

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. CR 00-3034 MWB
	)	
v.	)	
	)	
ANGELA JOHNSON,	)	
	)	
Defendant.	)	

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY UNDER 18 U.S.C. § 3593(a)**

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the government believes the circumstances of the offense(s) charged in Counts 1 through 5 of the Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the government will seek the sentence of death for each of these offenses: Count 1, witness tampering resulting in the death of Gregory Nicholson, in violation of 18 U.S.C. §§ 1512, 1111, and 2; Count 2, witness tampering resulting in the death of Lori Duncan, in violation of 18 U.S.C. §§ 1512, 1111, and 2; Count 3, witness tampering resulting in the death of Kandi Duncan, in violation of 18 U.S.C. §§ 1512, 1111, and 2; Count 4, witness tampering resulting in the death of Amber Duncan, in violation of 18

U.S.C. §§ 1512, 1111, and 2; and Count 5, witness tampering resulting in the death of Terry DeGeus, in violation of 18 U.S.C. §§ 1512, 1111, and 2; each of which carries a possible sentence of death.

The government proposes to prove the following factors as justifying a sentence of death.

**COUNT 1 - WITNESS TAMPERING RESULTING IN  
DEATH OF GREGORY NICHOLSON**

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

1. Intentional Killing. The defendant intentionally killed Gregory Nicholson. § 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Gregory Nicholson. § 3591(a)(2)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Gregory Nicholson died as a direct result of the act. § 3591(a)(2)(C).

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

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 3592(c)(6).

2. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. § 3592(c)(9).

3. Multiple Killings or Attempted Killings. The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. § 3592(c)(16).

**C. Other Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. §§ 3593(a)(2)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Dustin Honken (hereinafter "Honken"), the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Honken in February 1998, the defendant made threatening

statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Duncan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect, and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual

human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: At the time of his death, Gregory Nicholson was the father of two children. The victim's father was still living and the victim maintained a close relationship with his father and assisted his father around the house. The victim maintained a close relationship with his children until the time of his death.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Gregory Nicholson's children were raised without any monetary or emotional support from their father. The fact that his remains were buried and not recovered, delayed any payment of insurance proceeds to the beneficiaries. The victim's death severed all monetary and emotional support provided by the victim to his children and the manner in which he was killed prevented his family from obtaining any economic support from the insurance policies. Nicholson's family also suffered extreme emotional distress from the absence of Nicholson's remains and the unknown nature of his disappearance.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from, or retaliate against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1 .

**COUNT 2 - WITNESS TAMPERING RESULTING IN DEATH OF LORI DUNCAN**

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

1. Intentional Killing. The defendant intentionally killed Lori Duncan.

§ 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Lori Duncan. § 3591(a)(2)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Lori Duncan died as a direct result of the act. § 3591(a)(2)(C).

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

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 3592(c)(6).

2. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. § 3592(c)(9).

3. Multiple Killings or Attempted Killings. The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. § 3592(c)(16).

**C. Other Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Duncan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Honken in Mason City, the defendant

assisted in locating cooperating individual Daniel Cobeen. After Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect, and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Lori Duncan was a divorced mother of two children, Kandi Duncan (deceased) and Amber Duncan (deceased). The victim worked in a cabinet shop. She maintained a very close relationship with her parents, who lived down the street, and with her siblings, nieces, and nephews. The victim was very supportive of the special educational needs of her children and participated in their individual educational plans and worked diligently to support her children and meet their financial, educational, and social needs.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Lori Duncan's family has suffered extreme distress, losing an entire branch of their family with Ms. Duncan and Kandi and Amber Duncan being killed at the same time. Lori Duncan lived down the street from her parents and maintained frequent contact, having her house empty and clearly visible to her parents, increased the stress. Not knowing where Lori, Amber, and Kandi's bodies were hidden for seven years only to find that they had driven by the burial site frequently, has increased the emotional distress of the family. Mrs. Milbrath, Lori's mother, has taken a leave of absence from her employer due to the stress and anxiety caused by the murders of her daughter and grandchildren.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from, or retaliate against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

### **COUNT 3 - WITNESS TAMPERING RESULTING IN DEATH OF KANDI DUNCAN**

#### **A. Statutory Proportionality Factors Enumerated Under 18 U.S.C. §§ 3591(a)(2)(A)-(D)**

1. Intentional Killing. The defendant intentionally killed Kandi Duncan.  
§ 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Kandi Duncan.

§ 3591(a)(2)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Kandi Duncan died as a direct result of the act. § 3591(a)(2)(C).

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

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 3592(c)(6).

2. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. § 3592(c)(9).

3. Vulnerability of Victim. The victim was particularly vulnerable due to old age, youth, or infirmity. § 3592(c)(11).

4. Multiple Killings or Attempted Killings. The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. § 3592(c)(16).

**C. Other Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Honken, the defendant assisted in locating witnesses and, on at least one occasion, made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Duncan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Honken in Mason City, the defendant assisted in locating cooperating individual

Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect, and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Kandi Duncan was age 10 at the time of her death. She frequently played with her cousins and was part of a very close family. She visited her father every other weekend and on holidays. Although she had initially struggled academically with reading, math, and language skills, she had an individual educational plan and was integrated into the regular class in the other classes in the fourth grade. She enjoyed reading orally and was good at math when she

applied herself. She enjoyed drawing and sometimes would draw in her journal instead of writing in the journal as required by the school.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Kandi Duncan's murder was part of a murder of an entire generation of the Duncan family. The survivors: her grandparents, uncles, aunts, and cousins, feel the pain at every holiday. They have missed her first date, her graduation, and all of the future joyful events she would have had. Kandi Duncan's grandmother, Mrs. Milbrath has taken an leave of absence from her employer due to the stress of having her daughter and granddaughters murdered and their bodies hidden for seven years. Kandi's father was in a coma when Kandi was murdered. After coming out of the coma and learning of his children's murders, he could not sleep for weeks and describes the murders of his children like having a body part removed.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from, or retaliate against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1 .

**COUNT 4 - WITNESS TAMPERING RESULTING IN DEATH OF AMBER DUNCAN**

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

1. Intentional Killing. The defendant intentionally killed Amber Duncan.

§ 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Amber Duncan.

§ 3591(a)(2)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Amber Duncan died as a direct result of the act. § 3591(a)(2)(C).

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

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 3592(c)(6).

2. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. § 3592(c)(9).

3. Vulnerability of Victim. The victim was particularly vulnerable due to old age, youth, or infirmity. § 3592(c)(11).

4. Multiple Killings or Attempted Killings. The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. § 3592(c)(16).

**C. Other Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Duncan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted

in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect, and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Amber Duncan was age 6 when she was murdered. She loved spending time at her grandfather's house and loved to laugh, fish, and play with her cousins. She was a 6-year-old full of life and energy. She frequently played with her cousins and visited her father every other weekend and holidays. Prior to her death, she participated in a pilot program in school and attended

all-day kindergarten. Teachers noted that she sometimes had a temper when told to do things she did not want to do, was sometimes a little stubborn, sought attention, and knew the alphabet.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: As with the murder of Kandi Duncan, the Milbrath family, has lost an entire generation. Mrs. Milbrath, Amber Duncan's grandmother, had to take a leave of absence from her employer. Amber's father was in a coma when Amber was murdered and upon learning of his children's disappearance and the loss of his entire family, he could not sleep for weeks. Amber's family has missed the holidays, school activities, graduations and other events and activities Amber would have had and the joy Amber would have brought them by sharing those events with her family.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from, or retaliate against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

#### **COUNT 5 - WITNESS TAMPERING RESULTING IN DEATH OF TERRY DEGEUS**

##### **A. Statutory Proportionality Factors Enumerated Under 18 U.S.C. §§ 3591(a)(2)(A)-(D)**

1. Intentional Killing. The defendant intentionally killed Terry DeGeus. § 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Terry DeGeus.

§ 3591(a)(2)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Terry DeGeus died as a direct result of the act. § 3591(a)(2)(C).

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

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 3592(c)(6).

2. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. § 3592(c)(9).

**C. Other Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to

one or more of the following: During the investigation of Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Duncan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect, and Johnson expressed a desire

to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Prior to his murder, Terry DeGeus was a heavy equipment operator, working for his father. Terry DeGeus maintained a close relationship with his ex-wife and shared custody of his daughter, Ashley. Mr. DeGeus was with Ashley each weekend and was actively involved with his nieces and nephews. Mr. DeGeus enjoyed playing pool in his spare time.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: One or more of Mr. DeGeus' siblings and parents have suffered from depression due to Mr. DeGeus' disappearance and murder. His daughter, Ashley DeGeus, was teased at school due to the absence of her father and the fact that his remains were never recovered. The teasing resulted in Ashley being depressed, anxious, and at times, acting out in violent behavior. Ashley misses the close emotional support and financial support her father would have given her during her years growing up. Prior to Terry DeGeus' murder, Ashley stayed with the DeGeus family and was close to them and her father. Since that

time, she has grown distant from the DeGeus family. Ashley has seen a family counselor and other professionals to assist her. Ashley feels sorrow that she will never know whether her father would have been proud of her and the way she has turned out as a young woman.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from, or retaliate against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

Dated: April 18, 2002

Respectfully submitted,

CHARLES W. LARSON, SR  
United States Attorney

By, 

PATRICK J. REINERT  
Assistant United States Attorney  
P. O. Box 74950  
Cedar Rapids, IA 52407-4950  
319-363-0091  
319-363-1990 (Fax)  
[pat.reinert@usdoj.gov](mailto:pat.reinert@usdoj.gov)

CERTIFICATE OF SERVICE

I certify that I mailed ~~and delivered~~ a copy of the foregoing document to which this certificate is attached to the parties or attorneys of record, shown below, on 4-25-02.

UNITED STATES ATTORNEY

BY: 

COPIES TO:

Alfred Willett  
Patrick J. Berrigan  
Dean Stowers

By, 

C.J. WILLIAMS  
Assistant United States Attorney  
P. O. Box 74950  
Cedar Rapids, IA 52407-4950  
319-363-0091  
319-363-1990 (Fax)  
[Cj.williams@usdoj.gov](mailto:Cj.williams@usdoj.gov)

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Case No. 01-3046 MWB  
 )  
 v. )  
 )  
 ANGELA JOHNSON, )  
 )  
 Defendant. )

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY UNDER 21 U.S.C. § 848**

COMES NOW the United States of America, pursuant to 21 U.S.C. §§ 848(h)(1) (A) and (B), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that in the event of the defendant's conviction of one or more of the intentional killings of Gregory Nicholson, Lori Duncan, Kandi Duncan, Amber Duncan and/or Terry DeGeus, as charged in Counts 1 through 10 of the Indictment, the government will seek the sentence of death.

The government will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

**COUNTS 1 & 6 - INTENTIONAL KILLING OF GREGORY NICHOLSON**

**A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(1)(A) through (D)**

1. Intentional Killing. The defendant intentionally killed the victim.

§ 848(n)(1)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim. § 848(n)(1)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. § 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(2) through (12)**

1. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation. § 848(n)(8).

2. Heinous, Cruel, or Depraved. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 848(n)(12).

**C. Other Non-Statutory, Aggravating Factors Identified under 21 U.S.C. §§ 848(h)(1)(B) and 848(k)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Dustin Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Dustin Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and

indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: At the time of his death, Gregory Nicholson was a father of two children. The victim's father was still living and the victim

maintained a close relationship with his father and assisted his father around the house. The victim maintained a close relationship with his children until the time of his death.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Gregory Nicholson's children were raised without any monetary or emotional support from their father. The fact that his remains were buried and not recovered, delayed any payment of insurance proceeds to the beneficiaries. Nicholson's family also suffered extreme emotional distress from the absence of Nicholson's remains and the unknown nature of his disappearance.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from or retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

4. Multiple Killings or Attempted Killings in a Single Episode. The defendant intentionally killed or attempted to kill more than one person. See 18 U.S.C. § 3592(c)(16).

#### **COUNTS 2 & 7 - INTENTIONAL KILLING OF LORI DUNCAN**

##### **A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(1)(A) through (D)**

1. Intentional Killing. The defendant intentionally killed the victim.  
§ 848(n)(1)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim. § 848(n)(1)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. § 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(2) through (12)**

1. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation. § 848(n)(8).

2. Heinous, Cruel, or Depraved. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 848(n)(12).

**C. Other Non-Statutory, Aggravating Factors Identified under 21 U.S.C. §§ 848(h)(1)(B) and 848(k)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Dustin Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of

Dustin Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Lori Duncan was a divorced mother of

two children, Kandi Duncan (deceased) and Amber Duncan (deceased). The victim worked in a cabinet shop. She maintained a very close relationship with her parents who lived down the street, and with her siblings, nieces, and nephews. Duncan was very supportive of the special educational needs of her children and participated in their individual educational plans and worked diligently to support her children and meet their financial, educational, and social needs.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Lori Duncan's family has suffered extreme distress, losing an entire branch of their family with Lori Duncan and Kandi and Amber Duncan being killed at the same time. Lori Duncan lived down the street from her parents and maintained frequent contact, having her house empty and clearly visible to her parents, increased the stress. Not knowing where Lori, Amber, and Kandi's bodies were hidden for seven years only to find that they had driven by the burial site frequently, has increased the emotional distress of the family. Mrs. Milbrath, Lori's mother, has taken a leave of absence from her employer due to the stress and anxiety caused by the murders of her daughter and grandchildren.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from or retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

4. Multiple Killings or Attempted Killings in a Single Criminal Episode. The defendant intentionally killed or attempted to kill more than one person. See 18 U.S.C. § 3592(c)(16).

**COUNTS 3 & 8 - INTENTIONAL KILLING OF AMBER DUNCAN**

**A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(1)(A) through (D)**

1. Intentional Killing. The defendant intentionally killed the victim.  
§ 848(n)(1)(A).
2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim. § 848(n)(1)(B).
3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. § 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(2) through (12)**

1. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation. § 848(n)(8).
2. Vulnerability of Victim. The victim was particularly vulnerable due to old age, youth, or infirmity. § 848(n)(9).
3. Heinous, Cruel, or Depraved. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 848(n)(12).

**C. Other Non-Statutory, Aggravating Factors Identified under 21 U.S.C. §§ 848(h)(1)(B) and 848(k)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Dustin Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Dustin Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics

agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to “put a hurt on someone” or words to that effect and Johnson expressed a desire to work as a “hit woman.” While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim’s family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Amber Duncan was age 6 when she was murdered. She loved spending time at her grandfather’s house and loved to laugh, fish, and play with her cousins. She was a 6-year-old full of life and energy. She frequently played with her cousins and visited her father every other weekend and holidays. Prior to her death, she participated in a pilot program in school and attended all-day kindergarten. Teachers noted that she sometimes had a temper when told to do things she did not want to do, was sometimes a little stubborn, sought attention, and knew the alphabet.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: As with the murder of Kandi Duncan, the Milbrath family, has lost an entire generation. Mrs. Milbrath, Amber Duncan’s grandmother, had to take a leave of absence. Amber’s

father was in a coma when Amber was murdered and upon learning of his children's disappearance and the loss of his entire family, he could not sleep for weeks. Amber's family has missed the holidays, school activities, graduations and other events and activities Amber would have had and the joy Amber would have brought them by sharing those events with her family.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from or retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1 .

4. Multiple Killings or Attempted Killings in a Single Episode. The defendant intentionally killed or attempted to kill more than one person. See 18 U.S.C. § 3592(c)(16).

#### **COUNTS 4 & 9 - INTENTIONAL KILLING OF KANDI DUNCAN**

##### **A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(1)(A) through (D)**

1. Intentional Killing. The defendant intentionally killed the victim.  
§ 848(n)(1)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim. § 848(n)(1)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. § 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n)(2) through (12)**

1. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation. § 848(n)(8).

2. Vulnerability of Victim. The victim was particularly vulnerable due to old age, youth, or infirmity. § 848(n)(9).

3. Heinous, Cruel, or Depraved. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 848(n)(12).

**C. Other Non-Statutory, Aggravating Factors Identified under 21 U.S.C. §§ 848 (h)(1)(B) and 848(k)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to one or more of the following: During the investigation of Dustin Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Dustin Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant

engaged in a continuing pattern of violence, including but not limited one or more of the following: In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Kandi Duncan was age 10 at the time of her death. She frequently played with her cousins and was part of a very close family. She visited her father every other weekend and on holidays. Although she had initially struggled academically with reading, math, and language skills, she had an

individual educational plan and was integrated into the regular class in the other classes in the fourth grade. She enjoyed reading orally and was good at math when she applied herself. She enjoyed drawing and sometimes would draw in her journal instead of writing in the journal as required by the school.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: Kandi Duncan's murder was part of a murder of an entire generation of the Duncan family. The survivors, her grandparents, uncles, aunts, and cousins, feel the pain at every holiday. They have missed her first date, her graduation, and all of the future joyful events she would have had. Kandi Duncan's grandmother, Mrs. Milbrath has taken an leave of absence from her employment due to the stress of having her daughter and granddaughters murdered and their bodies hidden for seven years. Kandi's father was in a coma when Kandi was murdered. After coming out of the coma and learning of his children's murders, he couldn't sleep for weeks and describes the murder of his children like having a body part removed.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from or retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

4. Multiple Killings or Attempted Killings in a Single Criminal Episode. The defendant intentionally killed or attempted to kill more than one person. See 18 U.S.C. § 3592(c)(16).

**COUNTS 5 & 10 - INTENTIONAL KILLING OF TERRY DEGEUS**

**A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. §§ 848(n)(1)(A) through (D)**

1. Intentional Killing. The defendant intentionally killed the victim.

§ 848(n)(1)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim. § 848(n)(1)(B).

3. Intentional Acts to Take Life or Use Lethal Force. The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. § 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n)(2) through (12)**

1. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation. § 848(n)(8).

2. Heinous, Cruel, or Depraved. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. § 848(n)(12).

**C. Other Non-Statutory, Aggravating Factors Identified under 21 U.S.C. §§ 848 (h)(1)(B) and 848(k)**

1. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to committing the murders charged in the Indictment, the defendant also participated in the following acts of violence, including but not limited to

one or more of the following: During the investigation of Dustin Honken, the defendant assisted in locating witnesses. On at least one occasion, the defendant made threatening gestures at a potential witness. While incarcerated, the defendant made specific threats of violence directed toward an employee of the Benton County Jail and took steps to identify the employee and her vehicle. During the sentencing hearing of Dustin Honken in February 1998, the defendant made threatening statements about retaliating against the participants in the hearing, including prosecutors and agents, and indicated she had photographed those individuals for that purpose. The defendant engaged in a continuing pattern of violence, including but not limited one or more of the following: During the summer of 1993, the defendant assisted in locating Gregory Nicholson, purchased a firearm, assisted in entering the Duncan house, and assisted in the murders of Gregory Nicholson, Lori Duncan, Amber Duncan, and Kandi Ducan. In November 1993, the defendant lured Terry DeGeus to meet with Honken and assisted in the murder of Terry DeGeus. Regarding the later investigation of a methamphetamine laboratory operated by Dustin Honken in Mason City, the defendant assisted in locating cooperating individual Daniel Cobeen. After Dustin Honken was placed in Woodbury County Jail, the defendant attempted to bond out an individual Honken had approached to kill Timothy Cutkomp and Cobeen. Between March 24, 1998 and October 6, 1998, the defendant had contact with an undercover narcotics agent and an informant regarding the collection of money owed to Johnson for a drug debt from the distribution of methamphetamine. Johnson requested a price quote for the agent and CI to "put a hurt on someone" or words to that effect and Johnson expressed a desire to work as a "hit woman." While incarcerated in the Benton County

Jail, the defendant discussed escape and harming a jail employee who was involved in disciplining the defendant. Throughout the course of this matter, the defendant has yet to demonstrate remorse for commission of the murders.

2. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The victim's characteristics as an individual included one or more of the following: Prior to his murder, Terry DeGeus was a heavy equipment operator, working for his father. Terry DeGeus maintained a close relationship with his ex-wife and shared custody of his daughter, Ashley. Mr. DeGeus was with Ashley each weekend and was actively involved with his nieces and nephews. Mr. DeGeus enjoyed playing pool in his spare time.

The family of the victim has suffered injury, harm, and loss, as a result of the victim's death, including but not limited to one or more of the following: One or more of Mr. DeGeus' siblings and parents have suffered from depression due to Mr. DeGeus' disappearance and murder. His daughter, Ashley DeGeus, was teased at school due to the absence of her father and the fact that his remains were never recovered. The teasing resulted in Ashley being depressed, anxious, and at times, acting out in violent behavior. Ashley misses the close emotional support and financial support her father would have given her during her years growing up. Prior to Terry DeGeus' murder, Ashley stayed with the DeGeus family and was close to them and her father. Since that time, she has grown distant from the DeGeus family. Ashley has seen a family counselor and other professionals to assist her. Ashley feels sorrow that she will never

know whether her father would have been proud of her and the way she has turned out as a young woman.

3. Obstruction of Justice. The defendant committed the offense with the intent to prevent the victim from or retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. §§ 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); USSG § 3C1.1.

Dated: April 18, 2002

Respectfully submitted,

CHARLES W. LARSON, SR.  
United States Attorney

By, 

PATRICK J. REINERT  
Assistant United States Attorney  
P. O. Box 74950  
Cedar Rapids, IA 52407-4950  
319-363-0091  
319-363-1990 (Fax)  
[pat.reinert@usdoj.gov](mailto:pat.reinert@usdoj.gov)

By, 

C.J. WILLIAMS  
Assistant United States Attorney  
P. O. Box 74950  
Cedar Rapids, IA 52407-4950  
319-363-0091  
319-363-1990 (Fax)  
[cj.williams@usdoj.gov](mailto:cj.williams@usdoj.gov)

CERTIFICATE OF SERVICE

I certify that I mailed/~~hand delivered~~ a copy of the foregoing document to which this certificate is attached to the parties or attorneys of record, shown below, on

4-25-02

UNITED STATES ATTORNEY

BY:  \_\_\_\_\_

COPIES TO:

Alfred Willett  
Patrick J. Berrigan  
Dean Stowers