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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,)
 14 Plaintiff,)
 15 v.)
 16 RAYMON D. HILL)
 17 a/k/a "Money Ray,")
 18 DENNIS CYRUS, Jr.)
 19 a/k/a "Daddy-O,")
 AQUIL H. PETERSON)
 20 a/k/a "Quil,")
 LESTER W. HOGAN)
 21 a/k/a "Styles,")
 STEVE WILSON)
 22 a/k/a "Wolf," a/k/a "Solo,")
 DONALD J. ARMOUR)
 23 a/k/a "DJ,")
 MISTER MEILLEUR)
 24 a/k/a "Mister,")
 Defendants.)

Case No. CR 05-00324 MMC

**NOTICE OF INTENT TO SEEK THE
 DEATH PENALTY AS TO
 DEFENDANTS DENNIS CYRUS, JR.
 AND AQUIL H. PETERSON**

Date: November 1, 2006
 Court: Hon. Maxine M. Chesney

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1 **NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

2 Pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby gives
3 notice that it believes that the circumstances of this case are such that, in the event that the
4 defendant DENNIS CYRUS, JR. is convicted of a capital offense relating to the deaths of Joseph
5 Hearn, Randy Mitchell and Raymond Jimmerson, and AQUIL H. PETERSON is convicted of a
6 capital offense relating to the death of Joseph Hearn, a sentence of death is justified and that the
7 United States will seek the death penalty. Specifically, the United States will seek a sentence of
8 death for DENNIS CYRUS, JR. for Counts Eight, Ten and Eleven, which charge murder in aid
9 of racketeering under 18 U.S.C. § 1959(a)(1), and will seek a sentence of death for AQUIL H.
10 PETERSON for Count Eight, which charges murder in aid of racketeering under 18 U.S.C. §
11 1959(a)(1) .

12 As to DENNIS CYRUS, JR., the Government proposes to prove the following factors as
13 justifying a sentence of death for the offenses charged in Counts Eight, Ten and Eleven of the
14 Indictment, the allegations of which are fully realleged and incorporated herein by reference:
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16 **I. Count 8: The Murder of Joseph Hearn**

17 A. **Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)**

18 (1) The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

19 (2) The defendant intentionally inflicted serious bodily injury resulting in death. 18
20 U.S.C. § 3591(a)(2)(B).

21 (3) The defendant intentionally participated in an act, contemplating that the life of a
22 person would be taken or intending that lethal force would be used in connection with a
23 person, other than one of the participants in the offense, and the victim died as a direct
24 result of the act. 18 U.S.C. § 3591(a)(2)(C).

25 (4) The defendant intentionally and specifically engaged in an act of violence, knowing
26 that the act created a grave risk of death to a person, other than one of the participants in
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1 the offense, such that participation in the act constituted a reckless disregard for human
2 life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

4 (1) The defendant committed the offense in an especially heinous, cruel, or depraved
5 manner in that it involved torture or serious physical abuse to the victim (Title 18, United
6 States Code, Section 3592(c)(6)).

7 (2) The defendant committed the offense after substantial planning and premeditation to
8 cause the death of a person or commit an act of terrorism (Title 18, United States Code,
9 Section 3592(c)(9)).

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

11 In addition to the statutory aggravating factors set forth above with regard to Count
12 Eight, the Government will rely on the following non-statutory aggravating factors
13 specific to that offense to justify a sentence of death:

14 (1) **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the family
15 of Joseph Hearn because of the victim's personal characteristics as an individual human
16 being and the impact of his death upon the Joseph Hearn family. *See Payne v.*
17 *Tennessee*, 501 U.S. 808, 825-26 (1991).

18 (2) **Participation in Other Serious Crimes of Violence.** The defendant participated in
19 other homicides in addition to the murder of Joseph Hearn, including the murders of
20 Randy Mitchell and Raymond Jimmerson, and participated in the attempted murder of
21 Marcus Atkinson.

22 (3) **Contemporaneous Criminal Conduct.** In addition to being convicted of the
23 murders of Joseph Hearn, Randy Mitchell and Raymond Jimmerson, the defendant was
24 engaged in other criminal conduct, included but not limited to enterprise crimes and drug
25 offenses as alleged in the Indictment.
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1 (4) **Future Dangerousness of the Defendant.** The defendant represents a continuing
2 danger to the lives and safety of other persons. The defendant is likely to commit
3 criminal acts of violence in the future that would constitute a continuing and serious
4 threat to the lives and safety of others, as evidenced by, at least, one or more of the
5 following:

6 (a) Continuing Pattern of Violence: The defendant has engaged in a continuing pattern of
7 violence, attempted violence, and threatened violence, including, at least, the crimes
8 alleged against defendant in the Indictment.

9 (b) Lack of Remorse: The defendant has demonstrated a lack of remorse for the capital
10 offenses committed in this case, as indicated by defendant's statements and actions
11 during the course of and following the offenses alleged in the Indictment.

12 (c) Low rehabilitative potential: The defendant has demonstrated a low potential for
13 rehabilitation as evidenced by his longstanding involvement in criminal activities,
14 including drug trafficking and violence.

15 (d) Membership in a criminal enterprise: The defendant has demonstrated an allegiance
16 to and active membership in the Page Street Gang, a criminal enterprise falling within the
17 definition of 18 U.S.C. § 1962(d).
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20 **II. Count 10: The Murder of Randy Mitchell**

21 A. **Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)**

22 (1) The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

23 (2) The defendant intentionally inflicted serious bodily injury resulting in death. 18
24 U.S.C. § 3591(a)(2)(B).

25 (3) The defendant intentionally participated in an act, contemplating that the life of a
26 person would be taken or intending that lethal force would be used in connection with a
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1 person, other than one of the participants in the offense, and the victim died as a direct
2 result of the act. 18 U.S.C. § 3591(a)(2)(C).

3 (4) The defendant intentionally and specifically engaged in an act of violence, knowing
4 that the act created a grave risk of death to a person, other than one of the participants in
5 the offense, such that participation in the act constituted a reckless disregard for human
6 life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

8 (1) The defendant, in the commission of the offense, or in escaping apprehension for the
9 violation of the offense, knowingly created a grave risk of death to one or more persons
10 in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

11 (2) The defendant committed the offense after substantial planning and premeditation to
12 cause the death of a person or commit an act of terrorism (Title 18, United States Code,
13 Section 3592(c)(9)).

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

15 In addition to the statutory aggravating factors set forth above with regard to Count Ten,
16 the Government will rely on the following non-statutory aggravating factors specific to
17 that offense to justify a sentence of death:

18 (1) **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Randy
19 Mitchell's family because of the victim's personal characteristics as an individual human
20 being and the impact of his death upon the Randy Mitchell family. *See Payne v.*
21 *Tennessee*, 501 U.S. 808, 825-26 (1991).

22 (2) **Participation in Other Serious Crimes of Violence.** The defendant participated in
23 other homicides in addition to the murder of Randy Mitchell, including the murders of
24 Joseph Hearn and Raymond Jimmerson, and participated in the attempted murder of
25 Marcus Atkinson.
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1 (3) **Contemporaneous Criminal Conduct.** In addition to being convicted of the
2 murders of Joseph Hearn, Randy Mitchell and Raymond Jimmerson, the defendant was
3 engaged in other criminal conduct, included but not limited to enterprise crimes and drug
4 offenses as alleged in the Indictment.

5 (4) **Future Dangerousness of the Defendant.** The defendant represents a continuing
6 danger to the lives and safety of other persons. The defendant is likely to commit
7 criminal acts of violence in the future that would constitute a continuing and serious
8 threat to the lives and safety of others, as evidenced by, at least, one or more of the
9 following:

10
11 (a) Continuing Pattern of Violence: The defendant has engaged in a continuing pattern of
12 violence, attempted violence, and threatened violence, including, at least, the crimes
13 alleged against defendant in the Indictment.

14 (b) Lack of Remorse: The defendant has demonstrated a lack of remorse for the capital
15 offenses committed in this case, as indicated by defendant's statements and actions
16 during the course of and following the offenses alleged in the Indictment.

17 (c) Low rehabilitative potential: The defendant has demonstrated a low potential for
18 rehabilitation as evidenced by his longstanding involvement in criminal activities,
19 including drug trafficking and violence.

20 (d) Membership in a criminal enterprise: The defendant has demonstrated an allegiance
21 to and active membership in the Page Street Gang, a criminal enterprise falling within the
22 definition of 18 U.S.C. § 1962(d).

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25 **III. Count 11: The Murder of Raymond Jimmerson**

26 A. **Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)**

27 (1) The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).
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1 (2) The defendant intentionally inflicted serious bodily injury resulting in death. 18
2 U.S.C. § 3591(a)(2)(B).

3 (3) The defendant intentionally participated in an act, contemplating that the life of a
4 person would be taken or intending that lethal force would be used in connection with a
5 person, other than one of the participants in the offense, and the victim died as a direct
6 result of the act. 18 U.S.C. § 3591(a)(2)(C).

7 (4) The defendant intentionally and specifically engaged in an act of violence, knowing
8 that the act created a grave risk of death to a person, other than one of the participants in
9 the offense, such that participation in the act constituted a reckless disregard for human
10 life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

12 (1) The defendant, in the commission of the offense, or in escaping apprehension for the
13 violation of the offense, knowingly created a grave risk of death to one or more persons
14 in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

15 (2) The defendant committed the offense after substantial planning and premeditation to
16 cause the death of a person or commit an act of terrorism (Title 18, United States Code,
17 Section 3592(c)(9)).

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

19 In addition to the statutory aggravating factors set forth above with regard to Count
20 Eleven, the Government will rely on the following non-statutory aggravating factors
21 specific to that offense to justify a sentence of death:

22 (1) **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Raymond
23 Jimmerson's family because of the victim's personal characteristics as an individual
24 human being and the impact of his death upon the Raymond Jimmerson family. *See*
25 *Payne v. Tennessee*, 501 U.S. 808, 825-26 (1991).
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1 (2) **Participation in Other Serious Crimes of Violence.** The defendant participated in
2 other homicides in addition to the murder of Raymond Jimmerson, including the murders
3 of Joseph Hearn and Randy Mitchell, and participated in the attempted murder of
4 Marcus Atkinson.

5 (3) **Contemporaneous Criminal Conduct.** In addition to being convicted of the
6 murders of Joseph Hearn, Randy Mitchell and Raymond Jimmerson, the defendant was
7 engaged in other criminal conduct, included but not limited to enterprise crimes and drug
8 offenses as alleged in the Indictment.

9 (4) **Obstruction of Justice.** The defendant committed the offense with the intent to
10 prevent the victim from, or retaliate against the victim for, providing information and
11 assistance to law enforcement authorities in regard to the investigation or prosecution of
12 the commission or possible commission of another offense.

13 (5) **Future Dangerousness of the Defendant.** The defendant represents a continuing
14 danger to the lives and safety of other persons. The defendant is likely to commit
15 criminal acts of violence in the future that would constitute a continuing and serious
16 threat to the lives and safety of others, as evidenced by, at least, one or more of the
17 following:
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19 (a) Continuing Pattern of Violence: The defendant has engaged in a continuing pattern of
20 violence, attempted violence, and threatened violence, including, at least, the crimes
21 alleged against defendant in the Indictment.

22 (b) Lack of Remorse: The defendant has demonstrated a lack of remorse for the capital
23 offenses committed in this case, as indicated by defendant's statements and actions
24 during the course of and following the offenses alleged in the Indictment.

25 (c) Low rehabilitative potential: The defendant has demonstrated a low potential for
26 rehabilitation as evidenced by his longstanding involvement in criminal activities,
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1 including drug trafficking and violence.

2 (d) Membership in a criminal enterprise: The defendant has demonstrated an allegiance
3 to and active membership in the Page Street Gang, a criminal enterprise falling within the
4 definition of 18 U.S.C. § 1962(d).

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6 As to AQUIL H. PETERSON, the Government proposes to prove the following factors
7 as justifying a sentence of death for the offense charged in Count Eight of the Indictment, the
8 allegations of which are fully realleged and incorporated herein by reference:
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11 **I. Count 8: The Murder of Joseph Hearn**

12 A. **Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)**

13 (1) The defendant intentionally participated in an act, contemplating that the life of a
14 person would be taken or intending that lethal force would be used in connection with a
15 person, other than one of the participants in the offense, and the victim died as a direct
16 result of the act. 18 U.S.C. § 3591(a)(2)(C).

17 (2) The defendant intentionally and specifically engaged in an act of violence, knowing
18 that the act created a grave risk of death to a person, other than one of the participants in
19 the offense, such that participation in the act constituted a reckless disregard for human
20 life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

22 (1) The defendant committed the offense in an especially heinous, cruel, or depraved
23 manner in that it involved torture or serious physical abuse to the victim (Title 18, United
24 States Code, Section 3592(c)(6)).

25 (2) The defendant committed the offense after substantial planning and premeditation to
26 cause the death of a person or commit an act of terrorism (Title 18, United States Code,
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1 Section 3592(c)(9)).

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

3 In addition to the statutory aggravating factors set forth above with regard to Count
4 Eight, the Government will rely on the following non-statutory aggravating factors
5 specific to that offense to justify a sentence of death:

6 (1) **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Joseph
7 Hearn's family because of the victim's personal characteristics as an individual human
8 being and the impact of his death upon the Joseph Hearn family. *See Payne v.*
9 *Tennessee*, 501 U.S. 808, 825-26 (1991).

10 (2) **Contemporaneous Criminal Conduct.** In addition to being convicted of the murder
11 of Joseph Hearn, the defendant was engaged in other criminal conduct, included but not
12 limited to enterprise crimes and drug offenses as alleged in the Indictment.
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15 Dated: November 1, 2006

Respectfully submitted,
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17 _____/s/_____
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19 JAMES E. KELLER
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