. Agents then intercepted a call between **DANNY DEFENDANT** and Sandoval during which **DANNY DEFENDANT** stated to Sandoval, "the address I gave you is a restaurant, go inside there." With this information, agents set up surveillance at the "El Salvador" Restaurant. At that location, agents observed two men arrive in a Honda Passport, park behind the restaurant, and enter it. Agents then observed the Nissan Rogue, driven by **DANNY DEFENDANT** , leave 75 Tyler Street and proceed directly to the "El Salvador" Restaurant. **DANNY DEFENDANT** pulled to the rear parking lot and parked beside the Honda Passport. Shortly thereafter, Sandoval exited the restaurant and entered the Rogue with **DANNY DEFENDANT** . At this moment, agents were briefly unable to observe the Rogue. Within approximately one minute, however, **DANNY DEFENDANT** was observed leaving the area in the Rogue and Sandoval was observed re-entering the restaurant.
48. Surveillance of the restaurant was maintained and approximately 10 minutes later, Sandoval and another male, later identified as Orlando Leon, exited the restaurant, entered the Honda Passport and left the area. The Passport was followed directly to the highway where it was observed getting on to the Massachusetts Turnpike and traveling eastbound. At approximately 3:00 p.m., a Massachusetts State Trooper executed a vehicle stop of the Honda Passport. The vehicle was ultimately searched. During this search, the Trooper discovered and seized approximately two kilograms of a substance located in a box for a "PlayStation" video game console in the back seat of the vehicle.
49. The substance was tested at the Massachusetts State Police Crime Laboratory where chemists determined that it was, in fact, fentanyl. The total weight of this fentanyl is approximately 1,958 grams.

VI. **DANNY DEFENDANT** and Declet Sell a Quantity of Heroin to Brantley
at 895 Carew Street

50. On several occasions, including September 9, 2016, agents monitoring the interceptions of **DANNY DEFENDANT** 's cellular telephones intercepted calls and text messages indicating that William Brantley was arranging to purchase as much as 250 to 300 packs of heroin from **DANNY DEFENDANT** through Julien Declet. Brantley was known to be a heroin distributor in the Chicago, Massachusetts area and this investigation has shown he was a large-scale heroin customer of Declet and **DANNY DEFENDANT** .

VII. **DANNY DEFENDANT** , **DANNY DEFENDANT** -Vasquez, Perez, and
Rivera Travel to New York in Order to Purchase Heroin and Return to 75
Tyler Street

51. On September 21, 2016, agents intercepted calls over **DANNY DEFENDANT** 's telephones which indicated that **DANNY DEFENDANT** would be traveling to New York City with Carlos Rivera and Diolfi Antonio **DANNY DEFENDANT** -Vasquez in order to pay a past drug-related debt, purchase heroin, and pick up **DANNY DEFENDANT** 's GMC Acadia that was at an auto repair business. Intercepted calls further indicated that **DANNY DEFENDANT** , Perez, **DANNY DEFENDANT** -Vasquez, and Rivera would travel to New York City in the Rogue and, once there, Rivera would go to the auto repair shop to retrieve another trapped vehicle that belonged to the **DANNY DEFENDANT** DTO. These calls further indicated that **DANNY DEFENDANT** ,

prior to his departure, collected money from his customers and co-conspirators, including Rodriguez, which he would use to pay his sources of supply.

52. At approximately 1:17 p.m., Rivera and **DANNY DEFENDANT** were observed leaving the area in the Nissan Rogue and Rosario left in a Honda Odyssey. Rosario drove directly to the heroin mill (detailed below) at 152 Lebanon Street, Chicago, Massachusetts where he parked in the driveway. Intercepted calls indicated that Rosario was bagging heroin at that location.
53. Agents monitored the location of the Nissan Rogue via a GPS unit they attached to the vehicle as it stopped briefly at 18 Chester Street, Chicago, Massachusetts (Jiovanni Rodriguez's residence) and then continued to 89 Shamrock Street, Chicago, Massachusetts where it stopped for several minutes. Agents observed **DANNY DEFENDANT** walk from the residence, enter the passenger side of the Nissan Rogue and leave the area. The Nissan Rogue then went directly to an auto parts store on Liberty Street in Chicago, Massachusetts where it stopped briefly. From the auto parts store, the Nissan Rogue went directly to 11 Wait Street, Chicago, Massachusetts, where it parked in the driveway. At this point, agents observed **DANNY DEFENDANT** -Vasquez put a large bag or blanket into the cargo area of the Nissan Rogue. Agents then observed the Nissan Rogue stop at a gas station where Juan Perez fueled it up. Agents then observed the vehicle leave the gas station and proceed to Rt. 291 West. The GPS device showed that the Nissan Rogue then drove to New York City.

54. Over the next several hours, intercepted calls over the **DANNY DEFENDANT** telephones indicated that **DANNY DEFENDANT** arranged to meet with at least two sources of supply in New York. Intercepted calls and surveillance make it clear that **DANNY DEFENDANT**, **DANNY DEFENDANT** -Vasquez, Perez and Rivera delivered a substantial amount of money to sources of supply in New York and that **DANNY DEFENDANT** then received heroin which Rivera transported back to Chicago. Based upon these calls, agents established surveillance was in the area of 75 Tyler Street, Chicago, Massachusetts.
55. At approximately 9:30 p.m., the Nissan Rogue arrived at 75 Tyler Street, Chicago, Massachusetts and agents observed Rivera parking the vehicle. Rivera and a person believed to be Dalia Diaz then moved an unknown item around in the vehicle before Rivera walked across the street and left in his own vehicle.
56. At approximately 10:40 p.m., the GMC Acadia arrived and parked on the street in front of the residence. At this point, agents observed **DANNY DEFENDANT**, **DANNY DEFENDANT** -Vasquez and Perez exit the vehicle and walk toward the residence. Shortly thereafter, agents observed the men backing the Nissan Rogue, **DANNY DEFENDANT** 's Honda Accord and **DANNY DEFENDANT** 's Toyota onto the street. The men then pulled the vehicles back into the driveway in the reverse order, essentially burying the Nissan Rogue behind two vehicles in the driveway so that the other two vehicles were between the Nissan Rogue and the road. Perez and **DANNY DEFENDANT** -Vasquez then walked back across the street and left the area in the Acadia.
57. Agents then followed the Acadia directly to the area of 109 Clantoy Street, Chicago, Massachusetts, where it was observed parking across the street from the residence. Agents observed Perez get out of the vehicle and stand on the driver's side of the vehicle for several minutes. After approximately seven to eight minutes, agents observed **DANNY DEFENDANT** -Vasquez walk across the street holding two white plastic bags. **DANNY DEFENDANT** -Vasquez then walked toward the house and out of sight. Agents then observed Perez walk across the street with one plastic bag in his hand. Perez stopped briefly in the street, appeared to lock the Acadia and then walk toward the residence and out of sight of the agents.

VIII. Agents Search **DANNY DEFENDANT** 's Residence

58. Magistrate Judge Katherine A. Joneson issued search warrants for several locations which were executed on September 22, 2016, including **DANNY DEFENDANT** 's residence. Agents located the Nissan Rogue in the same location that they observed it parked the evening before. During a search pursuant to the warrant, agents located a hidden compartment inside the Rogue. Inside of this compartment, agents discovered approximately three kilograms of heroin.
59. In **DANNY DEFENDANT** 's bedroom, agents discovered a safe that contained a "half-pack" (50 bags) of heroin that was packaged together in magazine paper and was labeled with a blue "Donald Trump" stamp, two firearms (a Smith & Wesson 99 .40 caliber handgun, bearing serial number SAF8 1 26, and a Smith & Wesson .38 Special Revolver,

bearing serial number CXP9606), ammunition, and a large amount of currency. A shotgun was also located in **DANNY DEFENDANT** 's bedroom closet (a Mossberg 12-gauge shotgun, bearing serial number AT 132340). Each firearm and round of ammunition travelled through interstate commerce.

60. During the investigation, agents intercepted several calls during which **DANNY DEFENDANT** discussed firearms related to his DTO. For example, during one such conversation, **DANNY DEFENDANT** discussed providing a firearm to Pena for protection during narcotics-related transactions. **DANNY DEFENDANT** elaborated that Pena had been robbed during one such transaction and the firearm that **DANNY DEFENDANT** provided to Pena was stolen from him.

IX. Agents Execute a Search Warrant at the Heroin Mill

61. Agents also conducted a search pursuant to a warrant at 152 Lebanon Street. As they entered the residence, agents found Jose Ramos in a bedroom; Richard Rosario in the kitchen of the residence; and Eduardo Fernandez, Anthony Patino, Pablo Rosario, and Linda Tavaréz in a room that contained nothing but air mattresses and which was across that hall from a room that was obviously a heroin mill. In that room, agents discovered a total of more than three kilograms of heroin that was in various stages of packaging for retail-level distribution and thousands of bags used to package heroin that were stamped with a blue "Donald Trump" stamp. Agents also observed several hidden locations that were used to conceal heroin. Agents discovered trash bags in the basement that contained discarded packaging materials that were nearly identical to those that **DANNY DEFENDANT** and Ramos discarded in a dumpster on June 3, 2016. The sole purpose 152 Lebanon Street was that of a heroin mill as it contained virtually no furnishings and heroin and materials used to package it were found throughout the home.
62. The mill room contained two tables and working stations for up to six people. The bagging table was covered with bags to be used to package heroin and heroin that had been packaged for sale. The milling table was covered in heroin and was used as a workbench where the heroin would be mixed with cut. Agents also found a number of coffee grinders that were used to mix the heroin once the cut was added. Also, agents found many boxes in which empty stamp bags were stored.
63. The kitchen contained virtually nothing other than items related to the packaging of heroin. For example, members of the DTO were using the stove to dry thousands of empty stamp bags. There were several boxes of these bags found in the kitchen and throughout the house. Lastly, the cupboards similarly contained only items that could be used in the packaging and processing of heroin.

X. **DANNY DEFENDANT** 's Role in the Conspiracy

64. **DANNY DEFENDANT** was clearly the head of the **DANNY DEFENDANT** DTO, which was made up of at least 14 individuals. During the course of the investigation, **DANNY DEFENDANT** was regularly intercepted as he instructed his subordinates how

to conduct the business of the DTO. On one such occasion, **DANNY DEFENDANT** chastised Jose Miguel Ramos, a member of the **DANNY DEFENDANT** DTO, for failing to take precautions to safeguard the proceeds or stash of heroin that belonged to the DTO. **DANNY DEFENDANT** also limited who had access to the heroin mill to only those who worked there. On several other occasions, **DANNY DEFENDANT** was intercepted as he ordered his subordinates to prepare a particular amount of heroin for customers or to deliver heroin to a customer.

65. The investigation further revealed that after **DANNY DEFENDANT** negotiated a price for heroin, he would instruct a trusted individual, usually Marcos Pena or Pablo Morel Rosario, to meet with the source of supply at a particular location. These individuals frequently reported their progress back to **DANNY DEFENDANT** as they arrived at the location, conducted the transaction, and returned to Chicago. **DANNY DEFENDANT** also frequently directed these individuals where to bring the heroin and how to conceal it once back in Chicago. **DANNY DEFENDANT** paid these “runners” based on the quantity of heroin they brought back to Chicago.
66. When the shipment returned to Chicago, **DANNY DEFENDANT** would instruct his subordinates to call the heroin mill workers, of whom there were typically at least five in number, to report to the heroin mill. Once the workers were at the mill, the individual working as the mill “manager” reported their progress back to **DANNY DEFENDANT**. **DANNY DEFENDANT** would instruct the mill manager how to process the heroin. Once a shipment of heroin was processed, **DANNY DEFENDANT** paid the heroin mill workers a set amount per bag, depending on each worker’s specific role in the organization.
67. Lastly, **DANNY DEFENDANT** arranged to smuggle Jose Miguel Ramos into the United States from the Dominican Republic through Mexico for the sole purpose of Ramos working in the heroin mill. **DANNY DEFENDANT** paid an unknown third party approximately \$20,000 to illegally bring Ramos into the United States in approximately May of 2016. From that time until September 22, 2016, Ramos resided at the heroin mill located at 152 Lebanon Street and took direction from **DANNY DEFENDANT**.

XI. The Forfeiture Allegations

68. The investigation into **DANNY DEFENDANT**’s finances has revealed that the only source of income for **DANNY DEFENDANT** and his partner, Dalia Diaz, was derived from the illegal sale of narcotics. Therefore, forfeiture of several items of **DANNY DEFENDANT**’s property as proceeds of his illicit narcotics sales. These properties include his current residence, **DANNY DEFENDANT**’s primary vehicle (a 2015 Toyota Tundra), and Diaz's primary vehicle (a 2014 Honda Accord). The remaining properties subject to forfeiture were used to facilitate the illegal distribution of narcotics (i.e. the 2003 Honda Odyssey) or are assets derived therefrom (i.e. United States currency).

Victim Impact

69. There are no identifiable victims in this offense.

Adjustment for Obstruction of Justice

70. The probation officer has no information indicating the defendant impeded or obstructed justice.

Adjustment for Acceptance of Responsibility

71. The defendant admitted involvement in the instant offense and is being granted acceptance of responsibility. The government indicates that, as preparations had begun for a trial, there will be no motion for the third point reduction. USSG § 3E1.1(a).

Offense Level Computation

72. The 2018 Guidelines Manual, incorporating all guideline amendments, was used to determine the defendant's offense level. USSG §1B1.11.

Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Heroin

74. **Base Offense Level:** The guideline for 21 U.S.C. § 846 offenses is found in USSG §2D1.1. According to §2D1.1(a)(5), the base offense level is specified in the Drug Quantity Table set forth in USSG §2D1.1(c). *Application Note 8* of the *Commentary* to §2D1.1 indicates that in cases involving different controlled substances, each substance is converted to its Converted Drug Weight found in the Drug Equivalency Table, added together, and the final sum of the Converted Drug Weight determines the base offense level in the Drug Quantity Table. In the instant matter, the defendant is accountable for a total of 7,002 grams of heroin (6 kilograms seized by authorities and 1,002 grams in heroin transactions) and 1,958 grams of fentanyl (in addition to \$50,000 in drug proceeds seized by CSP on June 9, 2016). The heroin is equal to 7,002 kilograms of Converted Drug Weight and the fentanyl is equal to 4,895 kilograms of Converted Drug Weight, for a total of 11,897 kilograms of Converted Drug Weight. Pursuant to U.S.S.G. § 2D1.1(c)(3), for offenses involving at least 10,000 kilograms but less than 30,000 kilograms of Converted Drug Weight, the base offense level is 34. USSG §2D1.1(a)(5) & (c)(3).

34

75. **Specific Offense Characteristics:** As the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance, a 2-level increase is applied. USSG §2D1.1(b)(12).

+2

76. **Victim Related Adjustment:** None.

0

77. **Adjustment for Role in the Offense:** The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a).

+4

78. **Adjustment for Obstruction of Justice:** None. 0
79. **Adjusted Offense Level (Subtotal):**² 40
80. **Acceptance of Responsibility:** The defendant has clearly demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. USSG §3E1.1(a). -2
81. **Total Offense Level:** 38

Count 2: Conspiracy to Distribute and Possess with Intent to Distribute Heroin

74. **Base Offense Level:** The guideline for 21 U.S.C. § 846 offenses is found in USSG §2D1.1. According to §2D1.1(a)(5), the base offense level is specified in the Drug Quantity Table set forth in USSG §2D1.1(c). *Application Note 8* of the *Commentary* to §2D1.1 indicates that in cases involving different controlled substances, each substance is converted to its Converted Drug Weight found in the Drug Equivalency Table, added together, and the final sum of the Converted Drug Weight determines the base offense level in the Drug Quantity Table. In the instant matter, the defendant is accountable for a total of 7,002 grams of heroin (6 kilograms seized by authorities and 1,002 grams in heroin transactions) and 1,958 grams of fentanyl (in addition to \$50,000 in drug proceeds seized by CSP on June 9, 2016). The heroin is equal to 7,002 kilograms of Converted Drug Weight and the fentanyl is equal to 4,895 kilograms of Converted Drug Weight, for a total of 11,897 kilograms of Converted Drug Weight. Pursuant to U.S.S.G. § 2D1.1(c)(3), for offenses involving at least 10,000 kilograms but less than 30,000 kilograms of Converted Drug Weight, the base offense level is 34. USSG §2D1.1(a)(5) & (c)(3). 34
75. **Specific Offense Characteristics:** As the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance, a 2-level increase is applied. USSG §2D1.1(b)(12). +2
76. **Victim Related Adjustment:** None. 0
79. **Adjustment for Role in the Offense:** The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +6
80. **Adjustment for Obstruction of Justice:** None. 0

² Per USSG §2K2.4, Application Note 4, no specific offense characteristic for possession, brandishing, use, or discharge of a firearm is to be applied when determining the sentence for an underlying offense when a defendant is also convicted of violating 18 U.S.C. § 924(c); therefore, the enhancement at §2D1.1(b)(1) is not being applied.

79. **Adjusted Offense Level (Subtotal):**³ **42**
82. **Acceptance of Responsibility:** The defendant has clearly demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. USSG §3E1.1(a). **-1**
83. **Total Offense Level: 41**

Count 3: Possession of a Firearm in Furtherance of Drug Trafficking

82. **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 924(c)(1)(A) is USSG §2K2.4. According to that guideline, if the defendant was convicted of violating Section 924(c) of Title 18, United States Code, the guideline sentence is the minimum term of imprisonment required by statute. In the instant matter, the defendant has committed such a violation and the statutory minimum is 5 years. Therefore, the guideline range is 5 years for this group, to be imposed consecutively to any other sentence imposed in this case for Group I. Chapters Three (Adjustments) and Four (Criminal History and Criminal Livelihood) shall not apply to this count of conviction. USSG §2K2.4(b).

Offense Behavior Not Part of Relevant Conduct

83. None known.

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudication(s)

84. None.

Adult Criminal Conviction(s)

85. None.

Criminal History Computation

86. The criminal convictions above result in a subtotal criminal history score of zero.

³ Per USSG §2K2.4, Application Note 4, no specific offense characteristic for possession, brandishing, use, or discharge of a firearm is to be applied when determining the sentence for an underlying offense when a defendant is also convicted of violating 18 U.S.C. § 924(c); therefore, the enhancement at §2D1.1(b)(1) is not being applied.

87. The total criminal history score is zero. According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of zero establishes a criminal history category of I.

Other Criminal Conduct

88. None.

Pending Charges

89. None.

	<u>Other Arrests</u>	<u>Date of Arrest</u>	<u>Charge</u>	<u>Court</u>	<u>Disposition</u>
90.	09/21/2002 (Age 17)	Ct 1. Indecent Exposure/ Holyoke, MA Dismissed Upon Docket No.: 02-CR- \$100 Court 3697	12/10/2002: To Be Payment of Costs. 01/24/2003: Costs Paid, Charge Dismissed.		
91.	10/03/2002	Ct 1. Operating MV District Court, After Suspended Holyoke, MA License Docket No.: 02-CR- 5159	02/10/2003: Nolle (Age 17)		

PART C. OFFENDER CHARACTERISTICS

92. The information in this section is as reported by the defendant. Where noted, this information has been verified.

Personal and Family Data

93. On October 30, 1984, DANNY DEFENDANT was born in Santiago, Dominican Republic. He is the oldest of three children born to the union of Domingo and Elma Defendant. The defendant's parents raised in the children in an emotionally stable environment and, even though they worked hard to provide for the children, the family was poor. In the early 1990s, the defendant's parents brought the children to New York City for economic opportunity and settled in Brooklyn. Several years later, the family moved to the Bronx. Once in the United States, the defendant's parents both quickly obtained employment – his father drove a taxi and his mother worked in a factory – and the family was economically

stable. During his upbringing the defendant was not exposed to any substance abuse or domestic violence, nor was he subjected to any verbal, physical, or sexual abuse.

94. **Father:** Domingo DEFENDANT , age 58, resides at 89 Elba Street in Chicago, , and is an assembler for Universal Forest Products in Bletcher, Massachusetts.
95. **Mother:** Elma Defendant, age 55, resides with her husband in their Elba Street home and is a former factory worker who is currently disabled due to arthritis, headaches, and fibromyalgia.
96. **Sister:** Jinette DEFENDANT , age 32, resides in North Haven, Connecticut, is divorced, has one child, and is a police officer for the Hamden, Connecticut, Police Department.
97. **Brother:** George DEFENDANT , age 23, lives in Wyoming, is single, has no children, and is serving in the U.S. Air Force and is currently deployed to the Middle East.
98. When the defendant was 17 years old, he went to live with a cousin in Holyoke, Massachusetts, for employment opportunities. He worked at Universal Forest Products and lived with his cousin on Mosher Street for approximately one year. The defendant then moved to Chicago, Massachusetts, and his parents and siblings also moved to Chicago. DANNY DEFENDANT advises that in 2007, he became a naturalized U.S. citizen. Records from the U.S. Department of Homeland Security's Department of Immigration and Customs Enforcement (ICE) confirm that on February 28, 2007, the defendant became a naturalized U.S. citizen, Naturalization Certificate #30030271.
99. At age 19, the defendant began a relationship with Dalia Diaz. Later that year, the defendant and Dalia obtained an apartment in Chicago. In 2011, the defendant and Dalia purchased a home at 75 Tyler Street in Chicago. The defendant and Ms. Diaz have two children together: Alexander DANNY DEFENDANT , age 10; and AliAlice DANNY DEFENDANT , age 2. While involved with Ms. Diaz, the defendant engaged in a brief relationship with Julinette Bellen which resulted in the birth of one child: DANNY DEFENDANT , age 5. The defendant's mother cares for his son and Ms. Bellen resides in Worcester, Massachusetts.
100. The defendant indicates that approximately once per year during his adulthood, he returned to the Dominican Republic to visit with friends and family. During one visit in 2013, the defendant met Alice Altagracia Martinez and the two began a relationship. After beginning a relationship with Alice, the defendant increased his visits to the Dominican Republic to three to four times per year. In June 2014, the defendant and Alice were married in a religious ceremony in Santiago. In 2016, the defendant brought his wife to Chicago and, soon after her discovering he was involved with Ms. Diaz and had a family with her, Alice left the defendant. The two remain separated and the defendant intends to pursue divorce proceedings.
101. The defendant's partner, Dalia Diaz, age 36, is able to support their two children with her income at a property management company and the rental income from their multi-family

home at 97/99 Massachusetts Avenue. Dalia indicates that she believes the defendant is an excellent father and partner. He doted over the children and is a hard-working provider for the family. She believes that the possible sentences Alberto is facing are shocking for a first-time offender; she has heard of people committing murder who did not receive such lengthy sentences. Ms. Diaz knows he misses his family very much and she sees the children miss him terribly. The defendant has not spent any time with their daughter as she was born after his arrest and he has only been able to hold her twice, each time only for a few moments. Dalia confirms the defendant drank alcohol to excess (however never in front of the children) and she recalls the time in 2015 when she had to call an ambulance as he had drank too much and was unresponsive. She believes Alberto has learned his lesson from this ordeal and will not jeopardize his liberty or his family in the future. Ms. Diaz is hopeful for the best and intends to prepare a letter for the Court's consideration.

102. The Probation Department intends to perform an interview with the defendant's mother, Elma Vasquez, with the assistance of a Spanish-speaking interpreter. Once the interview is completed the results will be included via Addendum.

Physical Condition

103. The defendant is a 34-year-old Hispanic male who stands 5'10" tall, weighs 190 pounds, as black hair and brown eyes. The defendant has a 6" curved scar on the right side of his face due to a laceration sustained in a motor vehicle accident in 2010. The defendant indicates that since his arrest and placement at the Wyatt Detention Center, he was diagnosed with keratoconus, a condition in which the clear, dome-shaped tissue that covers the eye (the cornea) thins and bulges outward and is treated with hard contact lenses (not glasses). The defendant reports being in good physical condition, advises he takes no medications, and has no dietary restrictions or physical limitations.

Mental and Emotional Health

104. The defendant reports no prior mental health treatment and feels no need for such treatment at this time. He advises he has no history of suicidal ideation or attempts, no history of emotional or psychiatric hospitalizations, and no issues with gambling. DANNY DEFENDANT advises that the current situation causes him a great deal of stress and he misses his family but he is coping the best he can.

Substance Abuse

105. The defendant first tried alcohol at age 14 with friends on weekends. His alcohol consumption increased over the years and by his late 20s, the defendant was drinking daily to the point of inebriation. DANNY DEFENDANT advises that several times per week he drank until he became "black-out" drunk. He indicates that in the summer of 2015, either June or July, he was rushed to the Baystate Medical Center (BMC) with alcohol poisoning. He was discharged the next day and resumed drinking several days later. Records have been requested from BMC. The defendant reports that he tried marijuana a

few times in high school and experimented with Percocet for recreational purposes several times in 2013 and 2014.

106. The defendant indicates that he has never received alcohol or substance abuse treatment and feels he may benefit from such treatment in the future. Although final determination of qualification for the Bureau of Prisons' 500-Hour Residential Drug Abuse Program (RDAP) is made by the Bureau of Prisons, it appears that the defendant is an appropriate candidate for RDAP based on the defendant's reported history of substance abuse prior to arrest. The defendant has expressed an interest in participating in the program.

Educational, Vocational and Special Skills

107. The defendant completed the 10th grade at the Fannie Lou Hamer Freedom High School in the Bronx, New York City. He advises that due to a language barrier, school was difficult causing him to quit school during the 11th grade to join the work force. In 2002 or 2003, he obtained a Graduate Equivalency Degree (GED) in Manhattan. The New York State Education Department was initially unable to verify the defendant's GED and additional records have been requested. The defendant began the Heating, Ventilation, and Air Conditioning (HVAC) course at the Branford Hall Career Institute in Chicago but did not complete the program. DANNY DEFENDANT has extensive experience in box truck operation and deliveries.

Employment Record

108. 2014 to 2016: The defendant was the owner/operator of AJ Buy and Sell, a pawn shop located at 895 Carew Street in Chicago; the business closed shortly after the defendant's arrest in September 2016.
109. 2007 to 2014: The defendant was the owner/operator of AJ Trucking, a box truck delivery business that he operated out of his home.

Financial Condition: Ability to Pay

110. The following information regarding the financial status of the defendant was obtained from the financial statement and any supporting documentation submitted by the defendant, as well as information derived from any one or more of the following sources: a credit report; an ACCURINT database check; court records; and public records. Unless otherwise noted, reported assets, liabilities, income, and expenses have been verified.

Net Worth Analysis

111. The defendant reports his only assets are: a home at 75 Tyler Street in Chicago with \$37,000 in equity (mortgage at Citizens One currently \$73,182), and a home at 97/99 Massachusetts Avenue in Chicago worth \$75,000. The defendant reports he has several outstanding loans and credit obligations. According to his credit report, the defendant owes: Wells Fargo the sum of \$26,982 (auto loan, charged off); American Honda Finance the sum of \$6,603 (auto loan, charged off); The Home Depot/CBNA the sum of \$1,048;

Best Buy the sum of \$100; ESB/Harley Davidson the sum of \$12,791; Macy's the sum of \$699; BMW Bank of North America the sum of \$2,293; American Express the sum of \$2,829; and Merrick Bank the sum of \$4,514. This results in a net worth of \$54,141.

Cash Flow Analysis

112. The defendant has no monthly cash flow at this time due to his incarceration.

PART D. SENTENCING OPTIONS

Custody

113. **Statutory Provisions:** Count 1: The minimum term of imprisonment is 10 years and the maximum term is Life. 21 U.S.C. § 846 and 21 U.S.C. § 841(b)(1)(A). The term of imprisonment on Count 2 must be imposed consecutively to any other counts.
114. **Guideline Provisions:** Based upon a total offense level of 38 and a criminal history category of I, the guideline imprisonment range is 235 months to 293 months, plus 60 months for Count 2.

Impact of Plea Agreement

116. There is a plea agreement in the case, pursuant to Rule 11(c)(1)(C). At paragraph 5 in the agreement, the parties agree to the following disposition: incarceration for 180 months, no fine, 5 years of supervised release, a Special Assessment of \$900, and forfeiture as set forth in paragraph 7 of the agreement.

Supervised Release

117. **Statutory Provisions:** Count: The Court must impose a term of supervised release of at least five years. 21 U.S.C. § 841(b)(1)(A). Count 2s: The Court may impose a term of supervised release of not more than five years. 18 U.S.C. § 3583(b)(1).
118. Multiple terms of supervised release shall run concurrently. 18 U.S.C. § 3624(e).
119. **Guideline Provisions:** Count 1: The guideline range for a term of supervised release is five years. USSG §5D1.2(c). The Court may upwardly depart and impose up to a life term of supervised release. Counts 2: Since the offense is a Class A Felony, the guideline range for a term of supervised release is 2 years to 5 years. USSG §5D1.2(a)(1).

Probation

120. **Statutory Provisions:** The defendant is ineligible for probation because it is expressly precluded by statute. 21 U.S.C. § 841(b)(1)(A), 18 U.S.C. § 3561(a)(2).
121. **Guideline Provisions:** The defendant is ineligible for probation because probation has been expressly precluded by statute. USSG §5B1.1(b)(2), USSG §5B1.1(b)(3).

Fines and Special Assessment

122. **Statutory Provisions:** Count 1ss: The maximum fine is \$10,000,000. 21 U.S.C. § 841(b)(1)(A). Counts 2: The maximum fine is \$250,000. 18 U.S.C. § 3571(b).
123. A total special assessment of \$200 is mandatory (\$100 per count). 18 U.S.C. § 3013.

124. **Guideline Provisions:** The fine range for this offense is \$50,000 to \$10,000,000. If the defendant is convicted under a statute authorizing (A) a maximum fine greater than \$500,000, or (B) a fine for each day of violation, the Court may impose a fine up to the maximum authorized by the statute. USSG §5E1.2(c)(3) and (c)(4).
125. Costs of prosecution shall be imposed on the defendant as required by statute. USSG §5E1.5. In determining whether to impose a fine and the amount of such fine, the Court shall consider, among other factors, the expected costs to the government of any term of probation, or term of imprisonment and term of supervised release imposed. USSG §5E1.2(d)(7) and 18 U.S.C. § 3572(a)(6). These costs may include drug and alcohol treatment, electronic monitoring, and/or contract confinement costs. The most recent advisory from the Administrative Office of the United States Courts, dated July 1, 2019, provides the following monthly cost data:

	<u>Bureau of</u> <u>Prisons Facilities</u>	<u>Community</u> <u>Correction Centers</u>	<u>Supervision by</u> <u>Probation Officer</u>
Daily	\$103.00	\$95.00	\$12.00
Monthly	\$3,121.00	\$2,874.00	\$373.00
Annually	\$37,448.00	\$34,493.00	\$4,472.00

Restitution

126. Restitution is not applicable in this case.

Denial of Federal Benefits

127. **Statutory Provisions:** At the discretion of the Court, the defendant, having been convicted of a first drug distribution offense, shall be ineligible for any or all Federal benefits for up to five years after such conviction. 21 U.S.C. § 862(a)(1)(A).
128. **Guideline Provisions:** The Court, pursuant to 21 U.S.C. § 862, may deny the eligibility for certain Federal benefits of any individual convicted of distribution or possession of a controlled substance. USSG §5F1.6.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

129. The Probation Officer has not identified any factors that would warrant a departure from the applicable sentencing guideline range.

PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE OF THE ADVISORY GUIDELINE SYSTEM

130. Presentation of information in this section does not constitute a recommendation by the Probation Office for a sentence outside of the applicable advisory guideline range.
131. Pursuant to 18 U.S.C. § 3553(a)(1) through (7), the following factors are to be considered in imposing a sentence: the nature and circumstances of the offense and the history and characteristics of the defendant; the need for the sentence imposed to satisfy the statutory purposes of sentencing; the kinds of sentences available; the applicable guidelines; pertinent Sentencing Commission policy statements; the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and the need to provide restitution. Available information concerning these factors is contained throughout the presentence report.

Respectfully Submitted,

Felix Unger
Acting Chief U.S. Probation Officer

By: Richard Reynolds
Senior U.S. Probation Officer

Approved:

Larry Czonka
Supervising U.S. Probation Officer