

1 DEBRA WONG YANG
United States Attorney
2 THOMAS P. O'BRIEN
Assistant United States Attorney
3 Chief, Criminal Division
TERRI K. FLYNN(California State Bar No. 204932)
4 BRETT A. SAGEL (California State Bar No. 243918)
STEPHEN G. WOLFE (California State Bar No. 116400)
5 Assistant United States Attorneys
1500 United States Courthouse
6 312 North Spring Street
Los Angeles, California 90012
7 Telephone: (213) 894-7408
Facsimile: (213) 894-3713
8 E-mail: Steve.Wolfe@usdoj.gov
Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

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

12 UNITED STATES OF AMERICA,) No. CR 02-938-DOC
13)
Plaintiff,) GOVERNMENT'S NOTICE OF INTENT
14) TO SEEK THE DEATH PENALTY
v.) AGAINST DEFENDANT HOUSTON
15)
HENRY MICHAEL HOUSTON,)
16)
Defendant.)
17)

18 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

19 The United States of America, pursuant to 18 U.S.C.
20 § 3593(a), notifies the Court and defendant HENRY MICHAEL HOUSTON
21 ("defendant") that the Government believes the circumstances of
22 the offenses charged in Counts Six and Seven of the First
23 Superseding Indictment are such that, in the event of a
24 conviction, a sentence of death is justified under Chapter 228
25 (Sections 3591 through 3598) of Title 18 of the United States
26 Code, and that the Government will seek the sentence of death for
27 the following offenses: (1) commission of a violent crime in aid
28 of racketeering activity, to wit, the murder of Frank Joyner, in

1 violation of Title 18, United States Code, Section 1959(a)(1)
2 [Count Six]; and (2) commission of a violent crime in aid of
3 racketeering activity, to wit, the murder of Abdul Salaam, in
4 violation of Title 18, United States Code, Section 1959(a)(1)
5 [Count Seven], each of which carries a possible sentence of
6 death.

7 The Government proposes to prove the following factors as
8 justifying a sentence of death.

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

11 The following statutory proportionality factors apply to
12 Count Seven.

13 1. **Intentionally Killing the Victim**

14 The defendant intentionally killed Abdul Salaam. 18 U.S.C. §
15 3591(a)(2)(A).

16 2. **Intentionally Inflicted Serious Bodily Injury that**
17 **Resulted in the Death of the Victims**

18 The defendant intentionally inflicted serious bodily injury that
19 resulted in the death of Abdul Salaam. 18 U.S.C. §
20 3591(a)(2)(B).

21 The following statutory proportionality factors apply to
22 each of Counts Six and Seven.

23 3. **Intentional Act to Take Life or Use Lethal Force**

24 The defendant intentionally participated in an act, contemplating
25 that the life of a person would be taken or intending that lethal
26 force would be used in connection with a person, other than one
27 of the participants in the offense, and Frank Joyner [Count Six]

1 and Abdul Salaam [Count Seven] died as a direct result of the
2 act. 18 U.S.C. § 3591(a)(2)(C).

3 4. **Intentionally and Specifically Engaged in an Act**
4 **of Violence Creating a Grave Risk of Death**

5 The defendant intentionally and specifically engaged in an act of
6 violence knowing that the act created a grave risk of death to a
7 person, other than one of the participants in the offense, such
8 that participation in the act constituted a reckless disregard
9 for human life, and Frank Joyner [Count Six] and Abdul Salaam
10 [Count Seven] died as a direct result of the act. 18 U.S.C. §
11 3591(a)(2)(D).

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

14 The following statutory aggravating factors apply to each of
15 Counts Six and Seven.

16 1. **Grave Risk of Death to Additional Persons**

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

21 2. **Substantial Planning and Premeditation**

22 The defendant committed the offense after substantial planning
23 and premeditation to cause the death of a person. 18 U.S.C. §
24 3592(c)(9).

25
26 3. **Conviction for serious Federal drug offense**
27
28

1 The defendant had previously been convicted of violating Title II
2 or Title III of the Comprehensive Drug Abuse Prevention and
3 Control Act of 1970 for which a sentence of five or more years
4 imprisonment may be imposed, to wit, convictions for conspiracy
5 to distribute methamphetamine, in violation of 21 U.S.C. §§
6 841(a)(1) and 846, and distribution of methamphetamine, in
7 violation of 21 U.S.C. § 841(a)(1), in the United States District
8 Court for the Central District of California, on or about January
9 19, 1993, in Case Number 92-66; and a conviction for possessing
10 contraband in prison, in violation of 18 U.S.C. § 1791(a)(2), in
11 the United States District Court for the Central District of
12 California, on or about November 18, 1996 in Case Number 96-522.
13 18 U.S.C. § 3592(c)(12).

14 **4. Multiple Killings or Attempted Killings**

15 The defendant intentionally killed or attempted to kill more than
16 one person in a single criminal episode. 18 U.S.C. §
17 3592(c)(16).

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

20 The following non-statutory aggravating factors apply to
21 each of Counts Six and Seven.

22 **1. Future Dangerousness of the Defendant**

23 The defendant is likely to commit criminal acts of violence in
24 the future that would constitute a continuing and serious threat
25 to the lives and safety of others, as evidenced by, at least, one
26 or more of the following:

27 a. Continuing Pattern of Violence

1 The defendant has engaged in a continuing pattern of violence,
2 attempted violence, threatened violence, and the illegal
3 possession of firearms, including, at least, the crimes alleged
4 against defendant in the First Superseding Indictment, the crimes
5 of which the defendant was previously convicted, including a
6 conviction for residential burglary in the second degree in
7 Ventura County Superior Court on June 7, 1982 in Case No.
8 CR17347; a conviction for first degree burglary of an inhabited
9 dwelling in Los Angeles County Superior Court on March 5, 1985 in
10 Case No. A702169; and a conviction for possession of a firearm by
11 a felon in San Bernardino County Superior Court on November 18,
12 1991 in Case No. RCR19822.

13 b. Institutional Misconduct

14 The defendant poses a future danger to the lives and safety of
15 other persons, as demonstrated by his institutional misconduct,
16 including, at least, repeated acts of institutional misconduct
17 while in the custody of the California Department of Corrections,
18 United States Bureau of Prisons, United States Marshals Service,
19 or other law enforcement agencies, including his conviction for
20 possession of contraband in prison in the United States District
21 Court for the Central District of California in case no. 96-522.

22
23
24 c. Low Rehabilitative Potential

25 The defendant poses a future danger to the lives and safety of
26 other persons, as demonstrated by his low rehabilitative
27 potential, including, at least, his repeated commission of

1 serious crimes, as described in ¶¶ B.3., and C.1. of this Notice,
2 and his violations of the conditions of his parole release.

3 **2. Racial Animosity Was a Motive for the Murders**

4 The defendant committed the crimes charged in part from racial
5 animosity against the victims of the crimes.

6 The Government further gives notice that in support of
7 imposition of the death penalty it intends to rely upon all the
8 evidence admitted by the Court at the guilt phase of the trial
9 and the offenses of conviction as described in the First
10 Superseding Indictment as they relate to the background and
11 character of the defendant, HENRY MICHAEL HOUSTON, his moral
12 culpability, and the nature and circumstances of the offenses
13 charged in the First Superseding Indictment.

14 DATE: November __, 2006 Respectfully submitted,

15 DEBRA WONG YANG
16 United States Attorney
17 THOMAS P. O'BRIEN
18 Assistant United States Attorney
19 Chief, Criminal Division

20 _____
21 TERRI K. FLYNN
22 BRETT A. SAGEL
23 STEPHEN G. WOLFE
24 Assistant United States Attorneys

25 Attorneys for Plaintiff
26 United States of America
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