

Good morning, my name is Larry McDonald, father of Philadelphia Highway Patrol Sergeant Patrick McDonald. I want to thank Representative Boyle and all on this committee for the opportunity to speak at these proceedings. My intention is to relate, to the best of my knowledge, the details that resulted in my son's murder. I will also comment on, what I perceive are deficiencies in the existing parole procedures.

On Tuesday, September 23, 2008 at approximately 1:20 pm, Philadelphia Highway Officer Patrol Patrick McDonald stopped an automobile, for a traffic violation, at 17th & Dauphin Streets, in North Philadelphia. The vehicle was occupied by a female driver and a male front seat passenger, While Officer McDonald was in the process of trying to obtain identifications and vehicle certifications the male fled the vehicle running west on Dauphin Street. Alone at the time, Officer McDonald decided the priority was to apprehend the fleeing male. An approximate three city block foot pursuit ensued, during which Officer McDonald radioed for back-up officers and gave a detailed description of the fleeing suspect- Then, despite the suspect jumping on a bicycle, Officer McDonald managed to run him down, The pursuit culminated in a physical confrontation in the 2200 block of North Colorado Street. During this struggle the suspect produced a .45 caliber hand gun and fired a round into Officer McDonald's shoulder striking him in his heart. Officer McDonald managed to pull his service revolver and fire one shot, but his wound was too severe, the bullet missed its intended mark and his efforts to continue the apprehension were futile. The suspect, now known as former parolee Daniel Giddings then fired several more shots into the fallen Officer McDonald, assassinating him.

Thankfully, as this inhumane act was being committed, back-up officers arrived in the area. Giddings, then proceeding north on Colorado Street to Dauphin

Street, encountered Highway Patrol Officer Rick Bowes. Then he once again shot a police officer, striking Officer Bowes in his hip. Despite being seriously wounded, the heroic Officer Ricky Bowes returned fire killing Giddings.

As all at this hearing probably know, on August 18, 2008 Daniel Giddings was paroled after serving ten years of a six-to-twelve year minimum prison sentence he received for robbing and shooting a man in the kneecaps during an attempted carjacking. It has been documented that while incarcerated, Giddings was less than a model inmate. Nonetheless, according to current guidelines, Giddings became eligible for parole. Not surprisingly, seven days after he was paroled, Daniel Giddings simply walked away from a supposedly supervised, community correctional facility. Two days after he left that facility Giddings was in a confrontation with police, unfortunately he escaped vowing never to return to prison. And, on September 23, 2008, thirty-six days after being paroled, Daniel Giddings murdered my son.

Obviously, despite what was said at his parole hearing, Daniel Giddings never intended to re-enter society and conduct himself in a productive and/or civilized manner. Yet some persons or board's evaluation concluded otherwise. When asked to review how such a gross misjudgment could occur an expert's report determined that "no one at the parole board fell asleep at the wheel" and "sometimes people like Giddings fall through the cracks." The expert also concluded that "all offenders other than those with life or death sentences are almost certain to be released" and stopping these paroles created prison overcrowding, negatively affecting inmate morale and causing other correctional institution problems.

I will not insult the heroic actions of my son Patrick and Ricky Bowes by accepting validations of procedures that dearly need to be completely revised. "Experts" may disagree, but I believe that some people can not be rehabilitated, and therefore, should never be released. As an example, I refer you to Daniel Giddings.

Also, I am not at all concerned with prison overcrowding, the effect it has on inmate mode or any other problems it causes within the correctional system. When we allow that kind of convoluted thinking to prevail, we are "letting the lunatics run the asylum". I think we should be more worried about the safety of the law abiding citizens and the law enforcement officers empowered to ensure that safety. I am certain there are alternative means, other than releasing murdering psychopaths into our society, to resolve prison overcrowding. I am also sure that the effectiveness of the community correctional facilities can be rectified. Hopefully, today begins the process of instituting new more effective procedures to address both of these issues.

Lastly, paroling repeat violent offenders is undermining the efforts of our police officers. These men and women are risking their lives to protect us and we must support their actions. I believe that revoking the parole of repeat violent offenders will improve public safety, elevate police department morale, and help prevent future tragic loss of heroes such as my son, Philadelphia Highway Patrol Sergeant Patrick McDonald.

The following is an excerpt from my daughter Megan's law school paper on this subject.

The recent wave of police officer deaths in Philadelphia has caused a public outcry. Criminologists are reviewing procedures trying to figure out how a violent offender with an abominable criminal record inside and outside of prison became eligible for parole. On September 23, 2008, just four months after Philadelphia police Sergeant Stephen Liczbinski was murdered by a violent offender parolee, the city of Philadelphia lost its 3rd police officer of the year when career criminal Daniel Giddings gunned down Sergeant Patrick McDonald after a routine traffic stop. Giddings was paroled after serving only ten years of a six-to-twelve year minimum prison sentence for robbing and shooting a man in the kneecaps during an attempted carjacking. When Giddings faced Common Pleas Court Judge Lynn B. Hamlin for the crime as an adult in 2000, Assistant District Attorney Joseph Coolican said there was "absolutely no reason to believe" that it would ever be safe to release Giddings based on his lengthy juvenile record that began at the age of ten when he assaulted a mentally handicapped man. Coolican also stated that he had never seen a defendant more likely to reoffend, and asked for the maximum twenty two to forty five-year sentence. Despite this warning, Judge Hemlin stated she was "appalled" by Giddings juvenile record but still sentenced him to the minimum six to twelve year sentence, citing the fact that he obtained his high school diploma with decent grades in prison. Giddings was paroled two years shy of his twelve-year sentence and released to a community correctional facility, which he absconded after seven days. Four weeks later, he murdered Sergeant McDonald. Giddings' early release has left many questioning the procedural guidelines of the Pennsylvania Board of Probation and Parole (the "Board").

The Pennsylvania Probation and Parole Act, 61 Pa. Stat. 33 t .I, ET. seq., does not grant Pennsylvania State prisoners constitutionally protected liberty interest in being released on parole prior to the expiration of their maximum terms. There is nothing in the Pennsylvania or the US Constitution that requires a person be released on parole

even though they are eligible at the end of their minimum term. Therefore, the Board has complete discretion to determine when an inmate is sufficiently rehabilitated and whether he or she can serve the remainder of a sentence outside of prison. That discretion is not subject to judicial review. The criteria used by the Board in determining eligibility for parole are (1) the extent of the risk to the community, (2) the nature of the prisoner's offense and his prior criminal history; (3) the prisoner's job potential and employment; (4) the prisoner's emotional and family stability; and (5) the prisoner's adjustment to prison. *Johnson v. PA Bd. of Probation & Parole*, 110 Pa. Commw. 142 (1987). What we know about Giddings' behavior outside of jail is that he sold drugs on the corner, raised pit bulls for fighting & gambled, and fathered three children, all before the age of seventeen. Despite this behavior and prison records that show Giddings was involved in assaults on other inmates and tried to attack a prison staffer, the Board felt Giddings was eligible for parole on his third attempt citing improved institutional adjustment in his last two years and attendance at required educational prison programs.

Immediately after McDonald's murder, Pennsylvania Governor Ed Rendell ordered the Board to suspend release of all offenders recommended for parole pending a review of the parole processes by a Criminal Justice Scholar ("the report"). After the report indicated that procedures for evaluating parolees were effective, Rendell lifted the two-month moratorium but vowed to continue reviewing parole procedures for violent offenders. Because of the report's recommendations, Rendell recently called for legislation that would end parole for repeat violent offenders who use deadly weapons by giving them flat sentences. This would eliminate any opportunity for early release. One policy consideration for this proposal is that it would take away judge's leeway in imposing punishments. Although the aim is that the judge's will lean toward imposing maximum sentences, it may also have the opposite effect and sympathetic judges may opt for minimum sentences. Increased costs for longer incarceration and prison overcrowding are policy concerns, but the longer violent offenders are kept behind bars, the safer the public remains. Early release is not a viable solution for overcrowded prisons, and overcrowding is not a justifiable excuse for parole.

A recommendation of the report that is being put into practice is separating violent offenders in prison into two categories, one with those who present a greater risk to public safety so they can be given enhanced case management and supervision and the other for those less likely to pose a risk to the public. Those who have been on parole for less than five years will be more strictly supervised, and violations of post release supervision could result in re-incarceration. Considering Daniel Giddings was released to a community correctional facility and fled a week later, this increased monitoring seems a necessity. Perhaps if Giddings was under more supervision and accountable for his whereabouts after release, McDonald would still be alive.

Another result of McDonald's murder, and the recent wave of police officer deaths in Philadelphia, is that Pennsylvania's legislature recently passed a law, which imposes more stringent penalties on who assault a police officer with a firearm. The new bill commands a minimum twenty year sentence without parole for those who shoot a firearm in the direction of an officer, regardless of whether the bullet strikes. This will provide incentive for criminals to think twice before they shoot at police officers, especially those like Giddings, who vowed never return to prison. Giddings got his wish by paying the ultimate price five weeks after being paroled. The problem is that in leaving he took the life of my brother, Sergeant Patrick McDonald.