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June 27, 2008

Honorable Thomas A. Tangretti
Main Capitol Building
PO Box 202057
Harrisburg PA 17120-2057

Dear Representative Tangretti:

Allegheny Valley Lodge No. 39 has learned you sponsored House Bill 2565. This Bill places a moratorium on the death penalty. During the moratorium, there will be a commission to study all aspects of capital punishment in Pennsylvania.

On behalf of President Leroy Anthony, the Executive Board, and the membership of Lodge No. 39, I am writing to express our surprise and disappointment with your position on House Bill 2565.

Lodge No. 39 has always felt we had a good working relationship. In April 2006, Lodge No. 39 endorsed you in your re-election bid to the House of Representatives. Many times, you were invited to our Gold Card Banquet. Lodge No. 39 respects your opinion in this matter, but is mystified to learn after all the years of supporting Law Enforcement; you now support House Bill 2565.

Fraternal Order of Police State President Mark Koch and Allegheny Valley Lodge No. 39 President Leroy Anthony advised the membership that you reported in your memo to other legislators, 99% of Law Enforcement Officers agree that the death penalty does not serve a meaningful deterrent to unlawful homicide. Lodge No. 39 wants to go on record that we strongly object to that statement. At our regular meeting in June, the membership unanimously voted to send you this letter. I have been a police officer for twenty-four years and a member of the Executive Board for nine. I cannot remember anyone in Law

Enforcement ever stating they were against the death penalty. Even the pastor of Lodge No. 39, Rev. Harold Mele said at the June meeting, "When someone does something, they must be accountable for their actions."

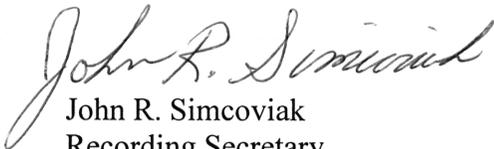
As a member of the western part of the state, I believe you may remember the names of John Lesko and Michael Travaglia. These two individuals murdered four people in 1979 – 1980. One of them was Rookie Police Officer Leonard C. Miller killed January 03, 1980. A jury in Westmoreland County sentenced both of these individuals to death. In 2008, they are both still filing appeals. Pennsylvania has the Death Penalty, but due to many liberal judges, they rarely execute anyone.

Seven hundred four (704) police officers in Pennsylvania have given their life in the line of duty. The General Assembly passed the Death Penalty as a sentence for only the most heinous of crimes. In some cases, the Death Penalty is sought in the murder of a police officer. Allegheny Valley Lodge No. 39 consisting of 316 members cannot understand why you are attempting to interfere with this process. Instead, more effort should be placed on carrying out the Death Penalty in a timely manner when imposed by the jury.

The position you have taken on House Bill 2565 frustrates and shocks the members. Hopefully you will reconsider your current position. Lodge No. 39 would like to remember you for your support and friendship to law enforcement and not how you currently stand on House Bill 2565.

Allegheny Valley Lodge No. 39 has been informed that you are retiring from the House of Representatives. The members wish you well in your retirement and success in whatever you elect to do.

Sincerely,



John R. Simcoviak
Recording Secretary
Allegheny Valley Lodge No. 39

cc: State F.O.P. President Mark Koch
Allegheny Valley Lodge President Leroy Anthony

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

M E M O R A N D U M

TO: All Members of the House of Representatives
FROM: Representative Thomas A. Tangretti *jat*
DATE: April 28, 2008
SUBJECT: Co-sponsorship of Death Penalty Moratorium

The sad legacy of hundreds of years of state-sanctioned executions in the United States and elsewhere is the prolonged suffering of the families of victims, the waste of millions of taxpayers' dollars, and the all-too-real possibility of wrongful execution of innocent people.

Since 1973, 124 condemned inmates have been exonerated - six of them in Pennsylvania. The stories of their convictions include mistaken eyewitness testimony, false testimony of informants and "incentivized witnesses", incompetent lawyers, defective or fraudulent scientific evidence, prosecutorial and police misconduct, and false confessions.

Law enforcement officers, religious leaders, civil libertarians and criminal justice experts all agree that the death penalty system is flawed and needs to be examined more closely.

To that end, I intend to introduce legislation in the very near future that will enact a two-year moratorium on executions in Pennsylvania so that a comprehensive examination of the current capital punishment process can be conducted. This bill will take several important studies into consideration and will review every stage of the capital process.

The fact is that the death penalty diverts scarce resources from real crime prevention and does not deter heinous acts of irrational violence. According to the Death Penalty Information Center, 99 percent of police officers surveyed ranked the death penalty as the least-effective way to curb violent crime. Reducing drug abuse, strengthening the economy, lowering unemployment rates, simplifying court rules and increasing the number of police officers on the streets were far more important and persuasive than the remote chance of being executed.

Please call my office at 783-1023 or e-mail ldolfi@pahouse.net if you would like to co-sponsor this important legislation. Thank you for your attention to this matter.

Voices of Hope, Agents of Change Tour

Talking Points

There are serious concerns about ^{unfairness} and inaccuracy in Pennsylvania death penalty. We need a moratorium on executions while issues of fairness can be adequately studied and fully addressed. Now is the time for the government to do a full assessment and tackle these problems head on.

Why a moratorium on executions?

- We must suspend executions while we study the system in order to eliminate the risk of executing an innocent person convicted under a flawed system.
- Even though Pennsylvania has had relatively few executions, death warrants are still signed on a regular basis and there is a looming threat that the executions of the over 200 people on death row will start.

What should we study?

- Every stage of the capital punishment process in order to find out if there is a risk of executing an innocent person, procedures are fair and unbiased, if there are adequate services provided for victims' family members, what the overall cost is, and whether the death penalty serves as an adequate means of crime prevention.
- Recent reports that examine and/or make recommendations about ^{PA} ~~Virginia~~'s death penalty or capital punishment in general, e.g. The American Bar Association's "Pennsylvania Death Penalty Assessment Report," "The Final Report of the Pennsylvania Supreme Court committee on Racial and Gender Bias in the Justice System," the ABA protocols (2001), etc. Likewise, there are studies that are currently underway that should be taken into account in a comprehensive study of the death penalty, including the Advisory Committee on Wrongful Convictions and the Task Force on Providing Services to Indigent Criminal Defendants.
- New circumstances that have arisen since the Supreme Court bans on the execution of juveniles and the mentally retarded, as well as rulings on death sentences for the severely mentally ill and pending cases on the use of lethal injection.
- Evidence of changing public attitudes.
- Studies have repeatedly shown significant geographical and racial bias in the implementation of the death penalty in Pennsylvania.
- Since 1982, six people have been released from Pennsylvania's death row after evidence of their innocence was uncovered.

Who is affected?

- Citizens of the Commonwealth whose tax dollars pay for Pennsylvania's expensive death penalty.
- Family members of murder victims who wait years for their loved ones' trials, only to have to sit through appeal after appeal, repeatedly agonizing over the details of the crime
- Juries who must make final judgments, often without proper instructions, on the basis of vague circumstances.
- Judges who are called on to deliver fair rulings affecting life and death for our citizens, often without adequate training in capital procedures.
- Police officers under great pressure to bring to justice those who commit the worst offenses, who do not have the proper resources or training to help witnesses, victims, prosecutors or to keep themselves safe.
- Prosecutors who have little guidance in determining which cases to prosecute for the death penalty.

Talking Points: ABA Assessment of PA's Death Penalty – Post-Release October 9th

- *If you're advocating for moratorium:* A blue-ribbon panel of legal experts just completed an in-depth study of Pennsylvania's death penalty and found problems with the state's death penalty that are so grave that executions should be halted while these problems are addressed.
- The ABA study found that **Pennsylvania fails to comply with over 93% of the ABA's 92 recommendations** designed to improve the fairness and accuracy of the death penalty. In the area of racial bias in particular, Pennsylvania does not fully meet a single one of the ABA standards. This is particularly disturbing since race should never be used to decide who lives and who dies.
- The study found that Pennsylvania's death penalty risks executing the innocent, is fraught with racial and geographic disparities, and that better standards are needed to ensure that lawyers for the poor are competent.
- The ABA recommends that Pennsylvania conduct further and ongoing study on racial, economic, and geographic disparities in the capital punishment system.
- **In response to *Why do we need another study if we already have this study, innocence commission and the indigent defense commission looking into these issues?***
The citizens of Pennsylvania deserve the opportunity to take a comprehensive look at the entire death penalty system. The Advisory Committee to Study Wrongful Convictions and the task force studying indigent defense will not look specifically at the death penalty but rather on small microcosms of a larger system that is broken. Pennsylvania should use this thorough report as the basis for looking at the entire system so that legislators and the public can really understand how broken the capital punishment system is in the Commonwealth.
- **In response to *Pennsylvania has only executed three people in the last 30 years. Don't we already have a de facto moratorium on executions?***
No one in Pennsylvania is served by having a flawed justice system. We need to act now to implement reforms so that innocent people will not be given a death sentence. Without significant changes in Pennsylvania, we risk the flood gates opening and multiple executions going forward, even though each of the over 200 people on death row were convicted under a flawed system.

Talking points on specific issues in the report:

INNOCENCE

- Pennsylvania has already exonerated six people from death row, and more remain there with strong claims of **innocence from getting the judicial attention they require in Pennsylvania.**
- Any risk of executing the innocent cannot be ignored, not only because it is wholly unacceptable to put innocent people behind bars to spend years awaiting their execution, but also because **wrongful convictions allow the actual killers to escape responsibility.** Lawmakers must not turn a blind eye to the concerns voiced by the ABA's assessment team.
- **Pennsylvania does not guarantee that biological evidence will be saved for the full length of the defendant's incarceration,** making it even harder for those who have been wrongly convicted to prove their innocence.
- Studies show that poor eyewitness identification may be the leading factor in wrongful convictions, yet **Pennsylvania does not require law enforcement to use lineup procedures that increase accuracy.**
- Audio or video taping interrogations in capital cases is a simple way to decrease the chances of wrongful convictions; however, **Pennsylvania does not currently require interrogations to be taped.**
- After someone is convicted and sentenced to death, he/she has 60 days to file for a state post-conviction appeal. An inmate may have new physical evidence (such as DNA evidence), need to raise issues of misconduct or discrimination, or have other claims, but during that 60 days he/she might not even have a lawyer, and there is *no* extension on that 60 days.
- In Pennsylvania, **crime laboratories and law enforcement agencies are not required to obtain certification from nationally recognized certification agencies.** It is crucial that agencies responsible for evidence that can be used to convict someone to death are subject to strict oversight.

- During recent years, scandal after scandal across the country has shown us that terrible mistakes or deliberate wrongdoing by crime laboratory and medical examiner personnel not only can, but do happen. Here in Pennsylvania, an innocent man, *Steven Crawford*, spent 28 years in prison for a murder he did not commit based on the false testimony of Janice Roadcap, a Pennsylvania State Police chemist. This was not the first case of Roadcap's to be challenged, who had served for almost twenty-five years, handling an untold number of cases in eighteen counties.

Case Examples:

- More than 16 years after a Pennsylvania jury returned three death sentences against *Harold Wilson*, new DNA evidence helped lead to his acquittal. In 1999, Wilson's death sentence was overturned when the court determined that his lawyer had failed to investigate and present mitigating evidence during his original trial. He later got a new trial because of evidence that the prosecutor used racially discriminatory practices in jury selection. In November, 2005, Wilson was acquitted of all charges when new DNA evidence revealed that blood from the crime scene did not come from him or any of the victims, thereby suggesting the involvement of another assailant.
- *Nick Yarris* was implicated by an inmate who made a deal with the DA and began exchanging false information about Yarris in exchange for conjugal visits and a reduced sentence. During his trial in 1982, the prosecution refused to hand over some 20 pages of documents which would later be revealed to include physical evidence and conflicting witness accounts. Yarris was found guilty, and sent to death row. Independent DNA testing was finally done in 2000, and the results of 3 tests excluded Yarris based on evidence from the crime scene. A judge vacated his conviction and ordered a new trial, but the DA did not have enough evidence to try Yarris, and all charges were dismissed.

REPRESENTATION

- A look at who is executed and who is spared reveals a glaring inequality: too often, the death penalty is reserved not for those who committed the worst crimes, but for those who were given the worst attorneys. **This report found that death penalty lawyers need more stringent qualifications, better training, and a statewide oversight body monitoring their performance to ensure that lawyers appointed in death cases know what they're doing.**
- Many indigent defendants in Pennsylvania, including those with mental disabilities, are not allowed access to expert witnesses and investigators, both of which are often crucial in capital trials.
- **Insufficient or inconsistent funding for public defenders in capital cases** in Pennsylvania has the dual effect of deterring the most qualified and experienced attorneys from trying these cases and limiting the power of those who do take the cases from defending their clients to the best of their abilities.

Examples of poor defense in Pennsylvania:

- The U.S. Supreme Court has ordered a new sentencing trial for Pennsylvania death row inmate *Ronald Rompilla* after finding that he was inadequately represented by counsel during his 1988 capital trial. Rompilla's attorney failed to show mitigating evidence of mental retardation and a traumatic upbringing, even after prosecutors gave warning they planned to use the same documents against him. Such evidence would have prevented a death sentence.
- Pennsylvania death row inmate *Otis Peterkin's* conviction was overturned in November 2001 when the judge granted him a new trial, noting that Peterkin's defense attorney failed to present his alibi witness and didn't present any character evidence on behalf of Peterkin during the penalty phase of the trial. This evidence could have not only prevented a death sentence but could have acquitted Peterkin.

RACIAL DISPARITIES

- The ABA report confirmed what previous studies on race have found in Pennsylvania: **race plays a major, if not overwhelming, role in the imposition of the death penalty.** It is completely unacceptable that whether or not someone gets the death penalty could depend on the skin color of the victim or defendant. There is no way we can honestly say that our state's system is fair and unbiased as long as these disparities exist.
- Of the ten recommendations designed to reduce the impact of race in the administration of the death penalty, the

- ABA could not certify that Pennsylvania is in full compliance with even one of them.
- The ABA report noted that in 1999 the Pennsylvania Supreme Court created the Committee on Racial and Gender Bias in the Justice System which proposed twenty-three recommendations to eliminate the impact of racial discrimination, yet almost none of the suggestions put forth by the Supreme Court Committee have been implemented.
- **Much of the data we need to know in order to understand how Pennsylvania's capital system works is not collected or made available.** There is no statewide entity that collects data on all death-eligible cases in the State, which makes it impossible to ensure cases are dealt down proportionately and fairly. Pennsylvania needs centralized data collection and a comprehensive study to the extent of racial, socio-economic, geographic, and other disparities in its death penalty system, and should then develop and implement proposals to eliminate such disparities.

JURIES

- Years of research has shown that juries often don't understand how to choose the correct sentence in a capital case. Yet the ABA found that Pennsylvania is missing several key clarifications in its jury instructions, including a basic definition of the different sentences. More than 82% of jurors did not understand that life without parole really means that a person will not get out of prison ever.
- Despite the fact that Pennsylvania law expressly prohibits consideration of future dangerousness as an aggravating factor, 37 percent of capital jurors believe that if they find the defendant to be a future danger to society, they are required to impose the death penalty—evidence that there is detrimental confusion in jury instructions.

COSTS

- **The ABA is concerned about the excessive spending necessary to maintain Pennsylvania's death penalty system even in its current broken form, and the affect of this spending on the system's ability to render justice in non-capital cases.** The ABA suggests that further study be conducted on the costs of Pennsylvania's death penalty and the results of those expenditures.
- There is no question that Pennsylvania taxpayers want their dollars used to effectively fight crime and serve the needs of victims. Yet a broken system means that millions of dollars are being thrown down the drain while the court system fails again and again to get it right. In reexamining our state's death penalty, our lawmakers must consider the best use of resources and assess whether the system can be made to work with the resources we have available.

VICTIMS

- With all the troubling things that the ABA tells us in its report about Pennsylvania's death penalty, there are more things they don't tell us that are equally troubling. For example, how does the death penalty actually impact murder victims' family members? Do victims in our state receive the services, support, and compensation they need? Are victims served by a death penalty that must repeat trials again and again because we got the wrong person or provided a defendant with an incompetent lawyer? Are victims treated equally under the system regardless of their position on the death penalty? Murder is a brutal crime and all victims' family members deserve to have the help they need to cope with such tragic loss. Unfortunately, the personal stories of many people who have lost loved ones and who have been through this system tell us that the death penalty has failed victims' family members in many ways. In halting executions to examine and address the problems with our death penalty, Pennsylvania must include a comprehensive look at the needs of victims' families and determine the best ways to meet those needs.

Myra



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November 9, 2007

The Honorable Thomas A. Tangretti
PA House of Representatives
Room 328 Irvis Office Building
Harrisburg, PA 17120-2057

RE: DEATH PENALTY

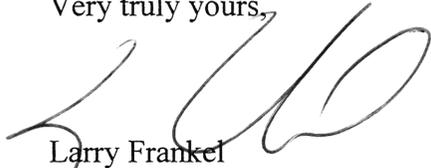
Dear Tom:

It is my understanding Senator Greenleaf's staff and Representative Caltagirone's staff have started discussing the logistics of a hearing on the ABA report. They have not set a firm date but I remain hopeful that a hearing will be scheduled in the near future. Unless it looks like that hearing will never occur, I would recommend that we continue to wait on moving forward with a moratorium bill.

I also want to let you know that the Senate has passed SB 751, legislation that would implement the Supreme Court decision barring the execution of persons with mental retardation. That bill allows for a pre-trial determination of mental retardation. It passed overwhelmingly – the vote was 45-3. An amendment had been offered that would have replaced the pre-trial procedure with a post-trial procedure. That amendment was defeated 40-9. I enclose a copy of the press release from the ARC of Pennsylvania regarding the passage of SB 751.

I am also enclosing the text of a lecture on immigration presented by the Most Reverend Kevin C. Rhoades, Bishop of Harrisburg, at Gettysburg College on September 20, 2007. Just want you to know that I am pleased to be in agreement with the Bishop on that issue as well.

Very truly yours,



Larry Frankel
Legislative Director

Enclosures

Stalnecker, Angela

From: Tangretti, Thomas
Sent: Monday, April 07, 2008 1:51 PM
To: Stalnecker, Angela
Subject: FW: House Rs on moratorium

For our file.

From: Andrew Hoover [REDACTED]
Sent: Friday, April 04, 2008 8:20 PM
To: Tangretti, Thomas; Fran Viglietta
Subject: House Rs on moratorium

Gentlemen, today we received the latest edition of Catholic Witness at my house. (My wife is Catholic.) Question 5 is, "What is your position on imposing a moratorium on the death penalty in Pennsylvania and simultaneously establishing a commission to study how the death penalty is implemented in our Commonwealth?"

Ignoring the challengers and the Ds for now, here are the incumbent Rs who answered "support":

Rep. Tom Creighton
Rep. Russ Fairchild ("Support with a designated time frame to complete the study and make recommendations")
Rep. Mauree Gingrich
Rep. John Payne

Rep. Glenn Grell answered, "Undecided- would probably support commission but oppose moratorium."

Obviously, these are Republicans ripe for co-sponsorship, and we know people in all of these districts.

Fran, presumably, these surveys were done statewide. Can we get them?

Tom, you asked for the reports referenced in the model text. Here are two of them:
ABA Death Penalty Assessment: <http://www.abanet.org/moratorium/assessmentproject/pennsylvania.html>
2003 PA Supreme Court Committee on Racial and Gender Bias:
<http://www.courts.state.pa.us/Index/Supreme/BiasCmte/FinalReport.ch6.pdf>

I will track down the rest of them for you.

Have a great weekend!

Andy

Andy Hoover
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