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 UNITED STATES OF AMERICA

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 9 UNITED STATES DISTRICT COURT
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,)	No. CR 99-83(A)-DT
12	Plaintiff,)	
13	v.)	<u>GOVERNMENT'S NOTICE OF INTENT</u>
14	MARIANO MARTINEZ, aka CHUY)	<u>TO SEEK THE DEATH PENALTY</u>
15	Defendant.)	<u>AGAINST DEFENDANT MARIANO</u>
16)	<u>MARTINEZ</u>

16 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

17 The United States of America, pursuant to 18 U.S.C.
 18 § 3593(a), notifies the Court and defendant MARIANO MARTINEZ, aka
 19 CHUY, that the Government believes the circumstances of the
 20 offenses charged in Counts Five, Six, Seven, Twenty-Three,
 21 Twenty-Four and Twenty-Five of the First Superseding Indictment
 22 are such that, in the event of a conviction, a sentence of death
 23 is justified under Chapter 228 (Sections 3591 through 3598) of
 24 Title 18 of the United States Code, and that the Government will
 25 seek the sentence of death for the following offenses: the murder
 26 of Richard Serrano in aid of racketeering, in violation of Title
 27 18, United States Code, Section 1959(a)(1) [Count Five] and/or
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1 and through the use of a firearm, in violation of Title 18,
2 United States Code, Sections 924(c), (j) [Count Twenty-Three]; the
3 murder of Jose Martin Gutierrez in aid of racketeering, in
4 violation of Title 18, United States Code, Section 1959(a)(1)
5 [Count Six] and/or through the use of a firearm, in violation of
6 Title 18, United States Code, Sections 924(c), (j) [Count Twenty-
7 Four]; and the murder of Enrique Delgadillo in aid of
8 racketeering in violation of Title 18, United States Code,
9 Section 1959(a)(1) [Count Seven] and/or through the use of a
10 firearm, in violation of Title 18, United States Code, Sections
11 924(c), (j) [Count Twenty-Five], each of which carries a possible
12 sentence of death.

13 The Government proposes to prove the following factors as
14 justifying a sentence of death.

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

17 1. **Intentional Acts to Take Life or Use Lethal Force.**
18 The defendant intentionally participated in an act, contemplating
19 that the life of a person would be taken or intending that lethal
20 force would be used in connection with a person, other than one
21 of the participants in the offense, and Richard Serrano [Counts 5
22 and 23], Jose Martin Gutierrez [Counts 6 and 24] and Enrique
23 Delgadillo [Counts 7 and 25], died as a direct result of the act.
24 Section 3591(a)(2)(C).

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**2. Intentionally Engaging in Act of Violence
Knowingly Creating Grave Risk of Death**

The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life, and Richard Serrano [Counts 5 and 23], Jose Martin Gutierrez [Counts 6 and 24] and Enrique Delgadillo [Counts 7 and 25], died as a direct result of the act. Section 3591(a) (2) (D).

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

The following statutory aggravating factors apply to each of Counts 5, 6, 7, 23, 24 and 25.

1. Previous Conviction of Violent Felony Involving a Firearm.

The defendant committed the offense after previously being convicted of a violent felony involving a firearm. Section 3592(c) (2).

2. Substantial Planning and Premeditation.

The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 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. Section 3592(c) (16).

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

3 1. Future Dangerousness of the Defendant.

4 The defendant is likely to commit criminal acts of violence in
5 the future that would constitute a continuing and serious threat
6 to the lives and safety of others, as evidenced by one or more of
7 the following:

8 a. Other Acts of Violence.

9 The defendant has committed, attempted to commit, and/or
10 threatened to commit other acts of violence, in addition to the
11 capital offenses committed in this case and the statutory factors
12 alleged in this Notice, including but not limited to one or more
13 of the following:

14 (1) Over an extended period of time, including on or about
15 April 12, 1998, defendant conspired to murder and attempted to
16 murder John Turscak, aka Stranger, as alleged in Counts 15 and 28
17 of the First Superseding Indictment.

18 (2) Over an extended period of time, defendant conspired to
19 murder Jesse Detevis, aka Shady, as alleged in Count 14 of the
20 First Superseding Indictment.

21 (3) Over an extended period of time, defendant conspired to
22 murder Ricardo Estrada, aka Joker, as alleged in Count 13 of the
23 First Superseding Indictment.

24 (4) Over an extended period of time, defendant conspired to
25 murder Lorenzo Jeronimo Lopez, aka Sharkey, as alleged in Count
26 of the First Superseding Indictment.

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1 (5) Over an extended period of time, defendant conspired to
2 murder John Doe, aka Sparky, as alleged in Count 18 of the First
3 Superseding Indictment.

4 (6) Over an extended period of time, defendant conspired to
5 murder Donald Ortiz, aka Little Man, as alleged in Count 19 of
6 the First Superseding Indictment.

7 (7) Over an extended period of time, defendant conspired to
8 murder Alex Kizu, aka Angel, as alleged in Count 20 of the First
9 Superseding Indictment.

10 (8) Over an extended period of time, defendant conspired to
11 murder James Lopez, aka Bouncer, as alleged in Count 21 of the
12 First Superseding Indictment.

13 (9) Over an extended period of time, defendant conspired to
14 murder Elvis Poncedeleon, aka Little Man, as alleged in Count 22
15 of the First Superseding Indictment.

16 (10) Over an extended period of time, defendant conspired
17 to murder Steven Dominguez, aka Smokey, as alleged in Count 10 of
18 the First Superseding Indictment.

19 b. Lack of Remorse.

20 The defendant has demonstrated a lack of remorse for the capital
21 offenses committed in this case, by statements and/or actions,
22 including but not limited to one or more of the following:

23 (1) Following the commission of the capital offenses
24 committed in this case defendant told a co-conspirator that he
25 had ordered the killings and that it was the appropriate thing to
26 do.

1 2. Other Crimes/Uncharged Murders

2 The defendant has been involved in other murders which are not
3 reflected in his criminal record. These include, but are not
4 limited to one or more of the following:

5 (1) The murder of Caesar Valdenegro, aka Puppet on February
6 27, 1996.

7 (2) The murder of Thomas Lujan, aka Time Bomb on January 7,
8 1997.

9 (3) The murder of Victor Murillo, aka Victorio, on April 4,
10 1998.

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12 DATE: July 19, 1999

Respectfully submitted,

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