

TABLE OF CONTENTS

PAGE	
INSTRUCTION NO. 1	
Introduction ..	1
INSTRUCTION NO. 2	
The Death Penalty or Life Imprisonment Without Any	
Possibility of Release .	2
INSTRUCTION NO. 3	
Aggravating and Mitigating Factors .	3
INSTRUCTION NO. 4	
Government's Burden of Proof Beyond a Reasonable Doubt	4
INSTRUCTION NO. 5	
Unanimity Required for Death Sentence ...	5
INSTRUCTION NO. 6	
Issues to Be Decided; Death Penalty	
Permitted But Never Required ..	6
INSTRUCTION NO. 7	
Mental State Threshold ..	8
INSTRUCTION NO. 8	
Statutory Aggravating Factor(s)	11
INSTRUCTION NO. 9	
Substantial Planning and Premeditation ..	12
INSTRUCTION NO. 10	
The Non-statutory Aggravating Factor	10
INSTRUCTION NO. 11	
Mitigating Factors-Defined	16
INSTRUCTION NO. 12	
Burden of Proof on Mitigation .	17
INSTRUCTION NO. 13	
Mitigating Factors to Consider	18
INSTRUCTION NO. 14	
Mitigating Circumstance:	
Relative Culpability and Multiple Capital Defendants	20
INSTRUCTION NO. 15	
Directed Verdict - Mitigating Factors ..	22
INSTRUCTION NO. 16	

No Unanimity Required as to Mitigating Factors	23
INSTRUCTION No. 17	
Weighing the Aggravating and Mitigating Factors ...	24
INSTRUCTION NO. 18	
Death Penalty Must Be Unanimous Beyond	
a Reasonable Doubt .	26
INSTRUCTION NO. 19	
Life Option- No Requirement of Death Penalty .	27
INSTRUCTION NO. 20	
Decision Forms	28
INSTRUCTION NO. 21	
Right to Justice Without Discrimination .	29
INSTRUCTION NO. 22	
Defendant's Right Not to Testify ...	30
INSTRUCTION NO. 23	
Closing Instruction	31

Special Findings

Jury Decision Forms

Ladies and gentlemen of the jury:

INSTRUCTION NO. 1

Introduction

Now that you have heard all of the evidence in this case and the arguments of each side, it is my duty to give you instructions as to the law applicable to the very serious question of whether or not _____ should be sentenced to life imprisonment without any possibility of release, or to death [**or to some lesser sentence to be determined by the court**].

Regardless of any opinion you may have as to what the law may be - or should be -- it would be a violation of your oaths as jurors to base your verdict upon any other view of the law than that given to you in these instructions.

Some of the legal principles that you must apply to this sentencing decision duplicate those you followed in reaching your verdict as to guilt or innocence. Others are different. I have prepared a full instruction on the applicable law in order to ensure that you are clear in your duties at this stage of the case. I have also prepared a form that details special findings you are asked to make in this case and the possible decisions you can render.

INSTRUCTION NO. 2

The Death Penalty or Life Imprisonment Without Any
Possibility of Release.

By law, you must now consider whether justice requires imposition of the death penalty, life imprisonment without any possibility of release [, **or some other sentence**] on the defendant, _____.

This is a decision left exclusively to the jury. I will not be able to change any decision you reach regarding the death penalty, nor regarding to life imprisonment without possibility of release. You, and you alone, will decide whether or not _____ should be executed or sentenced to a life term without possibility of release. Thus, I again stress the importance of your giving careful and thorough consideration to all evidence before you. I also remind you of your obligation to strictly follow the applicable law.

INSTRUCTION NO. 3

Aggravating and Mitigating Factors

Although Congress has left it to you to decide whether _____ should be executed or imprisoned for life without possibility of release, it has narrowed and channeled your discretion in specific ways, particularly by asking you to consider and weigh any "aggravating" and "mitigating" factors present in this case. These factors have to do with the circumstances of the crime or the personal traits, character or background of _____.

Aggravating factors are those that would tend to support imposition of the death penalty. Mitigating factors are those that suggest that life in prison without any possibility of release [**, or some lesser sentence**] is appropriate or sufficient to do justice in this case. Your task is not simply to decide whether aggravating and mitigating factors exist in this case. Rather, you are called upon to evaluate any such factors and to make a unique, individualized choice between judgment about the death penalty, life in prison without any possibility of release [**, or some lesser prison sentence**] as a punishment for _____.

In short, the law does not assume that every defendant found guilty of committing _____ should be sentenced to death, or to life imprisonment without possibility of release. The law does not assume or presume that _____, as he sits before you, should be sentenced to death, or to any other particular sentence.

INSTRUCTION NO. 4

Government's Burden of Proof

The burden of proving that _____ should be sentenced to death rests at all times with the government. If, after fair and impartial consideration of all the evidence in this case, all twelve of you are not persuaded that justice mandates _____'s execution, then you must return a decision against capital punishment, and impose the option of life in prison without any possibility of release [OR: **and consider the remaining options of life in prison without any possibility of release or some lesser sentence. Likewise, if the evidence fails to show that he should be sentenced to life imprisonment without possibility of release, you should return a decision against that punishment as well. In that event, I will decide what punishment less than life imprisonment to impose upon the defendant _____*].**

INSTRUCTION NO. 5

Unanimity Required for Death Sentence

I instruct you that unanimity is required for you to sentence _____ to death. That is, the death penalty may not be imposed under our law unless all twelve jurors agree. If after due deliberation any of you -- even a single juror -- is not persuaded that the death penalty should be imposed in this case, then the jury may not sentence the defendant _____ to death. In that event, the jury must next consider whether the defendant should be sentenced to life in prison without any possibility of release.¹ Again, should all twelve members of the jury so determine, I will impose a sentence of life imprisonment without possibility of release. [**Likewise, should the jury unanimously determine that a sentence of less than life imprisonment should be imposed, you should so advise me and I will determine what sentence other than death should be imposed upon the defendant**].

Now, the defendant at this hearing does not have to present any evidence. He does not have to prove to you that he should be permitted to live. He was, however, entitled to present any mitigating facts to you--that is, facts that favor a lesser

¹ For cases where no sentence of less than life imprisonment is statutorily available, add: In this case, Congress has provided that life imprisonment without any possibility of release is the only alternative sentence available. Therefore, if all twelve jurors do not agree that the death penalty should be imposed, the only remaining sentencing verdict that you the jury may return is that the defendant should be sentenced to life imprisonment without any possibility of release. This verdict, like a death verdict, must be rendered by unanimous vote

punishment than death--should he choose to do so.

INSTRUCTION NO. 6

Issues to be Decided; Death Penalty Never Required

Let me discuss with you the deliberative steps you should follow in considering the very serious issue before you.

First of all, before you consider aggravating or mitigating factors, you must make a determination concerning the personal intent of the defendant _____ in regard to the homicide which he has been convicted of committing. If you unanimously resolve this threshold matter of the defendant's intent in favor of the Government, you must then take up the question of _____'s sentence.

First, you must consider whether the government has proved beyond a reasonable doubt, and to your unanimous satisfaction, at least one aggravating factor I instruct you on from the statutory categories established by Congress.

Second, you must consider whether any non-statutory aggravating factors claimed by the government and which I instruct you on are proved to your unanimous satisfaction beyond a reasonable doubt.

Third, you must consider whether any of you find mitigating factors to have been established by the greater weight or preponderance of the evidence.

Fourth, you must each decide whether any listed aggravating factors you have unanimously found to exist outweigh the sum of all mitigating factors that you have individually found to exist.

Fifth, if you do find that the aggravating factors outweigh the mitigating factors, you must then decide whether they sufficiently outweigh the mitigating factors, and are in themselves sufficiently serious, to justify sentencing the defendant to death rather than to life in prison without any possibility of release [**or some lesser sentence**].

Whether any given amount of aggravation, once proven, is "sufficient" to warrant actually sentencing this defendant to death is a question that the law leaves entirely up to you.

The fifth and last step is significant for, as I have already told you, even if you find that the government has proven the existence of aggravating factors that outweigh mitigating factors, you are still not required to impose a sentence of death upon a defendant. Absent these unanimous findings, however, you cannot sentence the defendant _____ to death.

Let me now discuss the various steps with you.

INSTRUCTION NO. 7

Mental State Threshold

Before you begin consideration of aggravating and mitigating factors and the sentences to be imposed in this case, you must first consider [again, as you did at the last phase of the trial,] the question of _____'s intent to commit the killing of which he has been convicted. However, in this separate proceeding, your focus must be on the individual intent of _____, not on the collective intentions of all of the defendants. In this sense, the threshold intent finding you are asked to make differs from the jury's inquiry in the first phase of this trial. In summary, you are required to find, and to specify in writing, whether the Government has proven beyond a reasonable doubt that _____ intended to kill the victims.

The law sets out four possible ways in which this threshold intent to kill may be established. However, all of you must agree on the same method, if any, not on different theories. They are as follows:

(A) the defendant intentionally killed the victim;

OR

(B) the defendant intentionally inflicted serious bodily injury that resulted in the death of the victim;

OR

(C) 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 the victim died as a direct result of the act other than one of the participants in the offense, and the victim died as a direct result of the act;

OR

(D) 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 the victim died as a direct result of the act.

Before you can turn to the rest of your sentencing responsibilities, you must decide whether any of these forms of intent have been proven beyond a reasonable doubt, and if so, which one. Your conclusions on this question are to be recorded on the first special verdict form, part I, entitled "FINDINGS ON INTENT."

Any finding that one of these four types of intent has been established by the Government must be unanimous--that is, it must be the finding of all twelve members of the jury. If any of you is left, after impartially considering all of the evidence bearing on this question, with a reasonable doubt as to whether the Government has proven one of these four types of intent with respect to _____, then you should so indicate on Part I of the special findings form. In that event, your sentencing deliberations will be at an end.

INSTRUCTION NO. 8

Statutory Aggravating Factor(s)

If you do find beyond a reasonable doubt that the defendant _____ possessed one of the four types of intent listed above when he killed the victim, then you must proceed further to consider the question of sentence. To do this, you must first consider whether you are unanimously persuaded that the government has proved beyond a reasonable doubt at least one aggravating factor from the statutory categories established by Congress.

In this case, the government claims the following aggravating factor listed by Congress has been proven beyond a reasonable doubt.

- (1) _____ committed the intentional killing(s) after substantial planning and premeditation.

If, after considering all of the evidence you are left with a reasonable doubt as to whether this aggravating factor has been proven with respect to the intentional killing and _____'s role in it, you must resolve that doubt in Mr. _____'s favor, and you may not find the statutory aggravating factor to have been established. If you do not find, beyond a reasonable doubt, this statutory aggravating factor to have been established, report such to the Court on special findings, part II, and on decision form A.

INSTRUCTION NO. 9

Substantial Planning and Premeditation

Let me discuss with you the aggravating factor relied upon by the government.

If you have reached the stage of the proceedings where you are considering aggravating factors, you will necessarily have both found the defendant guilty of homicide, and have found that he intended to commit the homicide to the extent specified in Part I of the special findings forms. In other words, you could not have reached this stage of your deliberations unless you had already found that _____ intentionally killed the victim or caused the victim's death. The "premeditation" and "substantial planning" aggravating circumstance relied upon by the government here requires more.

You must now consider whether the government has proved to your unanimous satisfaction, and beyond a reasonable doubt, that this killing was both intentional and premeditated. Additionally, in order to find this aggravating factor, you must also find beyond a reasonable doubt that _____ personally engaged in "substantial planning."

The Government does not establish "substantial planning and premeditation" simply by showing that a murder was premeditated, nor that some small amount of planning preceded it. Rather, the Government must show that the murder was both unusually or exceptionally premeditated and that it was preceded by an unusual degree of planning, compared to most premeditated murders.

In deciding whether the evidence establishes the existence of this statutory aggravating factor beyond a reasonable doubt, you should consider all of the relevant evidence in this case, relating both to the crimes and to the defendant,

_____.

INSTRUCTION NO. 10

The Non-statutory Aggravating Factor

If you find the statutory aggravating factor proven beyond a reasonable doubt, you must next consider whether any other aggravating factors not listed by Congress but claimed by the Government and on which I instruct you have been proven to your unanimous satisfaction beyond a reasonable doubt. I instruct you that the law permits you to consider and discuss only those aggravating factors specifically claimed by the Government and listed below. The jury is not free to consider any other facts in aggravation which the Government may have argued in closing or you conceive on your own. You may consider only the following government claim(s), if proven as to _____ and beyond reasonable doubt:

[Here list nonstatutory aggravating factors for which the government provided notice and adduced sufficient evidence at trial or sentencing].

I emphasize again, because these are the only other aggravating factors cited by the government on which I instruct you, they are by law the only other aggravating factors that you may consider.

Special findings, part III, asks whether you are unanimously persuaded that the government has proved these non-statutory aggravating factors beyond a reasonable doubt. I note that, even if you are not so persuaded, a unanimous jury finding that the government has proved the aggravating factor from the statutory category, which I just discussed with you, does permit you to consider the death penalty, as well as the option of life imprisonment without any possibility of release. In short, you may only consider the death penalty if the statutory factor has been proved. But, if you so find, you may consider the death penalty as well as life imprisonment without any possibility of

release in the absence of any finding of this non-statutory
aggravating factor.

INSTRUCTION NO. 11

Mitigating Factors--Defined

You must next consider any mitigating factors that may be present in this case. A mitigating factor is not offered to justify or excuse the defendant's conduct. Indeed, if a homicide was justified or excusable, a defendant would not be guilty or punishable for it. Rather, a mitigating factor is simply an extenuating fact about the defendant's life or character, or about the circumstances surrounding the intentional, aggravated killing that would suggest, in fairness and mercy, that a sentence of death is not the most appropriate punishment, or that a sentence of life in prison without any possibility of release, or some lesser sentence, is the more appropriate punishment.

INSTRUCTION NO. 12

Burden of Proof on Mitigation

It is the defendant's burden to establish any mitigating factors, but only by a preponderance of the evidence. This is a lesser standard of proof under the law than proof beyond a reasonable doubt. A factor is established by a preponderance of the evidence if its existence is shown to be more likely so than not so. In other words, a preponderance of the evidence means such evidence as, when considered and compared with that opposed to it, produces in your minds the belief that what is sought to be established is, more likely than not, true.

INSTRUCTION NO. 13

Mitigating Factors to Consider

The mitigating factors relied upon by the defense in this case are:

(1) _____'s capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired, regardless of whether his capacity was so impaired as to constitute a defense to the charge.

(2) _____ was under duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

(3) _____ does not have a significant prior criminal record.

(4) _____ committed the killing or killings under mental and/or emotional disturbance.

(5) Another person, equally culpable in the crime(s), will not be punished by death.

[Examples of nonstatutory mitigating factors follow:]

(6) Should the jury so direct, _____ will be sentenced to life in prison without any possibility of release if he is not executed.

(7) _____ was subjected to emotional and physical abuse, abandonment and neglect as a child, and was deprived of parental guidance and protection.

(8) _____ suffers from neurological impairments which were identified and which could have been treated when he was a child and adolescent.

(9) _____ suffers from brain dysfunction which has impaired his ability to function in the absence of strong support and guidance.

(10) _____ was introduced to addictive drugs and alcohol while still a child, and was supported and reintroduced into drug selling by his own father.

(11) _____ has invariably responded well to structured environments, and would likely make an excellent adaptation to prison if he were sentenced to life imprisonment.

(12) _____ grew up in an impoverished, violent and brutal environment, and was exposed to extreme violence as a child and throughout his life.

(13) That other factors in _____'s childhood, background or character mitigate against imposition of the death sentence.

The last factor, which derives from the statute, permits you to consider *anything* else about the commission of the crime or about _____'s background or character that would mitigate against imposition of the death penalty. Thus, if there are any such mitigating factors, whether or not specifically argued by defense counsel, but which are established by a preponderance of the evidence, you are free to consider them in your deliberations.

In short, your discretion in considering mitigating factors is much broader than your discretion in consider aggravating factors. This was a choice expressly made by Congress in enacting the capital punishment statute here at issue. Now, you are asked on the jury form to identify any such additional mitigating factors that any one of you considers. If, however, you do think there is some other mitigating factor present, but are simply not able to put it into words so that you can write it down on a list, you should still give that factor your full consideration.

Part IV on your special findings form relates to mitigating factors.

INSTRUCTION NO. 14

Mitigating Circumstance: Relative Culpability and Multiple Capital Defendants

One mitigating factor on which _____ relies, "that another person, equally culpable in the crime, will not be punished by death," allows you to take into account as a reason not to impose the death penalty the fact -- if you find it to be so by the preponderance or greater weight of the evidence -- that other participants in the killing(s) will not be sentenced to death and executed, even though they might be equally or even more responsible than _____ for the victim(s) death.

The law requires consideration of this mitigating factor to allow juries to consider what is fair, considering all of the persons responsible for an intentional killing, before imposing a sentence of death.

I caution you, however, that this is a mitigating factor only. By that I mean that the sentence imposed on any other person in this case may only be considered by you as a reason to decide against the death penalty. The sentences of the other participants in the killing(s) may never be considered as a reason to impose the death penalty on a particular defendant.

Let me be as specific as I can. Should you decide in this case to sentence another defendant to death, that fact may not be considered in any way as a reason to sentence _____ to death. Rather, the death penalty may only be imposed on the basis of a defendant's own individual conduct, character, background and record. It may never be imposed out of a desire to

treat two or more defendants equally, or "to feed them from the same spoon."

Under the law such considerations may indicate life without possibility of release, or a lesser sentence, is the appropriate and just sentence. Under no circumstance is a co-defendant or other participant's death sentence a reason to vote to impose the death sentence on _____.

INSTRUCTION NO. 15

Directed Verdict - Mitigating Factors

As you know, the parties have stipulated that mitigating circumstances [*insert numbers*] exist. Thus, you must consider this [*or these*] mitigating factors] proved.

[*Insert here all statutory and/or non-statutory circumstances on which a directed verdict should be granted using the language: "In this case I instruct you..." etc.*]

INSTRUCTION NO. 16

No Unanimity Required as to Mitigating Factors

Any evidence relating to mitigating factors should be fully discussed by all of you to ensure that each juror considers the matter carefully. I do instruct you, however, that, unlike aggravating factors, which you must unanimously find proved beyond a reasonable doubt in order for you to consider them in your deliberations, the law does not require unanimity with regard to mitigating factors. Any juror persuaded of the existence of a mitigating factor by a preponderance of the evidence must consider it in this case. Thus, on part IV of the special findings form relating to mitigating factors, you are asked to report the total number of jurors that find a mitigating factor established.

INSTRUCTION NO. 17

Weighing the Aggravating and Mitigating Factors

Once you have decided upon the aggravating and mitigating factors present in this case, the law requires you to evaluate these factors to decide whether you are unanimously persuaded beyond a reasonable doubt that the aggravating factors proved so outweigh any mitigating factors that justice cannot be served absent a sentence of death. When I speak of justice, ladies and gentlemen, I speak of the highest ideal of the law, and the standard by which civilized societies are measured. Justice contemplates the careful application of human reason and experience to a set of circumstances. It contemplates an even-handed weighing of those circumstances in an effort to reach a "fair" or "correct" result. Thus, passion, prejudice, and any arbitrary considerations have no role to play in your efforts to reach a just result in this case.

In carefully weighing the various factors at issue in this case, you are called upon to make a unique, individualized judgment about the appropriateness of executing _____ . This is not a mechanical process. Neither is it determined by raw numbers. You do not simply count factors. You consider them qualitatively. Any one aggravating factor proved, if sufficiently serious, may outweigh several mitigating factors. Thus, even if you were only to find the statutory aggravating factors] proved, and not the non-statutory factors], you would still have to fit them carefully against the mitigating factors. On the other hand, you must recognize that a single

mitigating factor may outweigh several aggravating factors. In short, ladies and gentlemen, what is called for in weighing the various factors is not arithmetic, but your careful, your considered, your mature judgment. At this stage in the process, you are not called upon simply to find relevant factors. You are called upon to decide whether the defendant shall live or die.

Only if you are unanimously persuaded beyond a reasonable doubt that the aggravating factors so outweigh the mitigating factors that justice cannot be done by any sentence less than death can you return a decision in favor of capital punishment. Each juror must decide whether the law requires that _____ be put to death or not. If even one juror finds a mitigating factor present which, in that juror's mind, is not outweighed beyond a reasonable doubt by the aggravating factors proved, then the jury may not sentence _____ to death.

INSTRUCTION NO. 18

Death Penalty Must Be Unanimous.

The careful judgment the law expects you to exercise in this regard is further reflected in the fact that, even if you are persuaded that aggravating factors outweigh mitigating factors, you must still be unanimously convinced that the aggravating factors are sufficiently serious to mandate a sentence of death rather than life imprisonment without the possibility of release [**or a lesser sentence**]. If even one juror concludes that justice can be served by a sentence of less than death, the jury cannot return a decision in favor of capital punishment.

INSTRUCTION NO. 19

Life Option- No Requirement of Death Penalty

I also remind you, ladies and gentlemen, that, whatever findings you make with respect to the aggravating and mitigating factors, you are never required to impose a death sentence. For example, there may be something about this case or about _____ that one or more of you are not able to identify as a specific mitigating factor, but that nevertheless leads you to doubt that the defendant should be sentenced to death. In such a case, the jury should render a decision against the death penalty. Any one of you is free to decide that a death sentence should not be imposed in this case for any reason you see fit, so long as, based on the evidence and your sense of justice, you conclude that the proven aggravating factors do not "sufficiently" outweigh mitigation such that the death penalty should be imposed.

INSTRUCTION NO. 20

Decision Forms

Because I recognize that these instructions provide you with a variety of conclusions you can reach, and because your decision in this phase of the case, unlike the first, cannot be reported by pronouncing as simple a conclusion as "guilty" or "not guilty," I have prepared a number of alternative decision forms that can be reported by your foreperson, depending upon the jury's findings. Let me go over them with you.

(Read through forms with jury.)

Whichever decision you reach, you are each asked to sign the decision form with your full name. Your foreperson will be called upon in open court to report the decision. I also ask that your foreperson be prepared to report in open court your specific findings as to _____ and the aggravating and mitigating factors I have discussed.

INSTRUCTION NO. 21

Right to Justice Without Discrimination

Finally, in your deliberations as to the death penalty and life without any possibility of release , you must not consider the race, color, religious beliefs, national origin, or sex of either the defendant or the victims. Whatever decision you return, each of you is required by law to sign a certification attesting to the fact that you have followed this instruction. You must be convinced in your own mind that you would have reached the same decision regarding sentence regardless of the race, color, religious beliefs, national origin, or sex of either the defendant or the victims.

Let me now remind you as to how you should view the evidence
before you.

INSTRUCTION NO. 22

Defendant's Right Not to Testify

_____ did not testify. You may not attach any significance to this fact or even discuss it in the course of your deliberations. Under our Constitution, a defendant has no obligation to testify or to present any other evidence. It is the prosecution's burden both to prove guilt beyond a reasonable doubt and, at this stage of the proceeding, to prove beyond a reasonable doubt that justice mandates a sentence of death rather than life in prison without any possibility of release, or some lesser prison sentence. As I have told you, a defendant is not required to prove that he should be allowed to live. Thus, no adverse inference may be drawn against a defendant who does not take the stand. Nor may the absence of testimony by _____ be considered in any way relevant to the issue of remorse for his role in the death of the victims.

INSTRUCTION NO. 23

Closing Instruction

I have now outlined for you the rules of law applicable to your consideration of the death penalty and the processes by which you should determine the facts and weigh the evidence. In a few minutes you will retire to the jury room for your deliberations. Once again, juror number 1 should act as foreperson to ensure that your deliberations proceed in an orderly manner. Of course, his or her vote is not entitled to any greater weight than that of any other juror.

The importance of your deliberations should be obvious. I remind you that you can return a decision sentencing _____ to death only if you are **unanimously persuaded** that justice requires no less. If after due deliberation even one juror is not so persuaded, you must return a decision against the death penalty.

When you are in the jury room, please discuss all aspects of these sentencing issues among yourselves with candor, frankness, and a due regard for the opinions of one another. Nevertheless, I remind you that each of you must decide this question for yourself and not merely go along with the conclusion of your fellow jurors. In the course of your deliberations, no juror should surrender conscientious beliefs of what the truth is and what the weight and effect of the evidence is. Remember that the parties and the Court are relying upon you to give full, considered, and mature consideration to this sentencing issue. By so doing, you carry

out to the fullest your oaths as jurors, well and truly to try the issues of this case, and a just result render.

If it becomes necessary during your deliberations to communicate with me for any reason, simply send me a note signed by your foreperson or by one or more other members of the jury. Do not attempt to communicate with the Court or any other court personnel by any means other than a signed writing. I will not communicate with any member of the jury on any subject touching on your sentencing decision other than in writing or orally here in open court.

As I have told you, if you wish to have any portion of the testimony repeated from either stage of the case, you may simply indicate that in a note. If you need further instructions on any point of law, you should indicate that in a note.

When you have reached a unanimous decision as to the death penalty or life imprisonment without possibility of release [**or a less sentence**], send me a note signed by your foreperson that you have reached a decision. Do not indicate in the note what the decision is. In no communication with the Court should you ever give a numerical count of where the jury stands in its deliberations.

You must be prepared to report to the Court both your findings as to the aggravating and mitigating factors listed on your special findings form and then one of the decisions provided in the various forms given to you.

Before now asking you to retire and begin your deliberations,
let me first consult with counsel to be certain I have not
overlooked any point.