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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: Oversight Hearing of Board of Pardons

* * * * *

Stenographic report of hearing held
in Room 140, Majority Caucus Room,
Main Capitol Building, Harrisburg, PA

Thursday,
February 18, 1993
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Michael Gruitza	Hon. Kathy Manderino
Hon. Harold James	Hon. Al Masland
Hon. Frank LaGrotta	Hon. Robert Reber

Also Present:

David Krantz, Executive Director
Galina Milahov, Research Analyst
Paul Dunkleberger, Republican Research Analyst

Reported by:
Ann-Marie P. Sweeney, Reporter

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John Lord, Secretary, Board of Pardons

3

Jean Buffington, Staff, Board of Pardons

1 CHAIRMAN CALTAGIRONE: This will be
2 dealing with the Board of Pardons. And whenever you
3 want to start.

4 MR. LORD: Thank you, Mr. Chairman. This
5 is Jean Buffington of our staff.

6 MS. BUFFINGTON: Pleased to meet you.

7 MR. LORD: Mr. Chairman, members of the
8 committee, thank you for asking me here today. I'm
9 pleased to share with you some of the duties and
10 responsibilities of the Board of Pardons.

11 The membership of the board is specified
12 in Article IV, Section 9, of the Pennsylvania
13 Constitution. The Lieutenant Governor serves as
14 chairman, and the Attorney General is a member. Three
15 other members are appointed by the Governor, subject to
16 Senate confirmation. One must be a member of the Bar,
17 one must be a penologist, and one must be a medical
18 doctor, a psychiatrist or psychologist.

19 Prior to the Constitution of 1874, the
20 Governor had exclusive pardoning power. From 1874 to
21 the enactment of the 1967 Constitution, any pardon
22 issued by the Governor first needed to be recommended
23 by at least three members of the Pardons Board, which
24 included the Lieutenant Governor, Attorney General,
25 Secretary of the Commonwealth, and Secretary of

1 Internal Affairs. Today, at least three of the five
2 board members must vote in favor of an application for
3 it to be recommended to the Governor.

4 The board can recommend clemency in five
5 ways: They can recommend that a death sentence be
6 commuted to life imprisonment; they can recommend that
7 a life sentence be commuted to a prescribed minimum
8 sentence; they can recommend that a maximum sentence be
9 commuted or a minimum sentence be commuted; and they
10 can recommend a pardon.

11 The majority of applications we receive
12 are either for commutation of a life sentence or for a
13 pardon. The entire process from the time an applicant
14 files to the time when it is either granted or denied
15 by the Governor usually takes about 10 to 14 months.

16 To be considered for clemency, an
17 applicant must file an official application which they
18 can get from us for \$4. Once it is received by us with
19 a \$20 filing fee, the application is reviewed by our
20 staff to insure that all questions have been answered.
21 Copies are sent to the Board of Probation and Parole,
22 sentencing judge, and to the district attorney in the
23 county where the crime was committed. When an
24 applicant is incarcerated, we also send the Department
25 of Corrections a copy of his application.

1 The Board of Probation and Parole
2 conducts a background investigation on the applicant,
3 which takes about three to four months. During this
4 time we usually receive comments back from the
5 sentencing court and from the district attorney. Once
6 all the necessary information is received, the case is
7 listed for merit review by members of the board. If
8 two of the five board members vote to hear a case, it
9 will be listed in the next month's calendar for a
10 hearing. About half the applications are approved for
11 a hearing. Our office will then notify the victim or
12 the victim's family of the hearing. Victims are
13 invited to either attend or are offered an opportunity
14 to place written comments into the record.

15 At the hearing, the applicant or the
16 applicant's authorized representative offers reasons
17 why clemency should be recommended. After the
18 presentation and questions from the board members, the
19 district attorney and the victim or the victim's family
20 are given an opportunity to present their views on the
21 case. And the board votes in public session. If the
22 applicant receives the necessary three votes, it is
23 recommended to the Governor. The Governor is not
24 required to act on the recommendation within a given
25 time period; however, most cases were returned to us

1 about six months after they are sent to the Governor's
2 Office.

3 To best understand the functions of the
4 Board of Pardons, it's important to know that we hear a
5 broad range of cases. We get everything from retail
6 theft to first-degree murder. In each case, the board
7 members take the responsibility very seriously. The
8 members take the time to thoroughly review all aspects
9 of the case. Some of the factors they consider include
10 the facts of crime, the original sentence imposed, the
11 degree of demonstrated remorse, the likelihood of the
12 crime being repeated, and the positions of the court
13 and the district attorney, as well as the victim.

14 If the applicant is currently in prison,
15 the board also considers a position of the
16 institutional staff and of the Commissioner of
17 Corrections. Incarcerated applicants are not permitted
18 to appear before the board, and they are provided with
19 a representative from the Department of Corrections.
20 Nonincarcerated applicants are required to appear.

21 There is one problem which I would like
22 to share with the Judiciary Committee. We are getting
23 an increasing number of applications for multiple
24 driving violations. Many of these cases involve
25 violations which are over 10 years old and were

1 committed when the applicant was a teenager or in his
2 early 20s. I've seen cases where the violations have
3 piled up to where the driver's license has been
4 suspended to the year 2007, the year 2011, and the year
5 2014. Many of the driving violation applicants seem to
6 have turned their lives around and seem to be deserving
7 of a hearing, but the board is reluctant to hear such
8 cases because of the numbers of suspended licenses and
9 because the Board of Pardons does not seem to be the
10 correct agency for review of traffic violations. It is
11 the position of the Board of Pardons that clemency from
12 the Governor requiring his personal attention and his
13 direct action is not appropriate for most suspended
14 license cases. Also, the cost for processing driving
15 cases far exceeds any other type of clemency
16 application received, including commutation of a life
17 sentence. Because habitual driving offenders usually
18 have violations in numerous municipalities and often in
19 different counties, we must initiate contact with many
20 more courts and district attorneys than with other
21 cases.

22 Also, the Board of Probation and Parole,
23 which is already overburdened in at least one county,
24 must conduct a complete background investigation into
25 these cases. In the report they must include

1 information on employment, education, family history,
2 as well as findings in the applicant's community
3 reputation and financial situation. This work is
4 costly and time-consuming.

5 The members of the board sympathize with
6 people who have suffered great hardships because they
7 have lost driving privileges. We have received
8 applications from family wage earners who are about to
9 lose their jobs and their homes because they need to
10 drive for employment. One distraught applicant I spoke
11 with mentioned suicide as his only option after he was
12 denied a hearing.

13 Long-term license suspensions are a
14 serious problem for many Pennsylvanians. The
15 Department of Transportation has drafted legislation
16 which will provide a process to review long-term
17 suspensions and to allow PennDOT to issue probationary
18 licenses. This legislation will make a real difference
19 in the lives of hundreds of Pennsylvanians, and the
20 Board of Pardons supports such a move and hopes that a
21 speedy action will be taken on the issue.

22 Another area which I understand the
23 members of the Judiciary Committee are concerned is the
24 battered women's syndrome. Lieutenant Governor Singel
25 wants me to convey to you his deep concern on this

1 issue. He also asked me to let you know that the Board
2 of Pardons is open to any ideas you might have
3 concerning our role in bringing justice to this unique
4 class of crime victims.

5 In 1991, Governor Shaefer of Maryland
6 granted clemency to eight battered women. In Ohio,
7 Governor Richard Celeste granted clemency for victims
8 of domestic abuse to 26 women just before he left
9 office. In Pennsylvania, we have only had one
10 application in recent years where abuse by a husband
11 was a factor in the application. However, there have
12 been a number of cases where a husband or boyfriend has
13 killed his partner and then he has asked the board for
14 commutation of his life sentence. I don't recall any
15 of these cases actually receiving a hearing.

16 Another common type of application
17 involves retail theft convictions. Although the first
18 conviction for retail theft is only a summary offense,
19 future arrests may result in more serious charges.
20 Therefore, the conviction is entered on an individual's
21 criminal history with the Pennsylvania State Police.
22 Because a criminal record check is required before
23 someone gets a job teaching children, many of the
24 requests for pardons come from recent college graduates
25 ready to begin their teaching careers. We commonly

1 hear that these applicants appeared before the district
2 magistrate and they were told that pleading guilty was
3 just like paying a traffic ticket and that the record
4 would be destroyed after a certain number of years.
5 While the record at the district magistrate level may
6 have been destroyed, records are still kept by the
7 State Police unless the individual is pardoned.

8 Another area of concern is the issue of
9 granting inmates serving life sentences probation after
10 a set number of years. Having spoken to family members
11 of the victims of murders, I know that Pennsylvania's
12 current policy of life meaning life unless it is
13 commuted by the Governor brings these families great
14 comfort. Because executive clemency already provides
15 the opportunity for a lifer to be considered for early
16 release, there seems to be no need to change the
17 current policy. The pardons process is by no means
18 perfect, but for the purpose of reviewing commutation
19 applications for lifers, it works well.

20 I've included some statistical
21 information with copies of my testimony. While the
22 number of applications has remained fairly constant
23 over the last two years, we anticipate an increase of
24 lifers seeking commutations during the last two years
25 of Governor Casey's second term. We also anticipate an

1 increase in the number of driving cases unless there's
2 a change in the current law.

3 Thank you again for allowing me to share
4 with you the operation of the Board of Pardons and some
5 of our more pressing issues. I would be happy to
6 answer any questions you might have.

7 REPRESENTATIVE GRUITZA: Mr. Chairman?

8 CHAIRMAN CALTAGIRONE: Yes.

9 REPRESENTATIVE GRUITZA: Just a brief
10 comment.

11 This business with suspended driver's
12 licenses, I think that's a very important issue. I
13 think that I tried to get some legislation drafted last
14 year as the term winded down and I don't know, I guess
15 maybe -- I didn't know if the department has drafted
16 some legislation on this, but I would be interested in
17 sponsoring it because you have a real situation with,
18 you know, it's like in the old days of the west if you
19 took a guy's horse away it was a pretty serious
20 situation. It's really pretty much the same today, and
21 in many cases I know of one instance where one bad
22 night for a young fellow while he was in high school
23 earned him a suspension until like the year 2010, and
24 this was a youngster who was an honor student, who had
25 all kinds of good things going for him, and the impact

1 that that's had on his life and not being able to do
2 anything about it. So to the extent that your good
3 offices can promote some changes in that area, I think
4 that's a very good idea. I don't want to see dangerous
5 drivers out there, but I think there's a lot of room to
6 work with that issue.

7 MR. LORD: And I think it's important to
8 note that most of the cases we see don't involve DUI.
9 That they're just habitual offenders.

10 REPRESENTATIVE GRUITZA: Well, yeah, you
11 get that, and you get a case of maybe one kid had a
12 problem one night and you have a hit-and-run, a fleeing
13 and alluding, you know, a couple of red lights and
14 whatever, and there you go. And I think those kind of
15 cases we need to look at. When you take a person's
16 license away from them in this society, it's very
17 difficult.

18 MR. LORD: Yeah, I just received, was it,
19 yesterday -- Tuesday -- a copy of the draft legislation
20 which I understand is now in the Governor's Office and
21 they're reviewing it.

22 REPRESENTATIVE GRUITZA: Well, I'll be in
23 touch with Bob Mustin because he knows that issue came
24 up when we had this Capitol-for-a-day in Sharon last
25 year. The young fellow explained what he had gone

1 through. It was kind of comical because Colonel Walp
2 was there on the stage with everybody else and about
3 100 State Policemen and this individual admitted that
4 he drove to the hearing that night.

5 MR. LORD: Yeah, we also had one case
6 where there was a young couple and they had a newborn
7 child and the child had some severe medical problems
8 and it created a great hardship getting their daughter
9 to the hospital to get proper care because they did
10 abide by the law and he wasn't driving, as I
11 understand. I think he had a license from another
12 State because he was an interstate trucker, but he was
13 not driving except for work.

14 REPRESENTATIVE GRUITZA: That's all.

15 Thank you, Mr. Chairman.

16 CHAIRMAN CALTAGIRONE: Kathy.

17 REPRESENTATIVE MANDERINO: Thank you, Mr.
18 Chairman.

19 BY REPRESENTATIVE MANDERINO: (Of Mr. Lord)

20 Q. Mr. Lord, I found your testimony very
21 enlightening for me because I'm just learning what the
22 Board of Pardons does and what the impact is. And I
23 actually recently had something that dealt with a
24 pardon, I think it's now in the Governor's Office, on
25 the retail theft issue, and again a young woman who had

1 trouble in her early teenage years and now has
 2 successfully finished college and wants to start
 3 teaching, and I guess what I'm not understanding is if
 4 the Governor signs the pardon, then everything is
 5 cleaned out? I mean, all the criminal records
 6 basically disappear?

7 A. Okay, after we get the signed warrant or
 8 charter back, we contact the State Police, the
 9 Department of Justice in Washington, the sentencing
 10 court, and the other people involved. The State Police
 11 records then will be expunged for that offense for
 12 which the Governor issued the pardon. It is then up to
 13 the applicant to go back to the sentencing court and
 14 petition that court to expunge the county records.
 15 There was a Supreme Court case I believe in 1985 where
 16 the court said that the sentencing county did not have
 17 the discretion, that the Governor's pardon should be
 18 sufficient to wipe out that record, so that the court
 19 doesn't -- the court and the county doesn't have the
 20 right to say, no, we won't expunge the record, but it's
 21 up to the applicant to see that that record on the
 22 county level is expunged.

23 Q. Okay. And the one issue that you raised
 24 which actually I think is the case that I'm familiar
 25 with almost what happened, when you talk about how, you

1 know, young people might have pled guilty under the
2 notion that it was like pleading guilty to a traffic
3 ticket, not realizing the long-term impact it would
4 have had, I guess my question is, is there anything we
5 can do about that problem except to educate people that
6 or educate magistrates not to tell people that and
7 educate people that there's no such thing as pleading
8 guilty to -- I mean, I guess what I'm saying is, is
9 there any remedy or is there any ideas or solutions in
10 that area?

11 A. Well, I think on the district magistrate
12 level they have to make sure that they are giving out
13 the right information, and it seems almost universal
14 what the people say. They told me it was just like a
15 traffic ticket. We've heard that a number of times. I
16 think it's also important for our schools, for our
17 young people to know that shoplifting is a serious
18 crime and that it could have very disastrous effects on
19 your lives.

20 REPRESENTATIVE GRUITZA: Excuse me, but I
21 thought that those pleas, if they were summary
22 offenses, if it's a first offense and it's under a
23 certain dollar amount, that the district justice has
24 jurisdiction, but if it gets into the misdemeanor
25 offenses, if it's over the monetary threshold, then

1 those guilty pleas are taken to the Court of Common
2 Pleas, or has that been changed recently?

3 MS. MILAHOV: No, you're right, Mike.

4 REPRESENTATIVE GRUITZA: Because I know
5 in most of those situations the courts are pretty
6 careful about spelling out what the rights and what the
7 ramifications are of one of those guilty pleas, but as
8 I recall, and someone can correct me if I'm wrong, I
9 thought that those misdemeanor guilty pleas were taken
10 into Common Pleas Court.

11 MR. LORD: No. If there is a certain
12 amount, most of the cases that we get are for very
13 small amounts. We've had some cases where the
14 merchandise has been under a dollar.

15 REPRESENTATIVE GRUITZA: Then wouldn't
16 those be summary offenses?

17 MR. LORD: Yes.

18 MS. MILAHOV: Anything under \$150 is a
19 summary offense for the first offenders.

20 REPRESENTATIVE GRUITZA: Okay, but that's
21 what it is. But even in those cases those summary
22 offenses stay on the record, retail theft?

23 MR. LORD: Retail theft stays on the
24 record.

25 REPRESENTATIVE GRUITZA: Okay, a little

1 refresher course on that. I haven't done one of those
2 in a while. That's right, those summary offenses go on
3 the record.

4 REPRESENTATIVE MANDERINO: Thank you. No
5 more questions.

6 REPRESENTATIVE JAMES: Thank you, Mr.
7 Chairman.

8 Continuing with that line of comments as
9 regards to people pleading guilty because they are led
10 to believe, I don't think it's so much on the district
11 justices, and I might be wrong, but I do know a lot
12 bears on the prosecution in terms of making people
13 believe that they are doing one thing when they're
14 really doing something else. Now, with the confusion
15 of the ARD programs and people are being made aware
16 that ARD will be wiped out, their record will be
17 expunged automatically in six months, and I don't know
18 if that's true. I think the only way you can get a
19 record expunged, you have to go through court. I don't
20 know if the ARD, maybe you can correct me on that, and
21 I think that's where the confusion is coming in. So
22 some people believe records are being expunged, so when
23 a prosecutor or someone who works in a prosecutor's
24 office, an assistant, kind of lead people to believe
25 that and then they plead guilty, so when they get in

1 front of the judges, the judges ask them the normal
2 warnings and read the regulations to them they say,
3 yes, they understand, because of what they have been
4 led to believe by the prosecution's stand. I think
5 that's where that confusion comes in.

6 BY REPRESENTATIVE JAMES: (Of Mr. Lord)

7 Q. A question I wanted to ask is, when you
8 talked about incarcerated applicants not permitted to
9 appear before the board but they are provided with a
10 representative by the Department of Corrections, what
11 kind of representative?

12 A. That's the pardons case specialist. It's
13 the office in Camp Hill that specifically deals with
14 clemency applications for incarcerated individuals.
15 Now, they have an option of getting their own
16 representative, either an attorney or someone who's
17 interested in their case, and they can either take the
18 opportunity to use the pardons case specialist in the
19 Department of Corrections or go out and find their own
20 representative.

21 Q. Okay. So then the department, that
22 person works for the Department of Corrections?

23 A. Um-hum.

24 Q. Okay. And any people that are
25 incarcerated would just send any paperwork on through

1 that person?

2 A. Right.

3 Q. And they would represent them at the
4 pardon board?

5 A. Right. And even if the Commissioner is
6 opposed, even if the staff of the institution is
7 opposed, the pardons case specialist acts as an
8 advocate for that applicant.

9 Q. Okay. One other thing you had in here
10 where you said that the Governor is not required to act
11 on the recommendations, and you said something about
12 however, most cases are returned to us. Why is a case
13 returned, if the Governor doesn't act?

14 A. Well, if he signs a warrant or a charter,
15 then we're responsible for getting that back to the
16 applicant and getting off the paperwork to the
17 appropriate agency, whether it be the Justice
18 Department or the State Police. He returns them to us
19 after doing one of two things - either denying it or
20 granting it. In either case, there's more work for our
21 office to do to notify the people of the Governor's
22 decision.

23 Q. Okay, so it usually takes about six
24 months?

25 A. Usually. We have a couple of cases that

1 are well over a year old, and then we've had one case
2 where it was turned around within a couple of weeks.

3 Q. One good thing that I saw in your
4 comments was that you notified the victims, and is that
5 in all cases or is that in just cases of the seven
6 major felonies or violent crimes?

7 A. That's whenever there's a victim, whether
8 it's a property crime, whether it's a violent crime.
9 Driving cases where there's no identified victim,
10 obviously we wouldn't contact anyone on that, but we
11 wait until the application actually passes the merit
12 review process and is granted a hearing, and then we
13 inform the victim or the victim's family each step of
14 the way.

15 Q. What happens? How do you inform them?
16 Is it by writing a registered letter, or if they don't
17 want to appear or can't appear, do they have some kind
18 of advocate on their behalf?

19 A. If the district attorney, if the district
20 attorney from the sentencing county wishes to appear,
21 then they usually, and the victim is opposed, they
22 usually serve as the advocate for the victim. If
23 there's a reason why they can't come to Harrisburg,
24 they usually submit something in writing.

25 Q. Okay. All right.

1 REPRESENTATIVE JAMES: Thank you, Mr.
2 Chairman.

3 CHAIRMAN CALTAGIRONE: Galia.

4 BY MS. MILAHOV: (Of Mr. Lord)

5 Q. I wanted to ask you a little bit more
6 about those who are sentenced to life sentences. Do
7 you have certain parameters in which you will accept
8 requests for commutation of a life sentence, like how
9 many years a person has served, and can you explain
10 that a little bit?

11 A. The board has no set guidelines. It's
12 not 18 years or 20 years. However, there's pretty much
13 a general rule of thumb of those cases which will be
14 heard, and the average cases -- if you're under 12
15 years, you can be very, very certain that you're
16 probably not going to be heard. If you're over 22 or
17 23 years and you're recommended by the Department of
18 Corrections, there's a good chance you'll get a
19 hearing. Now, that doesn't mean you'll ultimately be
20 recommended. So statistically someone could look at it
21 and say, well, there must be guidelines, but there are
22 no set rules by the board members.

23 CHAIRMAN CALTAGIRONE: As a follow-up to
24 that, you know, last session I took this committee to
25 hold hearings with lifers at three State facilities -

1 Western State Penitentiary; Muncy, with the women, of
2 course; and Graterford. I think part of the shocking
3 revelation to many of the members that came with us on
4 those hearings inside the prisons was the age of many
5 of the inmates. And it's almost like geriatric centers
6 - walkers, canes, some of them near blindness. It's
7 difficult, I can understand and as time goes by, 15,
8 20, 25 years, whatever, that victims and/or families
9 are still around they are absolutely vehement about
10 anybody coming out, especially some type of a heinous
11 crime that was committed and a loved one was taken,
12 that they continue to want their pound of flesh and
13 they'll make sure their voice is heard.

14 In many cases I think what probably
15 happens is the victims pass away and/or many of the
16 immediate family members and there's not really many
17 people left that were involved in that particular
18 situation. Then it rests in the hands of the Board of
19 Pardons, the Governor, whoever he or she may happen to
20 be, and I begin to wonder how much we want to continue
21 to extract out of people in sentences. I know that you
22 can only react to what is given to you, but of course
23 you have a certain mission, and we heard some cases as
24 examples, and I'm sure this isn't true in every one of
25 these situations, I know it isn't true, but in some of

1 the horror stories that we heard in some of the
2 prisons, one particular case where three young black
3 men from Philadelphia go into a grocery store, one is
4 in the car. The two that were in the store ending up
5 in a firefight killing the store owner, get in the car
6 and flee, and for whatever circumstances where they had
7 good attorneys, technicalities, appeals, whatever, the
8 two that were involved in the shooting are out walking
9 and the guy behind the wheel that wasn't involved in
10 the shooting is the one that's in there spending life.
11 That kind of rattled me a little bit. It didn't seem
12 fair.

13 MR. LORD: That's very common from the
14 cases that we see. I was surprised when I first
15 started reviewing cases of how common that actually is,
16 that the trigger person would plea bargain down to a
17 reduced sentence.

18 CHAIRMAN CALTAGIRONE: And walk.

19 MR. LORD: And walk within so many years
20 and the person who was really just an accessory to that
21 crime would get a life sentence.

22 CHAIRMAN CALTAGIRONE: Yeah. To me, that
23 is injustice. I mean, I understand the complicity and
24 the accessory and all the other things that go with
25 that, but it bothers me to no end. And that one

1 particular individual, how many years was he in there?

2 MS. MILAHOV: He had already been in 18
3 years.

4 CHAIRMAN CALTAGIRONE: Eighteen years. I
5 thought to myself, how much do you want to extract out
6 of this guy?

7 MS. MILAHOV: And he was a model citizen
8 in the community, too.

9 MR. LORD: Yeah, parity of sentencing is
10 something that the board considers. However, they also
11 consider the conduct of the individual while they are
12 incarcerated. So even though someone may serve 22
13 years having been an accessory to the crime and the
14 actual trigger person may get out in 10 or 12 years, if
15 that person hasn't taken advantage of the vocational,
16 the educational, the therapeutic programming while in
17 prison, if they don't have a home plan, if they have
18 many misconducts and a few major misconducts and recent
19 misconducts, even though parity of sentencing might be
20 an important consideration, it's very unlikely that
21 that individual would be recommended for a pardon.

22 CHAIRMAN CALTAGIRONE: See, it doesn't
23 make sense to me until when somebody has, especially
24 the senior citizens that we had seen there, how many
25 more years to live. That's not to say that senior

1 citizens can't be a threat to people or society at
2 large. I understand that. But somebody who's been in
3 prison 20, 25, 30 years and they're up there in years
4 and they're having extreme difficulty getting around,
5 to me it's cruel to continue to have that person
6 incarcerated. I think more consideration should be
7 given for leniency and clemency to let those persons
8 out. It doesn't make sense that we continue to harbor
9 them. It's going to continue to cause a tremendous
10 burden on the Commonwealth financially to keep people
11 in there than to release them, and that's my, you know,
12 that's one concern, and that's not the major concern.
13 The major concern that I feel is that if there is
14 remorse, if they've done those programs, and in the
15 case with the gentleman we had talked to, he had. And
16 I don't know what the reason was that he had been
17 turned down, but he had tried to get out even through
18 pardons and we just couldn't understand why.

19 MS. BUFFINGTON: I believe he's recently
20 filed again, if we're thinking of the same person.

21 CHAIRMAN CALTAGIRONE: Yeah. Down in
22 Graterford.

23 MS. BUFFINGTON: Yeah.

24 CHAIRMAN CALTAGIRONE: That concerned me
25 and that bothers me to this day that he's still in

1 there and the trigger man or men are out walking. It
2 doesn't, you know, we're talking about fairness. It
3 simply isn't fair.

4 MR. LORD: Um-hum.

5 CHAIRMAN CALTAGIRONE: You know, if
6 anything, those guys should have been in there and he
7 should have been walking, but the system, okay. And in
8 the other cases where you have people that are up there
9 in years, you think to yourself, how much punishment is
10 punishment?

11 MR. LORD: Well, in the last two years
12 we've had two cases where the major emphasis of the
13 application has been the physical health of the
14 applicant. In one case we had someone, I believe he
15 was in his late 60s, who had cancer and he had gone
16 through the process and ready to be recommended and
17 died.

18 CHAIRMAN CALTAGIRONE: And died.

19 MR. LORD: And then we had another one
20 just last fall, someone with AIDS who was in for a
21 relatively minor offense whose family was ready to take
22 care of him and he died while still incarcerated. One
23 of the problems is that we are reactionary. We don't
24 go out and solicit people and say listen, let's apply
25 for a pardon for this. So by the time someone whose

1 health is deteriorating actually files an application
2 and we do all the paperwork, it's too late. So.

3 But I know that's something that the
4 board is very, they recognize that the Board of Pardons
5 is a mercy board. The Lieutenant Governor especially
6 does not want to see the Commonwealth be the
7 institution which allows a lot of people to die while
8 incarcerated. He believes if someone is on their
9 deathbed that that's especially a time when mercy is
10 deserved. So the Board of Pardons is very aware of
11 these cases and are very sympathetic to those inmates.

12 CHAIRMAN CALTAGIRONE: You know, maybe
13 one of the things that could be done, and I know that
14 you don't have to necessarily advocate this kind of
15 stuff, but you work very closely with the Department of
16 Corrections.

17 MR. LORD: Um-hum.

18 CHAIRMAN CALTAGIRONE: And Commissioner
19 Lehman has been a pretty decent guy to work with. It
20 wouldn't hurt that the wardens in each of those State
21 prisons, in cases where especially physical cases with
22 the lifers, that some kind of notice be given to them
23 that this is the procedure if you feel that you want to
24 apply and you've been a model prisoner for umpleen
25 years and you've done all the right things. Maybe some

1 of them don't want to get out. That's another
2 possibility. They become so adjusted to prison life
3 that some of them just probably figure that's home and
4 that's where they're going to stay the rest of their
5 lives, but I think they should be notified as to what
6 their rights are by the wardens, especially if they're
7 in situations where how many more years or how many
8 other illnesses can they continue to deal with before
9 their lives are terminated? That's just a suggestion.
10 I don't know if this ever has been attempted by any
11 previous Commissioner. I think it can only be humane
12 that something like that be done. All you have to do
13 is spend a little bit of time in the prisons. I'm
14 talking about with people that have put in a great
15 number of years. They've missed their entire adult
16 life, basically, being incarcerated.

17 MR. LORD: Yeah. I will talk to our
18 liaison with the Department of Corrections and let him
19 know that -- when we do get these cases we expedite
20 them, and the Department of Corrections has been very
21 helpful in doing that. So I know that there's concern
22 on the other side, too, so I'll definitely talk to him.

23 CHAIRMAN CALTAGIRONE: You see, the other
24 thing that I've kept saying and I'm going to continue
25 to say it, and I'm probably going to offend some people

1 when I continue to say it, is that they've got to close
2 down some of these facilities. I don't think we need
3 to build empires for people, and I think what is being
4 said today is more true and more to the point. There's
5 more interference in family lives, in communities and
6 in what's been going on in our society, and I think
7 people need -- government especially needs to step back
8 away from it, and by building these empires, people
9 continue to want more and more power, and that's
10 government. And that's why I say, I told Joe
11 personally, I said, Joe, you're going to have one guy
12 on your back for the next two years, it's going to be
13 me, to close down those older prisons. We don't need
14 Graterfords, we don't need Camp Hills as testaments to
15 bureaucracy or the efficiency of a bureaucracy by
16 incarcerating larger and larger numbers of our people.
17 With fewer and fewer facilities, you've got to come up
18 with other alternatives, and that would help to
19 eliminate a lot of your workload.

20 MR. LORD: Well, anything that can be
21 done to help eliminate our workload we certainly
22 wouldn't be opposed to, but most of our cases, the
23 heaviest part of our workload is not with people who
24 are already incarcerated. They are pretty cut and dry
25 because we don't have to do all of the background

1 investigation.

2 BY REPRESENTATIVE JAMES: (Of Mr. Lord)

3 Q. Mr. Chairman, I just wanted to ask, how
4 often do you meet?

5 A. We meet usually about once a month, nine
6 months out of the year.

7 Q. Okay. Is it possible that we can get a
8 list? Are your meetings listed previously or do you
9 just come up with them from month to month?

10 A. Oh, no. We have the dates annually.

11 Q. So can the committee get a list of the
12 meetings so that some of us may want to attend the
13 meetings?

14 A. Right. They're in Harrisburg, usually on
15 a Thursday.

16 Q. When is your next one?

17 A. March 25. It's March 25 in the lobby of
18 the Education Building, 333 Market Street, Heritage
19 Room A and B. And they start at about 9:00, and we're
20 usually done by around 1:00.

21 Q. Is the Board of Probation and Parole, is
22 that different than this board?

23 A. Um-hum.

24 Q. Okay, that deals with counties?

25 A. That deals with just really probation.

1 Q. Okay. Thank you.

2 CHAIRMAN CALTAGIRONE: We're going to
3 have them in, as a matter of fact.

4 REPRESENTATIVE JAMES: Oh great.

5 CHAIRMAN CALTAGIRONE: I don't know what
6 the date is on that.

7 MS. MILAHOV: March 18.

8 CHAIRMAN CALTAGIRONE: March 18.

9 MS. MILAHOV: I have a couple more
10 questions.

11 BY MS. MILAHOV: (Of Mr. Lord)

12 Q. I was looking at your statistic sheet
13 here and I see that you hear more cases than you grant
14 hearings to.

15 A. Um-hum.

16 Q. How does that come about?

17 A. Well, this is a yearly, calendar year is
18 how we generate our statistics, and if we granted a
19 whole lot of hearings in December of one year, they
20 wouldn't be heard until January of the next year. So
21 it's not really -- the number of hearings that are
22 granted one year might not necessarily correspond with
23 the number of hearings that are heard.

24 Q. And then just following through on that
25 same idea, I very much feel that the board is a

1 reactive agency and I'm wondering if it would be
2 appropriate to legislate something in which you could
3 be more of a proactive agency to review cases before a
4 person who is incarcerated would have a chance to learn
5 the process of asking for clemency or pardon. For
6 instance, in the abused wife situation. I believe that
7 what was done in Ohio is that the Governor took it upon
8 himself to form a committee that reviewed cases in
9 which there were homicides and life sentences to see if
10 the parameters fell within a certain concept of an
11 abuse spouse syndrome, and then they reviewed cases
12 after that.

13 A. Well, specifically with the abused
14 spouses, I was surprised when I went through the files
15 that there weren't more applications where that was a
16 factor. I think maybe for our purposes, one way that
17 we might want to consider dealing with letting people
18 know that this is an option is perhaps a little bit
19 more public focus on the options that an abused spouse
20 might have. It's always better to prevent something
21 from happening than doing something afterward, but even
22 with those cases where the wife has been charged with a
23 crime, I think that to let them know that this is an
24 option, I don't know about the special panel or what we
25 could do. We're a very small office. We have right

1 now we have three employees in the office, including
2 me, and then we have the board members. So I don't
3 know how helpful we could be in forming a panel, but
4 it's something that we could look into.

5 MS. MILAHOV: Thank you.

6 CHAIRMAN CALTAGIRONE: Are there any
7 other questions?

8 (No response.)

9 CHAIRMAN CALTAGIRONE: Thank you very
10 much.

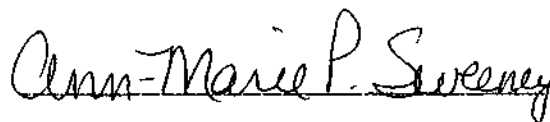
11 MR. LORD: Thank you.

12 CHAIRMAN CALTAGIRONE: Appreciate it.
13 We'll conclude these hearings.

14 (Whereupon, the proceedings were
15 concluded at 12:50 p.m.)
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.



ANN-MARIE P. SWEENEY

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