



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

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*12 Mercer Road*  
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May 18, 2011

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

**RE: Commutation Petition**

Dear Mr. King:

This letter is to advise you that on December 16, 2010, the Advisory Board of Pardons voted (5 to 2) to recommend unfavorable consideration of your petition for commutation of sentence.

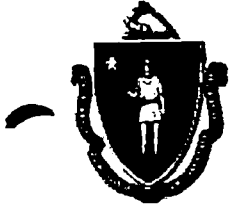
Please find enclosed a copy of the opinion of the Advisory Board of Pardons.

Sincerely,

A handwritten signature in black ink that reads "Josh Wall".

Josh Wall  
Chairman  
Advisory Board of Pardons

Cc: Edward Berkin, Esq. w/ enclosure  
J. Soffiyah Elijah, Esq. w/enclosure  
Margaret A. Burnham, 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 January 29, 2010, Mr. King submitted a petition for commutation. (Attachment 1) On June 15, 2010, the Board voted to grant Mr. King a commutation hearing. On October 7, 2010, the Board conducted a public hearing regarding Mr. King's petition. On December 16, 2010, after due consideration, the majority of the Board voted to recommend an unfavorable consideration for a commutation of sentence. 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. 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 3).

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 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 4).

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 5)

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 6)

On June 18, 2007, Mr. King submitted his sixth petition for commutation of sentence. 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. On December 18, 2007, the Board unanimously recommended to the Governor that Mr. King's petition merited favorable consideration. (Attachment 7)

As noted, on January 29, 2010, Mr. King submitted his most recent petition for commutation. (Attachment 1) On June 15, 2010, the Board voted to grant him a hearing. On October 7, 2010, the Board conducted a public hearing on Mr. King's commutation petition.

### **OFFICIAL VERSION**

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 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 leaves 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.

### **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 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. Yuhas became seriously ill and was transported to Boston City Hospital. Mr. Yuhas died of acute leukemia ten weeks later on September 3, 1971. (Attachment 2)

## **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. Yuhas. (Attachment 2)

## **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 obtained a certified copy of Mr. King's marriage certificate. (Attachment 8) 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 and a September 27, 2007 report states that he is married with one child. (Attachment 9) 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. According to the September 7, 2010 Classification Report indicates that Mr. King is now divorced with one child.

The September 7, 2010 Classification Report indicates that Mr. King receives weekly visits from his family and friends. (Attachment 9)

## **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 11th 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 2)

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. There is no mentioning in Mr. King's September 7, 2010 Classification report nor does Mr. King claim in his petition that he is currently pursuing his PhD. (Attachment 10)

## **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 September 7, 2010, Mr. King is employed as an ADA runner (Janitor) as of April 1, 2009. (Attachment 9)

## **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 and continues to participate regularly in Alcoholics Anonymous.

### **MEDICAL**

With regard to medical issues, the Classification Report dated September 7, 2010, indicates that from October 14, 2004 to June 17, 2005, Mr. King used two knee braces. The September 7, 2010 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. From June 23, 2008 to June 26, 2008, Mr. King required the aid of crutches to get around due to pain on his right hip. As a result of pain on his right hip Mr. King's recreation was also restricted from June 23, 2008 to July 23, 2008. Mr. King does not claim of any other medical issues in the Classification Reports. (Attachment 9)

### **MENTAL HEALTH**

There are no mental health issues claimed or noted in the September 7, 2010 Classification Report. (Attachment 9).

### **MILITARY**

There is no military service claimed or noted in the September 7, 2010 Classification Report. (Attachment 9) 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 2)

### **PRIOR CRIMINAL RECORD**

The following information was obtained from a Massachusetts Board of Probation record, dated September 27, 2010 and an Interstate Identification Index dated September 27, 2010. (Attachment 11)

## 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>1</sup>

## INSTITUTIONAL HISTORY

The Department of Correction Classification Report dated September 7, 2010, 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 9)

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<sup>1</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
July 25, 1973	Transferred to MCI Cedar Junction
September 21, 1977	Transferred to MCI Norfolk
August 4, 1978	Transferred to Southeastern Correctional Center
September 28, 1978	Returned to MCI Cedar Junction
July 15, 1980	Transferred to Southeastern Correctional Center
March 1, 1983	Returned to MCI Cedar Junction
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

### **DISCIPLINARY CHRONOLOGY**

August 22, 1972 Swearing at an officer and disrespect. (No further description is available)  
**Disposition:** Guilty, reprimand and released. Warning on insolence to officers and instructors.

September 20, 1972 Refusal to obey and shirking. (No further description is available)  
**Disposition:** Guilty, loss of weekends. Report to metal shop on Monday.

September 22, 1972 Refusal to obey. (No further description is available)  
**Disposition:** Guilty, 3 days isolation.

October 4, 1972 Refusal to obey. (No further description is available)  
**Disposition:** Guilty, 3 days isolation, suspended 3 months. Requests room change.

November 27, 1972 Refusal to obey and insolence. (No further description is available)  
**Disposition:** Guilty.

December 12, 1972 Refusal to obey. (No further description is available)  
**Disposition:** Guilty, recommend indefinite segregation. Should be transferred to MCI Concord or MCI Norfolk.

January 7, 1973 Disobedience of orders and out of place. (Mr. King ignored the order of a correctional officer)  
**Disposition:** Guilty, 5 days isolation.

January 16, 1973 Disobedience, instigating, rebellion against authority. (Mr. King ignored the order of a correctional officer)  
**Disposition:** Guilty, 5 days isolation.

January 29, 1973 Disobeying an order, stealing. (Mr. King refused to remove his hood)  
**Disposition:** Guilty, special work detail 6:30 p.m. to 10:00 p.m.

February 21, 1973 Disobeying an order, stealing. (Mr. King stole sugar from the dining room)  
**Disposition:** Guilty, 3 days isolation, 9 days special work detail instead of 3 days isolation.

March 21, 1973 Insolence, leaving place of work without permission, malingering. (Mr. King left his work assignment without permission)  
**Disposition:** 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)  
**Disposition:** Guilty, 15 days isolation.

March 27, 1974 Refusing to obey. (Mr. King refused to turn down his radio)  
**Disposition:** 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)  
**Disposition:** 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)  
**Disposition:** Guilty, 10 days isolation, suspended for 3 months.

August 16, 1974 Assault and battery on a correctional officer. (Same incident as above)

August 27, 1974	<p><b>Disposition:</b> Guilty, in absentia, 10 days isolation and room change to maximum section.</p>
December 22, 1974	<p>Out of place. (Mr. King was on the tiers and should not have been) <b>Disposition:</b> Guilty, 5 days room detention, suspended for 30 days (reduced to minor).</p>
December 29, 1974	<p>Obscene conduct in the visiting room. (Mr. King was acting inappropriately with his visitor)</p> <p><b>Disposition:</b> Reprimand and release.</p>
February 27, 1975	<p>Making or having in possession any type of dangerous weapon. (A homemade knife was found concealed in Mr. King's room)</p> <p><b>Disposition:</b> Guilty, 15 days isolation.</p>
March 1, 1975	<p>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)</p> <p><b>Disposition:</b> There was no finding made, and the matter was filed.</p>
June 17, 1975	<p>Refusing to obey. (Mr. King refused to change his seat in the visiting room)</p> <p><b>Disposition:</b> Guilty, 7 days isolation, suspended 60 days without prejudice.</p>
July 5, 1975	<p>Disrespect to a correctional officer. (Mr. King did not follow the order of an officer)</p> <p><b>Disposition:</b> Guilty, reduced to a minor, reprimand and release.</p>
July 25, 1975	<p>Failing to report work assignment and/or destination without authorization, permission or excuse. (Mr. King was out of place)</p> <p><b>Disposition:</b> Guilty, reduced to minor, 5 days room detention.</p>
	<p>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)</p> <p><b>Disposition:</b> Guilty, 5 days room detention.</p>

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)

**Disposition:** Guilty, 15 days isolation to see DSU (Departmental Segregation Unit) Board. Not referred to the District Attorney.

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)

**Disposition:** Guilty, 15 days isolation and recommended to DSU Board.

February 3, 1976

Taking part in a general disturbance, disobeying a prison rule. (Mr. King barricaded a door)

**Disposition:** Guilty, 15 days isolation and 90 days loss of good time. Appeal denied.

May 6, 1976

Refuse to obey the order of an officer. (Mr. King ignored an order to return to his room)

**Disposition:** Guilty, 5 days isolation, suspended for 90 days.

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)

**Disposition:** Guilty, 10 days isolation, recommend 30 days loss of good time. Appeal denied.

October 5, 1977

Being out of place. (Mr. King missed a major count)

**Disposition:** Guilty, 3 days isolation. Mr. King appealed. The superintendent suspended the 3 day isolation for 60 days.

September 23, 1977

Possession of anything, including money or currency. (Mr. King had \$20 in his possession)

**Disposition:** 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)

**Disposition:** 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)

**Disposition:** Guilty, see above.

October 15, 1978

Possession of money and currency.

**Disposition:** Guilty, 10 days loss of free time.

February 27, 1980

Fighting. (Mr. King was fighting with another inmate)

**Disposition:** Guilty, 5 days isolation, suspended 30 days.

May 28, 1980

Being out of place. (Mr. King was in another inmate's room)

**Disposition:** 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)

**Disposition:** 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)

**Disposition:** Dismissed with a warning.

June 5, 1981

Being out of place. (Mr. King missed a major count)

**Disposition:** Guilty, verbal warning.

July 26, 1981

Violating any departmental rule, being out of place and conduct which disrupts. (Mr. King missed a major count)

**Disposition:** 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)

**Disposition:** Filed without a finding.

August 23, 1982

Use of unauthorized controlled substance – marijuana. (A urinalysis tested positive for the presence of cannabinoids)

**Disposition:** Guilty, 3 days isolation, suspended sentence 60 days.

October 30, 1982

Possession of money. (Mr. King had \$10)

**Disposition:** Guilty, 10 days isolation. Appealed. Reduce sanction to extra work.

December 8, 1982

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)

**Disposition:** Guilty, 30 days isolation with 300 days loss of good time.

November 21, 1986

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.

**Disposition:** 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.

March 29, 1989

Disobeying an order; unexcused absence from work; conduct which disrupts. (Mr. King refused to perform his work assignment) Charges were consolidated.

**Disposition:** Guilty, 3 days extra work.

December 3, 1997

Violating any departmental rule; conduct which disrupts; and possession of unauthorized items. (During a searched contraband was found and confiscated.)

**Disposition:** Guilty, loss of participation in prison voice program

February 4, 1998

Violating any departmental rule; being out of place; and conduct which disrupts. (Mr. King did not have inmate identification properly displayed.)

**Disposition:** Pled guilty, reprimand

September 25, 1998

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.)

**Disposition:** Pled guilty, 3 days room detention, suspended 60 days

November 14, 1998

Violating any departmental rule; and conduct which disrupts. (Mr. King was in Library and had not signed in.)

**Disposition:** Pled guilty, 3 days room detention, suspended 60 days

January 6, 1999

Violating any departmental rule; and conduct which disrupts (During a security check two KOPs (Keep On Person) were discovered under Mr. King's bed.)

**Disposition:** Guilty, 60 days loss of KOPs

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.)

**Disposition:** Guilty, Warning issued

January 19, 2000

Violating any departmental rule; and conduct which disrupts. (Mr. King was sleeping when count was being conducted.)

**Disposition:** Guilty, 5 days room detention, suspended 60 days

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)

**Disposition:** Guilty, 1-month loss of TV, suspended for 60 days, reduced to minor

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.)

**Disposition:** Guilty, 3 days room detention

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.) Charges were consolidated.

**Disposition:** Pled guilty, Loss of PRA (Program Related Activity) for 90 days. (Attachment 12)

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.)

**Disposition:** Pled guilty, Loss of PRA for 30 days (Attachment 12)

According to the Department of Correction, 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 12)

## **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 7, 2010, the Advisory Board of Pardons held a public hearing on Arnold King's commutation petition. The hearing was chaired by Mark A. Conrad, and attended by Advisory Board of Pardon members Thomas F. Merigan, Jr., Candace Kochin, Pamela Lombardini, Cesar Archilla, Roger Michel, and Leticia Munoz. Mr. King was represented by Attorney Edward Berkin, Attorney Soffiyah Elijah and Margaret A. Burnham.

### **Attorney Soffiyah Elijah's Opening Statement**

During her opening statement, Attorney Elijah stated that her presentation would focus on Mr. King's ties to the community and community service. Attorney Elijah further stated that Mr. King supporters have continued to increase from his last petition.

Attorney Elijah 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." She argued that the circumstances of Mr. King's life for the past thirty-eight years epitomize what Governor Patrick refers to as the "rare and exceptional circumstances" warranting clemency. She noted that Mr. King truly desires forgiveness. She stated that 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 Elijah urged the Board to vote in favor of a commutation based on their informed judgment that Mr. King poses no risk to the community and that communities would benefit from having Mr. King engage in the kind of youth outreach at which he previously has been so successful. Attorney Elijah further stated that she has the utmost confidence in Mr. King's ability to be a law abiding and productive citizen and that his contributions could help reduce the violence in and around Boston.

Attorney Elijah acknowledged the presence of Mr. King's family members at the hearing. She also stated that she 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.

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

Arnold King began his statement by thanking the Board for giving him another opportunity to be heard and for its past favorable decisions. Mr. King stated that he will be 58 years old in December and has been in prison since the age of 18. Mr. King further stated that he is genuinely remorseful for killing John Labanara.

Relative to his offense, Mr. King stated that thirty-nine years ago this month he shot and killed John Labanara on Newbury Street in Boston. Mr. King noted that on that date he was on a drinking and drugging binge and reached the conclusion instantly with no judgment and no thought, that John Labanara was a drug dealer. Mr. King further noted that after coming to this conclusion, he took his friend's 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. Mr. King stated that his actions were inexcusable and unjustifiable and hopes that, at this point, to some degree, his actions could be forgiven.

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; and 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 should not have pulled the trigger.

### **The Board's Inquiry**

The Board acknowledged Mr. King's exceptional support network, ranging from his family and others in the community.

The Board asked Mr. King why he thought he deserved a commutation. Mr. King responded, "why not me," he advised that he has made the necessary changes in becoming a better person and believes that he has grown into a person of quality, with high regard for others. Mr. King stated that he feels that he is a "genuine person" and has skills that would be beneficial to the community and assisting at-risk youths.

Mr. King was asked if paroled what were his plans. Mr. King responded that he would reside in the Boston area where he has a large network of family and friends. He further advised that he would be involved in an educational project and work in an educational and counseling setting. Mr. King stated the he would also be involved in volunteer work as long as financially able.

The Board asked about his continuation with AA/NA and counseling. Mr. King stated that he would continue with counseling and connecting in programs that he currently attends. Mr. King stated that he believes he can succeed now because he knows he has the ability to do so. He noted that 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 anything away from him, but rather, builds character. Mr. King advised that he not only has the skills to continue to receive help from his current supporters, but also to build other support networks.

The Board asked about a declaration that he mentioned at his last hearing about establishing a program to help others in the name of the victim. Mr. King stated that it is still his plan to establish such a program. Mr. King stated that it is impossible to accomplish this without the cooperation of the victim's family. Mr. King stated that he acknowledged that it is difficult for the victim's family to see him as a good person however, feels that in another level, not here but in time and association, maybe that can happen.

The Board asked about why not a life sentence for the life taken by him. Mr. King expressed remorse for his actions, explaining that he has no excuses for his behavior. He expressed sorrow for the pain and suffering he caused and acknowledged that he is the sole reason that Mr. Labanara is not here today with his family, his friends and his community. Mr. King stated that he is not the same person that he was 39 years ago and that it is not his intention to cause any discomfort to anyone, but rather to bring about some healing and comfort, if possible.

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. Mr. King responded that with respects to drugs, he has participated in various substance abuse programs; sessions with therapists and continues attending AA and NA. Mr. King further stated that by counseling, setting basic short-term goals for himself through school and tutoring, he has improved his low self esteem and curbed his anger allowing him to be the person he is today.

The Board expressed concern over the two-disciplinary reports Mr. King received since his commutation hearing in 2004. The Board stated that the two disciplinary reports were minor and noted that it appeared that by the two reports, Mr. King was trying to venture outside the rules and regulation. Mr. King acknowledged the violations and noted that he is getting better and also expressed his embarrassment with the numerous disciplinary reports he had received

throughout his incarceration. The Board applauded Mr. King's improvement from 1990 to 1997, noting the decrease in the amount of disciplinary reports received.

## **SUPPORT**

### **Charles Ogletree**

Mr. Ogletree is a tenured professor at Harvard Law School and the Executive Director of the Charles Hamilton Houston Institute for Race and Justice appeared before the Board to present testimony on October 7, 2010. 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 hometown, was murdered. Twenty-eight 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 would 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 and has transformed from the person he was thirty-nine years ago. Mr. Ogletree noted that Mr. King is a different person than the one who had come before the Board at past commutation hearings. Mr. Ogletree also believes that Mr. King's case meets, and exceeds, the criteria of a rare and exceptional circumstance warranting commutation.

### **Gloria Fox**

State Representative Gloria Fox (7th Suffolk District) appeared before the Board Members and presented testimony on October 7, 2010. Representative Fox testified that that she has attended and supported "Arnold" on multiple occasions. Representative Fox stated that she met Mr. King about 15 years ago and worked in support of his commutation. Representative Fox testified that she believes Mr. King is "a changed man," and she believes in redemption and second chances. Ms. Fox further testified that she also believes that Mr. King would be an asset to the community and an organizer to assist in minimizing the violence occurring in Boston.

### **Mel King**

Mel King, a former Massachusetts State Representative appeared before the Board to present testimony on October 7, 2010. Mr. King testified that he spent 60 year of his 82 years as a youth worker and had an opportunity to meet Arnold King at a program called Scared Straight. Mr. King testified that Arnold King "has a record to change people's perception." Mr. King stated, "We have an individual who changed and that is a message that people do have the capacity to change and it's possible." Mr. King further stated that it is very disheartening to have come before the Board and received a unanimous recommendation and then be turned down by the Governor. Mr. King expressed that he feels that the issue for denial is "revenge."

### **Felix D. Arroyo**

Mr. Arroyo, a former Boston City Councilor At Large appeared before the Board Members and presented testimony on October 7, 2010. Mr. Arroyo testified that "Mr. King is willingly to share personal experiences, understanding that he committed something that he can not take back, even while incarcerated he is still helping young people." Mr. Arroyo testified that he tried helping at-risk youth however; he noted that his assistance did not carry the same weight as the assistance of Mr. King.

### **Pastor William Dickerson**

Pastor Dickerson appeared before the Board Members and presented testimony on October 7, 2010. Pastor Dickerson testified that he has been a prison minister for approximately 20 years and that that he is actively working with high-risk youth and ex-offenders reentering the Boston community. Pastor Dickerson testified that Mr. King is an example of a model prisoner and that he is not an "average inmate" as he is committed to make a difference. Pastor Dickerson testified that he is asked to come to testify at parole and/or commutation hearing by other prisoners however, he does not, stating that those inmates have not accepted responsibility of the crimes for which they committed unlike Arnold King. Pastor Dickerson testified that Mr. King does not play games to get people to get on his side. Pastor Dickerson also testified that Mr. King has proven that he is remorseful for the tragic incident that occurred in 1971. Pastor Dickerson testified that he believes that people who have paid their debt to society should be given the opportunity for a commutation. Pastor Dickerson noted that he

hopes the Board can sense Mr. King's repentance, remorse and hard work as not just something to get people together but as an acknowledgment of the work that he has done while in prison. Pastor Dickerson concluded with the statement that he firmly believes that people on the inside can reach out to the troubled youth on the outside and articulate their experiences in hope to prevent future criminal behavior.

### **Rev. Doctor Ray Hammond**

Rev. Hammond from the Boston Ten Point Coalition and the Criminal Justice Committee of the Black Ministerial Alliance appeared before the Board to present testimony on October 7, 2010. Rev. Hammond testified that he has been actively engaged in work with high-risk youth and ex-offenders reentering the Boston community for more than 18 years and a reverend for 23 years. Rev. Hammond testified that he admires Mr. King for his courage for admitting his guilt and expressing his remorse repeatedly and publicly. Rev. Hammond testified that his program is to help inmates when released from prison in finding housing and employment and believes that Mr. King can be an asset in his program by making a difference in reaching out to high-risk youth.

### **Eva Clark**

Ms. Clark, Executive Director at the Judge Richard L. Banks Community Justice Program, Inc. a non-profit, tax exempt Community Resource and Restorative Justice Organization appeared before the Board to present testimony on October 7, 2010. Ms. Clark indicated that she met Mr. King "a couple of years ago," at the direction of Gloria Fox. She describes the meeting as "a wonderful experience." Ms. Clark advised that she speaks to Mr. King about 2 to 3 times a week to give Mr. King hope, but during their conversation Mr. King gives her hope. Ms. Clark testified that she is offering a space in her program to Mr. King so that he can fulfill his required counseling hours to obtain his Mass. counselor certification. Ms. Clark further testified that she is offering herself to help Mr. King in his transition to the community if he is ever paroled. Ms. Clark testified that her discussions with Mr. King about second chances resulted in her hiring an ex-inmate who had been incarcerated for 37 years. Ms. Clark noted that the individual turns out to be a model employee and today is her "right hand man."

### **Lyn A. Levy**

Lyn A. Levy, Executive Director SPAN, Inc. an organization that has provided intensive support services for over 7,000 men and women in Massachusetts who are or have been in prison, appeared before the Board to present testimony on October 7, 2010. Mr. Levy testified that she met Mr. King 1976 and noted that Mr. King is one of five people who she has supported for commutation. Ms. Levy testified that she feels that redemption comes through action. Ms. Levy acknowledged that coming out of prison after 39 years is not an easy task, noting that Mr. King will experience barriers that she and her agency would assist him with if he were to ever be released.

### **Dr. Fran Roznowski**

Dr. Roznowski, a Doctor in education, appeared before the Board to present testimony on October 7, 2010. Dr. Roznowski testified that she met Arnold King in 1979 through the Community Development Program at MCI-Walpole where they participated on the legislative subcommittee. Dr. Roznowski described Mr. King as a "high achiever, articulate speaker, an advocate for human rights and competent researcher." Dr. Roznowski testified that Mr. King has achieved academic distinction during his 39 year of imprisonment. Dr. Roznowski testified it is an extreme accomplishment for a person with a life sentence who entered prison without a high school diploma to obtain a Master's Degree of Liberal Arts from Boston University. Dr. Roznowski testified that Mr. King is remorseful for killing Mr. Labanara. Dr. Roznowski further testified that a person responsible for murdering another can never bring back the life lost but can atone and refocus to prevent such regrettable actions. She advised that "if one is ever to see a continuous example of atonement it is the life of Mr. King who has dedicated a tremendous amount of time, energy and compassion with youth in an attempt to redirect them from destructive patterns of behavior that may harm their community and lead them to prison."

### **Robin Casarjian**

Ms. Casarjian is the Founder and Director of the Lionheart Foundation and its National Emotional Literacy Projects, a foundation that is dedicated to providing emotional literacy education programs that significantly alter the life course of incarcerated adults and at-risk youth. Ms. Casarjian appeared before the Board to present testimony on October 7, 2010, she testified that she has known Mr. King in the capacity of prison volunteer for approximately 15

years. She is the author of "Houses of Healing" and Mr. King assisted her in this journey. She was the facilitator in this program's 16 sessions where Mr. King was a participant. She testified that Mr. King was a reliable, contributing member in the house of healing.

### **Bob David**

Mr. David, a volunteer in the growing together program in Bay State from 2000 to 2008, is currently a coordinator of the Side-by-Side Community Circle in Jamaica Plain, MA appeared before the Board to present testimony on October 7, 2010. Mr. David testified that he knew Arnold King in 2000 and during that period he saw Mr. King as a leader who maintained a large prospective, in discussion and who was always looking to see what is right and needed instead of a making it a personal thing.

### **Paul Marcus**

Mr. Marcus, Executive Director, Community Change, Inc., an agency that is a 42 year old non-profit organization whose mission is to promote racial justice and equity by challenging systemic racism and acting as a catalyst for anti-racist learning and action. Mr. Marcus appeared before the Board to present testimony on October 7, 2010. Mr. Marcus testified that he has been supporting Mr. King for approximately 10 years. Mr. Marcus testified that Mr. King's transition since his incarceration has been tremendous. He advised that Mr. King has been a gifted teacher by relaying his life experiences to minimize any other youth from committing the same horrible crime he did when he was 17 years old.

### **Abrigal Forester**

Mr. Forester, an ex-inmate, stated that he is "a product of Arnold King," appeared before the Board to present testimony on October 7, 2010. Mr. Forester testified that Mr. King's leadership and guidance enabled him to do the work he does today. Mr. King taught him personal responsibility. 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. Forester noted that he has been involved in the youth development field since he got out of prison and now works at Street Safe Boston and is in the process of obtaining his Master's Degree.



### **Peter McGuane**

Mr. McGuane, a former Prisoner at Bay State, appeared before the Board to present testimony on October 7, 2010. Mr. McGuane testified that he is an ex-inmate and participates at the Prison Voices Project and that while he was in prison Arnold King helped him through his incarceration by his guidance and leadership. Mr. McGowan testified that since his release, 9 months ago, he has worked in the community educating at-risk youth and attending college. Mr. McGuane testified that knowing Mr. King changed his life as he is no longer the person he was when he was first incarcerated. Mr. McGuane testified that he and Mr. King know remorse and want to contribute to their community

### **Paula Verdet, PhD.**


Professor Verdet, Professor Emeritus of Sociology appeared before the Board to present testimony on October 7, 2010. Professor Verdet testified that it is hard for the Department of Correction to look at Mr. King as "a good man." Professor Verdet testified that Mr. King is a good role model as he encourages new prisoners to participate in programming and education.



### **Becky Thompson**

Ms. Thompson, a professor of sociology at Simmons College, appeared before the Board Members and presented testimony on October 7, 2010. Ms. Thompson 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 testified that she would love for Mr. King to speak in her classes. Ms. Thompson stated that Mr. King "embodies redemption." She advised that she has been involved in three of Mr. King's commutation hearings. Ms. Thompson noted that his community of support continues to grow and his release would benefit the community.

### **Nancy Murray**



Ms. Murray, Director of Education at the American Civil Liberties Union of Massachusetts, appeared before the Board and presented testimony on October 7, 2010. Ms. Murray stated that it was the fourth time she had appeared on behalf of Mr. King. She first knew Mr. King

through his involvement with a youth program she directed. She noted that the testimony given and evidence demonstrated that Mr. King could do more good on the outside and really contribute to society.

### **George Lee**

Mr. Lee, a Community Activist and formerly with Project HIP-HOP, appeared before the Board to present testimony on October 7, 2010, Mr. Lee testified that Mr. King never toots his own horn but is a leader. Mr. Lee advised that Mr. King is always there to help others and to teach them to except their responsibility. Mr. Lee testified that, Mr. King and his leadership in the Prison Voice program has helped transition people to open up and to reach out for help and support when needed.

### **Seth Kirshenbaum**

Mr. Kirshenbaum, Co-Executive Director at the City School, appeared before the Board to present testimony on October 7, 2010. Mr. Kirshenbaum testified that he coordinates trips to the various prisons, but, only travels to the Bay State Correctional Center, for the reason that Mr. King is incarcerated there. Mr. Kirshenbaum testified that Mr. King can make a difference when involving at-risk youth because Mr. King has the experience, education and understanding that can deter these at-risk youth from going down the same path that lead him into prison. Mr. Kirshenbaum testified that if Mr. King were released, he could make a big difference in the troubled community. Mr. Kirshenbaum further advised that if a vacancy was available when Mr. King was release, it would be offered it to him.

### **Banjineh Browne**

Mr. Browne, currently a Boston public school teacher and a former Prisoner Empower Project Manager, appeared before the Board to present testimony on October 7, 2010. Mr. Brown testified that he has known Mr. King for approximately 6 years, when Mr. King got him a job. Mr. Browne testified that Mr. King started the Prison Voices program. Mr. Browne testified that he uses Arnold King as a case study.

**Reverend Jason Lydon**

Rev. Lydon, Congregational Director, Community Church of Boston appeared before the Board to present testimony on October 7, 2010. Rev. Lydon testified that all in his church love Mr. King and consider it "a gift" to know him. Rev. Lydon testified that all life is important in his church, stating, "You can't bring back a life but, Mr. King can help the community in reaching out to young folks to save those individuals that are heading in the same direction he did at that age."

**Aaron Tanaka**

Mr. Tanaka, Executive Director, at the Boston Workers Alliance appeared before the Board to present testimony on October 7, 2010. Mr. Tanaka testified about the CORI law for offenders leaving prison.

**Myriam Ortiz**

Ms. Ortiz, Executive Director, Boston Parent Organizing Network appeared before the Board to present testimony on October 7, 2010. Ms. Ortiz testified that she has been friend with Mr. King since 2003 and strongly expresses her support of Mr. King's commutation. Ms. Ortiz testified that Mr. King's skills and experiences could be utilized in helping with school reform in Boston and to decrease the violence in our inner city.

**Dianne Zimbabwe**

Ms. Zimbabwe, Artist, Educator, at the Community Resource, appeared before the Board to present testimony on October 7, 2010. Ms. Zimbabwe testified that she is committed to supporting the release of Mr. King. Ms. Zimbabwe testified that her work has improved greatly since her friendship with Mr. King. Ms. Zimbabwe testified that she could see Mr. King helping the community even inside the prison walls.

**Marva and Daniel King**

Sister and Brother of Mr. King appeared before the Board to present testimony on October 7, 2010. Mr. Daniel King stated that his entire family wanted to 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. Daniel attributed his educational success to his brother's strong guidance and counseling. Daniel stated that his brother has offered the same type of effective counseling to others throughout his incarceration. He explained that his brother 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 advises that he and his brother have talked about designing a summer program for youth at-risk that could be used in Maryland, Massachusetts, and other communities. They are working with Rev. Hammond to implement a similar program at his church. Ultimately, their larger vision would be to design and open a school with a residency component for youth at risk.

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. this coming May. Ms. King testified that she could not have accomplished this without her brother.

It is noted that numerous letters of support were submitted by supporters other than those supporters who appeared before the Board to present testimony on October 7, 2010. (Attachment 13)

## **OPPOSITION**

### **Ms. Lynn Labanara**

Ms. Labanara, the victim's sister-in-law, appeared and presented testimony on October 7, 2010. 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.

Ms. Labanara also spoke to the Board about John Labanara. She testified that John had a promising future ahead of him, had published two articles in the Law Review before he graduated, and 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 since 1973, the high school that John attended, John's High School, gives out a scholarship in Belmont. She further stated that, since 1972, Suffolk Law School has given out a scholarship every year to a deserving candidate. She advised that 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 informed that John served his country in the National Guard after graduating from Boston University and before he attended Suffolk Law School and 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.

Several letters were submitted by members of the Labanara family opposing Mr. King's commutation of sentence. These letters were read into the record by Erin Farrell, Victim Coordinator of the Massachusetts Parole Board. (Attachment 14)

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

On March 25, 2010, Assistant District Attorney Mark T. Lee, Deputy 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 opposed any commutation of Mr. King's sentence. (Attachment 15)

Deputy Chief Lee also appeared before the Board to present testimony on October 7, 2010. Deputy Chief Lee testified that he had been with the District Attorney office for approximately 20 years and 15 of those years he spent prosecuting murders. Deputy Chief Lee noted that during those 15 years, "this is one of the worst cases" he has encountered, stating "that the nature and brutality of the crime are unspeakable." Deputy Chief Lee testified that he 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 shares from numerous members of the community. Deputy Chief Lee testified that Mr. King's accomplishments are fresh where as the death of Mr. Labanara is becoming a distance of time but not for the Labanara family. Deputy Chief Lee testified that Mr. King has taken his life under control and now feels that his reward, recognition should be liberty. Deputy Chief Lee went further testifying that what Mr. King went through, the transformation, the self-awareness, is his reward. The process of discovering who he is the processing of stepping out and helping those throughout the criminal justice system those people who are at-risk on the outside and the people who are at-risk on the inside, is his gift. From an 18 year old drug addict without a care in the world to a person who he is now, helping everyone, that is the gift and not liberty. Deputy Chief Lee applauded Mr. King's accomplishments and his success in helping others, however, Deputy Chief Lee 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.

In addition to the above referenced letter, the Board received letters of opposition from Boston Police Commissioner Edward Davis, and a petition that has approximately 267 names opposing Arnold King's commutation of sentence. (Attachment 16)

### **Closing Statement**

#### **Margaret A. Burnham**

Attorney Burnham stated that she has been here on prior commutation petitions in support of Mr. King and is honored to be here again in support of Mr. King's petition for commutation. She stated that the reason for her presence was because, "Mr. King is the man that he is and it is the time, it is what brings us all here today." She advised that she and the other supporters believe in Mr. King and in redemption. She also stated that Mr. King has made exceptional strides in self improvement and self development to be a law abiding citizen. Attorney Burnham also spoke about Mr. King's disciplinary history.

Attorney Burnham gave a history as to the authority of the executive authority to pardon/commute sentences, stating that our law, lawmakers and constitutional framers have considered the question of finalities and they have determined that the court could sentence an individual to life without parole and that the "Executive" can grant executive clemency and grant commutation.

#### **Attorney Ed Berkin**

Attorney Berkin made the following closing statement: "I've attended and tried to help Mr. King at every public hearing on ever commutation petition has had submitted. At the first hearing in 1992, I had already known Arnie for just under 20 years. On one hand, over the years of our commutation efforts, and today on this petition as well, the words expressed by Mr. King, the witnesses who testified, the supporters through their letters and petitions to the board, have established that Mr. King has proven by clear and convincing evidence that he has made exceptional strides in self development and self improvement and would be a law abiding citizen; that he exemplifies the rare

and exceptional circumstances that warrant executive clemency. While acknowledging that words expressed by Mr. King and others have overwhelmingly shown that the legal criteria for commutation have been met, I come away from the hearings with the sense that sometime words don't do justice in conveying what Arnie King has become and why he should be released from prison. There have been times when the words have been expressed in such way; maybe it's speaker's demeanor, tone of voice, rhythm of speech, where the effect is visceral. You can physically feel the power and significance of the message being conveyed. Sometimes, events, rather than the spoken or written words also improve on illustrating who Arnie King is. At the public hearing in 2002, the chairman then Michael Pomerole, said to Mr. King the Board wants to see what's in your heart? Let me describe two instances, which, at least to me, represent powerful illustrations of what's in and at the center of Mr. King's heart. At the 2007 hearing, a witness came up and said my name is AMA. She described how she had worked as the manager of the Prison Empowerment Project for the city school, a project that had evolved from the prison voices program that Mr. King had co- founded. She spoke about accompanying groups of young people out to Bay State for the program on many occasions. Some of the kids were on the path to college and success; others were already known by the police and were caught up in court proceedings. She'd see discussions begin and frequently saw how Arnie would kind of survey the crowd and focus in on one kid. Arnie had the knack of identifying the kid who least wanted to be there, who'd been dragged or ordered to attend, who wanted to be anywhere other than where he or she was; who showed in a defiant way that he or she wanted no part of what was happening. Ama described how Arnie would zoom in on this young person and try to draw the kid out, even if it took long minutes of awkward silence. Finally, invariably, the young person would start to speak and participate. Arnie had succeeded in connecting with that young person. Ama then switched scenes to her public school classroom in the South Bronx. Maybe it was her first year of teaching there. The year starts and she sees this young man named George. To Ama, George was the one who least wanted to be in her class. Ama talked about how relentless she was about being in George's face;

how she pursued him, didn't let him off the hook. Throughout her testimony, you could feel Ama's passion and her pride. At the end of her story she simply said: George graduated that year. Ama later described that story as a demonstration of how Arnie's self-development had helped develop hers. She said that it changed the way she looked at all of the young people in her class. You got the sense that Ama loved what she was doing and probably would be doing it for a long time. And you could easily envision at some point a younger, less experienced teacher would come to Ama for advice and you could readily imagine her passing on the wisdom she learned from Arnie to another committed young teacher. Using the word Dianne Zimbabwe used earlier, exponentially; Ama's story illustrates the likelihood of the exponentially expanding positive influence of Arnold King, not just from the perspective of the person who accompanied the young people to the prison empowerment project, but also inclusive of the kids who experienced and took something positive away from that experience. One more brief story. In late 2007, the Board sitting then, as you know, recommends unanimously to the Governor that Mr. King's sentence be commuted. From some of the themes of Governor Patrick's campaign for governor, extolling concepts of redemption and change, we were all optimistic that the governor would act favorably on the last Board's recommendation. We all know he did not. I had the every unpleasant task of going out to Bay State to tell Arnie the news. I was the emotional one; Arnie was pretty stoical about it. Who knows how Arnie felt when he was alone with these thoughts about that afterwards. But this board can certainly see from the fact that he remained as solid, determined, and active as he had been before the setback that was all it was, a setback. Arnie's strong will and determination didn't fail him. His behavior at Bay State remained respectful, calm, and purposeful. Over the last few years he has maintained that steady course of program involvement, activities, maintaining relationships with people he knew and building new relationships. That type of reaction to what could easily have been seen as devastating under the circumstances and could easily have had a negative impact on Arnie's behavior and activities just firmed up his resolve to do what he

had been doing so successfully and pursue the goal of commutation based on the continuing record of his accomplishment and character.

Arnie is solid. He is determined, passionate, and kind; all those qualities and many more go into proving how much value he could add by his presence in the community outside of prison. We hope you all recognize that and take the first step in this four step process towards maximizing the contributions it turns out Arnie King was born to make.”

## OPINION OF THE ADVISORY BOARD

### Standard of Review

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.

### **Unfavorable Recommendation**

Arnold King appeared before the Advisory Board of Pardons on October 7, 2010 for a hearing on his petition for commutation. Specifically he seeks reduction of his 1<sup>st</sup> degree sentence to a 2<sup>nd</sup> degree sentence. This is Mr. King's seventh petition for commutation.

After careful review of all of the testimony presented at the most recent commutation hearing, together with the large volume of documentary evidence submitted in this case, it is the opinion of 5 of the 7 members that Mr. King does not meet the threshold requirements for relief. Specifically, we conclude that while Mr. King remains engaged in many worthwhile activities while incarcerated – and for that he is to be commended – he has not made the requisite “exceptional strides in self-development and self-improvement” described in the Governor's commutation guidelines.

To the extent that the use of the word “exceptional” in the Governor's guidelines necessarily implies a comparative assessment, the Board must look to the records of others similarly situated in determining whether a particular petitioner has met the required standard. Fortunately, in carrying out its public mandate, the Board has the opportunity to review petitions for commutation on a regular basis. Further, sitting as the Parole Board, we examine the institutional records of thousands of additional inmates each year. We have assessed Mr. King's record in the context of these other cases presented for our review. Such comparison does not cast him in a favorable light.

During his thirty- nine years in prison, Mr. King has accrued at least fifty-seven major disciplinary reports, and has been returned to higher custody at least four times. Many of the violations involve assaultive conduct, including multiple instances of fighting and an assault on a correctional officer. We also note that in his most recent classification report (dated September 7, 2010), it was noted that Mr. King receives only “average” evaluations from unit staff.

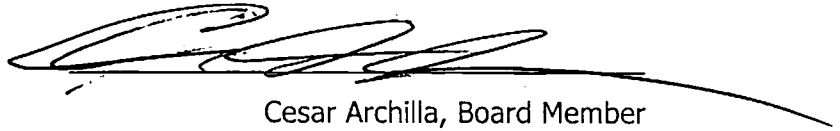
In comparison with the records of other inmates who appear before the Board, Mr. King's record is by no means exceptional; indeed, his disciplinary history is, in the experience of the Board, comparatively poor. Admittedly, Mr. King apparently has avoided any serious

disciplinary issues since 2006. However, in our view, this relatively short period of compliant behavior is by no means sufficient to offset the decades of serious misbehavior that preceded it.

Having already served a state prison sentence for robbery, Mr. King robbed and murdered a defenseless man – an act so brutal it apparently shocked even his own criminal accomplices. It can hardly be said that Mr. King’s institutional record, at least in the important areas of decorum and self-discipline, in any way honors his victim or otherwise atones for his offense. More important, at least for the purpose at hand, we cannot conclude that there is anything “exceptional” about his self-development overall in the four decades since he murdered Mr. Labanara.

Needless to say, we understand that our decision will come as a disappointment to Mr. King and to his many supporters. Were we to have focused only on Mr. King’s achievements during his years in prison, a different result might very well be indicated. However, when his record is viewed in its entirety, and when it is compared to the records of other persons who appear before us, the extent to which it falls short of the high standard rightfully demanded by the Governor’s commutation guidelines is plain. In short, this is not the exceptional case contemplated by this standard. In order to be entitled to the extraordinary relief afforded by the commutation power – at least under the basis for relief advanced by Mr. King – a petitioner must come before the board with an extraordinary record. This Mr. King, at least in our judgment, has failed to do. A majority of the Board, therefore, recommends that his petition for commutation be denied.

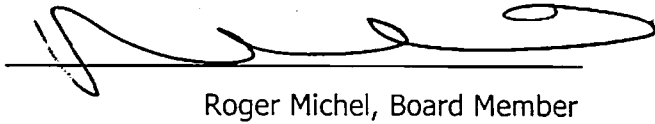
For the five members of the Advisory Board of Pardons respectfully recommending unfavorable consideration, signed on this the 18 of May, 2011:



Cesar Archilla, Board Member

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Candace Kochin, Board Member<sup>2</sup>



Roger Michel, Board Member

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Thomas F. Merigan Jr., Board Member<sup>3</sup>

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Leticia Munoz, Board Member<sup>4</sup>

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<sup>2</sup> Signature of this Board member is contained on the attached vote sheet as at the time of the submission of this recommendation to the Governor's office, Mrs. Kochin is no longer a member of the Parole Board.

<sup>3</sup> Signature of this Board member is contained on the attached vote sheet as at the time of the submission of this recommendation to the Governor's office, Mr. Merigan is no longer a member of the Parole Board.

<sup>4</sup> Signature of this Board member is contained on the attached vote sheet as at the time of the submission of this recommendation to the Governor's office, Ms. Munoz is no longer a member of the Parole Board.

## FAVORABLE RECOMMENDATION

Arnold King appeared before the Advisory Board of Pardons on October 7, 2010 for a hearing on his petition for commutation. Specifically he seeks reduction of his 1<sup>st</sup> degree sentence to a 2<sup>nd</sup> degree sentence.

After careful review and consideration, it is the opinion of 2 of the 7 members of the Advisory Board of Pardons that a favorable recommendation for commutation of sentence be sent to the Governor on behalf of Arnold King.

For the two members of the Advisory Board of Pardons respectfully recommending favorable consideration, signed on this the 16th of December, 2010:

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Mark A. Conrad, Chairman<sup>5</sup>

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Pamela Lombardini, Board Member<sup>6</sup>

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<sup>5</sup> Signature of this Board member is contained on the attached vote sheet as at the time of the submission of this recommendation to the Governor's office, Mr. Conrad is no longer a member of the Parole Board.

<sup>6</sup> Signature of this Board member is contained on the attached vote sheet as at the time of the submission of this recommendation to the Governor's office, Ms. Munoz is no longer a member of the Parole Board.

EXECUTIVE CLEMENCY VOTE SHEET  
PETITION FOR COMMUTATION

IN RE: Arnold L. King, W33734

CASE # (10-C-5)

In consideration of the above matter, the Advisory Board of Pardons herewith records the vote of its membership, and thereby recommends/denies said petition for the reasons set forth below:

MEMBER Lombardini Vote yes DATE 12/16/10

COMMENT:

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MEMBER Candace Koch Vote no DATE 12/16/10

COMMENT:

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MEMBER Leticia Murray Vote no DATE 12/16/10

COMMENT:

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MEMBER CESAR ARCHILLA <sup>CA</sup> Vote NO DATE 12/16/10

COMMENT:

MEMBER [Signature] Vote NO DATE 12.16.10

COMMENT:

MEMBER [Signature] Vote NO DATE 12.16.10

COMMENT:

MEMBER MARLE CONRAD Vote Yes DATE 12/16/10

COMMENT: