Rec'd @ 5:30 pm 3/7/94

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	**Crim. No. 92-10369-Z**
	)	
ALFRED W. TRENKLER	)	

GOVERNMENT'S SENTENCING MEMORANDUM

I. INTRODUCTION

Defendant Alfred W. Trenkler ("Trenkler") stands convicted on all three counts of the Superseding Indictment. The parties agree that the key question now before this Court involves sentencing on the substantive offenses set forth in Count Two (18 U.S.C. § 844(d) -- receipt of explosive materials in interstate commerce) and Count Three (18 U.S.C. § 844(i) -- attempted malicious destruction of real or personal property used in an activity affecting interstate commerce) of the Superseding Indictment. More particularly, because Officer Jeremiah Hurley's death indeed resulted from these offenses, the parties further agree that this Court must now identify and apply the "most analogous" guideline contained in Chapter 2, Part A ("Offenses Against the Person") of the U.S. Sentencing Guidelines ("Guidelines").[1]

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[1] The Government need not establish facts used for sentencing beyond a reasonable doubt; a "preponderance of the evidence" standard satisfies due process. United States v. Lowden, 955 F.2d 128, 130 (1st Cir. 1992); United States v. Wright, 873 F.2d 437, 441 (1st Cir. 1989) (citing McMillan v.

In his Memorandum, Trenkler argues, essentially, that, because the record "does not support a finding that Officer Hurley's death was either premedicated or deliberate", the guideline for first degree murder should not apply. Trenkler further argues that the second degree murder guideline is also inapplicable where "the actual detonation was accidental" and "the record does not support a finding that Trenkler was aware that his conduct was a serious risk of death or bodily harm." (Emphasis in original). Rather, Trenkler argues, the involuntary manslaughter guideline should apply because, "although [Trenkler's] conduct [i.e., building the device] was reckless, there was no evidence that his conduct caused the unintentional killing in this case."

The government submits that upon consideration of the express charging language of the Superseding Indictment, the evidence adduced at trial, and the jury's verdict of guilty as to all counts, one must conclude that the most analogous homicide guideline applicable on sentencing as to each of the substantive counts of conviction is first degree murder. As this Memorandum will demonstrate, the record clearly demonstrates -- and the jury plainly concluded -- that Trenkler drew upon his electronics expertise to design, acquire parts for and meticulously craft a

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Pennsylvania, 477 U.S. 79 (1986); see also United States v. Carrozza, No. 92-1789 at 26 (1st Cir. decided September 16, 1993) ("sentencing factors, including the applicability of relevant conduct, need only be proven by a preponderance of the evidence, not beyond a reasonable doubt"). Trenkler's Sentencing Memorandum (at p. 13) effectively acknowledges the applicability of this standard.

powerful remote control bomb which he then affixed directly below the driver's seat of Shay Sr.'s automobile for the unambiguous purpose of killing him. At bottom, the unlawful scheme for which Trenkler was charged, which the evidence depicted and for which Trenkler stands convicted had a single goal: to kill. While Trenkler missed his target, his careful planning, forethought and conduct in furtherance of that scheme led to the grotesque death of one bomb squad officer and the maiming of his partner. This was premeditated, deliberate conduct combined with malice aforethought. The government respectfully submits that there is only one guideline corresponding to these circumstances -- murder in the first degree.

II. BACKGROUND

A. The Counts of Conviction

The Superseding Indictment charges in Count One that Trenkler "knowingly and willfully" conspired with Thomas A. Shay ("Shay Jr.") to receive explosives "with the knowledge and intent that the same would be used to kill, injure and intimidate another individual [i.e., Thomas L. Shay ("Shay Sr.")]", and that he conspired with Shay Jr. to attempt to maliciously destroy, by means of explosive, "an automobile used in an affecting interstate commerce [i.e., Shay Sr.'s 1986 Buick]."[2]

Count Two charges Trenkler and Shay Jr. with the receipt, in interstate commerce, of explosive materials with knowledge and

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[2] Count One specifically alleges that "it was part of the conspiracy that the conspirators discussed and agreed to kill [Shay Sr.]."

intent that said explosive materials would be used to kill, injure and intimidate Shay Sr. Count Two further charges that this wilful and intentional conduct by Trenkler "directly and proximately caused the death of Jeremiah Hurley and serious injury to Francis Foley, both public safety officers who were performing their official duties."

The indictment charges in Count Three that Trenkler Jr. attempted "to maliciously damage and destroy, by means of fire and explosive, a 1986 Buick automobile which was owned by [Shay Sr.]." Count Three further charges that this wilful and intentional conduct by Shay Jr. "directly and proximately caused the death of Jeremiah Hurley and serious injury to Francis Foley, both public safety officers who were performing their official duties."

On November 29, 1993, the jury returned verdicts of guilty on all counts.[3]

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[3] At the conclusion of his earlier-completed trial, Shay Jr. was convicted on the above-described Count One conspiracy (18 U.S.C. § 371), and aiding and abetting the attempted malicious destruction of property by means of explosives, as charged in Count Three (U.S.C. § 844(i) and 2), resulting in the death of Boston Police Officer Jeremiah Hurley and the maiming of Boston Police Officer Francis Foley. Shay Jr. was acquitted on Count Two (18 U.S.C. § 844(d) -- receipt of explosive materials with intent to kill, injure and intimidate another).

At sentencing on Shay Jr. (but, as will be seen below, nonetheless pertinent for purposes regarding sentencing as to Trenkler), this Court addressed the scope of the object offenses for which Shay Sr. was to be held responsible on the Count One conspiracy conviction. In that respect, the Court determined that "the evidence of his [Shay Jr.'s] participation in the building of the bomb consisted essentially of the purchase of the toggle switch." (Transcript of Shay Jr. Disposition, at 99). The Court concluded that it was "not convinced . . . that [Shay

B. The Presentence Report

The Presentence Investigation Report ("PSI") refers (at ¶ 51) to the sentencing guidelines for "Homicide" (Chapter Two, Part A) in computing Trenkler's applicable offense level. Each of the guidelines governing violations of the substantive offenses -- § 2K1.3 as to Count Two (18 U.S.C. § 844(d)) and § 2K1.4 as to Count Three (18 U.S.C. § 844(i) -- provides that "if death resulted . . . apply the most analogous guideline from Chapter, Part A (Offenses Against the Person)." See Guidelines §§ 2K1.3(c)(A) and 2K1.4(c)(1), respectively.

Relying upon the jury's verdict, the express charging language of the Superseding Indictment, the evidence at trial, and relevant statutory provisions, the PSI concludes that "the details of this offense fit the definition provided by Title 18 U.S.C. § 1111(a), and the most analogous guideline from Chapter Two, Part A is U.S.S.G. § 2A1.1, First Degree Murder." PSI at ¶ 54.[4]

Guidelines § 2A1.1 defines "first degree murder" as including "premeditated killing", and "death [resulting] from the commission of certain felonies". Application Note 1. "Murder",

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Jr.] conspired to receive explosives with the knowledge and intent that they would be used to kill his father." Id. This Court ultimately determined Guideline § 2A1.2 (Second degree Murder) as the "appropriate" guideline and sentenced Shay Jr. accordingly. (Transcript of Shay Jr. Disposition, at 122).

[4] The First Circuit has instructed that the applicable guideline should be determined by "looking to the charge of which the offender was convicted." United States v. Blanco, 88_ F.2d 907, 910 (1st Cir. 1989).

in turn, is defined statutorily as:

> the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.
>
> Any other murder is murder in the second degree.
>
> . . .

18 U.S.C. § 1111(a). The underlined portion of the statute (above) constitutes legislative recognition of the doctrine of "transferred intent" in the context of first degree murder. See, e.g., United States v. Sanchez, 741 F. Supp. 215, 217 (S.D. Fla. 1990)(first degree murder case; "The facts of this case satisfy th[e definition of 18 U.S.C. § 1111]: the jury found that defendants premeditatedly designed to kill Nelson Seda, and Brian Williams was in fact killed").

III. ARGUMENT

BECAUSE: (1) TRENKLER DESIGNED, BUILT AND THEN PLACED THE EXPLOSIVE DEVICE DIRECTLY UNDER THE DRIVER'S SEAT OF SHAY SR.'S 1986 BUICK; AND (2) OFFICER HURLEY'S DEATH RESULTED, THE GUIDELINE MOST ANALOGOUS TO THIS CONDUCT IS FIRST DEGREE MURDER.

In his Memorandum, Trenkler suggests that while the testimony of David Lindholm alone permitted the jury to infer "that defendant built the bomb in question, there was no evidence that at the time of his acts he was aware that the bomb would be placed in a location that could injure or kill". (Defendant's

Memorandum at page 12). To the contrary, Trenkler did not simply build "a bomb"; the evidence unequivocally showed that Trenkler designed and built a deadly explosive device specially configured so as to be affixed -- without being detected -- to the undercarriage of an automobile. Nor did Trenkler unwittingly hand this device over to another without any awareness or understanding as to its specific application. Rather, the evidence showed -- as was depicted by way of a mock device reconstructed by EEO Thomas Waskom (and then lauded for its accuracy by Denny Kline, the defendant's bomb expert) -- the following: The main charge for the device consisted of between two to three sticks of high-explosive (rewrapped) dynamite. The plywood container presented a "low profile" (no more than 2 inches thick) and was spray painted "flat black." A combination of large circular magnets and several "button" magnets was glued to one face of the container.[5] This device was originally affixed to the undercarriage immediately below the driver's seat of Shay Sr.'s 1986 Buick.[6] This automobile was typically driven

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[5] The button magnets used in the 1991 device were identical to those which Michael Cody, Trenkler's former teenage companion, testified as having, some years before while sitting in Trenkler's Jeep, pulled from Trenkler's tool box. Cody testified that these magnets (quarter sized, with a slash across the face and a hole in the middle) specifically came to mind where he remembers having played with them, i.e., having threaded two such magnets through the strings on his coat.

[6] The evidence as to the original location of the device was clear and uncontroverted: Shay Sr. testified, several times, that the loud "rumbling" sound that he heard when he was backing into and pulling out of his driveway on Sunday, October 27th, came from directly below him. Shay Sr.'s testimony in this respect was later unequivocally confirmed by Dr. Chris Shapley

only by Shay Sr.[7] Finally, pertinent to these purposes, the device was designed and built so that it could be initiated by remote control, so as to both permit the triggerman to choose the time and place of detonation (i.e., when Shay Sr. was seated in the Buick) and to permit a quick, undetected getaway from the resultant explosion.

This Court must now look to the details of the substantive offenses (to include the above evidence) to determine the "most analogous" Homicide guideline. See Guidelines §§ 2K1.3(c)(A) and 2K1.4(c)(1), respectively.

A. First Degree Murder is the Most Analogous Guideline.

In this regard, and insofar as the key matter of Trenkler's intent in the commission of the substantive offenses, is concerned, the government submits that the language of the Count One (" . . . the conspirators discussed and agreed to kill Thomas L. Shay") conspiracy and the jury's finding of guilty as to that conspiracy and both substantive offenses conclusively establishes that Officer Hurley's death resulted from Trenkler's premeditated, deliberate design, with malice aforethought, to

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(the government's mechanical engineering expert), Cynthia Wallace (the government's expert forensic chemist) and EEO Thomas Waskom. Among other things, Dr. Shapley explained (by means of a chalk, built to scale, depicting the Buick and driveway) the significance of the scrape marks left on the undercarriage by examining the interaction between these magnets and the underside of the car when Shay, Sr. drove the car up and down his driveway. Both Wallace and Waskom testified as to the magnet chips and paint residue left under the driver's seat area by this contact.

[7] The evidence was that Mary Flanagan owned and drove her own automobile, a white Lincoln.

take Shay Sr.'s life. This completely satisfies the definition of First Degree Murder found in 18 U.S. C. § 1111(a) dealing with "transferred intent."

Even assuming arguendo that the Court were to consider the jury's verdict of guilty as to all counts in any respect inconclusive as to those matters bearing on computation of Trenkler's offense level, and, more specifically, as to Trenkler's state of mind (see United States v. Jacobo, 934 F.2d 411, 417 (2d Cir. 1991)), this Court would be called on to determine, under Guidelines § 1B1.3 and by a preponderance of the evidence, the scope of Trenkler's relevant conduct. E.g. United States v. Carrozza, 4 F.2d 70, 74-75 (1st Cir. 1993). In this context, the Court should review the record and conclude, by a preponderance of the evidence, that Officer Hurley's death in fact resulted from Trenkler's premeditated, deliberate design, with malice aforethought, to take Shay Sr.'s life. These conclusions as to Trenkler's state of mind inexorably derive, the government submits, from the following single point of fact: Regardless whether accompanied by Shay Jr. or not, Trenkler placed the powerful remote control explosive device directly underneath Shay Sr.'s driver's seat. While there was no eyewitness or other direct evidence on this precise point at trial, no such proof was required to convict. Nevertheless, the evidence in this case and the inferences reasonably to be drawn therefrom, all viewed in the context of the Court's findings made at Shay Jr.'s sentencing, strongly supports the conclusion that

Trenkler placed the device under Shay Sr.'s driver's seat, not for the purpose of injuring or intimidating him, but to kill him. Among the facts and circumstances -- each of which, if not deemed conclusively established by the jury's verdict, the Court should determine by a preponderance of the evidence -- relevant for the Court's consideration here are the following:

1. There were two -- and only two -- members of the deadly Count One conspiracy: Shay Jr. and Trenkler.

2. Trenkler designed and built an enormously powerful (2 to 3 stick of dynamite) remote control explosive device which feature circular magnets on one face; Shay Jr. -- who was utterly incapable of such a feat of engineering -- aided and abetted Trenkler in this process by acquiring parts for the device as directed by Trenkler.

3. Trenkler designed and built the explosive device for the sole purpose of placing it under Shay Sr.'s Buick.

4. At least one of the two co-conspirators placed the device under Shay Sr.'s Buick.

5. The explosive device was placed underneath Shay Sr.'s Buick in such a way (i.e., under the driver's seat) so as to insure that the individual seated in the driver's seat at the time of detonation would be killed.[8]

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[8] Given the undisputed great power of the main charge inserted in the device and its location on the undercarriage, experts for both the government and the defense agreed at trial as to the virtual certainty of death to anyone seated in the driver's seat of the Buick at the time of detonation. On these circumstances alone (and even without reference to the evidence at trial as to Shay Jr.'s personal motive, and the defendant's' joint financial motives), no legitimate argument can be raised that the device was intended simply to injure Shay Sr.

Likewise, no reasonable argument can be made that the device was intended simply to intimidate Shay Sr.: Two to three sticks

(continued...)

6. At Shay Jr.'s sentencing, the Court determined that it was "not convinced . . . that [Shay Jr.] conspired to receive explosives with the knowledge and intent that they would be used to kill his father." (Transcript of Shay Jr. Disposition, at 99).

The conclusion that Trenkler affixed the device to that portion of the undercarriage of Shay, Sr.'s Buick is compelled in two respects: First, given the Court's earlier ruling that it was "not convinced" that Shay Jr. acted with "intent to kill his father", someone other than Shay Jr. -- a fortiori, Trenkler -- strategically placed the device under the driver's seat. Stated otherwise, because the act of affixing such a deadly bomb directly beneath the driver's seat reflects a mind unambiguously bent on killing, one cannot reconcile a finding of "no intent to kill" on Shay Jr.'s part with a companion finding that Shay Jr. affixed, or assisted in affixing, the device in that location.

Second, the evidence adduced at trial as to Trenkler's 1986 (Capeway Fish Truck) bombing corresponds with the above calculus and strongly indicates Trenkler's hand at work in the matter. As Robert Craig, Trenkler's roommate at the time, testified, Trenkler admitted to having put the 1986 device (outfitted with a circular magnet) on the Fish Truck (Tr. 11-147); according to Craig, Trenkler went on to explain, however, that Trenkler "forgot to take the cap off" and, as a result, Trenkler had to

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[8](...continued)
of dynamite are wholly unnecessary to achieve that end (a military simulator would have easily done the job), and a simple timer -- rather than the elaborate remote control system actually employed -- would have sufficed.

"go back and take the cap off because it wouldn't go off otherwise." (Tr. 11-148). With these untoward circumstances of his 1986 bombing clearly in mind, Trenkler took care, one should conclude, to see that the 1991 device featured an arming switch.[9] Understanding the importance of this "arming" process, having in mind the difficulties which he personally encountered in the 1986 truck bombing, and knowing full well Shay Jr.'s utter lack of mechanical ability, one should certainly conclude that Trenkler could not and did not leave this critical detail to Shay Jr., but rather handled this himself.

Should the Court therefore find that Trenkler both built the device and placed it under the Buick's driver's seat, all of the elements of first degree murder are plainly satisfied and the most analogous guideline is clearly § 2A1.1. See United States v. Harrelson, 754 F.2d 1153, 1172 (Fifth Cir. 1985)(first degree murder under § 1111 requires criminal intent of premeditation and malice aforethought). Premeditation, in turn, has been defined, with approval in this Circuit as "the fact of deliberation, of second thought." United States v. Frappier, 807 F.2d 257, 261 (1st Cir. 1986). Malice aforethought, in this respect, "does not mean simply hatred or ill will, but also embraces the state of mind with which one intentionally commits the wrongful act without legal justification or excuse" (United States v.

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[9] EEO Waskom testified at trial as to the small aperture cut into the side of the 1991 device, so that the "on-off" slide switch could be armed after the device was affixed to the target vehicle.

Celestine, 510 F.2d 457, 459 (9th Cir. 1975)), and may be inferred from circumstances which show a "wanton and depraved spirit, a mind bent on evil mischief without regard to its consequences." United States v. Boise, 916 F.2d 497, 500 (9th cir. 1990).[10]

Constructing a powerful remote control bomb over the course of at least ten days (Shay Jr.'s Radio Shack receipt for, among other things, the toggle switch used in the device is dated October 18th and the explosion took place on October 28th) is the paradigm of a premeditated, deliberate act. Further, the act of placing that bomb directly beneath the driver's seat of a vehicle operated by a single individual shows, without question, malice aforethought where it clearly depicts "a wanton and depraved spirit." Government of Virgin Islands v. Lake, 362 F.2d 770, (3rd Cir. 1966).[11]

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[10] "Malice aforethought . . . is usually considered as the element which distinguishes murder, in whatever degree from manslaughter." Beardslee v. United States, 387 F.2d 280, 291 (8th Cir. 1967).

[11] In his Memorandum, Trenkler argues against application of the first degree murder guideline, contending that "because an accidental detonation resulted in an unintentional death" premeditation cannot be established as a matter of law. See Defendant's Memorandum, at p. 10, n. 4. Trenkler's argument of course simply ignores the fact that while Officer Hurley's death was undisputedly unintentional, his death in fact resulted from premeditated, deliberate conduct with malice aforethought as to Shay Sr. All of those elements were complete by the time that the device was affixed to the undercarriage of the Buick; accordingly, it is of no moment, for purposes of "transferred intent" analysis, that the device detonated accidentally.

B. Neither Second Degree Murder Nor Involuntary Manslaughter Applies In These Circumstances.

"Generally, that which distinguishes first from second degree murder is the presence in the form of premeditation." Beardslee v. United States, 387 F.2d 280, 291 (8th Cir. 1967)(emphasis supplied). In this context, Trenkler's Memorandum speaks not to any claimed lack of premeditation (such a tack is understandably a hard sell when discussing a sophisticated explosive device) but, rather, seeks to undercut any finding of "malice aforethought." In dealing with the element of malice aforethought (an element as to both first and second degree murder), Trenkler argues that "the act of building a bomb, by itself does not warrant the inference that [Trenkler] was aware of a serious risk of death or serious bodily injury", and then goes on to casually equate this "act" with the act of giving a loaded gun to another, where the person giving the gun "is not aware, at the time of his act, that serious risk of death of serious bodily injury may result." (Defendant's Memorandum at 11-12). Because, as this Memorandum demonstrates, Trenkler neither simply devised a "general purpose" bomb (for example, one that exploded on impact), nor handed it over to Shay Jr. for some unknown purpose, these arguments fail on their face.

Trenkler's argument that the involuntary manslaughter guideline should apply is equally without merit. The guideline for involuntary manslaughter, U.S.S.G. § 2A1.4, refers the reader to the statutory provisions found in 18 U.S.C. § 1112. Section 1112 defines "involuntary manslaughter" as the "unlawful killing

of a human being without malice"

> in the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

18 U.S.C. § 1112.[12] The Government submits that no rationale finder of fact could describe Trenkler's conduct, as described above, as even remotely approximating the above definition. This case was not about "recklessness," or "negligence", or any lack of "due caution and circumspection." Rather, the charges and the evidence here painted a stark, indeed craven picture, accepted by the jury beyond a reasonable doubt, of calculated, premeditated, intentional and malicious conduct by both Shay Jr. and Trenkler. The scheme was to kill, and the result was the death of one human being, and the severe and permanent injuring of another.

C. No Downward Departure is Warranted.

As to potential departures, Trenkler contends that, should the Court determine the second degree murder guideline applicable, the Court should consider "a downward departure given the less than clear proof in this case." (Defendant's Memorandum at 18). Trenkler goes on to contend that should the Court find that the first degree murder guideline is applicable, "then a downward departure is not only appropriate, but encouraged, under that guideline when applied to the fact to this case." Id. (emphasis supplied). Neither argument for potential departure

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[12] This statutory definition of "involuntary manslaughter" is virtually identical to the definition of this term as found in Black's Law Dictionary (Rev. 4th ed. 1968).

withstands scrutiny.

First, as to the downward departure suggested in second degree murder circumstances, on grounds of "less than clear proof in this case", Trenkler cites to no authority for same, for the simple reason that no such authority exists.

Second, insofar as the suggested downward departure is concerned with respect to application of the first degree murder guideline, Trenkler's cites to Application Note 1 to Guideline § 2A1.1, which speaks of circumstances where "the defendant did not cause the death intentionally or knowingly." These grounds are equally specious, where the referenced language found within Application Note 1 has application only with respect to first degree murder convictions on "felony murder."[13]

D. Should the Court Determine the Second Degree Murder Guideline Applicable, A Significant Upward Departure is Warranted.

Based on the foregoing, the Government believes that the PSI accurately calculates Trenkler's offense level (together with 2-level enhancement for abuse of special skill under § 3B1.3) and corresponding guideline range, and that a downward departure from that range is neither warranted nor appropriate. The Government thus recommends sentencing Trenkler in accordance with the resultant guideline range, that is, life imprisonment.

Nonetheless, should the Court, for whatever reason,

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[13] The inapplicability of Application Note 1 to circumstances, such as those presented here, dealing with "transferred intent" is addressed at length within the government's sole objection to the PSI. (See Addendum to the PSI).

determine that these circumstances somehow reflect absence of premeditation on Trenkler's part (the sole distinction between murder in the first and second degrees), thus calling into application the second degree murder guideline, the government strenuously urges that the Court upwardly depart under § 5K2.1 ("Death") and § 5K2.2 ("Physical Injury") and, in doing so, consider the following additional factors:

1. The killing of a police officer, even when a defendant intended to kill someone else, must be considered among the most serious of criminal offenses, which strikes at the very foundation of a civilized society. For his part in this plot, Trenkler could have faced the death penalty.

2. The use of a powerful (two to three sticks of dynamite) remote-controlled explosive device here (characterized by the Government at trial as an "indiscriminate weapon of terror") potentially endangered the lives of many innocent persons, including children. This bomb detonated in a residential neighborhood less than 100 yards from an elementary school, while school was in session.

3. The autopsy photographs and medical records in this case are shocking. They reveal that Jeremiah Hurley suffered a particularly violent, painful and agonizing death, ultimately succumbing to his injuries several hours after the explosion. Officer Hurley was conscious and in extreme pain for at least an hour after the blast.

4. Officer Francis Foley survived this tragic event, but

is a living reminder of the callousness of the perpetrators. He lost an eye, lost his hearing in one ear, sustained multiple blast injuries to his head, face, arms, legs and torso, and is now permanently disabled from his life's work. Officer Foley not only lost a major part of his life, and his livelihood, but he also lost his long-time partner and close friend.

5. The members of the Hurley and Foley families, as well the Shay family, have had their lives tragically, profoundly and permanently changed as a result of the conduct of Shay Jr. and Trenkler. Many of the victims have submitted thoughtful, poignant letters to the Court reflecting their continuing pain and loss. The Government is confident that the Court will read and consider these submissions.

6. A family has lost a loving father and husband. A police department has lost the services of two loyal and highly-

skilled veteran officers. A city has lost a dedicated public servant and hero. The case cries out for justice to be served, for deterrence to be emphasized, and for the public to be protected. Imposition of a life sentence is the only just result.

Respectfully submitted,

By its attorneys,

A. JOHN PAPPALARDO
United States Attorney

By: _____
PAUL V. KELLY
Assistant U.S. Attorney

_____
FRANK A. LIBBY, JR.
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss. Boston, Massachusetts
March 7, 1994

I, FRANK A. LIBBY, JR., Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing GOVERNMENT'S SENTENCING MEMORANDUM, by hand delivery, to: Terry P. Segal, Esq. Segal and Feinberg, 210 Commercial St., Boston, MA, 02109.

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FRANK A. LIBBY, JR.
Assistant U.S. Attorney