TO: Board Members

FROM: John J. Talaber, Esq.
        Board Secretary

DATE: July 13, 2017

RE: Minutes – Board Meeting
    June 21, 2017

In compliance with Act 175, known as the Sunshine Law, effective September 17, 1976, the Office of Chief Counsel provided notification to the public of the scheduled meeting on June 21, 2017 of the Pennsylvania Board of Probation and Parole.

The meeting convened at 9:00 a.m. on June 21, 2017 with Chairman Dunn presiding.

Board Members Leslie Grey, Linda Rosenberg, Mark Koch, Ed Burke, Everett Gillison, Ted Johnson, and Mike Potteiger were present.

Also in attendance were Alan Robinson, Chief Counsel, Office of Chief Counsel; Laura Treaster, Director, Office of Communications; Chad Allensworth, Chief Hearing Examiner, Hearing Examiners Office; John J. Talaber, Board Secretary, Office of Board Secretary; Luis Rosa, Director, Office of Re-Entry and Quality Assurance; Scott Woolf, Director, Internal Affairs and Special Services Office; Jennifer Storm, Victim Advocate, Office of the Victim Advocate (OVA); Edie Letherby, Director, Office of Administrative Services; Victor Wills, Director, Office of Policy and Legislative Affairs; and Christian Stephens, Director, Office of Field Probation and Parole Supervision. Meghan Dade, Executive Director, Sexual Offenders Assessment Board (SOAB) was not present, but was represented by her Executive Assistant, Janaki Theivakumaran.

I. APPROVAL OF MAY 17, 2017 BOARD MEETING MINUTES

Board Member Burke made a motion to approve the board minutes as written. Board Member Johnson seconded the motion. There was no discussion and the board unanimously approved the minutes.

Chairman Dunn acknowledged the attendance of Dr. Diane Shoop from the Pennsylvania Sentencing Commission; and Marcus Brown, Director of Public Safety for Homeland Security for Pennsylvania. Chairman Dunn noted that Pennsylvania Sentencing Commission Executive Director Mark Bergstrom would also be in attendance later in the meeting.
II. STAFF REPORTS

All reports referenced in public session were previously disseminated to board members and senior staff for review and will be made available upon request.

A. Office of Victim Advocate

Victim Advocate Jennifer Storm reported that Face-to-Face in July 2017 will be two days with about 60 cases to interview. Victim Advocate Storm stated that for the first time, OVA and the board will be running seven cases an hour throughout the day. Victim Advocate Storm noted that the Face-to-Face committee will be meeting on July 12, 2017 to look at other viable options for Face-to-Face interviews. Victim Advocate Storm will be going to New York to review their Face-to-Face process, and she recently spoke with staff from Georgia concerning their Face-to-Face process. Board Member Potteiger asked if July 2017 is the new normal. Victim Advocate Storm noted that July typically is a busy month, but the volume varies, noting that August 2017 is also looking pretty full. Victim Advocate Storm stated that the OVA victim registration numbers increase, so do the opportunities for victims to utilize Face-to-Face. Victim Advocate Storm had no additional information to report other than what was submitted, and she was available to the board as needed.

B. Sexual Offenders Assessment Board

Executive Assistant Janaki Theivakumaran, substituting for Executive Director Meghan Dade had nothing to report other than what was already submitted, and was available to the board as needed.

C. Office of Chief Counsel

Chief Counsel Alan Robinson reported that the board was still waiting for decisions in: Young v. Pa. Bd. of Prob. & Parole, Pa. Cmwlth. Ct. on the issue of sentence credit for time at liberty on parole and awarding and taking away credit; and Smith v. Pa. Bd. of Prob. & Parole, Pa. Supreme Court, on sentence credit for cases where the offender is incarcerated in federal custody.

Concerning the Pittman v. Pa. Bd. of Prob. & Parole case, Chief Counsel Robinson noted that some board members may have seen memos seeking a reason for denying sentence credit. The cases are coming-up through the board’s administrative appeal process; as well as a number of cases that were stayed in the Pennsylvania Supreme Court while the Pittman case was pending, and are now remanded to the Commonwealth Court for a resolution. Additionally, there were some cases pending in the Commonwealth Court that were stayed that have now been revived for a decision. Chief Counsel Robinson noted that if the decision involved former Board Member Craig McKay, it would be reassigned to another board member.
Chief Counsel Robinson stated that he is working with Chief Hearing Examiner Allensworth and Board Secretary Talaber on sentence credit issues that he would like to discuss with the entire board at the July 2017 meeting. Chief Counsel Robinson encouraged the board members to ask questions. Board Member Rosenberg suggested (concerning the Pittman reasons) that the hearing examiners provide a recommendation and that the reasons be available to the board when they are completing the 344. Chief Counsel Robinson stated that he believes that it will be incorporated into the electronic 344. Board Secretary Talaber noted that in OnBase there will be a drop-down list available to the decision makers that includes the Pittman reasons.

Board Member Burke asked if there was an effective date for the Pittman decision. Chief Counsel Robinson stated that it is prospective and not retroactive, unless the inmate filed a timely administrative appeal raising the issue.

Board Member Gillison noted that he has started providing partial sentence credit to inmates, and inquired about policy being issued indicating that the board had the power to do it. Chairman Dunn suggested and sought agreement from the board that Chief Counsel Robinson, Chief Hearing Examiner Allensworth, and Board Secretary Talaber work together to put together a guide that could be reviewed (and possibly approved) at the July 2017 meeting. Board Member Gillison wants to ensure that the hearing examiners know that they can do it too. Board Member Grey noted that she was awaiting guidance on the issue. Board Member Rosenberg requested time to discuss the issue at a board meeting. Chairman Dunn stated that the discussion could begin now, and follow-up information could be sent within the next week.

Board Secretary Talaber suggested that instead of awarding a percentage of the time, it would be better if we could identify a block of time to award the inmate from reviewing the Supervision History Report. Board Secretary Talaber noted that by doing this, we could continue to use the PBPP-39 as designed. There was discussion among the board members about the merits of awarding credit or not awarding credit, and the element of consistency among the decision makers. Chairman Dunn directed the Chief Counsel, Chief Hearing Examiner, and Board Secretary to get a draft guideline together, circulate it among the board members before the next meeting, and it will be a topic of discussion at the July 2017 board meeting.

Chief Hearing Examiner Allensworth asked for clarification: Does the board want him to wait until there is a draft of the guidelines, or tell the hearing examiners immediately they have discretion. Chairman Dunn, after a general discussion among the board members, directed the Chief Hearing Examiner to let them know immediately but also advise them that guidelines are coming to assist them. Chief Counsel Robinson requested that board members let
him know if there are other sentencing credit questions they may have by June 23, 2017, so that he could draft a memo to answer their questions and concerns. Chief Counsel Robinson had no additional information to report other than what was submitted, and he was available to the board as needed.

D. Office of Board Secretary

Board Secretary John Talaber reported that he attended Institutional Parole Agent Training at the Academy for nine days. Board Secretary Talaber noted that Director Rosa’s staff did an excellent job presenting the course, and he has a greater understanding and appreciation of what institutional parole staff do on a daily basis. Board Member Burke asked the board secretary if he saw the value in having board institutional parole staff. Board Secretary Talaber noted that if he was a decision maker, he would want this group of people feeding him the information as they spend hours on reports making sure they get things right. Board Member Grey noted that institutional parole staff go the extra mile to track down information, and leave no stone uncovered in order to get it. Board Member Johnson noted that institutional parole staff will find information for him during the time he is at the institution, if he has questions, and they get it done within seconds of his request. Board Secretary Talaber had no additional information to report other than what was submitted, and he was available to the board as needed.

E. Hearing Examiners Office

Chief Hearing Examiner Chad Allensworth stated he had a question for the board concerning the delinquency process: Does the board want hearing examiners to have the authority to cancel the delinquency so that the decision does not come directly to the board? The current process involves a special field report that eventually needs to make its way to the board. The proposed change is that the information would be relayed through the 257 series that would come before the hearing examiner, and in a part of the hearing examiner’s report the box would be checked to cancel the delinquency. Board Member Gillison made a motion to give the hearing examiners the authority to cancel delinquency in order to avoid having the decision come directly to the board. Board Member Johnson seconded the motion. Board Member Burke asked if this situation involved when the parolee was arrested and Chief Hearing Examiner Allensworth replied “yes.” Board Member Grey asked if the board member, through their review of the hearing report, could override the hearing examiner, and Chief Hearing Examiner Allensworth replied “yes.” There was no further discussion. The board voted unanimously to approve the motion.

Board Member Gillison had a question about obtaining copies of certified conviction records, and the name of the person in the Philadelphia Clerk of Courts Office we are working with to obtain the records. Director Stephens noted that the “PAR” record is not accepted by the board as certification of
the conviction. Board Member Gillison asked why this was the case. Chairman Dunn asked Chief Counsel Robinson if there was a legal reason for this, or does he need legal review. Director Gillison noted that the PAR is a document that eventually becomes the charge sheet after the district attorney says “yes.” Chief Counsel Robinson noted that the PAR is the charging document so we could not use it as proof of conviction. Board Member Gillison noted that eventually the PAR becomes a record of the conviction.

Chairman Dunn directed Board Secretary Talaber to research the basis for how the board reached the decision. Board Member Gillison would like to solve this problem. Director Rosa explained what he would do as an ASCRA agent. A discussion occurred among the board members, and Chairman Dunn asked if as a board it was willing to accept the AOPC document without it being a certified record? Chairman Dunn suggested Directors Rosa and Stephens work with Board Member Gillison to find a way to make the electronic version work, and it can be added to the July 2017 meeting discussion. Chief Counsel Robinson noted that it all comes down to “reliability” in the document. Chairman Dunn asked Directors Rosa, Stephens and Chief Counsel Robinson to get information and a suggested plan of action to the board members so that it can be discussed at the July 2017 meeting. Chief Hearing Examiner Allensworth had no additional information to report, other than what was submitted, and he was available to the board as needed.

F. Statistical Reporting and Evidence-Based Program Evaluation Office

Chairman Dunn noted that Executive Assistant William Otis would be taking on the role of statistical liaison with the DOC for the board due to Mr. Biren resigning from his position. Chairman Dunn thanked Director Wills for serving in this interim capacity. Board Member Gillison asked the board what other statistics would help us make better informed decision. Chairman Dunn said he was requesting the same, and asked that the information be provided to Mr. Otis on or before June 30, 2017.

Board Member Gillison noted that he asked last year to have his “dashboard” set-up through Michelle Heister who is no longer with the board. Chairman Dunn noted that there is a “dashboard” available. Board Member Rosenberg suggested that Dr. Bucklin be invited to provide insight and direction on the dashboards, what they can generate, and how they can be customized and an ongoing dialogue with him. Board Member Rosenberg suggested that we have the conversation with Dr. Bucklin before submitting questions. Chairman Dunn suggested Dr. Bucklin attend multiple board meetings. Board Member Burke noted it was a “major hit” when we lost our statistical office. Board Member Potteiger suggested that he have more time than a ½ hour, and it would be good to have it on a day other than a board meeting. Board Member Burke suggested we also find out from Dr. Bucklin where the board’s statistical requests are on the priority list. Board Member Rosenberg
stated that Dr. Bucklin was very quick in getting back to her requests. Board Member Rosenberg volunteered to work with Dr. Bucklin to coordinate a presentation. Chairman Dunn noted that he preferred having Mr. Otis be the liaison. The Board Members discussed having them work directly with Dr. Bucklin, and Chairman Dunn stated that in the past there was a problem with having the director of statistics come to the former chair saying he has gotten multiple requests and needed help prioritizing. Chairman Dunn reinforced that he felt it important to go through Mr. Otis. Board Member Johnson suggested that the Chairman's concerns be addressed at the meeting they are going to have with Dr. Bucklin.

G. Office of Administrative Services

Office of Administrative Services Director Edie Letherby, reported that she had no additional information to report other than what was submitted, and she was available to the board as needed. Board Member Johnson asked Director Letherby about statistics concerning the equal opportunity program as it relates to the Diversity Committee. Director Letherby will provide the full report to the Committee in electronic format.

H. Office of Field Probation and Parole Supervision

Director Christian Stephens stated that had no additional information to report other than what was submitted, and he was available to the board as needed. Board Member Burke asked if parole agent one interviews would all be held in central office. Director Stephens reported "no," they will be held at multiple locations throughout the state. Board Member Burke then asked if the parole agent would be interviewed by someone from the respective district, and Director Stephens replied "yes." Chairman Dunn noted the changes were made so that it takes less time to go through the process, and so that the same team picks everyone from the region. Director Stephens noted that the interview team would include someone from the field and the institution.

I. Office of Re-Entry and Quality Assurance

Director Luis Rosa reported his office continues on workforce development, and he had no additional information to report other than what was submitted. Director Rosa was available to the board as needed.

J. Office of Communications

Director Laura Treaster stated that she had no additional information to report other than what was submitted, and she was available to the board as needed.

K. Office of Policy and Legislative Affairs
Director Victor Wills reported that the recently signed "pension bill" would not affect current employees, unless they choose to change their plan. Director Wills also noted that there was no update on the "retirement bill."

Board Member Johnson asked Director Wills who the "we" was that were having the conversations about the bills. Chairman Dunn stated that the merger bill was a topic of conversation on the agenda for later in the meeting. Board Member Johnson agreed to discuss the matter at that time.

L. Internal Affairs and Special Services Office

Director Scott Woolf noted the release of Apple iOS 11 will increase mobile efficiently for IPads, in areas such as electronic signature and making the tablet more like a laptop. Board Member Rosenberg asked if the upgrade would allow the board members to take notes on ICSAs and other documents. Director Woolf indicated that the upgrade will continue to take us in that direction. Director Woolf had no additional information and was available to the board as needed. The board members noted the excellent quality of the board’s staff regarding technology assistance.

Staff reports were completed.

IV. OLD BUSINESS

A. Board Training Schedule

Board Secretary Talaber handed out a revised draft of the 2017 Board Meeting Topics and Training Schedule, and solicited suggestions before the final version was implemented. Board Secretary Talaber asked the board members to review and provide any suggestions to it so we could have a final version approved at the July 2017 board meeting.

B. Joint Resolution Committee (JRC) Status

Board Secretary Talaber reported that at the moment there was only 1 JRC case which was Board Member Potteiger’s case: The inmate in that case completed his GED and his release was pending. Board Secretary Talaber and Chief Hearing Examiner Allensworth met with DOC Executive Deputy Secretary Shirley Moore Smeal to resolve the remaining cases discussed at the June 2017 Board Meeting. Board Secretary Talaber reported that the DOC starting providing SOP booster classes before parole interviews. Board Member Potteiger asked if this was rolled out to all the institutions. Board Secretary Talaber replied it was a work in progress and he will follow-up with the EDS. Board Secretary Talaber reported that he will discuss other booster programs besides SOP cases (for all programs) with the EDS as well, given the broad scope of the board's resolution on programming (e.g. mental health programs).
C. Specialized Centers

Chairman Dunn mentioned this topic and noted that it would be discussed in more detail with Dr. Brett Bucklin at the July 2017 board meeting. Board Member Potteiger inquired why the board has to discuss the matter with Brett. Chairman Dunn, referencing a copy of the email he sent out to the board, noted that “to properly understand these rates, they should be examined in context with the comparable non-PVC group.” Board Member Potteiger respectfully disagreed with the statement, noting that the PVCCs were put in place to change behavior, and should not be compared with inmates at non-PVCCs. Board Member Potteiger shared that the PVCC centers should be 90 days, and he did not think that the DOC is putting the inmates in the centers for enough time. Board Member Potteiger suggested changes to the current process.

Chairman Dunn requested that the “parole violator committee” be chaired by Board Member Gillison and Board Member Potteiger to review the matter and provide recommendations on suggested changes. Chairman Dunn noted that Directors Rosa and Stephens should also be part of the process. A general discussion occurred among the board members and Senior Staff members about the quality of the PVCCs and the inmates who are placed there. Chairman Dunn re-iterated his request to have the committee put something in writing so that he can discuss the concerns with the administration.

Board Member Gillison noted that in January 2017 it was his understanding from Secretary Wetzel that the PVCCs would be jointly audited by DOC and board staff. Board Member Johnson asked about the status of the audit, and Directors Stephens and Rosa indicated that the joint audit did not occur. Chairman Dunn noted that the position continues to be worked-on. Board Member Potteiger requested information on which programs are being done at one center versus another center. Chairman Dunn directed Director Rosa to obtain that information electronically and share it with the board so that the committee can continue with its work.

D. Conference Report-National RX Drug Abuse and Heroin Summit in Atlanta, Georgia.

Board Member Leslie Grey provided a handout prior to the meeting, and shared her experiences and highlights of the conference with the board. Board Member Grey reported that she shared a link via the email of the handouts from the Conference.

Chairman Dunn moved his report to the July 2017 meeting so that the board had time to discuss other topics on the agenda.

F. Consolidation Bill Discussion

Chairman Dunn requested Director Wills to provide a quick overview of the process to date. Director Wills reported that since the House Judiciary Hearing on May 25, 2017, the bill had not moved. Director Wills stated in response to Board Member Johnson’s earlier question that the “we” that has taken place involved himself and Chairman Dunn for comments and suggestions to bills. Director Wills stated that had meetings with Secretary of Legislative Affairs, Mike Hanna, Jr., and Policy Analyst Catherine “Caley” McKeon.

Board Member Gillison asked who made changes on page 46 concerning the Chairman’s powers. Director Wills stated that this came from the administration to bring it under current practice as it is now. Board Member Gillison asked who made the changes to the qualifications for hearing examiners. Director Wills reported that was part of the Chairman’s suggestion and agreed with by Senator Greenleaf. Board Member Gillison asked Chairman Dunn what his thoughts were in making this suggestion. Board Member Grey noted that there were also suggested changes to the board members’ qualifications on pages 43 and 51. Board Member Grey noted the absence of “equivalent experience” for the hearing examiner changes.

Chairman Dunn explained that Senator Greenleaf wanted to increase the qualifications for board members and field agents. Chairman Dunn noted there have been issues in the past with hearing examiners understanding issues of due process. Chairman Dunn stated hearing examiners generally do well in making parole decisions, but have issues with hearings. Chairman Dunn noted that except for DOC hearing examiners, other hearing examiners in state agencies are by-and-large attorneys. Chairman Dunn suggested that the board do the same (for future hearing examiners), and at some point, perhaps all state agency hearing examiners be rolled into a statewide hearing examiner office. Some board members generally expressed concerns that those issues could be alleviated through training. Chairman Dunn noted that for board member positions, it does not require a law degree only, but other advanced degrees would also qualify. Board Member Johnson asked why other advanced degrees did not apply to hearing examiner positions, as well as the recognition of equivalent experience of employees going through the ranks. Board Member Grey joined in that question. Chairman Dunn noted that potential hearing examiners would still need to pass the civil service hearing examiner test.

Board Member Gillison asked who made changes on page 50 concerning the board secretary appointment from the board to the chairman. Director Wills stated that the change came about from the administration after the
December 2016 board meeting, where it was suggested by the board that the board secretary attend meetings with the Governor’s Policy Office. Chairman Dunn stated the change of the original bill having the Secretary of DOC making the appointment, so the change was either to the chairman or the board making the decision of the board secretary. Chairman Dunn stated the governor’s office made the decision to make it the chairman’s decision to appoint the board secretary. Board Member Burke stated he wanted it on the record that he disagreed with the decision. Board Member Johnson asked why the board was not included in this decision making process. Chairman Dunn explained that as part of the bill drafting process, administrations do things by asking for specific information, putting ideas together, and asking agency heads appointed by the Governor for thoughts and suggestions. Chairman Dunn stated that if the Governor’s Office asked him to do “x” or “y,” he is going to do it; similarly, if the administration does not give him permission to “go public with it” he is not going disclose that information. In this situation for the changes being discussed, Chairman Dunn stated he did not have permission to “go public” with it.

Board Member Johnson asked Chairman Dunn why he thought it would be better for the board secretary to report to the chairman rather than the board. Chairman Dunn stated he thought the board would want it to remain with them, but that it would make his life easier as the chairman deciding the board secretary. Board Member Gillison referenced page 86 and staff clarified the use of videoconferencing in interviews.

Board Member Johnson asked that if the merger does not go through, do any of the proposed changes go into effect. Director Wills replied that if the bill does not get passed by November 30, 2018, none of the proposed changes will occur. Board Member Gillison noted that even without a merger bill, the board and DOC could sit down and discuss the proposed changes, such as for assessments. Chairman Dunn noted that for the use of assessments, there was a joint committee between DOC and board staff to discuss a shared tool.

Board Member Potteiger noted that the cost savings question came-up at the committee hearing, and Secretary Wetzel was working on a report. Board Member Potteiger requested that when the report comes available, it be provided to the board members. Chairman Dunn noted that most of the cost saving comes from longer term savings by lower recidivism and better management of our parolee population. Board Member Burke stated that he has concerns with the institutional agents going to DOC and the quality of work the board will receive for the decision making process.

Board Member Rosenberg noted that under the responsibilities of chairperson on section 612, page 47, line 23, “perform all duties and functions of chairperson including organizing the administrative work of staff” which was changed to “administrative work of the board.” Board Member Rosenberg asked why it was changed. Director Wills stated that Senator
Greenleaf's staff and the legislative reference bureau suggested the change. Director Wills said the change is a reference to the agency and not to the powers of the board members.

There was a brief discussion among the board members and staff about proposed changes to the executive director of SOAB. Chairman Dunn stated that its purpose is to make the executive director of SOAB independent of the board chairman's oversight and control.

V. NEW BUSINESS

A. Executive Director Mark H. Bergstrom, and Manager of the Outreach and Policy Support Unit, Diane Shoop, Ph.D. presented updates from the Pennsylvania Sentencing Commission on sentencing guidelines, risk assessments, parole guidelines, and the Robina Project. Mr. Bergstrom answered numerous questions from board members on related topics.

Chairman Dunn requested the board members (other than Board Member Grey who had already done so) review Robina's “Board Members' Reflections on the Parole Process in Pennsylvania” and provide the chairman or board secretary with any suggested changes or comments on or before June 30, 2017. Chairman Dunn noted that once the report was made public, he would like to have it posted on the board's website also. The board members thanked Mr. Bergstrom and Dr. Shoop for their time.

B. The Chairman offered the general public an opportunity to comment, but no comments were made at this time.

C. Board Member Johnson noted that the agency is a ‘board,’ and he requested that anytime something needed to be signed or looked at, that all board members get a copy of the document and not just a select few. Board Member Johnson clarified that this was in reference to a letter that was signed. Board Member Grey asked if that was a “motion” and Board Member Johnson replied that it was just a statement. Chairman Dunn sought a motion to adjourn the meeting.

Board Member Poteiger moved to adjourn the meeting, which was seconded by Board Member Johnson. The board voted unanimously to adjourn the meeting.

JJT