

DATE TYPED: August 23, 2013
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IN RE: HARRY MITTS JR., A305-433

**STATE OF OHIO
ADULT PAROLE AUTHORITY
COLUMBUS, OHIO**

Date of Meeting: August 19, 2013

Minutes of the **SPECIAL MEETING** of the
Adult Parole Authority held at 770 West Broad Street,
Columbus, Ohio 43222 on the above date.

IN RE: Harry Mitts Jr., A305-433

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with Firearm, Killing an Officer Engaged in his Duties, and Three Mass Murder Specifications, Aggravated Murder with Firearm and Three Mass Murder Specifications, Attempted Murder (two counts) with Firearm and Peace Officer Specifications

DATE, PLACE OF CRIME: August 14, 1994 in Garfield Heights, Ohio

COUNTY: Cuyahoga

CASE NUMBER: CR 313539

VICTIMS: John A. Bryant (deceased), Sgt. Dennis Glivar (deceased), Lt. Tom Kaiser, and Officer John Mackey

INDICTMENT: Count 1: Aggravated Murder with Firearm, Killing an Officer Engaged in his Duties, and Three Mass Murder Specifications
Count 2: Aggravated Murder with Firearm and Three Mass Murder Specifications
Count 3: Attempted Murder with Firearm and Peace Officer Specifications
Count 4: Attempted Murder with Firearm and Peace Officer Specifications

TRIAL: Trial by Jury

VERDICT: Found Guilty as charged of Counts 1-4 to include all specifications

DATE OF SENTENCE: November 21, 1994

SENTENCE: Counts 1 and 2: DEATH; 3 years actual incarceration (firearm specifications)
Counts 3 & 4: 10 – 25 years

ADMITTED TO INSTITUTION: December 6, 1994

JAIL TIME CREDIT: 15 days

TIME SERVED: 18 years, 8 months (does not include jail time credit)

AGE AT ADMISSION: 42 years old

CURRENT AGE: 61 years old

DATE OF BIRTH: June 18, 1952

JUDGE: The Honorable William Aurelius

PROSECUTING ATTORNEY: Stephanie Tubbs Jones
David Zimmerman

FOREWORD:

Clemency proceedings in the case of Harry Mitts Jr., A305-433, were initiated by the Ohio Parole Board pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On August 6, 2013, Mitts was interviewed via videoconference by the Parole Board at the Chillicothe Correctional Institution. A clemency hearing was then held on August 19, 2013 with eleven (11) members of the Parole Board participating. Arguments in support of and in opposition to clemency were presented at that hearing.

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, as well as the judicial decisions, and deliberated upon the propriety of clemency in this case. With eleven (11) members participating, the Board voted eleven (11) to zero (0) to provide an unfavorable recommendation for clemency to the Honorable John R. Kasich, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE:

The following account of Mitts's offense was obtained from the Ohio Supreme Court opinion, decided March 11, 1998:

On the evening of August 14, 1994, Timothy Rhone helped his sister and brother-in-law, Jeff Walters, move into their apartment. The apartment was on the second floor in the same building where Mitts lived. Between 7:00 and 8:00 p.m., Rhone noticed a man, who he later learned was Mitts, carrying a gun tucked into the small of his back. Fifteen to thirty minutes later, Mitts, who was wearing blue target-shooting earmuffs, confronted Rhone in the hallway. According to Rhone, Mitts pointed a "black and huge" laser-sighted gun at Rhone's head and "told [him] to get out or [he] was going to fucking die." When Rhone replied that he did not understand, Mitts said, "I'm not joking, get out now." Rhone backed away and asked his mother and sister to call 9-1-1 because "a man with a gun [was] threatening to shoot people."

A short time later, Tracey Griffin and her boyfriend, John Bryant, saw Mitts walking toward them wearing yellow glasses or goggles and carrying a gun. Griffin knew Mitts because they lived in the same apartment complex and their daughters had played together. Mitts's gun emitted a light, and Griffin saw a dot of red light appear on Bryant's chest. Mitts said, "Niggers, niggers, I'm just sick and tired of niggers." Mitts aimed directly at Bryant, Griffin heard a shot, and Bryant fell down.

Mitts then walked away, sporadically firing his gun, and later walked back toward Griffin, still firing his weapon, but now in her direction. In the meantime, Walters and Terry Rhone, Timothy's brother, came out to help Bryant. Mitts aimed his gun and shouted at them, "Leave him there, don't move." Walters and Terry Rhone disregarded Mitts's instruction and carried Bryant into their second-floor apartment.

Around 8:15 p.m., Patrolman John Cermak arrived, and a bystander saw Mitts put a new clip in his gun. Taking "a ready [firing] position," Mitts fired several shots at Patrolman Cermak, forcing Cermak to drive his car up on a lawn and take cover. Lt. Kaiser and Sergeant Dennis Glivar then arrived. After firing at Patrolman Cermak, Mitts retreated to his first-floor apartment. Patrolman Cermak searched for Mitts, and Lt. Kaiser and Sgt. Glivar went to the apartment building's second floor, where they found Griffin, Bryant, and the Rhone family. After calling paramedics, Lt. Kaiser and Sgt. Glivar walked down to the first floor.

As Lt. Kaiser and Sgt. Glivar approached Mitts's apartment, Mitts flung his apartment door open and opened fire with a gun in each hand. Mitts repeatedly shot Sgt. Glivar, forcing him to drop his shotgun, and he shot Lt. Kaiser in the chest and right hand. Lt. Kaiser switched his pistol to his left hand and forced Mitts to retreat by firing three or four times. Lt. Kaiser returned to the Rhone apartment, where he kept a watch on Mitts's apartment, and radioed for police assistance including the area S.W.A.T. team.

Although wounded, Lt. Kaiser attempted for twenty to thirty minutes to talk Mitts into surrendering, but Mitts replied, "The only way we're going to end this is if you kill me. You have to come down, you have to do your job and you have to kill me." Mitts, who had overheard Lt. Kaiser's S.W.A.T. request over Sgt. Glivar's abandoned police radio, additionally told Lt. Kaiser, "Go ahead, bring the S.W.A.T. team in, I have thousands of rounds of ammunition. I'll kill your whole S.W.A.T. team. I'll kill your whole police department."

Mitts also threatened Griffin; Mitts told Lt. Kaiser that he was "going to come up and kill that nigger-loving bitch that's upstairs with you." Mitts also told Lt. Kaiser that he had been drinking bourbon and was angry because the Grand River Police Chief "stole [his] wife." Eventually, Patrolman Cermak dragged Sgt. Glivar's body from the hallway and

Patrolman Cermak and others used a ladder and rescued Rhone's family and Lt. Kaiser from the upstairs apartment.

During the standoff, Mitts called his ex-wife, Janice Salerno, and her husband, Grand River Police Chief Jonathon Salerno. Chief Salerno thought Mitts was joking when Mitts told him that "it's all over with now, I shot a couple of cops and I killed a fucking nigger." Chief Salerno, who believed Mitts was drunk, tried to talk him into surrendering, but Mitts refused. Mitts claimed that he had intended to kill both Salerno and his wife, but did not because Mitts's daughter, Melanie, lived with the Salernos.

Around 8:40 p.m., Maple Heights Police Officer John Mackey responded to the call for police assistance from the city of Garfield Heights. After helping Patrolman Cermak rescue Lt. Kaiser and the Rhone family, Officer Mackey, Sergeant Robert Sackett, and others took tactical positions in the hallway outside Mitts's apartment. Taking over Lt. Kaiser's role as a negotiator, Officer Mackey talked with Mitts for over thirty minutes, but Mitts refused to surrender and, at various times, continued to fire shots. Using Sgt. Glivar's shotgun, Mitts fired twice into a mailbox across the hall, and he also emptied ten pistol shots into that mailbox. According to Officer Mackey, Mitts's voice appeared calm, and he "never showed any anger or animosity towards" the officers.

Around 9:30 p.m., Mitts discerned Officer Mackey's position in the upstairs apartment from the sound of his voice and fired up the stairway and through a wall, hitting Officer Mackey's leg with a bullet fragment. Other police officers returned fire and rescued Officer Mackey.

Around 1:00 a.m., the S.W.A.T. team injected tear gas into Mitts's apartment and finally subdued Mitts around 2:00 a.m. Mitts, who had been shot during the standoff, was taken by ambulance to a local hospital, then transported by helicopter to a trauma center at Cleveland's MetroHealth Medical Center. At 3:43 p.m., a blood sample was drawn from Mitts, and his blood-alcohol level was later determined to be .21 grams per one hundred milliliters.

After arresting Mitts, detectives searched his apartment and found two sets of shooting earmuffs, a yellow pair of glasses customarily used on shooting ranges, a .44 caliber magnum revolver, a 9 mm automatic pistol, a .22 caliber pistol, a laser gun-sight, thousands of rounds of ammunition in boxes, and two nearly empty liquor bottles. The police later learned that Mitts had spent the afternoon target shooting at the Stonewall Range, a firing range. Upstairs in apartment 204, detectives found Bryant's body.

Dr. Heather Raaf, a forensic pathologist, performed autopsies on John Bryant and Sgt. Dennis Glivar. Bryant bled to death within thirty minutes as a result of a single gunshot wound to his chest piercing both lungs and tearing the aorta. Sgt. Glivar died within "a few minutes" from five gunshots to the trunk causing perforations of his lung, heart, liver, kidney,

stomach, and intestines. Sgt. Glivar also had been shot in the left shoulder and forearm. Dr. Raaf recovered multiple bullets or fragments from Sgt. Glivar's body and one small-caliber bullet from Bryant's body.

A grand jury indicted Mitts for the aggravated murders of Sgt. Dennis Glivar (Count One) and John Bryant (Count Two) and the attempted murders of Lt. Thomas Kaiser (Count Three) and Officer John Mackey (Count Four). As death penalty specifications, Count One charged that Mitts knowingly murdered a peace officer in the performance of his duties, R.C. 2929.04(A)(6). Both aggravated murder counts contained three separate course-of-conduct specifications relating to the other three shooting victims. See R.C. 2929.04(A)(5). All four counts also had firearms specifications, and Counts Three and Four added a specification that the victims were peace officers.

At trial, Mitts did not contest the evidence proving the facts, but instead attempted to establish that he was too intoxicated to form the required intent to kill. After a penalty hearing, the jury recommended the death penalty on both aggravated murder counts. The trial court sentenced Mitts to death for the aggravated murders and to terms of imprisonment for the attempted murders. The court of appeals affirmed the convictions and sentences.

PRIOR RECORD

Juvenile Offenses: Mitts has no known juvenile arrest record. Due to Mitts's age, records from the Cuyahoga County Juvenile Court are no longer available.

Adult Offenses: Mitts has the following known adult arrest record:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
8/15/94 (Age 42)	Aggravated Murder Aggravated Murder Attempted Murder Attempted Murder (CR 313539)	Garfield Heights, Ohio	INSTANT OFFENSE

INSTITUTIONAL ADJUSTMENT:

Mitts was admitted to the Ohio Department of Rehabilitation and Correction on December 6, 1994. His work assignments while incarcerated at the Southern Ohio Correctional Facility, Mansfield Correctional Institution, and Ohio State Penitentiary included Porter and Tutor. Since his transfer to the Chillicothe Correctional Institution, Mitts's work assignment has been as a Porter. Mitts reported that he graduated from Garfield Heights High School in 1970 and attended one and a half years of college studying photo journalism.

Since his admission, Mitts has been placed in disciplinary control one time. He was found guilty of causing or attempting to cause physical harm to another inmate and disobedience of a direct order, which involved Mitts arguing with another inmate after they received their dinner trays. Mitts and the other inmate were ordered to stop by a correctional officer. Mitts ignored the order and began to fight with the other inmate. Mitts received eight days of disciplinary control for the infractions. He has also received one conduct report that did not result in disciplinary control, which involved possession of contraband that included one bottle of paint and two can openers. Mitts received a warning and the contraband was destroyed.

APPLICANT'S STATEMENT:

On August 6, 2013, members of the Ohio Parole Board conducted an interview with Mitts via videoconference from the Chillicothe Correctional Institution.

The following individuals observed the interview via videoconference, but did not participate: Steve Maher from the Office of the Ohio Attorney General; Samuel Porter from the office of Governor John Kasich; Jeff Kelleher, Mitt's attorney; Robert Dixon, Mitt's attorney; T. Allan Regas, Assistant Cuyahoga County Prosecutor; Katherine Mullin, Assistant Cuyahoga County Prosecutor; Alan Rossman, Assistant Federal Public Defender; Lori Riga, Assistant Federal Public Defender; David Cerutti, Parole Board Parole Officer; and Jerrold Montgomery, Parole Board Parole Officer.

Ohio Parole Board Chair Cynthia Mausser opened the interview by introducing herself to Mitts. She noted that there were several individuals observing the interview, who were not participating. Chair Mausser identified those individuals. Chair Mausser explained the purpose of the interview to Mitts and noted that his clemency hearing is scheduled for August 19, 2013. Chair Mausser introduced Mitts to the members of the Board who were present for the interview.

Chair Mausser asked Mitts what he would like the Board to consider in determining whether to make a favorable or unfavorable recommendation regarding clemency in his case. Mitts told the Board that there was information that he wanted to share about the two victims in his case whom he killed, John Bryant and Sergeant Dennis Glivar. According to Mitts, the information he would share with the Board was not information that the Board would glean from the records of the case.

Mitts noted that he met Bryant several weeks before he killed him. Bryant's girlfriend, Tracey Griffin, introduced Mitts to Bryant. According to Mitts, after being introduced, he and Bryant spoke for several minutes. Mitts stated that there was no animosity between Bryant and himself. Mitts related how he shot Bryant several weeks later for no apparent reason. Mitts related that, at the time, he was distraught over his divorce and that he wanted the police to shoot him. Mitts believes that in all likelihood he shot Bryant in an attempt to draw police to his home. According to Mitts, several weeks prior, he had considered shooting himself but could not bring himself to do it for fear of how his suicide might affect his daughter, Melanie.

According to Mitts, he did not intend to shoot and kill Glivar. Mitts described how he himself was shot multiple times during the exchange of gunfire with the police. After being shot, Mitts no longer wanted to die. He continued to exchange gunfire with the police in what was, essentially, a fight for survival, Mitts related. At one point, Mitts fired around a blind corner in an attempt to force the police to back off. Unbeknownst to Mitts, standing just feet away from the barrel of his gun was Glivar, who was shot multiple times and killed. Mitts insisted that it was not his intention to kill Glivar.

Mitts noted that, during the standoff with police, he allowed the officers to recover Glivar's body. Mitts described how, when he shot Glivar, Glivar was attempting to evacuate Mitts's neighbor and her young son from the apartment building, using his own body as a shield. That makes Glivar a hero in Mitts's estimation.

Mitts stated that he was drinking heavily on the evening of the crime and that alcohol clouded his judgment. At the same time, Mitts insisted that his intoxicated state does not excuse his actions.

Mitts stated that he should have died on the night of the crime. Mitts described how, following a short stay in the hospital, he was transferred to the Cuyahoga County Jail where he found God. Since then, Mitts has tried to spread God's word to others.

After he was sentenced and committed to prison, Mitts received a Bible from Glivar's mother and sister. He described that Bible as a living testament to forgiveness. Mitts later received a letter from Glivar's sister, which he read for the Board. In her letter, Glivar's sister described how her brother's death impacted her family. Glivar's sister told Mitts that she and her mother forgive him, and she encouraged Mitts to seek forgiveness from Jesus and to embrace God. Mitts stated that he is very remorseful for killing Bryant and Glivar.

After Mitts concluded his statement, Chair Mausser asked him whether he would like to receive clemency in any form. Mitts responded that he will be leaving that to the Board's discretion. Mitts told the Board that, regardless of whether he is executed or not, he will one day live in perpetuity with Jesus Christ. The only question to be answered in the clemency determination, Mitts stated, is whether he was going to be required to spend the rest of his natural life in prison. Mitts indicated that while he could easily cope with a lifetime of imprisonment, he is also prepared to go home to Jesus.

Chair Mausser then permitted the Board members to direct questions to Mitts. Mitts was asked whether he directed racial epithets toward Bryant immediately before shooting him. Mitts responded that he does not believe that he directed any racial slurs at Bryant. However, Mitts acknowledged that witnesses, including Bryant's girlfriend, Tracey Griffin, heard him make racially derogatory comments immediately before killing Bryant. Mitts had no explanation as to why he did not shoot Griffin or Timothy Rhone, two white individuals who he encountered on the night of the crime. Mitts insisted that he was not then, and is not now, a racist.

Mitts stated that he believes that he received a fair trial. When asked whether a plea agreement was ever offered to him, Mitts indicated that he was never offered any deal from the prosecutor. Mitts suggested that because he was indicted during an election year, no plea agreement was ever going to be offered to him.

Mitts indicated that no planning went into his killings of Bryant and Glivar. Mitts insisted that had he put any forethought into his actions he would not have used handguns, but would have used a rifle with a scope. As further evidence that he did not premeditate the murders, Mitts pointed to the fact that most of the ammunition that he had accumulated in his apartment was small caliber 0.22. Mitts stated that the thousands of rounds of ammunition that he had in his home was intended for use at the shooting range and was not an inordinate amount. Lastly, Mitts asked, rhetorically, why he would voluntarily surrender Glivar's shotgun to the police if his intent on the night of the crime was to engage in mass killing.

Mitts spoke further about his ex-wife, Janice, and her husband Jonathon Salerno, whom she married after divorcing Mitts. Mitts recounted how he had once fantasized about killing both Janice and Salerno. Mitts indicated that he initially felt a great deal of animosity toward Salerno. According to Mitts, Salerno, a local police chief, routinely abused his authority, harassing Mitts and others. Mitts related that he once followed Salerno with a gun and had him "scoped out." Mitts stated that it was for the sake of his daughter that he did not kill Salerno. According to Mitts, his daughter had grown close to Salerno so he spared Salerno's life. Mitts stated that, over time, he became friends with Salerno.

Mitts stated that he has had no contact with his daughter for the vast majority of his incarceration. After three years of letter writing following his commitment to prison, communication between Mitts and his daughter stopped. Mitts noted that he has an aunt who keeps in contact with him. His brothers and sister write him occasionally and sometimes send him money.

Mitts indicated that he was not surprised when he was sentenced to death in 1994. The death sentence caused him no great consternation. He has appealed his death sentence through the years because it was recommended by his attorneys and was the normal course.

When asked why he ultimately decided to participate in the clemency interview after vacillating on that decision, Mitts responded that he originally refused to participate in order to convey to the Board that he did not want clemency. He was later moved by the Lord to participate. When asked whether he wants to live, Mitts responded that there will be eternal life for him with Jesus.

Chair Mausser thanked Mitts for participating in the interview, explained to him the remaining phases of the death penalty clemency process, and concluded the interview.

ARGUMENTS IN SUPPORT OF CLEMENCY:

A clemency application was submitted to the Parole Board. On August 19, 2013, a hearing was conducted to further consider its merits. Mitts's attorney, Jeff Kelleher, represented Mitts at the clemency hearing and presented arguments in support of clemency. Kelleher's co-counsel, Robert Dixon, was present but did not make any statements.

Kelleher noted that he has represented Mitts since Mitts undertook his federal habeas corpus appeals. Kelleher conceded that there was no contesting Mitts's guilt on any element of the offenses for which he was convicted, and the evidence against Mitts was strong. Kelleher stated that he had no intention of twisting the facts or playing with the truth during his presentation.

Kelleher advanced three arguments in support of clemency, the first two of which are related. First, Kelleher challenged the representation provided Mitts at trial by his attorney at that time, Thomas Shaughnessy. Second, Kelleher argued that Mitts is not, as Kelleher believes the State is suggesting, a racist cop killer who is remorseless and without redeeming qualities. Third, Kelleher argued that clemency is warranted because the State is on the cusp of changing its death penalty protocol.

According to Kelleher, Mitts's situation is much more complicated than it might appear on its face. Kelleher spoke of the remorse that Mitts feels today. He described the Bible that was given to Mitts by Glivar's mother and sister, which has never left Mitts's hands. Mitts opens the Bible every day. He had followed the admonition of Glivar's family that he embrace God. By doing so, Mitts is honoring the wishes of his victims, Kelleher urged. In that way, Mitts and his victims are forever connected. That, according to Kelleher, is how Mitts manifests his remorse. Mitts is not an outwardly emotional person, Kelleher stated. Kelleher urged the Board not to conclude from Mitts's stiff, unemotional, and militaristic demeanor that he is remorseless.

Kelleher related that when he first met Mitts, Mitts stated to him that he was the only guilty man on death row. Mitts always acknowledged that he deserved whatever punishment was ultimately imposed upon him.

Kelleher insisted that Mitts was not racist, despite the racist epithets he repeatedly uttered on the night of the crime. Kelleher urged the Board to consider the allegation that Mitts is racist in the context of what the evidence in the case does and does not demonstrate. Kelleher noted, for instance, that a search of Mitts's apartment following his arrest uncovered no racist literature. Though Mitts's ex-wife once indicated that Mitts had at one time contemplated joining the Ku Klux Klan, her allegation has never been substantiated, Kelleher insisted. Kelleher noted that for 19 years Mitts has lived peacefully on death row with other ethnic groups, including African Americans. In the years preceding his crime, there was never any indication that Mitts was racist. In evaluating whether Mitts is or is not a racist, Kelleher urged the Board to look at the person that Mitts was both before and after the crime.

Kelleher argued that Mitts's history of racial tolerance and other positive qualities were never developed at trial. According to Kelleher, there was a rush to judgment in Mitts's case. The trial, verdict, and sentencing all occurred within 90 days, Kelleher noted. Shaughnessy could not have thoroughly researched Mitts's background and provided an adequate defense in such a short period of time, Kelleher insisted. Shaughnessy therefore effectively abandoned Mitts during the trial process. According to Kelleher, Mitts's trial was more about Shaughnessy's personal aggrandizement than competently defending Mitts.

Kelleher urged the Board to view Mitts's trial in the context of how Cuyahoga County was handling capital cases in the 1990s. According to Kelleher, those cases were repeatedly referred to the same defense attorneys, who were more concerned with media exposure and posturing than defending their clients.

Kelleher specifically took issue with the theory advanced at trial by Shaughnessy that Mitts had experienced amnesia caused by alcohol blackout. Essentially, Shaughnessy's sole defense theory was that Mitts was too intoxicated on the night of the crime to form the requisite criminal intent to kill. That defense, Kelleher urged, was created out of whole cloth. Shaughnessy's own trial expert refuted his blackout theory. Kelleher argued that the blackout defense was foisted upon Mitts, who never denied that he was aware of what he was doing on the night of the crime and had control over his faculties throughout.

Shaughnessy thus painted an incomplete picture of Mitts to the jury, Kelleher argued. Mitts was presented to the jury as a calculating, cold-blooded killer who was attempting to hide behind a weak intoxication defense. Kelleher argued that Mitts's trial attorney should have instead painted for the jury a more complete picture of who Mitts was when he committed his crimes. Shaughnessy should have dissected Mitts's life for the jury at the mitigation phase of the trial, describing Mitts's several divorces and his struggle with depression, which included suicidal ideation.

Nor did Shaughnessy describe for the jury how Mitts had served his country in the Coast Guard and was gainfully employed following his discharge, Kelleher noted. Shaughnessy never informed the jury that, despite the implication that Mitts was a racist, Mitts had in fact worked alongside African Americans for many years without incident. As important as all of that information was, Shaughnessy ignored it, Kelleher argued.

In short, Mitts was abandoned and betrayed by his trial counsel, Kelleher urged. The trial was a calamity. There was no reason for Shaughnessy to adopt the blackout defense, Kelleher insisted. While conceding that he has no way of knowing how Mitts's trial would have turned out had Shaughnessy handled it differently, Kelleher stated that he knows that Mitts was denied the opportunity to present his true self during the trial and, specifically, to refute the implication that he is a racist.

Up to the night of the crime, Mitts had lived a law-abiding life. However, in the weeks preceding the shootings, Mitts began to unravel. His suicidal thoughts were becoming

more frequent. He was self-medicating with alcohol. Mitts was also stalking his wife and her new husband, Kelleher noted. In short, Mitts was beginning to act very bizarrely. Mitts did not kill Bryant because Bryant was African American, Kelleher insisted. Rather, Mitts killed Bryant to draw the police to him and to kill him. According to Kelleher, he was “fanning the flames” by making racially provocative remarks to hasten his own death at the hands of the police. That Mitts survived the night of the crime is nothing short of a miracle.

Kelleher described Mitts as asymptomatic today. He indicated the Mitts does not currently entertain any thoughts of suicide.

Kelleher described Mitts as completely honest to the point of being compulsively truthful. As evidence of his truthfulness, Kelleher pointed to the fact that Mitts confessed to the Board during his clemency interview that, in the period preceding the crime, he had been stalking John Salerno and was contemplating killing him. Mitts is so compulsively truthful, Kelleher argued, that Mitts could not support the false blackout theory that Shaughnessy was advancing at trial. While alcohol has always been part of Mitts’s problems, Mitts himself has never attempted to hide behind it or otherwise tried to skirt responsibility for his crime. Kelleher argued that given his honest nature, were Mitts in fact a racist, he would acknowledge it to the Board. Kelleher opined that Mitts is fundamentally a good man.

Kelleher addressed the fact that Mitts possessed several firearms and accumulated thousands of rounds of ammunition, noting that it is not clear why Mitts accumulated the firearms and ammunition. Guns and ammunition were not a life-long obsession for Mitts. Mitts’s interest in firearms was something that developed well into his adulthood. It was part of the psychological changes that emanated from Mitts’s divorces and his ensuing depression, Kelleher argued.

Kelleher noted that the Department of Rehabilitation and Correction intends to adopt a new death penalty protocol in October 2013, which is after Mitts’s scheduled execution date. Kelleher described this as an interesting stage in Ohio’s death penalty history, and described the current system as defective and flawed. According to Kelleher, Billy Slagle’s recent death row suicide is an example of those defects and flaws. Kelleher urged the Board not to use Mitts as a “free pass” to demonstrate that the existing death penalty protocols work, thereby quieting any questions or concerns raised by Slagle’s suicide.

In short, Kelleher argued, the existing death penalty system is broken and needs to be retooled. Mitts should not be the last of the line of inmates executed as part of that broken system. Mitts should be a part of the death penalty reforms and not the memory of a deficient system, Kelleher argued.

Kelleher addressed Mitts’s views on the appellate process and these clemency proceedings. Kelleher acknowledged that, during his clemency interview, Mitts conveyed ambivalence about clemency. According to Kelleher, Mitts has always believed that his death sentence was just. If he downplayed the appeals process during his interview, it is

because Mitts has always accepted responsibility for his crime, Kelleher argued. Mitts's attitude toward the appeals process is a manifestation of his own remorse. According to Kelleher, after his appeals were exhausted and clemency proceedings commenced, Mitts wrestled with the decision as to whether to participate in the Parole Board clemency interview, eventually deciding to participate because there were things that he wanted the Board to know, including his view that Bryant and Glivar were heroes. Mitts wanted to use the clemency process as an opportunity to continue his atonement.

Kelleher explained that Mitts authorized him to speak on his behalf and to explain to the Board who Mitts is as a person. Kelleher believes that Mitts, today, does want clemency, as he speaks of how God might have a plan for him were his sentence to be commuted to life. Kelleher stressed that he was present at the clemency hearing because Mitts wanted him to be there.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Assistant Ohio Attorney General Steve Maher, Assistant Cuyahoga County Prosecutor T. Allan Regas, and Assistant Cuyahoga County Prosecutor Katherine Mullin presented arguments in opposition to clemency.

Mullin showed the Board several PowerPoint slides. The slides included photographs of Bryant and Glivar taken when they were both still alive; various photographs of the crime scene; and photographs of the firearms and ammunition recovered from Mitts's apartment following his capture. In addition, one of the slides in Mullin's PowerPoint contained a photograph of a bumper sticker found in Mitts's apartment that read: "Gun control means hitting what you aim at."

Mullin noted that, despite the overwhelming police presence at the clemency hearing, the hearing is not solely about Sergeant Glivar, but also John Bryant, who was Mitts's first fatality. Bryant was killed for no other reason than that he was African American and in front of Mitts, who is a racist, Mullin argued. Mullin noted that Bryant was not the first person that Mitts encountered after he armed himself on the night of the crime. That person was Timothy Rhone, a white man. Instead of killing Rhone, Mitts directed him to leave the building. Nor did Mitts kill Bryant's girlfriend, Tracey Griffin, another white individual at the scene. Mitts continued to use racial epithets throughout the police standoff, Mullin pointed out.

Mullin stated that, like Kelleher, she agrees that the Board should examine the context and evidence in the case when evaluating whether Bryant's death was racially motivated. In her view, that context and evidence leads to no other conclusion than that Mitts was a racist who targeted Bryant because of the color of his skin. Mitts was able to hide his racism until the night of the crime, when he could contain it no longer, Mullin argued.

Mullin stated that Mitts should not be executed because he is racist. Rather, he should be executed because he took the lives of two individuals. The State has no need to fabricate

racism or any other reason to support Mitts's execution, Mullin insisted. Mitts's crimes alone are sufficient reason to carry out his death sentence.

Regas added that, while Mitts's racism is not a legitimate basis upon which to execute him, it is relevant because it puts his actions into context. Mitts was not, as Kelleher suggests, using race to "fan the flames" on the night of the crime. On the contrary, Regas argued, the crime itself was racially motivated. Were Mitts merely using race to fan the flames, Mitts would have related that fact to the Board during his clemency interview, but he did not.

Regas refuted the notion that Mitts's relationships with African Americans were entirely copasetic in the period preceding the shooting. Regas noted that Mitts had previously reported to Salerno that Mitts was having difficulties at work that Mitts believed were race-related.

Regas noted that, were Mitts's motivation simply to commit suicide by cop, he could have accomplished that purpose by walking up to a police officer with an unloaded firearm. There was no need to take anyone's life other than his own. Mitts's actions, along with the guns and ammunition found in his apartment, clearly demonstrate that Mitts was out to kill people on the night of August 14, 1994, Regas argued.

Mullin then described the responding officers' heroics on the night of the crime. She described how Mitts immediately fired upon one of the first officers responding to the scene, Jon Cermack. Not far behind Cermack were Kaiser and Glivar, who were also among the first on the scene.

Mullin related how Mitts opened his apartment door and confronted Kaiser and Glivar in a shooter's position wearing ear and eye protection, which suggests that he was spoiling for a firefight. Mullin related how Mitts killed Glivar and shot Kaiser twice. She challenged Mitts's contention that he did not intend to shoot and kill Glivar. The idea that Glivar was simply in the wrong place is meritless. Mullin stated that it was Mitts's philosophy to hit what he aimed at, referring to the bumper sticker that was found in Mitts's apartment.

Despite being seriously wounded, Kaiser continued to attempt to negotiate with Mitts, Mullin related. Meanwhile, Mitts shot another police officer, John Mackey. After fatally wounding Glivar, Mitts picked up Glivar's shotgun and began firing into the walls of the surrounding apartments. Every one of those gunshots could have produced another victim, Mullin pointed out, as Mitts was on a terroristic rampage. Mullin described how deeply Mitts's actions affected everyone at the crime scene, including the emergency medical personnel who treated the several victims.

Mullin challenged Kelleher's suggestion that Mitts was an otherwise law-abiding individual who snapped. Mitts acted with prior calculation and design, Mullin insisted. As evidence of Mitts's propensity for criminal calculation, Mullin pointed to Mitts's own admission during his clemency interview that he had been stalking Salerno. In short,

Mitts had the propensity to kill and could have very easily killed before, Mullin argued. The events of August 14, 1994 were a virtual inevitability, she contended.

Maher then added that Mitts's premeditation is evidenced by the manner in which he killed Bryant. Maher noted that the weapon that he used to kill Bryant had a red laser dot sight, a device used to ensure precise aim. Mitts used that sighting device to shoot Bryant through his aorta, which was as fatal a shot as Mitts could have delivered to Bryant. Mitts did not exhibit disorganized behavior during the shooting, Maher added.

Mullin challenged the notion that Mitts's trial counsel was ineffective. Although Shaughnessy's blackout theory ultimately failed, it was not unreasonable. Mullin noted that Kelleher offers no viable alternative theory that trial counsel could have advanced. The jury was aware that Mitts had been depressed in the past. That, and any remaining mitigation, was simply not sufficient to outweigh the aggravating factors, Mullin suggested. In any case, Mitts's ineffective assistance of counsel claims have been thoroughly litigated.

Mullin argued that the 90-day timeframe in which Mitts's trial was conducted was not unreasonable. The trial was conducted within the parameters of Mitts's constitutional right to speedy trial, she pointed out.

According to Mullin, Mitts was not remorseful during his clemency interview. She acknowledged that Mitts stated that he was remorseful; however, in her opinion, he did not actually demonstrate it. That Mitts spoke of remorse means little, Mullin argued. In her experience, when someone speaks of how remorseful they are, that is usually the first indication that the person is in fact remorseless. Mullin speculated that Mitts's unwillingness or inability to demonstrate remorse may be related to the fact that he is not wholeheartedly seeking clemency. Regas observed that Mitts himself has never directly requested that his life be spared. Only upon prodding from the Board during the clemency hearing has Mitts's attorney requested, without equivocation, that Mitts be granted clemency, Regas stated.

Regas noted that he was present for Mitts's clemency interview and was struck by Mitts's lack of emotion during the interview. Regas observed that the only moments of the interview during which Mitts exhibited any emotion was when describing his tactical actions and decisions on the night of the crime, which Mitts apparently took great pleasure in detailing for the Board.

Regas disagreed with Kelleher's contention that Mitts is compulsively truthful, and argued that Mitts does not always tell the truth. Regas pointed out that when the Board asked Mitts about the racial epithets that he was heard uttering on the night of the crime, Mitts indicated that he did not recall making the statements. His evasive answers on that issue demonstrate that Mitts is not always truthful. Regas insisted that Mitts's actions and his behavior during the clemency interview demonstrate that he is not the good man that Kelleher describes him to be.

Maher then added that Kelleher's argument that Mitts has never shirked responsibility for his crime is contradicted by both the court records and the clemency interview. In addition to attempting to shirk responsibility by disavowing any racial component to the crime, Mitts also attempted to shirk responsibility during his trial years ago, Maher argued.

Maher noted that Mitts raised the issue of ineffective assistance of counsel in federal court, arguing that his trial counsel compelled him to go along with a blackout defense that he did not support. Maher observed that Mitts only raised that claim *after* he received the death sentence, but up to that point, Mitts appeared quite content to pursue the blackout defense. Maher noted that Mitts had even provided an unsworn statement to his jury stating that he had no memory of what occurred on the night of the crime until police related to him what transpired. Thus, Maher argued, at the time of trial, Mitts attempted to shirk responsibility by facilitating a blackout defense that he now claims had no basis in fact.

Maher disagreed with Kelleher's contention that Mitts's trial counsel abandoned Mitts by failing to address the racial component. Maher noted that racial animus was not an element of any of the crimes with which Mitts was charged. Therefore, the prosecution was not required to prove that Mitts acted with racial motivation. The upshot of that, Maher argued, was that, though Mitts's racial motivation lurked in the background of his trial, Mitts's apparent racial animus was not an issue that Shaughnessy could directly confront at trial. Therefore, Shaughnessy addressed the issue indirectly. For instance, when cross-examining an employee from the shooting range that Mitts frequented, Shaughnessy asked the witness whether he recalled Mitts bringing an African-American friend with him to the shooting range. Similarly, when cross-examining Bryant's girlfriend, Tracey Griffin, Shaughnessy questioned her about her ex-husband, who was African American; how Mitts was aware that Griffin's ex-husband was African American; and how Mitts remained friends with Griffin notwithstanding her past relationship with an African-American man.

According to Maher, the allegation that Shaughnessy ignored the issue of race at trial is thus directly contradicted by the record. Shaughnessy addressed the issue in the only way that he could given that racial animus was not an element of the charged crimes, Maher argued.

Mullin argued that the upcoming change in the lethal injection protocol should have no bearing on Mitts's execution. According to Mullin, the fact that Mitts will be the last person to die under the existing protocol is not a legitimate basis for clemency. The current protocol is constitutional, she noted.

Maher added that Mitts himself has never been a party to the state's lethal injection litigation, which has been pending in federal court for several years. Having never joined the lethal injection litigation, Mitts is not now in a position to obtain any legal relief from it.

Mullin then concluded the State's presentation by noting that the office of the Cuyahoga County Prosecuting Attorney recently conducted an exhaustive review of Mitts's case and determined that the death penalty remains an appropriate penalty in his case. She asked that the Board make an unfavorable recommendation regarding clemency.

VICTIMS' REPRESENTATIVES:

Bryant's sister, Johnnal Bryant, read from a letter directed to Mitts. In it, she noted that her family can now finally find closure as Mitts's execution date approaches. She recognized that Mitts's execution will not bring her brother back. However, it will give her a sense of satisfaction that justice is finally done. She noted that her brother lived only 30 minutes after he was shot while Mitts has lived for 19 years. She noted that before shooting her brother, Mitts had contemplated killing his ex-wife and her new husband but chose not to because of the impact it would have upon his daughter. She asked, rhetorically, whether Mitts ever realized that Bryant too had a family who loved him. Who made Mitts God that he could take a life, she asked. Mitts may think he is going to heaven, but he is not, she stated.

Donald Dean, a minister and friend of the Bryant family, stated that Mitts acted purposely when he killed Bryant. Mitts chose to kill Bryant because Mitts was racist, Dean opined. It was a clear-cut case of murder. Mitts was a cold-blooded killer who hated African Americans. While he and the Bryant family have forgiven Mitts, they have not forgotten what he has done. Dean described how Bryant had turned his life around in the years preceding his death. Bryant had made several positive changes in his life, including embracing God. Dean indicated that it would, in his opinion, be an injustice for Mitts not to suffer the consequences for what he has done.

Tom Kaiser read from a prepared statement. Kaiser cannot imagine the pain that the Glivar and Bryant families have experienced as they wait for justice to be carried out. Kaiser noted that he and Glivar were good friends, and described how, ten minutes before responding to Mitts's apartment, they were eating together and complaining about the ongoing baseball strike. Just ten minutes later, they were cowardly ambushed by Mitts. Kaiser insisted that Mitts could not have shot him twice and Glivar five times were Mitts in a blackout state, as Mitts's trial counsel had suggested. Kaiser continued his police career after being shot, but was away from work for a year. Many of the officers present at the scene, including himself, were psychologically scarred for life, Kaiser reported. Kaiser described Mitts as a racist assassin and a cop killer. Kaiser stated that it is time that everyone affected by Mitts's crime receive the justice they so deeply deserve.

Glivar's wife, Debbie Glivar, noted that she had been married to her husband for eleven years when Mitts took his life. She spoke of the last moments that she spent with her husband, and related how it is impossible for her to articulate how her life has been affected by her husband's death because her life is filled with what-ifs. She dwells on thoughts of what she has missed out upon in her life. She loved being married to her husband and she still misses her life with him. Her life today is incomplete and in limbo;

she moves constantly because she does not know where she is supposed to be. Her husband was everything to her.

Bob Sackett, the current Chief of the Garfield Heights Police Department, stated that he was a patrol officer in 1994 when the crime occurred. The Department had never before endured an event like Mitts's crime, which also deeply affected the community. Sackett described Glivar's funeral procession and how children stood outside their schools along the route paying their respects to the passing officers. Sackett described the fear in the eyes of the various officers' wives in attendance at the funeral that their husbands might someday meet the same fate as Glivar. Mitts does not, today, accept responsibility for the crime nor adequately express remorse, Sackett stated. He noted, for instance, that it is a slap in the Bryant family's face for Mitts to deny today that he killed Bryant because Bryant was African American. Sackett stated that Mitts lay in wait for Kaiser and Glivar before shooting them both. Nothing Mitts said or did on the night of the crime suggested that Mitts did in fact want to die at the police's hands or that he was not in control of his own actions. Mitts murdered two men in cold blood, one because of the color of his skin and the other because of the uniform he wore. Sackett asked that the Board make an unfavorable clemency recommendation and that Mitts's death sentence be carried out.

Thomas Murphy, the former Chief of the Garfield Heights Police Department, described Glivar as a good man, husband, police officer, and friend. No one who knew Glivar would have a bad word to say about him. Glivar was nicknamed "the shadow" because he was seemingly ever-present, always having his fellow officers' backs. Murphy described Glivar as efficient and silent. Glivar and Kaiser, who were both well trained, were ambushed by Mitts outside his apartment. Glivar and Kaiser did not stand a chance, Murphy insisted. Murphy described how the entire community and his police department were devastated by the crime. He also described how Kaiser left the hospital to attend Glivar's funeral against his doctors' direction. Murphy stated that Mitts's cowardly acts left dozens of people scarred for life. He asked that Mitts be shown no mercy and that clemency be denied.

Jonathon Salerno, a former Grand River Police Chief and the husband of Mitts's ex-wife, spoke of how he adopted Mitts's daughter, Melanie, after Mitts was convicted. According to Salerno, the Mitts he knew was a racist who hated police. Salerno described how Mitts called him during the standoff with police and told him that he had killed a cop and Bryant, using a racial epithet to describe Bryant. At no time during that conversation did Mitts discuss suicide, Salerno related. Salerno indicated that his prior encounters with Mitts were consistently negative, describing Mitts as a very aggressive person. Mitts would tell Salerno that he had no use for cops or black people. Mitts liked to describe his weapons to Salerno. Salerno described how Melanie once returned from a scheduled visit with Mitts and told Salerno that Mitts had asked her if she wanted to meet his new girlfriend, a gun. When speaking on the telephone during the standoff with police, Mitts told Salerno that he had intended to kill Salerno too until Melanie had told him how much she loved Salerno. Salerno does not believe that Mitts should receive clemency. Rather, Salerno urged, he should get what he deserves—death by lethal injection.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Ohio Parole Board conducted an exhaustive review of documentary submissions and carefully considered the information presented at the clemency hearing. The Board reached a unanimous decision to provide an unfavorable recommendation regarding clemency for the following reasons:

- The Board is not persuaded that the unsuccessful blackout theory advanced by Mitts's trial attorney warrants clemency on the theory that advancing the defense amounted to ineffective assistance of counsel. Although that defense tactic ultimately proved unsuccessful, it remains unclear what alternative trial strategy would have produced a different result. In any case, that and other claims of ineffective assistance of counsel advanced by Mitts through the years, have all been extensively litigated in, and rejected by, the reviewing courts.
- Mitts accepts responsibility for the crime, but only to a point. Mitts continues to deny or minimize many of the most troubling aspects of his crime. For instance, despite using racial slurs prior to shooting Bryant and during the ensuing police standoff, Mitts denies that the crime was racially motivated. Likewise, the record belies Mitts's insistence that he only accidentally shot Glivar and Kaiser in an attempt to make the officers retreat. Mitts's claim that he was, at first, attempting to commit suicide by cop and then, later, to survive the police standoff is also patently lacking in credibility. As the State points out, if Mitts's purpose was simply to be shot and killed by the police, he could have accomplished that by pointing an unloaded gun at officers. It also speaks volumes that Mitts did not immediately surrender after he supposedly decided that he wanted to live. Lastly, the Board is troubled by Mitts's suggestion during his clemency interview that the various weapons and the thousands of rounds of ammunition in his apartment were reasonable in quantity and not intended for any nefarious purpose.
- The Board finds no merit in the argument advanced by Mitts's attorney that impending changes in the death penalty protocol somehow renders suspect Mitts's execution under the existing process.
- Standing in juxtaposition to the insubstantial bases for clemency advanced by Mitts's attorney are the aggravating characteristics of Mitts's crime, which are many. It is apparent that Mitts targeted his first victim, John Bryant, because Bryant was African American. Mitts then engaged in a protracted standoff with police, exchanging gunfire with officers and randomly discharging various firearms. Mitts exhibited a complete disregard for the lives of officers and innocent bystanders at the scene. In the end, in addition to killing Bryant, Mitts killed one police officer and wounded two others. That further tragedy did not result from the bedlam that Mitts created on August 14, 1994 is in many respects a miracle, and is testimony to the fine work of the law enforcement officers who responded to the scene. Given the multiple deaths, the racial animus underlying

Bryant's death, and the law enforcement victims Mitts targeted, Mitts's case is clearly among the worst of the worst capital cases.

- Mitts's crime not only deeply affected the lives of its immediate victims, it also had a profound impact upon the Garfield Heights Police Department, and the larger community in which it occurred.
- Mitts himself has expressed ambivalence about clemency. During his clemency interview, Mitts suggested that he has been heavily invested in neither his judicial appeals nor this clemency process. According to Mitts, he pursued the court appeals at his lawyers' urging and because it was the routine course. As for clemency, Mitts personally expresses no particular preference one way or the other. While Mitts's indifference is not, by itself, sufficient basis upon which to make an unfavorable recommendation, the Board does give it some weight in its overall determination.¹

RECOMMENDATION:

The Ohio Parole Board with eleven (11) members participating, by a vote of eleven (11) to zero (0) recommends to the Honorable John R. Kasich, Governor of the State of Ohio, that executive clemency be denied in the case of Harry Mitts Jr., A305-433.

¹ While relevant, a death row inmate's stated wishes should not be dispositive. The Board can envision cases in which a favorable recommendation for clemency may be warranted notwithstanding an inmate's indifference to clemency or even an inmate's stated preference for proceeding with the scheduled execution. An inmate's indifference to, or outright rejection of, clemency may be outweighed by the existence of significant mitigation, judicial procedural deficiencies, or other factors that necessitate a favorable recommendation for clemency from the Board in the interests of justice. Mitts's case is not such a case, however.

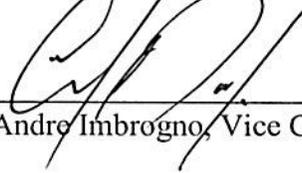
Adult Parole Authority

Ohio Parole Board Members
Voting **Favorable**

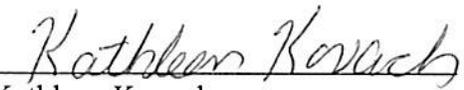
Ohio Parole Board Members
Voting **Unfavorable**



Cynthia Mausser, Chair



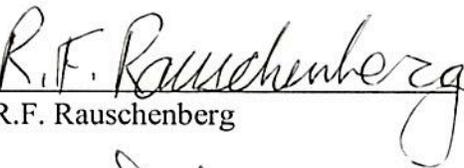
Andre Imbrogno, Vice Chair



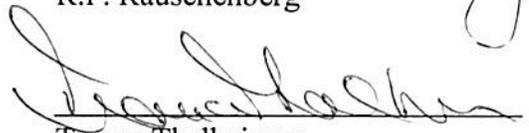
Kathleen Kovach



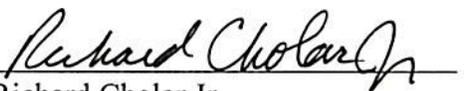
Ellen Venters



R.F. Rauschenberg



Trayce Thalheimer



Richard Cholar Jr.



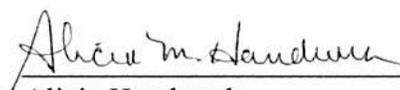
Marc Houk



Ron Nelson



Michael H. Jackson

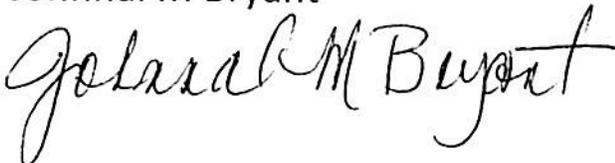


Alicia Handwerk

August 19, 2013

My name is Johnnal Bryant, and I am here to speak on behalf of my brother John Anthony Bryant, and also for both of my parents, Lenora Bryant and John Hunt, who are now deceased. First, I want to start off by saying that I finally can have some closure knowing that the person who took my brother's life is going to have his life taken away because of his criminal action committed on August 14, 1994. The execution will not bring my brother back, but it will give me a sense of satisfaction and justice. I want you to know that I have suffered ever since you shot and killed my only brother, John Anthony Bryant. John lived 30 minutes after you shot him, but you had 19 years to continue living until your death on September 25, 2013. I'm happy to say that justice is finally being served. You stated that you were also going to kill your ex-wife and her husband, but decided not to because you thought about your daughter. Well, did you ever think about the fact that John Bryant had a family that loved him too? When you killed John, you took away a son, a grandson, a brother, a nephew, an uncle, a father, and a friend. You killed my brother because the color of his skin. Who made you God to decide that you can take someone else's life? I was raised as a Christian, but I have no remorse or sorrow for you. You also stated that you accepted Jesus Christ as your Savior; well you should've had Jesus Christ in your life before committing the crimes on August 14, 1994. If you think you're going to Heaven; it's sad to say that you're not. You're going in the opposite direction, and your soul will rot and burn in hell.

Johnnal M Bryant

A handwritten signature in black ink that reads "Johnnal M Bryant". The signature is written in a cursive style with a large, prominent initial "J".

Dear Parole Board Members:

There will be victims here today that will offer testimony regarding the tremendous pain and anguish that Harry Mitts' killing rampage has inflicted on them. I cannot even begin to imagine how difficult the past 19 years have been for the family members of John Bryant and Dennis Glivar as they have patiently waited for justice to be served.

On August 14, 1994, Sgt. Dennis Glivar and I were partners in the same patrol car. Dennis and I were good friends both on and off the job. One month before this we had gone to an Indians game together at the then brand new Jacobs Field. Two weeks before this we had gone to Cedar Point with our wives. Ten minutes before the call came in on East 88th St., we were eating lunch behind Garfield Mall and complaining about the Major League Baseball Players who had just gone on strike. Ten minutes later, we were standing side-by-side when we were cowardly ambushed by Harry Mitts outside his apartment door. Dozens of lives were shattered from that moment on.

The victims from that fateful day which I am most familiar with are my fellow police officers who were directly involved in this incident. In my opinion, many of these officers, including myself, are afflicted with life-long mental, emotional and physical scars. All of this is a direct result of Harry Mitts' death march that day.

Harry Mitts is nothing more than a racist assassin and a cop killer. His words and actions that day showed that he was prepared to commit murder in massive proportions. If Harry Mitts is granted clemency, what message would this send to future victims of racial violence and the dedicated Law Enforcement officers in this great state? It is now time that all of Harry Mitts' victims finally receive the justice which they so richly deserve. Thank You for your time.

Respectfully Submitted,

Capt. Tom Kaiser

Garfield Hts. Police Dept. (Retired)

Bob Sackett, Chief of Garfield Heights Police Dept.

I started with the Garfield Heights Police Department in 1983 and in 1994 I was a Patrol Officer. Although we've had three other Officers die in the line of duty, I don't think we ever went through an incident like that on August 14, 1994.

WE ARE NOT A REAL BIG DEPARTMENT

AFFECTED THE ENTIRE COMMUNITY

2

When I read the summation of Mitts' Clemency interview I was both angry and surprised. Even though Mitts has claimed to found religion he refuses to take responsibility for his actions or express any remorse. To deny the racist motivation behind the shooting of John Bryant and to further tell this Board that Dennis Glivar kicked in his door and fired at him is nothing more than a slap in the face to this Board, Debbie Glivar, the Bryant family, Tom Kaiser and everyone else involved in this process. The circumstances of this case have been testified to and litigated for 19 years and it would be hard to come up with a story that was further from the truth. The truth is that Mitts lay in wait and ambushed Sergeant Glivar and Lieutenant Kaiser.

I know the Board has read all testimony from the trial but would like to reiterate that on that evening, Mitts acted in a cold and calculating manner. During my interaction with Mitts, he acted strategically and ~~intentionally~~ and nothing he did or said indicated that he ^{WANTED TO DIE} was not in control of his thought process.

Many of the officers seated in this room were not even on the department in 1994. Yet they are here ^{IN SUPPORT} because of the bond that exists between all police officers, ~~and to show their support.~~ In a way they not only represent the Garfield Heights Police Department they also represent every police officer in the State of Ohio. They took the job and go to work each day knowing that it could happen to them. They accept this and the only thing they ask in return is that when a police officer is murdered, the laws of the state are followed and the sentence imposed be carried out.

As much as anything, what has stuck with me through the years was what I saw at Dennis' funeral. All the wives attended the funeral and because we were in military formation, they ^{HAD TO BE} ~~were~~ each other's support. When I looked at the wives, I saw the ^{EXACT} same thing in each of their eyes. Of course there was sadness, but I also saw fear, fear that any one of them could be standing in Debbie's shoes. Mitts' cowardly actions brought home the fear that every police spouse lives with and time doesn't change ~~that~~. ^{THAT} OR LESSER THAT.

~~Harry~~ Mitts murdered two men in cold blood. One because of the color of his skin and the other because of the uniform he wore. His misplaced hatred of African Americans and police officers led to the devastation of two families. I respectfully request, on behalf of Debbie Glivar, the Bryant family, retired Captain Tom Kaiser and the Officers of the Garfield Heights Police Department ~~and~~ their wives and children that your recommendation to the Governor is that clemency be denied to Harry Mitts.

THANK YOU FOR YOUR TIME.