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FEB 24 2004
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY _____ S DEPUTY

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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF ARIZONA

7
8 United States of America

9 Plaintiff,

10 v.

11 Luis Cisneros, et al.,

12 Defendants.

CR-03-730-PHX-ROS

**NOTICE OF INTENT TO SEEK
DEATH PENALTY AS TO
DEFENDANT LUIS A. CISNEROS**

13 The United States of America notifies the Court and defendant LUIS A. CISNEROS,
14 under Chapter 228 (Sections 3591-3598) of Title 18, United States Code, that if defendant is
15 convicted of one or more of the intentional killings of Aaron Romero, Jose Moreno, Sr., and Jose
16 Moreno, Jr., as charged in Counts Three through Eight, Eleven, and Thirteen through Sixteen of
17 the First Superseding Indictment, the United States will seek the sentence of death for LUIS A.
18 CISNEROS as to each offense.

19 The United States will seek to prove as to defendant LUIS A. CISNEROS, for each of the
20 above-listed counts:

21 (1) One or more of the statutory proportionality factors set forth by Section
22 3591(a)(2)(A)-(D) of Title 18, and

23 (2) One or more of the statutory aggravating factors set forth by Sections
24 3592(c)(1)-(16) of Title 18.

25 As permitted by Sections 3593(a) and (d) of Title 18, the United States will also seek to prove
26 certain non-statutory aggravating factors as set forth in this Notice. The United States believes
27 that the circumstances of the offenses charged in any of the above-listed counts are such that, if
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1 the defendant is convicted, a sentence of death is justified under Chapter 228 of Title 18 of the
2 United States Code.

3 The United States will seek to prove the following factors as justifying a sentence of death
4 as to each of the above-listed counts.

5 A. Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D).

6 1. **Intentional Killing.** The defendant intentionally killed the victim named in the
7 respective count of the First Superseding Indictment. 18 U.S.C. § 3591(a)(2)(A).

8 2. **Intentional Act to Take Life or Use Lethal Force.** The defendant
9 intentionally participated in an act, contemplating that the life of a person would be taken or
10 intending that lethal force would be used in connection with a person, other than one of the
11 participants in the offense, and the victim named in the respective count of the First Superseding
12 Indictment died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

13 3. **Intentional Act in Reckless Disregard for Life.** The defendant intentionally
14 and specifically engaged in an act of violence, knowing that the act created a grave risk of death to
15 a person, other than one of the participants in the offense, such that participation in the act
16 constituted a reckless disregard for human life and the victim named in the respective count of the
17 First Superseding Indictment died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

18 B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).

19 1. **Previous Conviction of Violent Felony Involving Firearm.** The defendant
20 has previously been convicted of a State offense punishable by a term of imprisonment of more
21 than one year, involving the use or attempted or threatened use of a firearm against another
22 person. 18 U.S.C. § 3592(c)(2).

23 2. **Procurement of the Offense by Payment.** The defendant procured the
24 commission of the killing of the victim named in the respective count of the First Superseding
25 Indictment by payment, or promise of payment, of anything of pecuniary value. 18 U.S.C. §
26 3592(c)(7).

1 3. **Substantial Planning and Premeditation.** The defendant committed the
2 killing of the victim named in the respective count of the First Superseding Indictment after
3 substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

4 4. **Multiple Killings or Attempted Killings.** The defendant killed or attempted
5 to kill more than one person in a single criminal episode. 18 U.S.C. § 3592(c)(16).

6 C. Other Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

7 1. **Obstruction of Justice.** The victim named in the respective count of the First
8 Superseding Indictment was killed in an effort by the defendant to obstruct justice, tamper with a
9 witness, or in retaliation for cooperating with authorities.

10 2. **Future Dangerousness.** The defendant is likely to commit criminal acts of
11 violence in the future which would be a continuing and serious threat to the lives and safety of
12 other persons, including, but not limited to, inmates and correctional officers in an institutional
13 correctional setting, as evidenced by the offenses charged in the First Superseding Indictment and
14 the statutory and non-statutory aggravating factors alleged in this Notice. See Simmons v. South
15 Carolina, 512 U.S. 154, 162 (1994). In addition to the offenses charged in the First Superseding
16 Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the
17 circumstances that demonstrate the defendant's future dangerousness include: his making of
18 specific threats of violence; his long-term pattern of violent criminal conduct; his continuous
19 efforts to obstruct justice and threaten or kill witnesses; his leadership role in planning and
20 encouraging others to undertake criminal activities; his demonstrated low rehabilitative potential;
21 and his demonstrated lack of remorse for his criminal activities which have caused significant
22 damage to multiple communities, numerous victims, and their families.


23 3. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to
24 Aaron Romero, Jose Moreno, Sr., and Jose Moreno, Jr., and their families as demonstrated by the
25 victims' personal characteristics as individual human beings and the impact of the death upon the
26 victims' families. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The United States will
27 present information concerning the effect of the offenses on Aaron Romero, Jose Moreno, Sr., and
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1 Jose Moreno, Jr., and their families, which may include oral testimony, a victim impact statement
2 that identifies Aaron Romero, Jose Moreno, Sr., and Jose Moreno, Jr. as victims of the offenses
3 and the extent and scope of the injury and loss suffered by Aaron Romero, Jose Moreno, Sr., and
4 Jose Moreno, Jr., their families, and any other relevant information.


5 The United States further gives notice that in support of imposition of the death penalty, it
6 intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the
7 offenses of conviction as described in the First Superseding Indictment as they relate to the
8 background and character of the defendant, LUIS A. CISNEROS, his moral culpability, and the
9 nature and circumstances of the offenses charged in the First Superseding Indictment.

10 Respectfully submitted,

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1 I HEREBY CERTIFY that a true copy of the foregoing pleading was mailed first class to
2 the following counsel of record this 25th day of FEBRUARY, 2004.

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