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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
v. : No. 4:CR-01-277
MICHAEL J. O'DRISCOLL : (Judge Muir)

SPECIAL FINDINGS REGARDING THE
PUNISHMENT TO BE IMPOSED UPON MICHAEL J. O'DRISCOLL
FOR THE KILLING OF ROBERT FRANKHOUSER

FILED
MAR 6 - 2003
ROBERT G. O'BRIEN, CLERK
Deputy Clerk

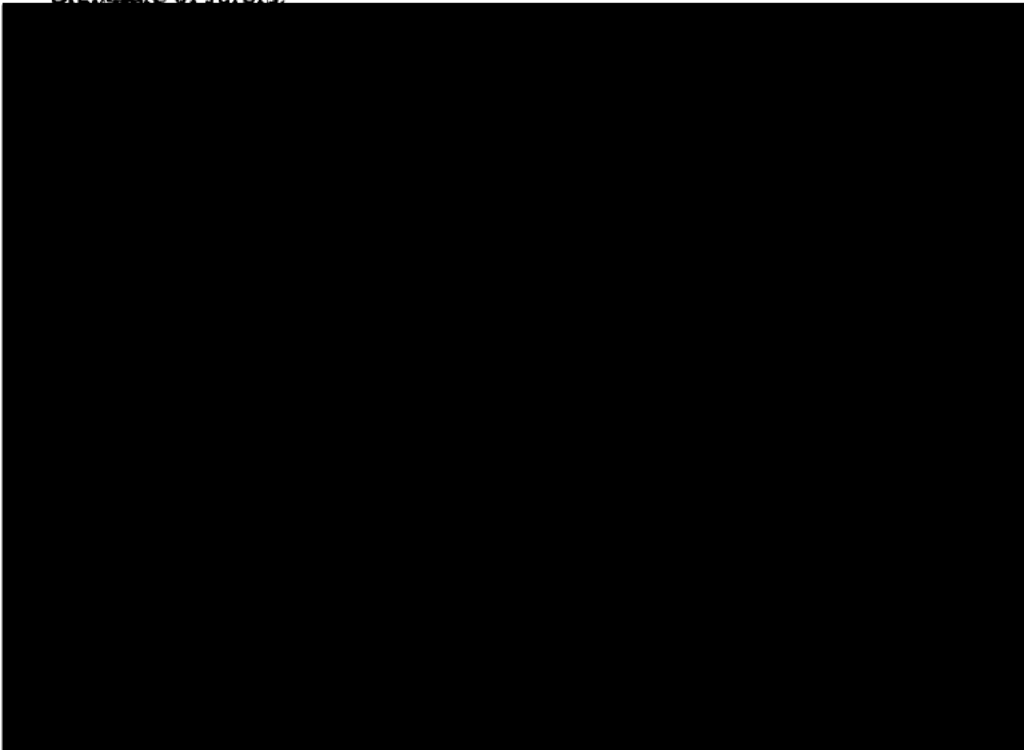
Revision of February 26, 2003, at 4:55 p.m.

I. PART ONE - INTENT FACTOR

Does the jury unanimously find that the government has established beyond a reasonable doubt that Michael J. O'Driscoll intentionally killed Robert Frankhouser?

Yes No

Signature of Jurors:



DATE: 2/27, 2003

Instructions:

If you are unable to reach a unanimous agreement after thorough consideration of the evidence the foreperson should check "NO" and the jury should return to the courtroom. If the jury unanimously answers "NO" to the above question, each juror should sign on the appropriate line above and the jury should return to the courtroom. If the jury unanimously answers "YES" to the above question, each juror should sign on the appropriate line above and the jury should

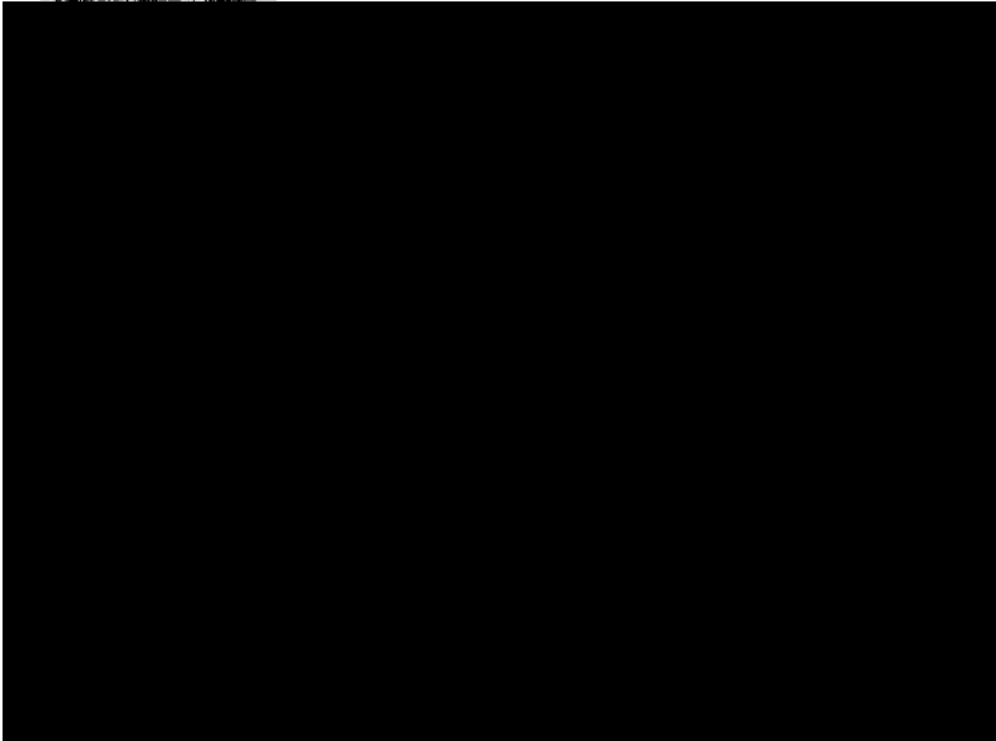
proceed to Part Two of this form.

II. PART TWO - STATUTORY AGGRAVATING FACTORS

1. Does the jury unanimously find beyond a reasonable doubt that Mr. O'Driscoll has previously been convicted of State or Federal offenses punishable by a term of imprisonment for more than one year, involving the use or attempted or threatened use of a firearm?

Yes No

Signature of Jurors:



DATE: 2/27, 2003

Instructions:

If after thorough consideration of the evidence you are unable to reach a unanimous

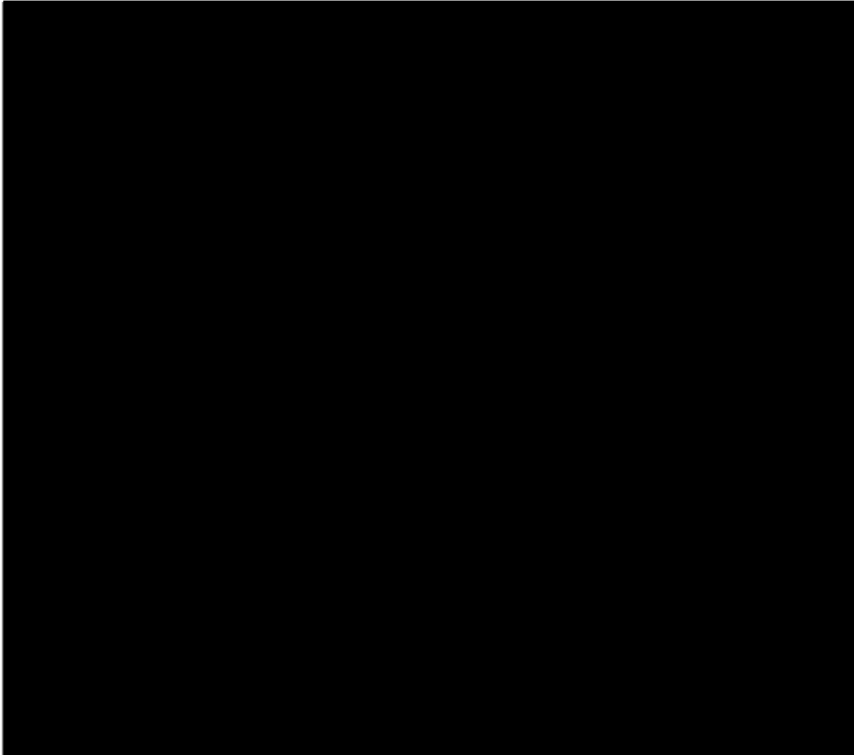
agreement as to Question No. 1 of this Part, the foreperson should check "NO" to Question No. 1 and the jury should proceed to the next question. If the jury unanimously answers "YES" or "NO" to Question No. 1 of this Part, each juror should sign on the appropriate line above and the jury should proceed to the next question.

2. Does the jury unanimously find beyond a reasonable doubt that Mr. O'Driscoll murdered Robert Frankhouser after substantial planning and premeditation?

Yes _____

No ✓ _____

Signatures of Jurors:



DATE: 3/3/, 2003

Instructions:

If after thorough consideration of the evidence you are unable to reach a unanimous agreement as to Question No. 2 of this Part, the foreperson should check "NO" to Question No. 2. If the jury unanimously answers "YES" or "NO" to Question No. 2 of this Part, each juror should sign on the appropriate line above. If you have answered "YES" to either or both

Questions numbered 1 and 2 of this Part, go to Part Three of this form. If a "NO" answer has been inserted in both Questions numbered 1 and 2 of this Part, return to the Courtroom.

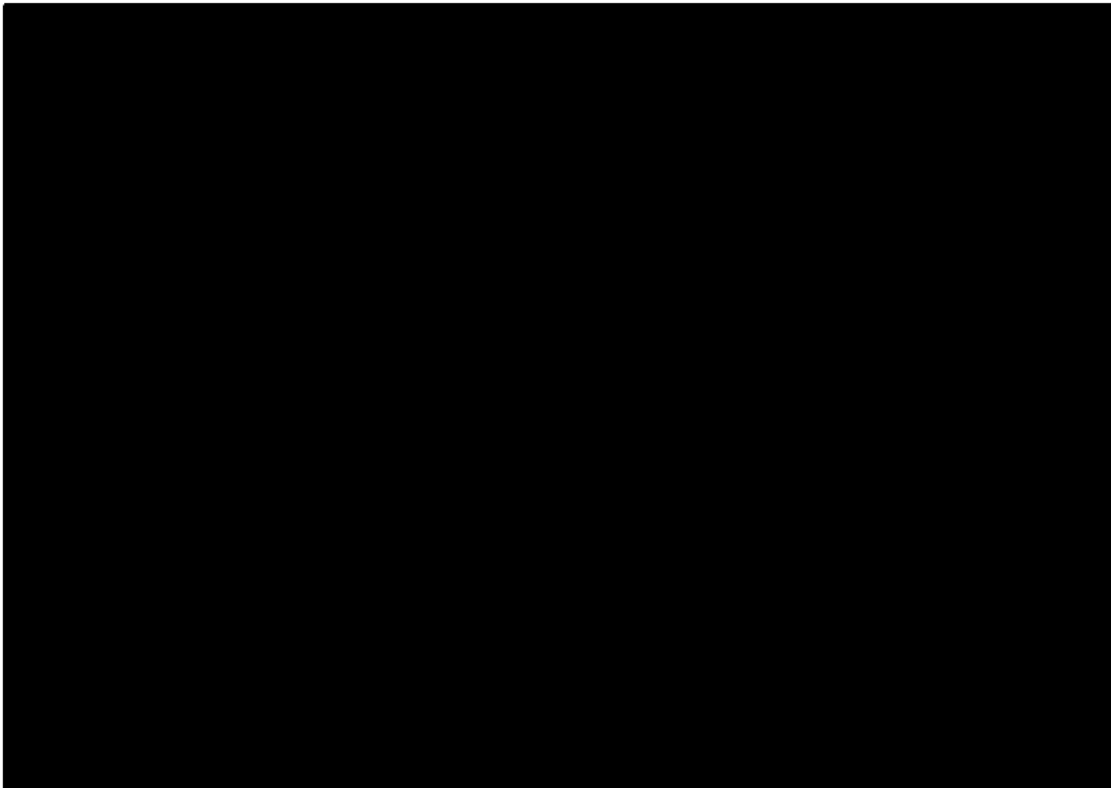
III. PART THREE - NON-STATUTORY AGGRAVATING FACTOR

PARTICIPATION IN ADDITIONAL CHARGED AND UNCHARGED MURDERS,
ATTEMPTED MURDERS, OR OTHER SERIOUS ACTS OF VIOLENCE

Does the jury unanimously find that the Government has established beyond a reasonable doubt that Michael J. O'Driscoll has participated in additional charged and uncharged murders, attempted murders, or other serious acts of violence?

Yes No

Signatures of Jurors:



DATE: 3 / 3 / 2003

Instructions:

If the jury unanimously answers "YES" or "NO" to this question, each juror

should sign on the appropriate line above and the jury should proceed to Part Four of this form. However, if the jury after thorough consideration of the evidence is unable to reach a unanimous agreement with respect to the above non-statutory aggravating factor, the jurors should not sign above, the foreperson should check "NO" to the question and the jury should proceed to Part Four of this form.

IV. PART FOUR - NON-STATUTORY AGGRAVATING FACTOR

FUTURE DANGEROUSNESS

Does the jury unanimously find that the Government has established beyond a reasonable doubt that Michael J. O'Driscoll represents a continuing danger to the lives and safety of others in the future because he is likely to commit criminal acts of violence?

Yes No

Signatures of Jurors:



DATE: 3/3/, 2003

Instructions:

If the jury unanimously answers "YES" or "NO" to this question, each juror should sign on the appropriate line above and the jury should proceed to Part Five of this form. However, if the

jury after thorough consideration of the evidence is unable to reach a unanimous agreement with respect to the above non-statutory aggravating factor, the jurors should not sign above, the foreperson should check "NO" to the question and the jury should proceed to Part Five of this form.

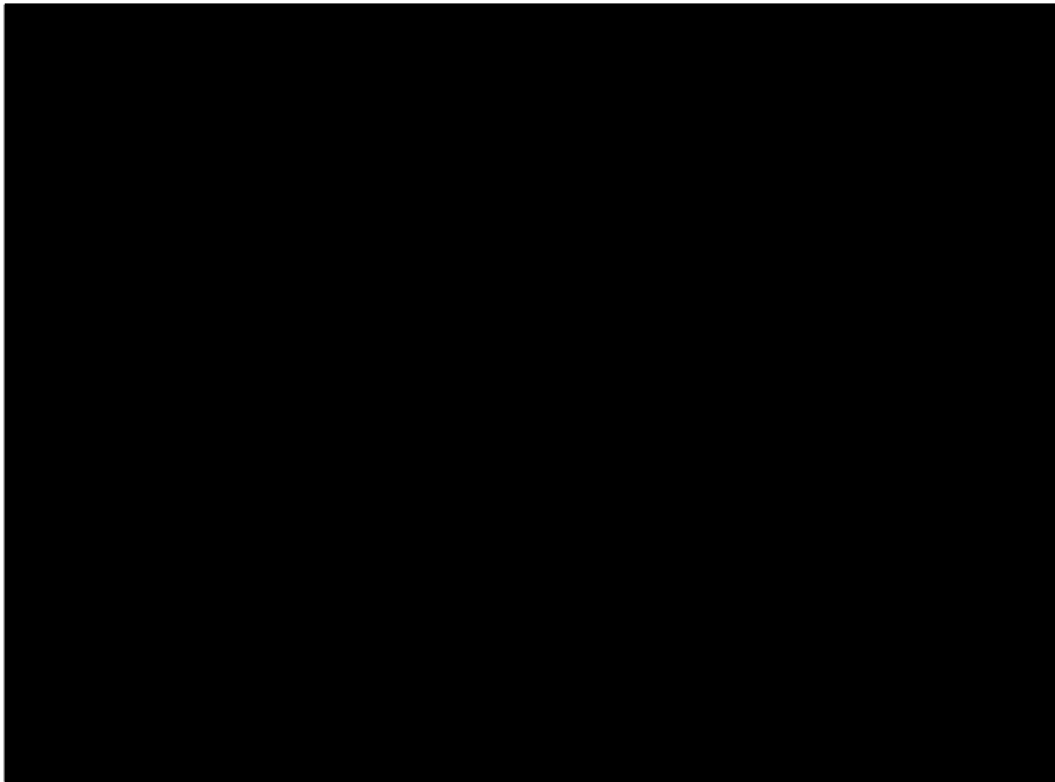
V. PART FIVE - NON-STATUTORY AGGRAVATING FACTOR

VICTIM IMPACT

Does the jury unanimously find that the Government has established beyond a reasonable doubt that Michael J. O'Driscoll caused harm to the family of and others closely associated with Robert Frankouser as a result of the killing of Mr. Frankouser?

Yes No

Signatures of Jurors:



DATE: 3/3/, 2003

If the jury unanimously answers "YES" or "NO" to this question, each juror should sign on the appropriate line above and the jury should proceed to Part Six of this form. However, if the jury after thorough consideration of the evidence is unable to reach a unanimous

agreement with respect to the above non-statutory aggravating factor, the jurors should not sign above, the foreperson should check "NO" to the question and the jury should proceed to Part Six of this form.

VI. PART SIX - MITIGATING FACTORS

Instructions:

For each of the following mitigating factors, answer "YES" if one or more members of the jury finds that the defendant has established the existence of the mitigating factor by a preponderance of the evidence. If one or more jurors finds a mitigating factor the foreperson should indicate the number of jurors so finding:

1. The Federal Bureau of Prisons is capable of fashioning conditions of confinement that will isolate and punish Mr. O'Driscoll for the murder of Robert Frankhouser.

YES NO

NUMBER OF JURORS WHO SO FIND 3

2. If Mr. O'Driscoll is executed, his family will suffer grief and loss.

YES NO

NUMBER OF JURORS WHO SO FIND 12

3. Despite his incarceration, Mr. O'Driscoll has tried to be a responsible father to his children.

YES NO

NUMBER OF JURORS WHO SO FIND 0 - (YES)

4. Mr. O'Driscoll has apologized to the family of Robert Frankhouser for the pain he caused them.

YES NO

NUMBER OF JURORS WHO SO FIND 2

5. Mr. O'Driscoll's early adolescence was marked by turmoil and

uncertainty.

YES NO

NUMBER OF JURORS WHO SO FIND 2

6. The circumstances of the break-up of Mr. O'Driscoll's parents' marriage left Mr. O'Driscoll emotionally crushed as a young boy.

YES NO

NUMBER OF JURORS WHO SO FIND 7

7. As the result of being truant, Mr. O'Driscoll spent five months, at a critical time in his life, in a brutal county training school that lacked any professional staff or constructive programming.

YES NO

NUMBER OF JURORS WHO SO FIND 3

8. The death of Mr. O'Driscoll's mother deeply affected him.

YES NO

NUMBER OF JURORS WHO SO FIND 9

9. Despite the verdict in the guilt-phase, no one can be certain enough about what happened on June 1, 1997, or in the days which lead up to it, to impose a sentence of death.

YES NO

NUMBER OF JURORS WHO SO FIND 0 - (YES)

10. Nothing will be accomplished by executing Mr. O'Driscoll that cannot be accomplished by imprisoning him for the rest of his life.

YES NO

NUMBER OF JURORS WHO SO FIND 1

11. Executing Mr. O'Driscoll will not assist the survivors of Mr. Frankhouser.

YES NO

NUMBER OF JURORS WHO SO FIND

12. Any other factor in Mr. O'Driscoll's background, record, or character or the circumstances of the offense or any other relevant factor that mitigates against the imposition of the death sentence.

YES NO

If yes, specify such factor of factors:

NUMBER OF JURORS WHO SO FIND

NUMBER OF JURORS WHO SO FIND

NUMBER OF JURORS WHO SO FIND

NUMBER OF JURORS WHO SO FIND _____

NUMBER OF JURORS WHO SO FIND _____

(Use back of form for additional space if needed)

Instructions:

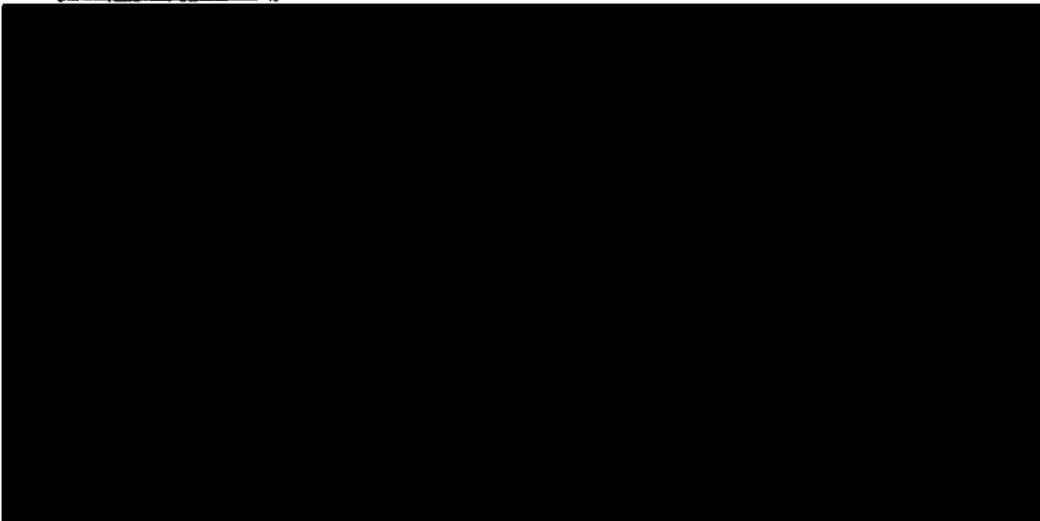
A mitigating factor may not be considered an aggravating factor under any circumstance. Only those aggravating factors specifically described in the instructions may be considered as such by you in determining whether a sentence of death is to be imposed upon Michael J. O'Driscoll. When you have completed Part Six proceed to Part Seven.

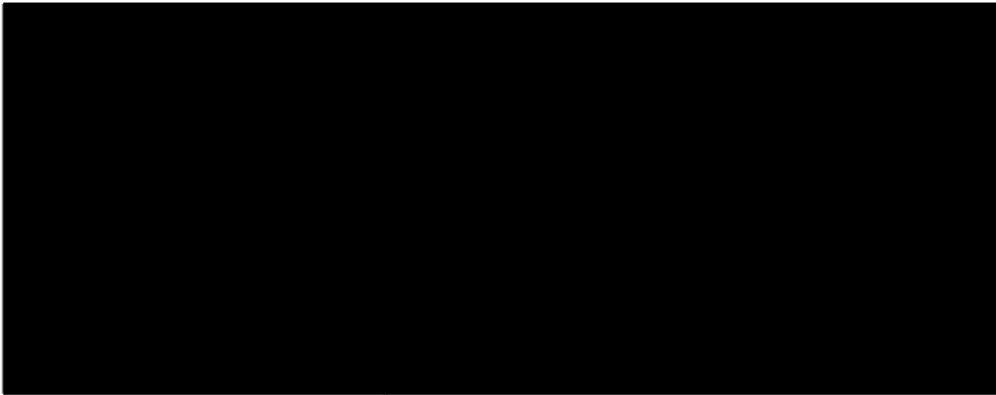
VII. PART SEVEN - SENTENCE

UNDERSTANDING

We understand that we are to consider whether the aggravating factor or factors unanimously found by us to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, or in the absence of mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death. We also understand that a finding with respect to a mitigating factor may be made by any one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of his or her weighing of the aggravating factor or factors and mitigating factor or factors regardless of the number of jurors who concur that a particular mitigating factor has been established. We also understand that a jury is never required to impose a death sentence and that a sentence of death cannot be imposed except by unanimous vote.

Signatures of Jurors;





DATE: 3/4/, 2003

SENTENCING DETERMINATION

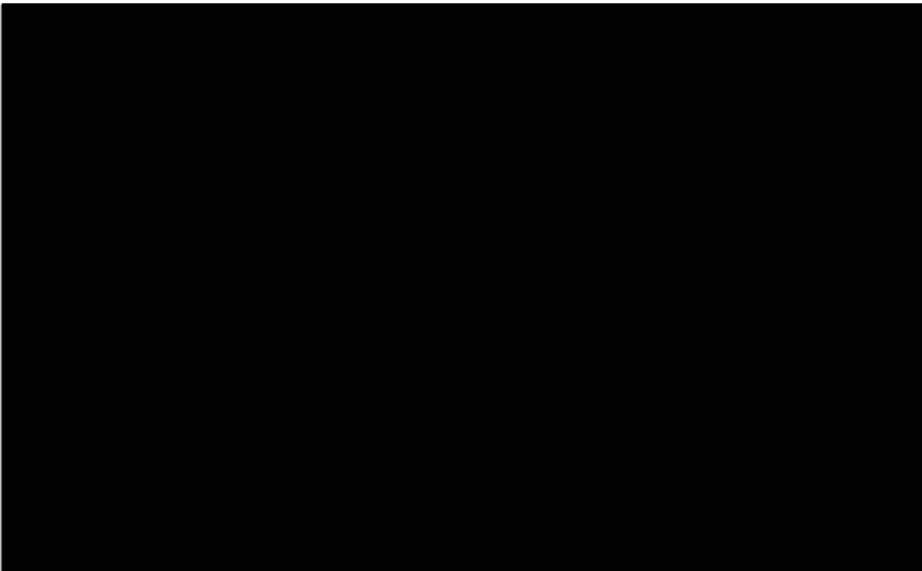
We the jury unanimously recommend that the sentence be imposed on Michael J. O'Driscoll for the murder of Robert Frankhouser be as follows:

Life imprisonment without the possibility of release

A sentence of death

(Check One)

Signatures of Jurors:





DATE: _____, 2003

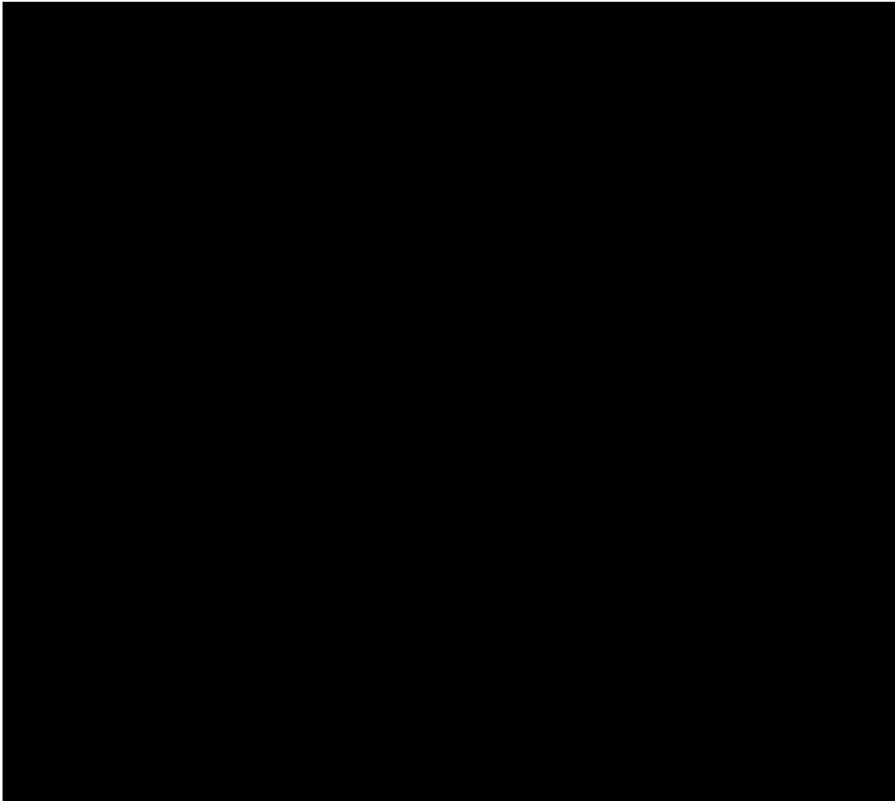
Instructions: PROCEED TO PART VIII.

VIII. PART EIGHT - CERTIFICATION

CERTIFICATE

By signing below, each of us, individually, hereby certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant, Michael J. O'Driscoll, and Robert Frankhouser was not involved in reaching our individual decisions. Each of us, individually, further certifies that the same decision regarding a sentence for the crime in question would have been made no matter what the race, color, religious beliefs, national origin, or sex of Michael J. O'Driscoll or Robert Frankhouser may have been.

Signatures of Jurors:



DATE: _____, 2003