



*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety*  
**ADVISORY BOARD OF PARDONS**

*12 Mercer Road*  
*Natick, Massachusetts 01760*

Deval L. Patrick  
*Governor*

Timothy P. Murray  
*Lieutenant Governor*

Kevin M. Burke  
*Secretary*

*Telephone # (508) 650-4500*

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December 18, 2007

Arnold King W-33734  
Bay State Correctional Center  
P.O. Box 73  
Norfolk, MA 02056

**RE: Commutation Petition**

Dear Mr. King:

After careful objective analysis, the majority membership of the Advisory Board of Pardons voted to submit a favorable recommendation concerning your petition for executive clemency in the form of a commutation (6-0).

Enclosed, please find a copy of the Board's Opinion.

A copy of the Board's report will be forwarded to His Excellency, the Governor, for review.

Sincerely,

A handwritten signature in cursive script that reads "Maureen E. Walsh".

Maureen E. Walsh  
Chairman  
Advisory Board of Pardons

Cc: Edward Berkin, Esq. w/ enclosure ✓  
J. Soffiyah Elijah, Esq. w/enclosure  
District Attorney Daniel Conley w/ enclosure



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**In the Matter of**

**ARNOLD L. KING**

**Petition for Commutation**

**REPORT AND RECOMMENDATION**

***YOUR EXCELLENCY:***

The Advisory Board of Pardons (herein after "the Board") respectfully submits this report and recommendation concerning the commutation petition of Arnold L. King. Mr. King is serving a life sentence for murder in the first degree, imposed on June 20, 1972, in Suffolk Superior Court. Based upon the same incident, he was also convicted of assault with intent to rob and unlawfully carrying a firearm and was sentenced to serve concurrent eight to twelve year sentences for each offense.

The effective date of Mr. King's sentence was January 7, 1972 and he is not eligible for parole due to his first-degree life sentence.

On June 18, 2007, Mr. King submitted a petition for commutation. (Attachment A). On October 25, 2007, the Board conducted a public hearing regarding Mr. King's petition. On November 28, 2007, after due consideration, the Board voted unanimously to recommend favorable consideration. The reasons for the Board's recommendation are set forth in the body of this opinion.

## PROCEDURAL HISTORY

On November 8, 1971, the Suffolk County Grand Jury indicted Mr. King for Murder in the First Degree, Conspiracy, Assault with Intent to Rob, and Unlawfully Carrying a Firearm.<sup>1</sup> The victim was Mr. John J. Labanara. Mr. King committed the offenses two days after he had been released on parole from an accessory to robbery conviction out of New Hampshire.

On June 13, 1972, after a jury trial, Mr. King was convicted of all the charges and on June 20, 1972, was sentenced to life in prison for the first degree murder charge. As to the Assault with Intent to Rob conviction and the Firearm conviction, Mr. King was sentenced to 8 to 12 years for each offense to be served concurrently with the murder sentence. The Conspiracy conviction was filed.

Mr. King appealed his conviction. On July 12, 1974, the Supreme Judicial Court affirmed the conviction in Commonwealth v. King, 366 Mass. 6 (1974). (Attachment C).

Mr. King subsequently filed a motion for a new trial. On October 16, 1979, the motion was denied.

Mr. King has applied for commutation relief on five prior occasions.

On December 21, 1987, Mr. King submitted his first petition for a commutation of sentence. On November 1, 1989, the Board voted to deny Mr. King a hearing by a vote of 5 to 2. The majority of the Board noted Mr. King's poor institutional record, his prior criminal record, the nature of his offense and the fact that he committed the crimes while on parole. The two members of the Board who voted to grant a hearing noted Mr. King's educational accomplishments and program involvement.

On October 15, 1990, Mr. King submitted his second petition for a commutation of sentence. On November 1, 1991, the Board voted 5 to 1 to grant a hearing. On June 22, 1992, Mr. King appeared for his scheduled hearing before the Board. On April 9, 1996, the Board voted unanimously to refer the matter to the Governor with an unfavorable recommendation. The Board noted that Mr. King's sentence was appropriate given the nature of the offense, the fact that the offense was a senseless murder of an innocent victim, and that he did not accept full

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<sup>1</sup> Neither the current Board of Probation Record dated October 10, 2007 nor the Department of Correction Classification Report dated March 9, 2007 reference Mr. King's firearm conviction. The Supreme Judicial Court's Opinion affirming Mr. King's convictions also does not reference this conviction. The firearm conviction is, however, referenced in the Case Summary submitted to the Advisory Board of Pardons by the Suffolk County District Attorney's Office on May 14, 1992 and the original Board of Probation record. (Attachment B).

responsibility for the offense. Although Mr. King did not present a compelling need for a favorable recommendation, the Board noted that he had shown exceptional strides in self-development. The Board also noted Mr. King's strong community support. (Attachment D).

On January 7, 1998, Mr. King submitted his third petition for a commutation of sentence. On July 8, 1998, the Board voted unanimously to deny Mr. King a hearing, stating that Mr. King committed a first degree murder two days after being released on parole (for accessory to robbery) in New Hampshire and that he failed to accept responsibility for his criminal actions. Noting that Mr. King's sentence was appropriate under the circumstances, the Board concluded that commutation relief was not appropriate. The Board did, however, acknowledge his improved institutional record and his volunteer work in the community.

On July 26, 2001, Mr. King submitted his fourth petition for commutation of sentence. On February 25, 2002, the Board voted 4 to 2 to grant Mr. King a hearing. On April 18, 2002, the Board conducted the hearing. On October 3, 2002, the Board issued a split recommendation. Three members of the Board, voting in favor of commutation, noted Mr. King's age at the time of his offense, his length of incarceration, his positive strides in self-development and self-improvement, and his impressive community support system. Three members of the Board, voting in opposition, noted the nature of Mr. King's crime, his refusal to provide details regarding his involvement in the crime, his accumulation of disciplinary reports while incarcerated, the opposition from the victim's family and the District Attorney, and his inappropriateness for community supervision given the fact that he committed the offenses while on parole. The three opposing members also noted that, although Mr. King's community support was impressive, it was largely based on misperceptions concerning his prosecution and conviction. (Attachment E).

On February 20, 2004, Mr. King submitted his fifth petition for commutation of sentence. On May 12, 2004, the Board voted 6 to 1 to grant Mr. King a hearing. On July 28, 2004, the Board conducted a public hearing. On September 30, 2004, the Board voted 4 to 3 to refer the matter to the Governor with a favorable recommendation. The four members who voted in favor of commutation were of the opinion that Mr. King had demonstrated exceptional strides in self-development since he committed his crimes. (Attachment F).

As noted, on June 18, 2007, Mr. King submitted his most recent petition for commutation. (Attachment A). On July 30, 2007, the Board voted to grant him a hearing. On October 25, 2007, the Board conducted a public hearing on Mr. King's commutation petition.

### OFFICIAL VERSION<sup>2</sup>

At approximately 1:40 A.M., on October 20, 1971, Boston police officers, responding to a radio call, proceeded to a location in the vicinity of Gloucester and Newbury Streets in Boston. Between 275 and 279 Newbury Street, the officers observed a Volkswagen parked at an irregular angle. Upon investigation, they found a male slumped over in the driver's seat and observed what appeared to be blood on the car seat. The body, later identified as that of John J. Labanara, was removed from the car and taken to Boston City Hospital where he was pronounced dead on arrival.

At trial, Barbara Zelenka testified that, on the evening of October 19, 1971, Peter Yuhas introduced her to Arnold King at a coffee house in Portsmouth, New Hampshire. She drove Mr. King and Mr. Yuhas to a gas station located on Route 95 southbound out of Portsmouth, where she got gas and had the attendant repair her brake lights. They then drove towards Boston. Mrs. Zelenka testified that two days prior, she had purchased a .32 caliber revolver, serial number 1813, and a box of .32 caliber cartridges at a store called the Trading Post in Kittery, Maine. One day before the murder, Mrs. Zelenka placed the gun, which was loaded with five rounds of ammunition, inside the padding in the convertible top of her car.

While en route to Boston, Mr. Yuhas announced that he wanted to rob a drug pusher. Mrs. Zelenka stated that they arrived in Boston around 11:30 p.m. Shortly after 1:00 a.m. on October 20, 1971, she stopped the car so Mr. Yuhas could ask directions from a man whom she identified as the victim, John Labanara. She then drove about a block away and Mr. Yuhas asked her to pull over. Mr. Yuhas and Mr. King got out of the car and walked toward the back. After about three minutes, Mr. Yuhas ran back to the car screaming, "Oh, my God, he killed him. He killed him." Mr. King also returned, carrying the .32 caliber revolver. Mrs. Zelenka testified that Mr. Yuhas said, "You shouldn't have shot him," and that Mr. King answered, "The man shouldn't have give[n] me no jive." Mr. Yuhas then said, "You didn't have to, you know, kill

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<sup>2</sup> The facts of the criminal case are gleaned from the Case Summary submitted to the Advisory Board of Pardons by the Suffolk County District Attorney's Office on May 14, 1992. (Attachment B).

him. He was too drunk to stand up.” Mr. King responded that he didn’t kill him, and that he had only shot him in the shoulder. He then changed his story, stating that he had killed the man, that he had put him out of his misery, and that he had died happy because of his drunken state. Mrs. Zelenka also testified that Mr. King said the victim had gotten in the car and ignored him. She also recalled that Mr. Yuhas stated, “We tried to hold up a man and Arnie shot him.”

Mrs. Zelenka further testified that she filed the serial numbers off of the gun with the help of another individual. At that time, the cartridges were removed from the gun. She observed one discharged cartridge casing and four live rounds of ammunition.

Another witness, Michael Vincent, testified that in October of 1971, he was a private in the Army assigned to Fort Dix, New Jersey. At approximately 2:00 a.m., on October 16, 1971, while hitchhiking, he met Barbara Zelenka who took him to her home in Portsmouth, New Hampshire. Mr. Vincent stated that he saw Mrs. Zelenka leave her house on the evening of October 19, 1971 and that he next saw her at about 3:00 A.M. on October 20, 1971 in the company of Arnold King. Mr. Vincent stated that he saw Mr. King take a pistol out of his pocket and unload it. There were four live rounds and one empty cartridge. He testified that he then assisted Mrs. Zelenka in filing the serial numbers off of the gun.

At trial, Dr. Leonard Atkins, an associate medical examiner for Suffolk County, testified that on October 20, 1971, at 12:55 P.M., he examined the body of John J. Labanara. External examination revealed a bullet entrance wound over the mid-portion of the left side of the nose. An internal examination disclosed that the bullet, which was removed from the occipital part of the head, had passed through the nasal bone, cheekbone, ethmoid bone, sphenoid bone, right temple bone, and into the occipital bone as it passed on a level plane from front to back. In Dr. Atkins’ opinion, the cause of death was a gunshot wound to the head.

Margaret Labanara, the mother of the victim, testified that she had talked with John Labanara on the morning of October 19, 1971. They discussed his having passed the Massachusetts bar examination.<sup>3</sup>

#### **CO-DEFENDANT—Peter Yuhas**

According to documentation submitted by the Suffolk County District Attorney’s Office, Peter Yuhas offered a plea of guilty to so much of the indictment as constituted second-degree

<sup>3</sup> It was later learned, through testimony at Mr. King’s commutation hearings, that the victim had traveled to Boston to share the news of his bar admission with his mentor.

murder. The Court accepted his plea and he was remanded to the custody of the Sheriff pending Mr. King's trial. Mr. King's trial began on June 13, 1972. On June 14, 1972, however, Mr. Yugas became seriously ill and was transported to Boston City Hospital. Mr. Yugas died of acute leukemia ten weeks later on September 3, 1971. (Attachment B).

**CO-DEFENDANT — Barbara Zelenka**

According to a Head Correctional Social Worker Investigative Report, dated August 10, 1972, all charges against Barbara Zelenka were dropped, as she was the main witness in the prosecution of Mr. King and Mr. Yugas. (Attachment B).

**SOCIAL HISTORY**

**Family**

Mr. King was born on December 12, 1952, to Leroy and Mary (Mason) King in Baltimore, Maryland. Mr. King states that he is the third eldest of eight children born of this union. He also claims he has one half-brother, who was his father's ninth child. According to a Suffolk County Probation Department report dated January 24, 1972, and a Department of Correction Classification Report ("Classification Report") dated September 8, 1972, Mr. King is one of eight children. Mr. King claims that he and his family relocated to Portsmouth, New Hampshire when he was in the first grade because his father, who was in the Air Force, was stationed there.

Classification Reports dated July 15, 1987 through September 27, 2000, indicate that Mr. King married his wife Kathleen ("Kate") Kunze, who was also his furlough sponsor at the time, and became a step-parent to her daughter Wakeitha Kunze. The Board independently verified Mr. King's marriage to Ms. Kunze and has obtained a certified copy of Mr. King's marriage certificate. (Attachment G). Mr. King's current marital status is, however, unclear. A Classification Report dated March 9, 2007, states that Mr. King is divorced with no children. (Attachment H). A letter from Kate King, dated October 22, 2007, states that she and Mr. King are "separated," but they are still married and continue to communicate with each other. (Petitioner's Pre-Hearing Documentary Submission at Attachment 4). At the October 25, 2007 hearing, Mr. King's attorney stated that Mr. King's wife, Kate King, was unable to attend because of work obligations, but he noted that she had submitted a letter in support of Mr. King.

The March 9, 2007 Classification Report indicates that Mr. King receives weekly visits from his family and friends. (Attachment H).

### **Education**

According to a Suffolk County Probation Department report, dated January 24, 1972, Mr. King entered Portsmouth High School in New Hampshire in the seventh grade on September 9, 1964. He subsequently left the school in the 11<sup>th</sup> grade on January 28, 1970 for disciplinary reasons and because his mother had moved back to Maryland to live with his grandmother. His scholastic rating was described as average to poor. (Attachment B).

According to a Department of Correction Classification Report, dated July 15, 1987, Mr. King obtained his G.E.D. in June of 1972 while at the Suffolk County Jail. Mr. King claims he has received an Associate's Degree in Science from Massasoit Community College in June of 1983, a Bachelor's Degree in Liberal Studies from Boston University in September of 1986 and a Master's Degree in Liberal Arts from Boston University in June of 1990. The Board independently confirmed the degrees from Massasoit Community College and Boston University in October 2004. (Attachment I).

### **Employment**

According to a Classification Report dated September 8, 1972, prior to Mr. King's arrest, he was employed as a social worker for the Rockingham County Action Program from October 24, 1971 until his indictment in November, 1971. The report also indicated that Mr. King previously held jobs as a gas station attendant and a construction worker.

According to the Classification Report dated March 9, 2007, Mr. King does not hold a job assignment at this time. (Attachment H).

### **Substance Abuse**

In a personal statement to the Board (included in his 1991 petition), Mr. King wrote that after he had dropped out of high school in the eleventh grade, his life consisted of drug and alcohol use on a daily basis. Mr. King stated that even when incarcerated in the New Hampshire State Prison in March of 1971, he continued to use drugs and alcohol. From the time he was released from the New Hampshire State Prison until the night of the murder (two days), he

consumed a large amount of alcohol and pills. At various hearings, Mr. King has admitted to being a poly-substance abuser.

According to Mr. King's Disciplinary Chronology, obtained through the Department of Correction, Mr. King has incurred one substance related disciplinary report on August 23, 1982, where he was found guilty of using marijuana.

According to Classification Reports, Mr. King has participated in alcohol and substance abuse counseling during his incarceration.

### **Medical**

With regard to medical issues, the Classification Report dated March 9, 2007, indicates that from October 14, 2004 to June 17, 2005, Mr. King used two knee braces. The March 9, 2007 Classification Report also indicates that from November 23, 2004 to November 23, 2005, and from January 12, 2006 to January 12, 2007, Mr. King needed a foot basin. In addition, from January 12, 2006 to January 12, 2007 his physical activity was limited. Mr. King does not claim of any other medical issues in the Classification Reports. (Attachment H).

### **Mental Health**

There are no mental health issues claimed or noted in the March 9, 2007 Classification Report. (Attachment H).

### **Military**

There is no military service claimed or noted in the March 9, 2007 Classification Report. (Attachment H). A Suffolk County Probation report dated January 24, 1972 indicates that Mr. King stated that he enlisted in the United States Army in November of 1970, at the Boston Naval Shipyard and that shortly thereafter, he went AWOL. (Attachment B).

## **PRIOR CRIMINAL RECORD**

The following information was obtained from a Massachusetts Board of Probation record, dated September 17, 2007 and an Interstate Identification Index dated June 21, 2007. (Attachment J).

## Massachusetts

December 21, 1970

Cambridge District: **Operating to endanger and use without authority.** Default/default removed. On January 27, 1971, Mr. King received a one-year House of Correction sentence on each charge, which he appealed. On October 12, 1972, both charges were dismissed.

Cambridge District: **Operating recklessly.** Default/default removed. On January 27, 1971, the charge was dismissed.

Cambridge District: **Breaking and entering a motor vehicle in the daytime, with intent to commit a misdemeanor.** On January 27, 1971, Mr. King was found not guilty.

November 8, 1971

Suffolk Superior: **First-degree murder.** Committed.

Suffolk Superior: **Assault to rob.** 8-12 year concurrent sentence.

Suffolk Superior: **Unlawfully carrying a firearm.** 8-12 year concurrent sentence.

Suffolk Superior: **Conspiracy to rob.** Filed.

October 12, 1972

Wrentham District: **Attempt to commit a crime: escape custody.** Continued to February 20, 1976, then nolle prossed by the Commonwealth.

## New Hampshire

May 17, 1971

**Accessory to robbery.** Sentenced to serve 1 to 3 years in New Hampshire State Prison.<sup>4</sup>

## INSTITUTIONAL HISTORY

The Department of Correction Classification Report dated March 9, 2007, states that Mr. King is residing in the main housing unit at Bay State Correctional Center, a medium security facility, where he receives average evaluations. As noted, this report also indicates that Mr. King receives weekly visits from family and friends. (Attachment H).

<sup>4</sup> Also, on November 2, 1971, Mr. King was arrested by the Sheriff's Office in Brentwood, New Hampshire for being a fugitive from justice.

### **Chronological Movement**

June 21, 1972	Sentenced and committed to MCI Cedar Junction
December 21, 1972	Transferred to MCI Concord
June 14, 1973	Transferred to Northeast Correctional Center
July 3, 1973	Returned to MCI Concord
<b>July 25, 1973</b>	<b>Transferred to MCI Cedar Junction</b>
September 21, 1977	Transferred to MCI Norfolk
August 4, 1978	Transferred to Southeastern Correctional Center
<b>September 28, 1978</b>	<b>Returned to MCI Cedar Junction</b>
July 15, 1980	Transferred to Southeastern Correctional Center
<b>March 1, 1983</b>	<b>Returned to MCI Cedar Junction</b>
September 13, 1983	Transferred to Bay State Correctional Center
November 13, 1984	Transferred to Bay State Correctional Center
December 30, 1987	Transferred to Old Colony Correctional Center
January 8, 1988	Transferred to MCI Norfolk
June 26, 1991	Transferred to Bay State Correctional Center

### **Returns to Higher Custody - Reasons**

July 25, 1973	MCI Cedar Junction from MCI Concord - poor adjustment
September 28, 1978	MCI Cedar Junction from Southeastern Correctional Center - participation in work stoppage
March 1, 1983	MCI Cedar Junction from Southeastern Correctional Center - disciplinary report for stealing, dated December 8, 1982 <sup>5</sup>

<sup>5</sup> On December 30, 1987, Mr. King was transferred from Bay State Correctional Center to Old Colony Correctional Center due to the Commissioner's order to return Lifer's from lower security.

## Disciplinary Chronology<sup>6</sup>

August 22, 1972	Swearing at an officer and disrespect. (No further description is available) <b>Guilty, reprimand and released. Warning on insolence to officers and instructors.</b>
September 20, 1972	Refusal to obey and shirking. (No further description is available) <b>Guilty, loss of weekends. Report to metal shop on Monday.</b>
September 22, 1972	Refusal to obey. (No further description is available) <b>Guilty, 3 days isolation.</b>
October 4, 1972	Refusal to obey. (No further description is available) <b>Guilty, 3 days isolation, suspended 3 months. Requests room change.</b>
November 27, 1972	Refusal to obey and insolence. (No further description is available) <b>Guilty.</b>
December 12, 1972	Refusal to obey. (No further description is available) <b>Guilty, recommend indefinite segregation. Should be transferred to MCI Concord or MCI Norfolk.</b>
January 7, 1973	Disobedience of orders and out of place. (Mr. King ignored the order of a correctional officer) <b>Guilty, 5 days isolation.</b>
January 16, 1973	Disobedience, instigating, rebellion against authority. (Mr. King ignored the order of a correctional officer) <b>Guilty, 5 days isolation.</b>
January 29, 1973	Disobeying an order, stealing. (Mr. King refused to remove his hood) <b>Guilty, special work detail 6:30 p.m. to 10:00 p.m.</b>
February 21, 1973	Disobeying an order, stealing. (Mr. King stole sugar from the dining room) <b>Guilty, 3 days isolation, 9 days special work detail instead of 3 days isolation.</b>

<sup>6</sup> Recent Department of Correction Classification Reports suggest a discrepancy in the total number of disciplinary reports incurred by Mr. King. Advisory Board of Pardons staff members have counted a total of 52 guilty findings.

March 21, 1973 Insolence, leaving place of work without permission, malingering. (Mr. King left his work assignment without permission)  
**Guilty, 1 day isolation in lieu of 3 days work detail, plus 2 days isolation. Total, 3 days isolation.**

July 2, 1973 Refusing a direct order, refusing to work and inciting a riot. (Mr. King left his work assignment without permission)  
**Guilty, 15 days isolation.**

March 27, 1974 Refusing to obey. (Mr. King refused to turn down his radio)  
**Guilty, reprimand and loss of radio with next report.**

May 9, 1974 Refusing to obey. (Mr. King refused to remove his shirt for a shakedown)  
**Guilty, reprimand and released.**

August 16, 1974 Assault and battery on a correctional officer, refusal to obey. (Mr. King pushed his typewriter into the chest of two correctional officers)  
**Guilty, 10 days isolation, suspended for 3 months.**

August 16, 1974 Assault and battery on a correctional officer. (Same incident as above)  
**Guilty, in absentia, 10 days isolation and room change to maximum section.**

August 27, 1974 Out of place. (Mr. King was on the tiers and should not have been)  
**Guilty, 5 days room detention, suspended for 30 days (reduced to minor).**

December 22, 1974 Obscene conduct in the visiting room. (Mr. King was acting inappropriately with his visitor)  
**Reprimand and release.**

December 29, 1974 Making or having in possession any type of dangerous weapon. (A homemade knife was found concealed in Mr. King's room)  
**Guilty, 15 days isolation.**

February 27, 1975 Making or having in your possession any type of dangerous weapon. (An officer found a steel rod, sharpened to a point in Mr. King's personal belongings)  
**There was no finding made, and the matter was filed.**

March 1, 1975 Refusing to obey. (Mr. King refused to change his seat in the visiting room)  
**Guilty, 7 days isolation, suspended 60 days without prejudice.**

June 17, 1975	Disrespect to a correctional officer. (Mr. King did not follow the order of an officer) <b>Guilty, reduced to a minor, reprimand and release.</b>
July 5, 1975	Failing to report work assignment and/or destination without authorization, permission or excuse. (Mr. King was out of place) <b>Guilty, reduced to minor, 5 days room detention.</b>
July 25, 1975	Leaving of cell or place of assignment or other appointed place without permission. (Mr. King left the visiting area and went to the deputy office without permission) <b>Guilty, 5 days room detention.</b>
September 5, 1975	Commit any assault and/or fighting; inciting a riot/general disturbance (Mr. King and other inmates refused to return to their room, which resulted in an altercation with a correctional officer) <b>Guilty, 15 days isolation to see DSU (Departmental Segregation Unit) Board. Not referred to the District Attorney.</b>
September 5, 1975	Commit any assault and/or fighting; violating the laws of the Commonwealth, committing of any mutinous act, inciting a riot and/or general disturbance, disobeying an order and threatening language toward an officer. (Same incident as above) <b>Guilty, 15 days isolation and recommended to DSU Board.</b>
February 3, 1976	Taking part in a general disturbance, disobeying a prison rule. (Mr. King barricaded a door) <b>Guilty, 15 days isolation and 90 days loss of good time. Appeal denied.</b>
May 6, 1976	Refuse to obey the order of an officer. (Mr. King ignored an order to return to his room) <b>Guilty, 5 days isolation, suspended for 90 days.</b>
October 18, 1976	Disobeying an order of an officer; disobeying a prison rule, disrespect to an officer. (Mr. King ignored an order from an officer, then swore at the officer) <b>Guilty, 10 days isolation, recommend 30 days loss of good time. Appeal denied.</b>
October 5, 1977	Being out of place. (Mr. King missed a major count) <b>Guilty, 3 days isolation. Mr. King appealed. The superintendent suspended the 3 day isolation for 60 days.</b>

September 23, 1977 Possession of anything, including money or currency. (Mr. King had \$20 in his possession)  
**Guilty, 7 days isolation.**

August 17, 1978 Participating in or encouraging a work stoppage or unauthorized group demonstration. (Mr. King encouraged other inmates to continue a strike)  
**Guilty, 5 days isolation, suspended for 90 days, plus time served in A.A.**

August 17, 1978 Participating in or encouraging a work stoppage, or unauthorized group demonstration. (Mr. King encouraged other inmates to strike) **Guilty, see above.**

October 15, 1978 Possession of money and currency.  
**Guilty, 10 days loss of free time.**

February 27, 1980 Fighting. (Mr. King was fighting with another inmate)  
**Guilty, 5 days isolation, suspended 30 days.**

May 28, 1980 Being out of place. (Mr. King was in another inmate's room)  
**Guilty, 5 days detention, suspended.**

August 15, 1980 Unauthorized possession of property belonging to another and possession of anything not authorized. (Mr. King had in his possession another inmate's dairy bar tickets)  
**Guilty, 5 days isolation for each charge, to run concurrently.**

December 21, 1980 Disobeying an order and violating any departmental rule. (Mr. King refused to move his chair while in the visiting room)  
**Dismissed with a warning.**

June 5, 1981 Being out of place. (Mr. King missed a major count)  
**Guilty, verbal warning.**

July 26, 1981 Violating any departmental rule, being out of place and conduct which disrupts. (Mr. King missed a major count)  
**Guilty, 3 days extra duty at 1 hour per day.**

November 9, 1981 Violating any departmental rule. (Mr. King used the telephone in the computer room)  
**Filed without a finding.**

August 23, 1982 Use of unauthorized controlled substance - marijuana. (A urinalysis tested positive for the presence of cannabinoids)  
**Guilty, 3 days isolation, suspended sentence 60 days.**

October 30, 1982	<p>Possession of money. (Mr. King had \$10)  <b>Guilty, 10 days isolation. Appealed. Reduce sanction to extra work.</b></p>
December 8, 1982	<p>Stealing and violating any law of the Commonwealth of Massachusetts (A large quantity of cigarettes, valued at \$2.100 was stolen from the inmate canteen)  <b>Guilty, 30 days isolation with 300 days loss of good time.</b></p>
November 21, 1986	<p>Violating any departmental rule; unauthorized possession of property belonging to another person; possession of anything not authorized for retention; stealing; violating any laws of the Commonwealth; attempting to commit any of the above offenses. (Mr. King used a telephone card issued to the Department of Correction) The charges were consolidated.  <b>Guilty, 10 days isolation, re-classification to higher security with OUS (Outside Under Supervision) Status to be re-evaluated and restitution paid. Mr. King appealed the sanctions and received 10 days isolation, suspended for 60 days and no re-classification.</b></p>
March 29, 1989	<p>Disobeying an order; unexcused absence from work; conduct which disrupts. (Mr. King refused to perform his work assignment)  <b>Charges were consolidated. Guilty, 3 days extra work.</b></p>
December 3, 1997	<p>Violating any departmental rule; conduct which disrupts; and possession of unauthorized items. (During a searched contraband was found and confiscated.)  <b>Guilty, loss of participation in prison voice program</b></p>
February 4, 1998	<p>Violating any departmental rule; being out of place; and conduct which disrupts. (Mr. King did not have inmate identification properly displayed.)  <b>Pled guilty, reprimand</b></p>
September 25, 1998	<p>Being out of place; violating any departmental rule; and conduct which disrupts. (When a conducting a major count, Mr. King was out of place in the Main 1 South restroom.)  <b>Pled guilty, 3 days room detention, suspended 60 days</b></p>
November 14, 1998	<p>Violating any departmental rule; and conduct which disrupts. (Mr. King was in Library and had not signed in.)  <b>Pled guilty, 3 days room detention, suspended 60 days</b></p>

January 6, 1999	Violating any departmental rule; and conduct which disrupts (During a security check two KOPs (Keep On Person) <sup>7</sup> were discovered under Mr. King's bed.) <b>Guilty, 60 days loss of KOPs</b>
October 6, 1999	Lying to staff; violating any departmental rule; conduct which disrupts; and unauthorized possession of property belonging to another. (Mr. King was in possession of a newspaper, when asked who it belongs to, Mr. King lied.) <b>Guilty, Warning issued</b>
January 19, 2000	Violating any departmental rule; and conduct which disrupts. (Mr. King was sleeping when count was being conducted.) <b>Guilty, 5 days room detention, suspended 60 days</b>
February 1, 2001	Disobeying an order of staff; violating any departmental rule; failure to keep one's quarters in accordance with rules; conduct which disrupts; and attempting to commit a crime. (Mr. King was not wearing headphones while watching television) <b>Guilty, 1-month loss of TV, suspended for 60 days, reduced to minor</b>
February 7, 2001	Violating any departmental rule; failure to keep one's quarters in accordance with rules; conduct, which disrupts; and possession of items not authorized for retention or receipt. (When a search of Mr. King's cell was conducted, items were confiscated due to being in excess of property inventory or for not being authorized for retention.) <b>Guilty, 3 days room detention</b>
March 16, 2005	Disobeying an order, lying, and insolence; violating any departmental rule or regulation; possession of items, not authorized; and conduct with disrupts. (Mr. King was corresponding with program participant after being directed not to.) <b>Charges were consolidated. Pled guilty, Loss of PRA (Program Related Activity) for 90 days. (Attachment K).</b>

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<sup>7</sup> "KOPs" are described as non-narcotic medications that an inmate is allowed to either "keep on his person" or in a locker, but not in any other location.

July 5, 2006

Communicating, directly or indirectly with any staff member or contract employee, volunteer, or a member of their family at their home address or home telephone number, or for non-official business. (Mr. King was sending correspondence to a permanent volunteer's address after being directed not to on several occasions.)

**Pled guilty, Loss of PRA for 30 days (Attachment K).**

Attempting to commit any of the above offenses, making plans to commit any of the above offense or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself. (Attachment K).

**Dismissed**

### **Programs/Work Involvement**

#### MCI Cedar Junction 1973 - 1977

- Honeywell Computer Project
- Reach-Out Project
- New Birth, Inc.
- Methods of Teaching Adult Education
- G.E.D.

#### MCI Norfolk 1977 - 1978

- Norfolk Drug Reform Project
- Higher Education
- Norfolk Communications Lab
- Store & Finance
- Lifer's Group

#### Southeastern Correctional Center 1978

- Honeywell Computer Project

#### MCI Cedar Junction 1978 - 1980

- Honeywell Computer Project
- Short Order Cook
- Farm Worker
- Teacher Aide
- Director, Southeast Programmers, Inc.
- AA
- Maintenance

- Higher Education

MCI Cedar Junction 1983

- Writer's workshop
- Accounting Clerk

Bay State Correctional Center 1983 - 1987

- Seminars in juvenile counseling
- Maintenance
- Renovation Crew
- Executive Board Member. REVAMP
- AA

MCI Norfolk 1988 - 1991

- Culinary Arts Program
- Family Awareness

Bay State Correctional Center 1991 - present

- Fellowship
- Gym
- Lifer's/Long-Termers
- AA
- Growing Together
- Family Awareness
- Culinary Arts
- Caminemos
- Second Thoughts
- NA
- Computer courses
- Prison Voices
- Health Awareness
- Emotional Awareness
- Audits Classes for BU
- Poetry

## **FURLOUGHs**

According to a Classification Report dated January 30, 1997, Mr. King has successfully completed a total of 25 furloughs.

## PROCEEDINGS BEFORE THE ADVISORY BOARD

On October 25, 2007, the Advisory Board of Pardons held a public hearing on Arnold King's commutation petition. The hearing was chaired by Maureen E. Walsh. Advisory Board of Pardon members Doris Doutrige, Thomas F. Merigan, Jr., Candace Kochin, Pamela Lombardini, and Mark Conrad were present at the hearing. Mr. King was represented by Attorney Edward Berkin and Attorney Sofiyah Elijah.

### Attorney Berkin's Opening Statement

During his opening statement, Attorney Berkin stated that his presentation would focus on Mr. King's ties to the community and community service. He indicated that he would ask the numerous members of the community and community organizations to describe their interactions with Mr. King, their assessment of the quality of his community efforts, and the impact he has made in their communities.

Attorney Berkin told the Board that City Councilors Chuck Turner and Felix Arroyo were present to express their support for Mr. King. He further noted that seven members of the Massachusetts Legislative Black Caucus had submitted a letter in support of Mr. King. (Attachment I.) Attorney Berkin testified that the State Representatives who support Mr. King have urged the Board to vote in favor of commutation based on their informed judgment that he poses no risk to the community and that their communities would benefit from having Mr. King engage in the kind of youth outreach at which he previously has been so successful. Attorney Berkin further stated that legislators who support Mr. King have the utmost confidence in Mr. King's ability to be a law abiding, productive citizen and that his contributions could help reduce the violence in and around Boston.

Attorney Berkin referenced the high level of violence and killing in the Commonwealth, especially involving young people. He stated that Mr. King's supporters are concerned about the fact that many of the killings appear to be based simply on the perpetrator's perception that he has been slighted, put down, or "ripped off." He noted that this is not unlike Mr. King, who, thirty-six years ago, stumbled out of a car to see his friend, Peter Yuhas, with a gun in his hand, backing up from a stranger. Attorney Berkin stated that, on that day, Mr. King and his friends had collected money to go to Boston to buy marijuana and pills; they then gave the money to a stranger who walked away without giving them what they expected in return. Attorney Berkin

stated that, in essence, Mr. King made the assumption that they were being "ripped off." He indicated that Mr. King reached that conclusion instantly with no judgment and no thought, then took the gun, approached the car and asked the stranger where the drugs were. The stranger responded, "I don't have any." Mr. King then pointed the gun at John Labanara and shot and killed him. Although Attorney Berkin called Mr. King's action inexcusable and unjustifiable, he hoped that, at this point, to some degree, Mr. King's actions could be forgiven.

Attorney Berkin acknowledged the presence of Mr. King's family members at the hearing. He also stated that he and Mr. King were grateful to have the opportunity to expand the record before the Board and present additional evidence in favor of Mr. King's commutation.

Attorney Berkin noted that the Governor's Guidelines for Clemency are intended to facilitate the re-integration of deserving prisoners into the community of the law abiding. He argued that the circumstances of Mr. King's life for the past thirty-six years epitomize what Governor Patrick refers to as the rare and exceptional circumstances warranting clemency. He noted that Mr. King truly desires forgiveness. He stated Mr. King has profound remorse and that all of his actions in helping others are based, in large part, on his life long commitment to make amends for the killing of John Labanara.

Attorney Berkin also told the Board of a meeting he had with Mr. King in 2002 wherein he provided newspaper articles about John Labanara to Mr. King. The articles stated that Mr. Labanara had been an all-star hockey player, played on the football team in high school, graduated from Boston University and Suffolk Law School, and that he was a well-liked and humble person. Attorney Berkin stated that when he watched Mr. King read the articles, Mr. King expressed genuine remorse for the act he had committed and the impact his actions had on Mr. Labanara's family.

Finally, Attorney Berkin noted Mr. King's successful furloughs. He stated that, while Mr. King was on those furloughs, he counseled young people against making the same mistakes he had made.

### **Arnold King's Testimony**

Arnold King began his statement by thanking the Board for giving him the opportunity to be heard and for its past favorable decisions. He stated that he is genuinely remorseful for killing John Labanara. Relative to his offense, Mr. King stated that thirty-six years ago this month he

shot and killed John Labanara on Newbury Street in Boston. He said that he was an eighteen year old high school drop-out who consumed drugs and alcohol every day. He was the third oldest of nine children and was expected to be a role model for his younger siblings. He admitted that he had made poor decisions.

Mr. King explained that he first began to drink and use drugs only on Fridays and Saturdays. Then he began to use daily. He stated that he thought he was grown up at the time, but now realizes he was merely a child. He developed skills in pool halls and would challenge adults for money. He acknowledged that he also tried to trick people with confidence schemes. He explained that people would trust him with their money with the expectation that he would later provide them with alcohol and drugs. He admitted that, often, such people would receive nothing in return.

Mr. King testified that, at age fifteen, he was sent to a reform school for such activities. He stated that in the summer of 1969, he was admitted into a program called "A Better Chance" at Dartmouth College, which gave kids the chance to attend prestigious prep-schools. At the conclusion of the program, he decided to forego a better chance and returned to public school. This disappointed his parents. At age sixteen, he started bingeing on drugs and alcohol. At age seventeen, Mr. King dropped out of high school and his life continued to unravel. He stated that he had no plans, no accomplishments and was not making decisions. He was "just existing."

Mr. King acknowledged that, in 1971, he robbed a motel and was sentenced to one to three years in prison. Several months later, he was released. Mr. King stated, "Two days later, in October of 1971, I shot and killed John Labanara."

Mr. King testified that he now knows what he should have known then: that he should not have been using drugs and alcohol; that he should not have been looking for more drugs on Newbury Street; that he should not have taken the gun from his friend, and pointed it through the window at John Labanara. He further acknowledged that he, certainly, should not have pulled the trigger. He stated that he was present before the Board, not as that eighteen-year-old who prevented John Labanara from living, but rather as a fifty-five-year-old, a completely different person. He stated that he was present to honor and respect the life that he took.

Mr. King described his transition as one that continues even today. His focus, according to him, is on self-development and service work. He is willing to learn as much about himself as he can in order to acquire the right skills to function. He said that he received counseling and

then became a counselor to others. He now writes to tell his stories and to help others express their own stories. In concluding his personal statement, Mr. King noted his goal of expanding the youth project with urban teenagers, which involves talking to teenagers about consequences of violent behavior and the importance of education. He asked for the Board's vote of confidence and stated that it would assist him in achieving this goal.

### The Board's Inquiry

The Board noted Mr. King's exceptional support network, ranging from his family and others in the community. The Board asked Mr. King why he thought his supporters find him to be a rare and exceptional candidate deserving of a commutation. Mr. King responded that he hopes they see that he made a fatal mistake, that he killed an innocent man, and that he has put effort into examining the teenager he was and trying to make himself a much better person. At the same time, he has tried to reach out to other youths. He also draws on the support he receives from his family and others. He knows that he can provide a service to communities and this keeps him going. Mr. King explained that he does not want people to look at him as that "teenage killer," because he is much older, different, and wiser now. He acknowledged that he took the life of a man who had a bright future and that he cannot forget what he did. He further stated that the people around him will not let him forget because they want him to tell his story in communities where it is needed.

The Board expressed concern over the two disciplinary reports Mr. King received since his last commutation hearing in 2004. Mr. King indicated that the first disciplinary report was based on his sending a program participant a copy of his 2004 commutation hearing transcript and Board opinion. He stated that he thought he was prohibited only from corresponding regarding program related matters, and not from sending correspondence about his commutation hearing. He said that he pled guilty to the offense because he did it, but further stated that he was not aware that the rules had changed.

With regard to the second disciplinary report, Mr. King indicated that he sent a birthday card to a woman signed by all the members of a group in which he participated. He stated that he sent the card to an organization, not to an individual, and thought that this was in compliance with the rules. He acknowledged that he pled guilty to the offense because he did send the card. Mr. King also stated that he is very active in programs and sometimes runs astray because he

cares about the programs. He further testified that he felt restricted because he had known some of the program participants prior to their joining the programs, then, after he introduced them to the programs, he was told that he could no longer contact them. Nonetheless, he acknowledged that the program rules apply to everyone.

The Board also asked Mr. King about the change he has made in himself after being convicted at the age of eighteen and sentenced to life without the possibility of parole. Specifically, the Board asked how and why he was able to make this change when there was no promise or guarantee of a "light at the end of the tunnel." Mr. King responded that he always thought there was a light at the end of the tunnel. He was not comfortable or pleased with who he was and needed to be a better person because of his family. He felt that he had embarrassed them.

As a result, he pursued education and programs and sought out individuals who were making the same changes he was. He noted that there were program volunteers who had inspired him. He wanted the change to be consistent and continuous. When he faced setbacks, he would reach deep inside and seek support and try to pull himself up. He further testified that he encourages others to do this. He stated that he found hope when others came into his life. He discovered that he was not alone. Mr. King also said that he had a willingness to change, but he needed to be honest with himself because he had demons he needed to face. He stated it was difficult, but the people around him were determined to have him face the demons. If he slacked in any way, they were there to pick him up.

When asked what demons he faced, Mr. King explained that he had a fear of not succeeding. He gave the example of the youth program at Dartmouth College. He stated that he did not follow through because he was fearful that he would not succeed. He stated that there were smart kids out there, and that he is a competitor. He did not think he could succeed so he did not put in the effort. He testified that he believes he can succeed now because he knows he has the ability. More importantly, he knows that he can ask for help if he needs it. He went on to say that asking for help does not take away from him, but rather, builds character.

The Board asked Mr. King what he could do to honor Mr. Labanara. Mr. King responded that he would do whatever he could to honor the life that he took. He said that even today, he is involved in projects in the neighborhood where he took Mr. Labanara's life. He stated that he has not been able to talk directly to Mr. Labanara's family, but that he would do whatever he can

because he doesn't want them to go through life any longer feeling the pain and suffering that he caused.

The Board concluded its questioning by asking Mr. King how he might handle not being able to meet the expectations of all those who support him, and what would happen if they were no longer there for him. Mr. King stated that he does not see himself being alone. He does not believe that the connections he has built will disappear. But, if, by chance, a relationship does not work, Mr. King stated that he has the foundations required to be able to sustain a change without having his life unravel. Mr. King further noted that he not only has the skills to continue to receive help from his current supporters, but also to build other support networks.

### **SUPPORT**

Boston City Councilor At Large Felix D. Arroyo and Boston City Councilor Chuck Turner jointly submitted a letter dated February 14, 2007, in support of Mr. King's petition for commutation of his first-degree life sentence. (Attachment M). Both councilors appeared at Mr. King's commutation hearing on October 25, 2007, ready to provide testimony on behalf of Mr. King, but due to scheduling conflicts, they had to leave prior to their testimony.

#### **Sven Bursell**

Mr. Bursell, a professor of medicine at the University of Hawaii, and former associate professor in the Department of Ophthalmology at Harvard Medical School, appeared before the Board Members and presented testimony on October 25, 2007. Mr. Bursell noted Mr. King's path to redemption and his remorse for what he did. He explained that he had flown in from Honolulu that morning to support Mr. King and would fly out that night. Mr. Bursell also noted that he and his family have developed a strong personal friendship with Mr. King and his family over the course of the last ten years. He stated that he considers Mr. King to be an exceptionally good man. He noted that some "real good" has been born out of Mr. King's remorse for the senseless act he committed as a teenager and his fine-tuned appreciation for people with difficulties.

### **Becky Thompson**

Ms. Thompson appeared before the Board Members and presented testimony on October 25, 2007. Ms. Thompson, a professor of sociology at Simmons College, testified that she has known Mr. King for a decade, first by his reputation for his work with writers and then, personally, as a friend. Ms. Thompson testified that Mr. King is an exemplary individual, in character, productivity and demeanor and as a peacemaker. She spoke of Mr. King's work with young people, his support of emerging writers and his anti-violence advocacy. Ms. Thompson stated that Mr. King embodies redemption. She has been involved in three of Mr. King's commutation hearings. Ms. Thompson noted that his community of support continues to grow.

### **Reebee Garafalo**

Mr. Garafalo submitted a letter of support on July 6, 2007. He also appeared before the Board Members and presented testimony on October 25, 2007. Mr. Garafalo, a professor at the University of Massachusetts in Boston for the last thirty years, testified that he has known Arnold King for approximately twenty years. This was the fourth hearing that Mr. Garafalo had attended. Mr. King impressed Mr. Garafalo, very early on, as someone who was a model inmate. It seemed clear to him that Mr. King could be a model and productive citizen, if given the chance. Mr. Garafalo testified he would help Mr. King seek employment and access to advanced education if released. He further noted that Mr. King had other supporters in the community who also would assist him in finding work. Mr. Garafalo felt privileged to be part of Mr. King's diverse group of supporters, all of whom are a testament to who Mr. King has become.

### **Anthony Irving**

Mr. Irving appeared before the Board Members and presented testimony on October 25, 2007. Mr. Irving, a former inmate, stated that he had appeared before the Board on numerous occasions. Through Board's courage, commitment to public safety, and its conscience, he was granted a parole in 2005 on his second-degree life sentence. Mr. Irving expressed his respect and condolences to the Labanara family. Mr. Irving then stated that Mr. King "broke th[e] prison culture." He respected Mr. King because he encouraged people to be themselves. Mr. King also encouraged him to pursue his education. Mr. Irving further noted that Mr. King has made a great

contribution to the community without forgetting his victim. In addition, Mr. Irving stated that Mr. King has strong support from others who do similar work in community.

**Glenn Koocher**

Mr. Koocher, Executive Director of the Massachusetts Association of School Committees, appeared before the Board Members and presented testimony on October 25, 2007. Mr. Koocher stated that he was not present on behalf of his organization, but was speaking for himself. Mr. Koocher stated that he works with schools, teachers, students and public policy makers. He noted that he appeared before the Board when he was a School Committee member in Cambridge from 1973 to 1986 and successfully secured paroles for two people whom he later employed. Mr. Koocher stated that Mr. King understands how young people think when they are at the "crossroads" because he has been there. Mr. Koocher further said that, if Mr. King received a commutation, he would ensure that Mr. King is made available to students as a mentor and role model.

**Renney Cushing**

Mr. Cushing, appeared before the Board Members and presented testimony on October 25, 2007. Mr. Cushing is the Executive Director of Murder Victim's Families for Human Rights, an organization of survivors of homicide victims. He is a victims' rights advocate. Mr. Cushing testified that, 19 years ago, his father was shot to death in front of his mother in their family home. Mr. Cushing does a lot of work within the victims' community. He stated that people who loose family members to murder often struggle with how to get beyond that moment of horror and accept that they cannot change the past. He indicated that it is a continuous journey that even crosses generations. For example, Mr. Cushing stated that his children are affected by his father's murder even though they were not alive when his father died. He noted that, through his work with the victims' community, he has had contact with many offenders, murderers in particular. He stated that he can give meaning to his father's death by working to prevent other people from suffering the same experience he has. One way to accomplish this is by working with offenders.

Mr. Cushing has spoken with Mr. King and believes that he really understands what he did, which is rare for offenders in correctional facilities. Mr. Cushing believes that Mr. King has

the ability to use his past experiences to prevent others from following the same path, which, in turn could prevent future victimizations. Mr. Cushing noted that he has never testified in support of commutation for any other offender.

### Sam Williams

Mr. Williams appeared before the Board and presented testimony on October 25, 2007. Mr. Williams is the Chief Operating Officer at the Unitarian Universalist Urban Ministry, a non-profit faith based organization in Roxbury. The organization has been doing social justice work for the last 180 years. Mr. Williams testified that he manages a prisoner reentry project through the Urban Ministry called the United Souls, in addition to a food pantry project that delivers food to the Chinatown community.

Mr. Williams met Mr. King twenty years ago in prison when Mr. Williams was a confused man who needed to explore the reasons for why he was incarcerated. He got involved in some programs that Mr. King ran, such as the Young Father and Family Awareness. Mr. King's leadership and guidance enabled Mr. Williams to do the work he currently does today. Mr. King taught him personal responsibility. Mr. Williams watched Mr. King graduate from the prison college program and this inspired him. Mr. Williams testified that before he was released from prison he received his Bachelors Degree from Boston University. He further stated that Mr. King taught him, by example, about giving back to the community by educating young people about the choices they make. Mr. Williams noted that he has been involved in the youth development field for the past fifteen years and now oversees a program serving over 100 youth through the Urban Ministry. Mr. Williams further noted that he is able to offer Mr. King a job if he is released.

### Nancy Murray

Ms. Murray, Director of Education at the American Civil Liberties Union of Massachusetts, appeared before the Board and presented testimony on October 25, 2007. Ms. Murray stated that it was the third time she had appeared on behalf of Mr. King. She first knew Mr. King through his involvement with a youth program she directed. She explained that young people would write in to a newspaper called "Rising Times" with questions for Mr. King. Mr. King would then respond with insight from his own experiences and feedback about how he

changed. Ms. Murray was struck by Mr. King's tremendous remorse. She felt that redemption was now Mr. King's mission because he knew he could not bring back the life he took, but he could try to prevent others from going down that path. She noted the "mountains" of testimony and evidence demonstrating that Mr. King could do more good on the outside and really contribute to society.

#### **Reverend Ray Hammond**

Revered ("Rev.") Hammond, who chairs the Boston Ten Point Coalition and the Criminal Justice Committee of the Black Ministerial Alliance, appeared before the Board on October 25, 2007. Rev. Hammond testified on behalf of himself and Revered William J. Dickerson, who was at the hearing earlier, but had to leave. He noted that Rev. Dickerson has also been actively engaged in work with high-risk youth and ex-offenders reentering the Boston community. Rev. Hammond read aloud a letter that he provided to the Board. (Attachment N).

#### **Miriam Messinger**

Ms. Messinger, the Executive Director of the City School, appeared before the Board to present testimony on October 25, 2007. Ms. Messinger has been employed at the City School for seven years and knows Mr. King as a colleague. She testified that Mr. King is one of the founders of the Prison Voices Program at the Bay State Correctional Center. The program brings young people to the prison to engage in a dialog with the inmates. The youths hear the inmates' stories and share pieces of their lives as a way to create a positive impact in the community. Ms. Messinger noted that she has seen the pain of violence and its impact.

Ms. Messinger believes that Mr. King works in the community, not because he feels obligated to do so, but because he feels it is a privilege. She noted that Mr. King is focused, attentive, caring and passionate about his work. Ms. Messinger has seen the impact that Mr. King has had on young people, and adults alike, who have been involved in the Prison Voices Program. She noted that, through his humility, patience, listening skills, and consistency, Mr. King has been able to bridge the cultural generation gap with young people, despite the fact that he has been incarcerated for thirty-five years.

### **Ama Brown**

Ms. Brown, public school teacher in the South Bronx, appeared before the Board and presented testimony on October 25, 2007. She spoke about Mr. King's self-development and how it has inspired others. Ms. Brown first met Mr. King when she managed the Prisoner Empowerment Project at the City School. She brought in groups of young people from diverse backgrounds to speak with Mr. King, some of whom were on the path to success and some of whom had been involved in court. She observed that Mr. King had the ability to connect with the most difficult young people.

Ms. Brown stated that Mr. King has aided the development of the city schools with his organizations. Specifically, Prison Voices, which Mr. King founded, later became the Prison Empowerment Project and the Rose from Concrete Project, which now serve hundreds of young people. Lastly, she spoke of Mr. King's influence over her life. He taught her not to fear young people who seemed mean or tough. He explained that they were just scared. For example, when she began teaching in the South Bronx she connected with a student who appeared to be the one who least wanted to be in her class. She, like Mr. King had done with others in the Prison Voices Project, relentlessly challenged and supported the student. She noted that the student graduated from high school this year.

### **Banjineh Begway**

Mr. Begway, a hip-hop musician, appeared before the Board and presented testimony on October 25, 2007. Mr. Begway first met Mr. King when he (Mr. Begway) was the Director of the Prisoner Empowerment Project. He thanked Mr. King for his job and for the people he met there. Mr. Begway stated that his experience with the Prison Empowerment Project directly fueled his work as a hip-hop artist. He noted that "hip hop" is a world-wide movement, but, unfortunately, it often reflects violence, drugs, and disrespect toward women. Mr. Begway learned from Mr. King that if you do not like something, you should be the person to change it. He further noted that, even though Mr. King was serving a life sentence, he was always concerned about Mr. Begway's welfare, which is a testament to the type of person Mr. King is. Mr. Begway noted the cross-section of people at the hearing whose lives Mr. King had affected. He stated that Mr. King brings a message of peace, change, and accountability. He described Mr. King as a healer, who, if released, could magnify his healing efforts.

**Laura Efron**

Ms. Efron appeared before the Board and presented testimony on October 25, 2007. Ms. Efron has worked with Mr. King as his editor at the local publication, "What's Up Magazine." The mission of the magazine is to bring art and social awareness issues to Boston. In addition to an emphasis on homelessness, they also work to reach out to the local youth organizations of Boston to get young people to read, write for, and sell the magazine. Ms. Efron stated that Mr. King has been a major contributor to the magazine for several years. He writes a regular column about a variety of social awareness issues. He has addressed prisoner rights, as well as spirituality and family. He also has written personal essays on his own experiences before and after his incarceration. Mr. King provides the magazine with rare insight and perspective, which has been invaluable for the magazine and its young readers. Mr. King's youth outreach work had been more meaningful than any other she has seen. She explained that he eloquently encourages young people to avoid pressures to do drugs and engage in violence. Finally, Ms. Efron stated that if Mr. King is released, he will already have a home and community at "What's Up Magazine."

**Cindy Miller**

Ms. Miller appeared before the Board and presented testimony on October 25, 2007. Ms. Miller has taught classes on activism and outreach at Emerson College for approximately ten years. She met Mr. King through a friend who had been doing prison outreach work at the Bay State Correctional Center. Like so many other people who had spoken at the hearing, Ms. Miller was immediately impressed with Mr. King's warmth, intellect, and humanity. She also was impressed by his potential to inspire the community.

Ms. Miller noted that, unlike many of the other witnesses at the hearing who work with underprivileged young people, she works with "over-privileged" youth. She stated that whenever she speaks to her students about Mr. King, they are inspired by his accomplishments. For example, after talking about social justice and the prisons system in one of her classes last year, the students asked if prisons were for punishment or rehabilitation. She responded by telling them about Mr. King. Afterward, some of the students did a final project on Mr. King's outreach efforts in prison. Ms. Miller now shows the project to other classes as both an example

of a good final project and an example of the things that can be accomplished within the prison system. She stated that it has inspired hundreds of college students to do community service.

### **Marva King**

Mr. King's sister, Marva King, appeared before the Board and presented testimony on October 25, 2007. Ms. King stated that she was humbled to be in the presence of Mrs. Labanara again and that she prays for her peace and healing. Ms. King stated that, through her brother's guidance, she transformed from a teenager in an abusive marriage to a woman who is preparing to defend her Ph.D. dissertation proposal next month. Ms. King testified that she could not have accomplished this without her brother. She noted that many other family members, including Mr. King's brother, Daniel, and three other brothers, were present in support of Mr. King. She stated that Mr. King's family will always be there for him. Ms. King also noted that Mr. King has many other supporters who could not be present at the hearing, including politicians such as Representative Gloria Fox.

### **Daniel King**

Daniel King, the fifty-two-year-old, youngest brother of Arnold King, testified on at the October 25, 2007 hearing. He stated that his entire family wanted offer the Labanara family their heart felt sorrow for the tragic loss of their loved one, John Labanara. Daniel stated that the Labanara family has been in his family's prayers for years.

When Daniel King was an "at-risk" student at Boston University in the mid-1970s, he visited his brother at Walpole prison several times a week. While Mr. King was dealing with the peril of the maximum security unit at Walpole, he was dealing with the challenges of being the family's first college graduate. Even though Mr. King was in a maximum security prison, he continually motivated his brother. At times, Daniel talked of quitting college and returning to the streets. Whenever Daniel talked about coping with life stresses by drinking, or taking drugs, Mr. King would become very serious. Mr. King was adamant that his brother not submit to the same vices he did. Although Mr. King often had an authoritative tone, he also provided encouragement to Daniel. Daniel ultimately graduated from the School of Management at Boston University and later received a Master's Degree in guidance and counseling from the

University of Maryland. He attributed his educational success to Mr. King's strong guidance and counseling.

Daniel stated that Mr. King has offered the same type of effective counseling to others throughout his incarceration. He explained that Mr. King has told him on many occasions that his outreach programs are his life work, his "redemptive walk," and his personal commitment to atonement for the life he took. Daniel King further noted that he is the president of the Promise Youth Foundation in Salisbury, Maryland. He and Mr. King have talked about designing a summer program for youth at risk that could be used in Maryland, Massachusetts, and other communities. He and Mr. King also are working with Rev. Hammond to implement a similar program at his church. Ultimately, their larger vision is to design and open a school with a residency component for youth at risk. Daniel King is confident that his brother has the skills to accomplish these goals.

#### Charles Ogletree

Mr. Ogletree appeared before the Board to present testimony on October 25, 2007. Mr. Ogletree is a tenured professor at Harvard Law School and the Executive Director of the Charles Hamilton Huston Institute for Race and Justice. Mr. Ogletree first stated that although he has not met the Labanara family, they share a similar experience. In 1982, his sister, who was a police officer in their home town, was murdered. Twenty-five years later, no one has been prosecuted for her death. This is a painful reminder to him of what it means to be a victim of violence. Mr. Ogletree testified that, while he will never forget his sister's death, he will forgive whoever was responsible. He believes that redemption is an important thing for everyone to experience.

He testified that Mr. King has been an elegant and passionate spokesperson on this issue. He noted that Arnold King has the label "murderer" over his head and that will never go away. He told the Board that if they were to judge him simply by this label, it would be easy to make a decision. In contrast, if the Board members judge Mr. King by "reading the book" from beginning to end, they will see that he is a healer, a counselor, a confidant, a family member, and a role model. Mr. Ogletree stated that he has been in the community for thirty-two years and has been to many prisons in this state. He noted that there are 900 people like Mr. King who have been convicted of a serious crime, but only 9 have done work that even comes close Mr. King's work. He believes that Mr. King has transformed from the person he was thirty years ago, that

he is a different person than the one who has come before the Board at past commutation hearings. He also believes that Mr. King's case meets, and exceeds, the criteria of a rare and exceptional circumstance warranting commutation.

In addition to the testimony at the October 25, 2007 hearing, numerous people submitted letters in support of Mr. King's commutation petition. (Attachment O).

## OPPOSITION

### Ms. Lynn Labanara

Ms. Labanara, the victim's sister-in-law, submitted a letter in opposition to the Board on October 20, 2007. (Attachment P). She also appeared and presented testimony on October 25, 2007. Ms. Labanara stated that she was present to be the voice of the victim, but she felt that Mr. King was being treated as the victim due to his incarceration. This was a difficult feeling for her to absorb. Ms. Labanara further stated that she finds it painful to read articles that portray Mr. King in a glowing manner. Ms. Labanara acknowledged that Mr. King has turned his life around and is helping others. She praised him for that change. She noted, however, that all people change over time. Ms. Labanara felt that Mr. King has changed because he is in prison; he had boundaries and the time to think and rethink everything that has happened to him.

Ms. Labanara was concerned by the fact that from 2001 until his hearing in 2004, Mr. King accrued no disciplinary reports, but since his 2004 hearing he has had two. She found the second report most upsetting because he communicated with a volunteer at the volunteer's home address. To her, this was a red flag.

Ms. Labanara also spoke to the Board about John Labanara. She testified that John had a promising future ahead of him. He had published two articles in the Law Review before he graduated. He loved politics and actively supported candidates running for public office. At the time of his death, John was working as an Aide to then mayor Kevin White, who was running for Governor. Ms. Labanara also noted that the high school that John attended gives out a scholarship in Belmont. This award was established in 1973 by John's High School graduating class. She further stated that, since 1972, Suffolk Law School has given out a scholarship every year to a deserving candidate. These scholarships give John's mother comfort in knowing that something good has come of her son's death. Ms. Labanara testified that John's memory lives on through the recipients of these scholarships and through the people that work so hard to have his

life remembered. She said that John served his country in the National Guard after graduating from Boston University and before he attended Suffolk Law School. He was proud to have the opportunity to do so.

Ms. Labanara stated that it seems as though the voice of the criminal has been heard loudly because he has changed his life and made wonderful accomplishments, but the voice of the victim has really faded. Ms. Labanara stated that Mr. King had the chance to change his life in prison, but John was not allowed any chances at life. Ms. Labanara has read everything she can about what Mr. King is doing with his life and how he is trying so hard to change lives of younger prisoners. She truly believes that this is Mr. King's calling in life and feels that Mr. King should remain in prison and continue to show youth at risk what happens when someone takes the life of another.

Ms. Labanara does not believe that Mr. King has changed. Rather, she felt that he was trying to change his image to the public. She felt that Mr. King would have a difficult time adjusting in the real world if he is disobeying rules in the controlled environment of prison. Ms. Labanara asked the Board not to release Mr. King from his successful prison environment. Ms. Labanara praised Mr. King for what he has accomplished. She, nevertheless, felt that his accomplishments would be better utilized in a prison environment.

#### **Suffolk County District Attorney's Office**

On July 20, 2007, Assistant District Attorney David Meier, Chief of Homicide at the Suffolk County District Attorney's Office, submitted a letter on behalf of District Attorney Daniel Conley. The letter advised the Board that the District Attorney's Office respectfully opposes any commutation of Mr. King's sentence. Assistant District Attorney Meier stated that the District Attorney's Office recognizes and acknowledges the apparent strides in self-development and self-improvement that Mr. King has allegedly made in recent years, as well as the support he now shares from numerous members of the community. Nevertheless, Assistant District Attorney Meier stated that, after a careful and thorough review of the facts and circumstances of the case, Mr. King's institutional history, his Commutation Case Summary, the Commutation Guidelines, and correspondence with a representative of the victim's family, the District Attorney's Office is opposed to commutation. The letter further noted the senseless and

random nature in which Mr. King (while on parole) shot and killed an innocent young man. (Attachment Q).

In addition to the above referenced letter, the Board received letters of opposition from Boston Police Commissioner Edward Davis (Attachment R), the victim's niece, Christa Labanara (Attachment S), and six other individuals (Attachment T).

### **Attorney Elijah's Closing Statement**

At the conclusion of the hearing, Attorney Elijah gave a closing statement on behalf of Mr. King. Attorney Elijah expressed her condolences to the Labanara family. She noted that Mr. Labanara was a promising young man. She described his murder as senseless and uncalled for. Attorney Elijah noted that Mr. King knew it was senseless and that he has repeatedly expressed his remorse over the years.

Attorney Elijah also followed up on the issue of the discipline reports. She wanted the record to be clear that it did not involve a situation where Mr. King learned personal information about the individual and then sent the correspondence. Rather, she stated, Mr. King had known the volunteer for years prior to the person's becoming a volunteer.

Attorney Elijah further referenced the senseless killings that continue to occur in our communities, particularly by young people. She stated that she works in the Roxbury and Dorchester District Courts. She sees young people everyday at District Court arraignments and DYS facilities. She noted that these youth need an intervention and Mr. King could provide that intervention. Attorney Elijah followed up by saying that, for decades, Mr. King has done something to address this issue and that he can continue to devote his life to counseling youth to prevent further violence in our communities. She stated that Mr. King has made quite a change in himself, and he was able to do so in the confines of a prison environment.

Attorney Elijah told the members of the Board that they hear all about the challenges inmates face in their course of deciding parole cases. She stated that Mr. King has faced all these challenges and made a complete personal transformation, but he did not stop there. Specifically, Mr. King has achieved much, through his educational degrees and programming. He then took what he learned and used it to help young people and other prisoners become positive contributing members of society.

## **FUTURE PLANS**

At the October 25, 2007 hearing, Mr. King testified that, if released, he would pursue his outreach work in the community. Specifically, Mr. King noted his goal of expanding the youth project with urban teenagers, which involves talking to teenagers about consequences of violent behavior and the importance of education. In addition, as noted above, several individuals who testified in support of Mr. King at the hearing stated that they would offer him a job if he is released. Finally, Mr. King's siblings, Marva and Daniel King, also testified that they, and Mr. King's other siblings, would provide support if Mr. King is released to the community.

## OPINION OF THE ADVISORY BOARD

### Favorable Recommendation

After careful review and consideration, it is the unanimous opinion of the Advisory Board of Pardons that a favorable recommendation for commutation of sentence be sent to the Governor on behalf of Arnold L. King.

Unlike a pardon, a commutation does not imply forgiveness of the underlying offense. Rather, a commutation remits a portion of the punishment. The granting of a commutation has no effect on the underlying conviction and does not necessarily reflect upon the fairness of the sentence originally imposed.

Governor Deval L. Patrick's Executive Clemency Guidelines, issued on May 21, 2007 ("Guidelines"), establish the grounds upon which a commutation may be granted and provide assistance to the Advisory Board of Pardons in making recommendations to the Governor on clemency petitions. The Guidelines state that "the grant of executive clemency is primarily intended to remove barriers that are often associated with a criminal record or sentence, thereby facilitating the reintegration of the petitioner into the community of the law abiding." The Guidelines further provide that "[e]xecutive clemency should not be considered a routine, post-conviction remedy, but rather is warranted only in rare and exceptional circumstances."

Under the Governor's Guidelines, a person who petitions for a commutation of sentence bears the responsibility of demonstrating, by clear and convincing evidence, that:

- (1) the petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen;
- (2) the petitioner is suffering from a terminal illness or severe and chronic disability, which has been verified by a licensed medical doctor, that would be substantially mitigated by release from prison;
- (3) the petitioner's further incarceration would constitute gross unfairness in light of the basic equities involved, including: (i) the severity of the sentence received in relation to sentences received by other equally culpable and similarly situated defendants; (ii) the extent of petitioner's participation in the offense; or (iii) a history of abuse

suffered by the petitioner at the hands of the victim which significantly contributed to or brought about the offense; or

- (4) the petitioner has rendered meritorious service to the government, e.g., cooperation with an investigation or prosecution that has not already been rewarded by other official action.

In addition to one of the above requirements, petitions for commutation will generally not be considered unless the petitioner has served at least 15 years of incarceration; it is established that there is not an adequate administrative or judicial remedy available; and the petitioner has progressed from a 24-hour maximum security confinement status.

In the case of Mr. King, he has served over 35 years on his sentence, more than twice the minimum parole eligibility requirement for a person convicted of second degree murder. Mr. King has exhausted all further administrative or judicial remedies. In addition, he is currently incarcerated at the Bay State Correctional Center, a medium security facility. Based upon these factors, the Advisory Board of Pardons finds that Mr. King meets the eligibility requirements to be considered for a commutation of sentence.

Mr. King claims that he merits consideration because of his exceptional strides in self-development and self-improvement. He further asserts that he would be a law-abiding citizen, if released. Mr. King bears the responsibility of demonstrating this by clear and convincing evidence. For many of the reasons stated by the Board in its prior favorable recommendation, the Board is of the unanimous opinion that Mr. King has met this burden.

Specifically, the Board's 2004 Opinion provides, in pertinent part, as follows:

The question in this case boils down to whether Arnold King is deserving of such a remedy because his rehabilitation during his period of incarceration can be considered "exceptional." The majority believes that Mr. King has met this rigorous standard.

First, it is important to underscore that, in the face of his first-degree life sentence with no eligibility for parole release, Mr. King has made incredible strides in his programming, his educational accomplishments and his community endeavors. His achievements are lengthy and well documented in the body of this opinion. For example, he has overcome his addiction to drugs and alcohol while incarcerated. Mr. King has utilized his time in prison well and conducted himself in a positive manner, which has allowed him to be able to educate others within the prison system and in the community beyond. Fellow inmates, citizens and community leaders consider Mr. King a role model and mentor, and he appears to be innately effective in connecting with troubled youth as evidenced

by his participation in the City School program. His work while incarcerated could be extremely helpful to individuals in the community who are in need of guidance and mentoring.

In contrast to prior commutation presentations, Mr. King appears to have evolved significantly. He has accepted responsibility for his criminal conduct and appears to be genuinely desirous of forgiveness. This change i[n] his presentation and style strengthens the majority's belief that he has made exceptional strides. Through his community endeavors with at risk youth, Mr. King strives to make amends in the community for the life that he took. He works to prevent others from making his mistakes by imparting the knowledge and experience he has gained through his incarceration. Mr. King acknowledges that he has offered inaccurate versions of his role in the offense in the past and understands the serious nature of his actions.

Finally, one of the focal points of discussion by all members of the Advisory Board of Pardons was the issue of Mr. King's institutional behavior while incarcerated. It is undeniable that Mr. King has accumulated a significant number of disciplinary tickets for his behavior while incarcerated. However, when viewed in its totality, Mr. King's disciplinary record also illustrates an individual who has made a conscious attempt to change his attitude and behavior. The pattern of his disciplinary history indicates that he has, over time, developed his character and skills in order to abide by the rules and regulations of the Department of Correction. It is also important to note that since his last commutation hearing in April 2002, Mr. King's record has remained unblemished by additional disciplinary reports. A thorough analysis of Mr. King's disciplinary chronology over the course of his incarceration reveals that ... although he did have adjustment issues early in his incarceration, he has made steady improvements in his institutional behavior. When weighed with his educational, community and institutional accomplishments, including 25 successful furloughs, these members are of the opinion that Mr. King would be successful in the community through the re-entry process of supervised release from imprisonment.

(Attachment F).

Despite a life sentence with no possibility of parole, Mr. King has demonstrated exceptional strides, not only in the area of self-development, but also in his counseling and development of others. His pursuit of education, programming, and outreach work has set him apart from many others who are faced with the same challenges. His rehabilitation during his period of incarceration can be considered "exceptional" as required under the Governor's Guidelines.

In addition, over the years, Mr. King has had numerous successful furloughs, which have resulted a positive impact on the youth in our communities. The Board is of the opinion that Mr.

King's continued devotion to his outreach work will assist young people who face the difficult choices Mr. King once faced. The Board also believes that this outreach work will add value to the communities in need, particularly because Mr. King understands the impact that his crime had on the victim's family. Although there is nothing that will fully compensate for the loss of Mr. Labanara's life, Mr. King has demonstrated genuine remorse for his crime. His remorse is visible not simply through his spoken words, but by his unyielding commitment to his outreach work. This work speaks volumes about his desire to atone for the crime he committed.

Although the Board had concerns about the two disciplinary reports Mr. King accrued since his last commutation hearing in 2004, the Board notes that Mr. King took responsibility for his actions. He also acknowledged at the hearing that the rules apply to everyone. Mr. King's ability to admit his mistakes, including his full acknowledgement of his responsibility for the murder of John Labanara, demonstrates a substantial change from the person the Board saw at earlier commutation hearings.

Finally, the Board notes that, over the years, Mr. King's substantial support network has continuously grown. Based on Mr. King's own testimony and the testimony of those who supported him at the October 25, 2007 hearing, the Board believes that Mr. King now has the life skills to maintain his support system and to develop new support networks. Further, the testimony offered by Mr. King's supporters demonstrated not only a commitment to his personal advancement, but a commitment to the growth of the community by helping others become, or remain, contributing members of society. In short, the Board is of the opinion that Mr. King may very well prevent future crime by his outreach work in the community.

It is for all these reasons, and for all the findings contained within this report, that the Advisory Board of Pardons is of the unanimous opinion that Mr. King would be successful in the community through the re-entry process of supervised release from imprisonment. Therefore, the Board recommends that His Excellency grant a commutation of sentence to thirty-five years to life, rendering Mr. King immediately eligible for parole.

For the six members of the Advisory Board of Pardons respectfully recommending favorable consideration. signed on this date the 18<sup>th</sup> of December, 2007:

Maureen E. Walsh

Maureen E. Walsh, Chairman

Mark Conrad

Mark Conrad, Board Member

Doris A. Dottridge

Doris Dottridge, Board Member

Candace Kochin

Candace Kochin, Board Member

Pamela Lombardini

Pamela Lombardini, Board Member

Thomas F. Merigan Jr.

Thomas F. Merigan Jr., Board Member