TO:       Board Members

FROM:     John J. Talaber, Esq.,
          Board Secretary

DATE:     October 11, 2017

RE:       Minutes – Board Meeting
          September 20, 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 September 20, 2017 of the Pennsylvania Board of Probation and Parole.

The meeting convened at 9:00 a.m. on September 20, 2017 with Chairman Dunn presiding.

Board Members Leslie Grey, Mark Koch, Ed Burke, Everett Gillison, Ted Johnson, and Anthony Moscato were present. Board Member Potteiger arrived later in the meeting. Board Member Linda Rosenberg was not present.

Also in attendance were Alan Robinson, Chief Counsel, Office of Chief Counsel; Laura Treaster, Director, Office of Communications; 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); Deborah Carpenter, Director, Bureau of Budget and Office Services, Edie Letherby, Director, Office of Administrative Services; Victor Wills, Director, Office of Policy and Legislative Affairs; Christian Stephens, Director, Office of Field Probation and Parole Supervision; and Meghan Dade, Executive Director, Sexual Offenders Assessment Board (SOAB).

I.  APPROVAL OF AUGUST 16, 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 further discussion and the board unanimously approved the minutes.

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.
Chairman Dunn noted that there was a draft of the board meeting and face-to-face schedule in the back of the board members' binder.

Chairman Dunn stated that according to what the board decided with data reports (and reports in general) from discussions in previous board meetings, unless something else occurs, the board will not receive printed staff reports in the future. Chairman Dunn expects senior staff to highlight two or three things in their staff reports at the board meeting since the board will no longer receive the reports in writing.

A. Office of Victim Advocate

Victim Advocate Jennifer Storm had no official report and she would be available all day to the board.

B. Sexual Offenders Assessment Board

Executive Director Meghan Dade reported after the October 2017 board meeting, one of the SOAB board members would present on the PCLR. Executive Director Dade encouraged the parole board members to send her questions or items that they would like to include into the aforementioned training and discussion. Chairman Dunn thanked Executive Director Dade for her assistance in providing the SOAB presenter, noting the parole board was not willing to pay $3,000 to $5,000 to obtain Dr. Logan.

Executive Director Dade also stated that if anyone had questions on when to request a new SOAB assessment, to please let her know. As a routine matter, they will not be updated until 3 years have passed, but if a unique situation occurs, please make Executive Director Dade aware.

Board Member Koch thanked Executive Director Dade and her staff for the September 8, 2017 sex offender training. The board members had no other questions or comments for Executive Director Dade.

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.

Chief Counsel Robinson reiterated that the Pennsylvania Supreme Court found that the Sexual Offender Notification and Registration Act (SORNA) registration requirements were unconstitutional under the Pennsylvania Constitution and United State Constitution for anyone who committed their crime before the effective date of December 20, 2012. Chief Counsel
Robinson requested that as issues develop, the Office of Chief Counsel will provide advice on a case-by-case basis. Chief Counsel Robinson noted that the Cumberland County District Attorney's Office is considering filing a petition for certiorari in the United States Supreme Court to appeal the decision. Chief Counsel Robinson also noted that there are cases in Michigan and another state that have similar issues.

Chief Counsel Robinson stated that Assistant Counsel Khadija Diggs was recently keynote speaker at the East Boro Branch of the NAACP (located in Braddock, Pennsylvania) at their Human Rights and Phenomenal Women Awards Ceremony on September 16, 2017. Assistant Counsel Diggs also won the President’s Award at the event. Chief Counsel Robinson encouraged the board members to congratulate her on this achievement.

Chief Counsel Robinson had nothing else to report and was available to the board as needed.

D. Office of Board Secretary

Board Secretary Talaber stated that there are 22 temporary employees working on the back file conversion process on a daily basis. The Department of Revenue (DOR) is about to start utilizing 6 scanning machines, so we are looking at a volume of 8,000 to 10,000 filer per month. Board Secretary Talaber stated that there are currently 36,000 files remaining, and we are on track to have the files scanned by December 31, 2017. Secretary Talaber noted that he had a really good staff in terms of both the temporary and full time employees, and all are assisting in indexing the files.

Chairman Dunn stated he thought that the Office of Board Secretary was doing absolutely excellent work over the last few months, and was making great progress on the project. Chairman Dunn hinted that there may be a surprise for the board members at the December 2017 board meeting.

Board Secretary Talaber had nothing else to report and was available to the board as needed.

Director Rosa reminded Board Secretary Talaber of the reduction on having the files unavailable from central office for the cases not seen report reduced from 30 to 40 files to 4 files this year. Board Secretary Talaber noted that of those 4 files, 1 file was not available because it was at the DOR getting scanned, and it be can be expected as we go through this process. Chairman Dunn noted that it speaks well of both the Office of Board Secretary and institutional staff.

Board Member Potteiger stated that he has seen less emails from the Office of Board Secretary about not being to locate files. Board Member Potteiger noted that we used to have emails concerning 4 or 5 files per week, and it is nice to not see that on a constant basis. Board Member Potteiger appreciates
the work that is going on in the Office of Board Secretary. Board Secretary Talaber stated he will pass this on to his staff.

Chairman Dunn expressed his appreciation to Director Woolf, Board Member Potteiger, and Board Secretary Talaber for their hard work in moving this project forward and making things flow a lot smoother. The board members did not have any additional questions for Board Secretary Talaber.

E. Hearing Examiners Office

Chief Hearing Examiner Chad Allensworth reported that Hearing Examiner Barone is retiring on October 14, 2017, and that Hearing Examiner McCormick was going out on military leave in early October 2017. Chief Hearing Examiner Allensworth stated that former board member, chairman, chief hearing examiner, hearing examiner, and agent Ben Martinez would be coming back as an annuitant assisting with interviews and traveling as needed. Chief Hearing Examiner Allensworth had nothing else to report and the board members did not have any questions for him.

F. Statistical Reporting and Evidence-Based Program Evaluation Office

Executive Assistant William Otis, in his capacity as agency statistics liaison, had nothing to report. Chairman Dunn noted that “data reporting” was a topic listed later in the agenda. Board Member Gillison asked if there was any reason the dashboard has not been updated since July 2017. Executive Assistant Otis indicated he would check into it. The board members did not have any additional questions for Mr. Otis.

G. Office of Administrative Services

Bureau of Budget and Office Services Director Deborah Carpenter had nothing to report, but was available to the board as needed. Chairman Dunn stated that Office of Administrative Services Director Edie Letherby was out of the office and not available to attend the board meeting. The board members did not have any questions for Director Carpenter.

H. Office of Field Probation and Parole Supervision

Director Christian Stephens had two other things to report other than what was submitted, and he was available to the board as needed.

Director Stephens noted that Project Safe Return for Harrisburg is scheduled for September 21, 22, and 23, 2017. Director Stephens thanked Board Member Potteiger for his leadership in making that happen. Director Stephens also reported that interviews were being conducted for approximately 70 new agents.
Board Member Potteiger thanked Director Stephens for his, and his staff’s, help in the project. Board Member Potteiger thanked the board members for their support and Press Secretary Maria Finn for her hard work. Board Member Potteiger noted the press conferences, and the bus advertising, and the projected good weather were all very helpful. Board Member Potteiger stated there were some computer issues that Director Woolf has assisted with, but once the Administrative Office of Pennsylvania Courts arrives, they should be resolved. Board Member Potteiger would be on site for Thursday and Friday, with Board Members Gillison and Koch manning the station on Saturday. Board Member Potteiger thanked the Chairman, noting this project was the first for all 10 districts, and the next events will be in Philadelphia and Pittsburgh. Board Member Potteiger also thanked Director Carpenter for helping him at the last minute.

The board members did not have any questions for Board Member Potteiger or Director Stephens.

I. Office of Re-Entry and Quality Assurance

Director Luis Rosa reported that by the end of December 2017 all the staff should be trained in the 3-day EPICS course. Originally, it was supposed to be done by 2019. Director Rosa thanked Director Stephens and his staff for their assistance. Director Rosa did not having anything else to report, and he would not be available all day since he was teaching a county probation officer class at the training academy. The board members did not have any questions for Director Rosa.

J. Office of Communications

Director Laura Treaster had nothing to add to her report, but noted that on September 19, 2017 she sent the board’s 2017 annual report to the governor’s communication office for their review and final approval. Director Treaster reported that she will be out of the office until November 2017 for medical reasons. Press Secretary Maria Finn will be in charge of the office in her absence. The board members did not have any questions for Director Treaster.

K. Office of Policy and Legislative Affairs

Director Victor Wills reported that the house passed a spending plan that senate was expected to vote down. Director Wills noted the merger legislation was still pending in the house. The board members had no questions for Director Wills.

L. Internal Affairs and Special Services Office
Director Scott Woolf had three items to report. First, it was interesting to him to see how much more connected state parole was when compared to county parole staff. Director Woolf noted that it used to be the other way around with the county having better equipment. Second, he received some questions on the IOS devices, and the update to devices could likely occur on September 21, 2017. Finally, the internet browser issue related to videos should be resolved by refreshing your browser. Director Woolf has a phone call in with BIT to discuss the issue further.

Board Member Potteiger asked about the “flag” for OVA documents on OnBase for the board members. The flag will automatically direct the board member into the custom query to review the OVA materials. This was part of Sunday’s update. Victim Advocate Storm noted that her staff (including temporary employees) could have OVA back file conversion done in the next several months. Board Member Potteiger stated that if you do not see the flag, there are no OVA documents. Victim Advocate Storm noted that is the case unless they get something from Director Hockenberry, who is constantly checking to make sure OVA documents are not missed.

The board members had no questions for Director Woolf.

Staff reports were completed.

Chairman Dunn acknowledged the attendance of Dr. Diane Shoop and Executive Director Marc Bergstrom from the Pennsylvania Sentencing Commission. The Chairman also recognized Director of Public Safety for Homeland Security in Pennsylvania, Marcus Brown, attending the meeting. Chairman Dunn asked if there were any public comments. There were none.

V. OLD BUSINESS

A. 2018 Board and Face-to-Face Schedule

Chairman Dunn asked Board Secretary Talaber if he had any comments on the proposed schedule. Board Secretary Talaber noted that the schedule did not conflict with any election days in the commonwealth. Board Secretary Talaber also noted that because Veterans Day falling on Monday, November 12, 2017, it would normally be a travel day; however, we kept Tuesday as a Face-to Face day to keep the normal routine.

Chairman Dunn asked the board members if they had any questions, and there were none. Chairman Dunn requested board members and senior staff let him and Board Secretary Talaber know at least a week in advance because it effect the Face-to Face schedule. Victim Advocate Storm stated that any changes involving the board members go to Board Secretary Talaber, as OVA just handles the victim scheduling.
Victim Advocate Storm noted that the only change that might occur are “pilot” days similar to what they are doing in Pittsburgh this month. This is for those times on the docket when the victims and the institutions coalesce and they are able to do them in different areas of the Commonwealth to lessen the regular docket. Board Member Grey thanked Hearing Examiner Labenne for being her interview partner at the Pittsburgh event. There were general questions from the board members concerning the location in Pittsburgh.

B. Review of videoconference technology and canceling interviews-Resolution 2017-02

Chairman Dunn noted that the resolution was adopted in February 2017, and at that time it was decided that it would be reviewed again in September 2017. Chairman Dunn read the resolution, in relevant part, and asked for comments. Board Member Gillison stated that to his knowledge we only used it twice. There were no further comments and the Chairman moved onto the next item on the agenda.

C. Reassigning cases when the inmate has been refused multiple times

Board Secretary Talaber noted that Director Rosa and OBS are working on a way to make this seamless. In the interim, if a board member does not want to interview an offender, please continue to make a notation on the 361.

D. Votes required with change of reparation review date

Board Secretary Talaber stated that he invited Parole Manager Rachel MacNamara to the meeting to further elaborate on this subject. Parole Manager MacNamara handed out the most recent version of the board’s “vote required for a board action,” dated March 30, 2017 to the board members. Board Secretary Talaber explained that any parole cases where the first two interviewers voted “no” there would not be a third vote and the case would be done, so we are only focusing on the 5-vote majority cases.

Parole Manager MacNamara explained that for “time change for review cases,” the staff technician will go with the board member’s recommended time, unless there is disagreement between board members; then the technician will record the least restrictive time on a refuse board action, and the most restrictive time on a paroling action. There was a general discussion among the board members based on the example. Board Member Burke asked when the hearing examiner’s vote counted, and Parole Manager MacNamara stated that for a refusal, the hearing examiner vote does count. Chairman Dunn noted that juvenile lifer cases are different and are circulated to a majority of board members regardless of the first two votes.

Board Members Grey and Gillison asked why, for juvenile lifer cases, the same rule does not apply for the first two board members that interview (e.g. if both vote “no” then it is not circulated further). Chairman Dunn and Board
Secretary Talaber stated that the board’s resolution excluded juvenile lifer cases. There was a general discussion among the board members and staff on how particular juvenile lifer cases would be circulated until there was a majority vote in favor of or denial of parole. Board Member Grey did not recall voting for this modification. Board Member Potteiger thought it was a unanimous vote for this resolution.

Board Member Burke asked how the juvenile lifers that were released on parole were behaving. Director Stephens noted one juvenile lifer had a curfew violation, and another was sent to outpatient treatment. There was a general discussion of juvenile lifer statistics. Board Member Koch asked if there has been any feedback from the agents on how the juvenile lifers are doing in the public. Director Stephens noted that the juvenile lifer population has a lot more support in the community than the general population community has, so the use of Centers has been limited. Director Stephens noted that there has been a big push among the juvenile lifers to have their own support groups across the state. There is already one in Philadelphia, and maybe one starting in central Pennsylvania.

Board Member Johnson asked how many juvenile lifers are in the west. Director Stephens stated he could provide the spreadsheet to him. Board Secretary Talaber noted that we have a bi-monthly meeting on juvenile lifers and that we have a comprehensive database that we share with the DOC. Chairman Dunn noted that the joint juvenile lifer group between both agencies has been a “shining star” and has been on top of the issue every week. Director Stephens noted that the ASCRA agents are working closely with the juvenile lifer population. Director Stephens noted the challenges in the Philadelphia area since there are so many juvenile lifers. Board Member Gillison had some data related questions and statements noting that these cases will be of great interest nationally.

Director Stephens noted that the board has taken the lead in supporting the juvenile lifer support groups, noting that former Board Member Greene, and current Board Member Rosenberg are part of that process. Director Stevens stated that these groups are working toward gathering the relevant data. Board Member Gillison suggested to the Chairman he reach out to academic institutions about the study of this issue. Chairman Dunn noted he had already reached out to Drexel and Widener.

Victim Advocate Storm mentioned that there is a victim support group starting in October in the Philadelphia area. Victim Advocate Storm stated that we’re able to get some funding to hire an additional part-time therapist to do one-on-one therapy with victims whose offenders have been released, as well as a support group for those families. Victim Advocate Storm noted that OVA would be interested in participating in any type of outcomes or research around that issue. Chairman Dunn noted that he will get together with the Drexel professor to figure out ways to develop and collect data. Director Stephens also suggested reaching out to Temple University.
Board Secretary Talaber asked, in terms of the votes required to change reparole review date topic, if the board required any additional information or action to close this issue. Chairman Dunn asked the board members if they had anything else to discuss on the issue, and the board members did not have any further comment.

E. Data report discussion

Executive Assistant to the Chairman Bill Otis provided a handout to the board members. Chairman Dunn thanked Board Member Rosenberg for her work on reviewing the datasets, and helping to decide what the board members want to see on a regular basis. Chairman Dunn noted there were four reports that the board members wanted to receive on a regular basis. Board Member Grey asked about the specific board reports. Chairman Dunn noted that there were some they wanted to see on a quarterly or regular basis.

Board Member Potteiger noted one was the violent forecast case report that is placed in OnBase for the cases in which they are available under the “assessment” folder. Board Member Burke indicated that he did not always have the report when reviewing his cases. Board Member Burke noted of the 21 he has prepped, he did not have many. Board Member Potteiger stated that when board members do not have the report, they should let Director Rosa know. Board Member Burke stated that SCI-Houtzdale and SCI-Graterford did not have any violent forecast reports in OnBase. Chairman Dunn stated he recently did 22 cases and was only missing one report. Board Member Gillison notes that he too has been missing reports.

Board Member Burke noted that the board members really do need them because the report is a “spot-on” assessment. Board Secretary Talaber asked that the board members please send him the parole numbers and him and Director Rosa would work on it. Board Member Potteiger noted that this is an institutional issue.

Chairman Dunn noted the reports are: (1) the monthly parole decisional outcome; (2) the monthly cases not seen report; and (3) the monthly office status report. Chairman Dunn stated he will continue to work with senior staff to pare down the reports for the statistical office, and noted this was a great starting point. Board Member Grey had a concern about treatment after treatment on one of the reports and the cost it involved. Board Member Potteiger stated that there be an end of year statistical report for all the programs for the year. Board Member Potteiger suggested that the report (number 54 on the list) would be a good report to review at the Board’s retreat and to have Director Rosa’s staff update the board. There was a general discussion among the board members and Director Stephens about the details provided on this report and how to compare it to what is happening to the field. Director Stephens will investigate running a report that involves treatment tracking.
Board Member Gillison noted that Board Member Rosenberg was interested in GPS statistics. Board Secretary Talaber said he would send Director Stephens the list developed at the last board meeting. Board Member Gillison asked that it be provided to the board members once it is developed. Board Member Gillison noted that the “dash board” would also provide information that is related to the reports. Board Member Gillison indicated that the data gives the board the ability to see the real-time impact of their policy and decisional process.

Board Member Gillison asked Director Stephens the rollout plan for GPS. Chairman Dunn stated that they are having some difficulties getting personnel placed in central office, and as soon we get through it (perhaps at the October 2017 meeting) Director Stephens can come back and provide the details on the policy. Board Member Gillison noted that we will also need to know how many units we have and the categories to use the units. Director Stephens stated that since January 2017 we have increased GPS use by 87%, and as of this week, there about 700 units out there now. Director Stephens noted that part of the process will be to re-educate the agents and utilize the full capability of the units. Director Stephens stated that the vendor will be starting a “train-the-trainer” class at the beginning of October 2017 to assist in this regard. Director Stephens is hoping to rollout another 1,000 units by the end of the year. There was a general discussion between board members, Victim Advocate Storm, and Director Stephens on the GPS rollout, how the units should be utilized, and differences between active and passive responses.

F. Board sitting as a whole for case review.

Board Member Johnson asked about the status of reviewing “hard cases” together on a quarterly basis. Board Member Grey noted that she too thought it was important, especially in the context of incapacitation cases. Board Member Grey suggested teleconference and videoconference as a means to do this and it is an excellent idea. Chairman Dunn stated it would have to be in executive session during a sunshined portion of the meeting. Chairman Dunn noted that he and Board Secretary Talaber were looking at the March 2018 meeting. Board Member Grey asked that the board devote a quarterly meeting to the cases, similar to what was done with the juvenile lifer cases.

Chairman Dunn noted that in October 2017 an SOAB expert was coming in to talk about the PCLR, which should address the incapacitation issues. There was a general discussion among the board members about how to make this work. Board Member Potteiger asked Chief Counsel Robinson if the board was getting together as a “training” session, would it need to be sunshined. Chief Counsel Robinson stated if it was a training session, no, but if they are deliberating board business or making decisions on board policy, then it should be sunshined. Chief Counsel Robinson noted that parole interviews are not the same as parole meetings. Chairman Dunn stated that
it was a slippery slope on this issue and he would not go down it. Board Secretary Talaber stated that we were getting into areas seeking legal advice, and perhaps the board should go into executive session. Chairman Dunn does not mind doing the cases in executive session, but believes it should be sunshined. There was a general discussion on when we can fit this into the schedule.

Board Member Gillison suggested we put the items we normally discuss at a board meeting into a one hour time block, and use the remainder for the requested case discussion. Chairman Dunn suggested we break at 10:15 until 10:30, and then use 10:30 to 12:00 to discuss cases. Chairman Dunn asked if we can identify cases and let Board Secretary Talaber know, and we will start this in October 2017. Board Member Potteiger noted that senior staff could be dismissed for this portion of the meeting, and no one argued against that statement.

The board recessed at 10:20 a.m.

The board reconvened public session at 11:00 a.m.

V. NEW BUSINESS

DOC Executive Deputy Secretary Shirley Moore Smeal presented on the DOC Misconduct System & Swift Fair and Certain Program. Executive Deputy Secretary Moore Smeal answered numerous questions from board members on related topics. There was a general discussion among the board members about what constitutes offender behavior that is worthy of the board's parole consideration. Executive Deputy Moore Smeal will send the board additional information about the DOC's misconduct system; specifically what was considered a misconduct before, and what is considered a misconduct now. There was a general question and answer session with Executive Deputy Secretary Moore Smeal, board members and staff about the topic.

Executive Deputy Secretary Moore Smeal also mentioned the DOC SOP booster memorandum with the board members and staff. Board members provided insight on how the SOP booster has aided the offender, and how it influences their parole decisions.

Board Member Potteiger left the meeting at 11:37 a.m.

Board Secretary Talaber asked if there was a decision on whether or not block reports would be provided. Chairman Dunn requested input from the board members. Board member Johnson asked if they needed to make a decision right away. Board members Grey and Burke requested the block report. Chairman Dunn indicated he did not need the block report. Board Members Johnson, Gillison and Koch would like the additional information that Executive Deputy Secretary Moore Smeal offered before making their decisions. Board Member Moscato requested the block report. Chairman Dunn changed his mind, and decided he
would like to wait for additional information. The block report decision was moved until the October 2017 board meeting.

Board Member Moscato asked Executive Deputy Secretary Moore Smeal about the use of de-escalation methods that she described in her presentation (i.e. aromatherapy and colored sheets), and whether there was a cost analysis done on it. Executive Deputy Secretary Moore Smeal indicated that "safety" was the return on investment through de-escalation of the inmate’s behavior towards staff. Board Member Moscato asked if it was possible if the inmates were acting out to get into the aromatherapy room. Executive Deputy Secretary Moore Smeal indicated that this was a method to bring humanity back to the system, and the return in investment is being measured, in part, on the number of misconducts, the reduction in cell extractions, the reduction in administrative segregation units, which all eventually turns into dollars and cents.

Victim Advocate Storm noted the benefits of the “mural projects” and it showing accountability in the inmates as a daily reminder of the harm they caused to the victim. They are visual reminders of the person the inmate is striving to be every day.

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

JJT