MEMO

TO: Board Members

FROM: John J. Talaber, Esq.
Board Secretary

DATE: June 16, 2017

RE: Minutes – Board Meeting
May 17, 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 May 17, 2017 of the Pennsylvania Board of Probation and Parole.

The meeting convened at 9:01 a.m. on May 17, 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 APRIL 19, 2017 BOARD MEETING MINUTES

Board Member Burke made a motion to approve the board minutes as written. Board Member Rosenberg asked for a modification of the minutes concerning her reference to the LSIR risk assessment and a statewide license. Chairman Dunn then sought a motion to approve the minutes as amended. Board Member Koch made a motion to approve the minutes as amended, which was seconded by Board Member Johnson. There was no further discussion and the Board unanimously approved the minutes as amended.

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 Policy and Legislative Affairs.

Director Victor Wills reported that the consolidation bill was amended in the senate to change the effective date, and then voted by the full senate. Director Wills also noted that there was a house judiciary hearing scheduled for Thursday, May 25, 2017. Director Wills noted that there was no other legislation that would affect the board that was pending. Chairman Dunn asked Director Wills if there was anything new on JRI II, and he reported that it has not yet been introduced. Board Member Johnson inquired if the consolidation bill would be voted on by the senate before the house judiciary hearing on Thursday, and Director Wills said “yes.” Director Wills noted that changes would likely be made to the consolidation bill in the house. Board Member Burke asked if the senate made amendments to the consolidation bill other than its effective date, and Director Wills reported no. Board Member Grey asked if the proposed amendments to the bills were circulated, and Director Wills stated he would be happy to circulate the bills with amendments to the board members. Board Member Rosenberg asked that the agenda be amended so that the board members could go into executive session to discuss their positions related to the merger. Chairman Dunn noted that it would not be proper to go into executive session. Chief Counsel Robinson advised the Board on when executive session would be appropriate, and it was determined that the consolidation would be discussed in the public session. Chairman Dunn suggested that his and Board Member Grey’s reports could be moved to the June 2017 agenda. The board generally decided to have a discussion on the merger later in the meeting.

B. Office of Chief Counsel

Chief Counsel Alan Robinson, in addition to what was reported in his monthly report, stated that the Pennsylvania Supreme Court decided the *Pittman v. Pa. Bd. of Prob. & Parole* case directing that the board must provide a statement when denying credit to a parole violator who is eligible to be considered for the credit. In consultation with Board Secretary Talaber, it was suggested that if the board member writes their recommendation in the box where the hearing examiner’s recommendation is, it will be recorded on the board decision. Board Member Burke asked if that starts immediately, and it was recommended that it should. Board Member Rosenberg suggested that we have a longer discussion on this issue, and revisit the issue of providing partial sentence credit at the June 2017 meeting. Board Member Koch had a question about the suggested list that Chief Counsel Robinson provided and if it could be modified. Chief Counsel Robinson suggested that it too be discussed at the June 2017 meeting. Board Member Johnson added that perhaps Hearing Examiner Gary Holland could come in at some point and provide a training on how he writes his recommendation.
The board generally agreed that this issue merited further discussion in another meeting.

Chief Counsel that there are two other significant cases pending in the courts: 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, oral argument was held on May 10, 2017 on sentence credit for cases where the offender is incarcerated in federal custody. Chief Counsel Robinson was available to the Board as needed.

C. Office of Victim Advocate

Chairman Dunn asked for everyone except the chief counsel and the victim advocate to leave the room at 09:31 a.m. so that executive session could be held based on victim confidentiality law. Victim Advocate Jennifer Storm said that Board Secretary Talaber could also remain in the room.

Chairman Dunn reconvened the public session portion of the meeting at 9:45 a.m. and introduced Director of Public Safety for Homeland Security for Pennsylvania, Marcus Brown, who was attending the meeting. Director Brown is a liaison for the public safety agencies to the Governor’s Office, and described his job functions in this role.

D. Sexual Offenders Assessment Board

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

E. Office of Board Secretary

Board Secretary John Talaber had nothing to report other than what was already submitted, and was available to the board as needed.

F. Hearing Examiners Office

Chief Hearing Examiner Chad Allensworth generally referenced the hearing examiner numbers in his report, and addressed the condition of a hearing examiner who was out for an extended absence. Chief Hearing Examiner Allensworth reported that he had discussed the Pittman decision with his staff, and how crucial their recommendation is in the process and the need to elaborate more. Chief Hearing Examiner Allensworth had no additional information to report other than what was submitted, and he was available to the Board as needed.

G. Statistical Reporting and Evidence-Based Program Evaluation Office
Director Wills, in his capacity of acting agency liaison, had nothing to report, and was available to the board as needed. Board Member Rosenberg asked Chairman Dunn about the data that he emailed concerning PVCCs. Chairman Dunn responded that he would like to have DOC Director of Statistics Brett Bucklin report to the board in June or July 2017 to discuss the numbers in the email in greater detail. There was a general discussion among the board members and senior staff concerning the raw data that Chairman Dunn provided and the recidivism rate.

After the discussion Board Member Koch requested that the board be provided with information on the PVCC programs, specifically: (1) what are they being taught; (2) what is the industry standard; (3) are we following the industry standard; and (4) what is the criteria to be an instructor? Director Rosa noted that the Governor’s Policy Office is working on a definition for recidivism that can be used by both DOC and the board. Director Rosa suggested that Mr. Bucklin, when he speaks to the board, provide it with the rationale for the DOC’s definition of recidivism.

Another general discussion occurred, with Board Member Rosenberg suggested that we also have a discussion on what are the key data elements that both agencies should be reviewing in making the decisions. Board Member Gillison stated that a dashboard will help with this issue, as well as having confidence in the DOC programs. Chairman Dunn is forming a committee of himself, Board Member Rosenberg, Board Member Gillison, Board Member Grey, Director Stephens, and Victim Advocate Storm to examine and report back on the above-referenced issues.

Another general discussion occurred on the PVCCs and programs. Chairman Dunn noted that Directors Rosa and Stephens will continue to work closely with DOC.

H. Office of Administrative Services

Office of Administrative Services Director Edie Letherby, reported that Director of Human Resources Jennifer Goetz is leaving for a position in Cumberland County Human Resources. Director Letherby had no additional information to report other than what was submitted, and she was available to the board as needed.

I. Communications Office

Director Laura Treaster had nothing further to submit other than what was already provided, and was available to the board as needed. Board Member Johnson asked a question about advertising for open agent tests as it relates to obtaining a more diverse candidate pool. Director Treaster noted that she has been posting the information on non-paid social media (i.e. Facebook). A general discussion on agent recruiting occurred. Board Member Rosenberg agreed we need to reach a larger pool. Director Letherby noted
that if we make many changes to the process, the current process will stop and we will need significant Office of Administration and union involvement. Board Member Johnson said he would like to see the qualifications expanded for next year's recruitment that we obtain more diverse candidates. Board Member Potteiger asked Director Letherby if they pulled from the same list. Director Letherby responded that new names are added to the list due to the recent exams. Chairman Dunn requested Board Member Johnson and Director Letherby speak after the meeting to discuss this matter further.

J. Internal Affairs and Special Services Office

Director Scott Woolf noted that our computer system is moving to the Office 365 platform. Board Member Rosenberg asked if anyone was having problems using their iPad for videoconferencing because she was having technical problems. Director Woolf indicated that he would check into it. Director Woolf had no additional information and was available to the board as needed.

K. Office of Field Probation and Parole Supervision

Director Christian Stephens reported on the joint effects with the BCC and bed reductions, as they continue to work towards 1,500 bed reduction by the end of June 2017. Director Stephens reported that as of May 15, 2017 there were 365 GPS passive units, and the transition to having the 24/7 Unit become an active monitoring center is ongoing. Director Stephens stated the completion date for this project depends on numerous factors. Director Stephens noted that in areas where there is not a large number of agents to respond to respond to GPS unit alerts, the board will develop a memoranda of understanding and work with local law enforcement. Board Member Johnson noted that diversity among the hired personnel is important.

Director Stephens reported that his office accelerated the EPICs training for agents, supervisors, and deputy directors in the state, so that all will be trained by the end of December 2017. Director Stephens did some EIS mapping, and noted that the population in urban areas seemed to be moving outward and this will affect where the service providers need to be located. Director Stephens is working with Dauphin County to house parolees for up to 72 hours due to agent overtime concerns. Board Member Gillison asked Director Stephens if his staff was holding people for minor crimes, and Director Stephens responded this matter involves absconder situations. Director Stephens reported that his staff is still in the process of working on the Safe Return project for Harrisburg and Philadelphia with a projected date of September 22, 2017. Director Stephens will be reaching out to Pittsburgh soon. Chairman Dunn noted that board members will be asked to be part of the project as soon as the dates are finalized. Board Member Potteiger noted that it will be a Thursday, Friday, Saturday time frame. Board Member Johnson asked if there was something he should be doing in the "west" now to prepare for the Project. Director Stephens asked him to schedule a
meeting so that he could come out and discuss the process with the relevant offices.

L. Office of Re-Entry and Quality Assurance

Director Luis Rosa reported that BTA started May 1, 2017. Director Rosa stated on May 3, 2017 a diversity council meeting was held, and committee members were trained on cultural diversity and cultural confidence. Director Rosa reported that 80 staff were trained on motivational interviewing. Director Rosa stated that on May 11, 2017 that the Chairman, Director Rosa, and Director Stephens spoke to juvenile lifers after the Governor spoke about “ban-the-box.” Chairman Dunn noted that the juvenile lifer population is forming a group themselves, and offered the board members and judges to assist in however they want them to assist. Director Rosa on May 15, 2017 his office took part in the Pennsylvania Reentry Council. Director Rosa noted that he is also working on an assessment committee with the DOC to review the different assessments that go on in this profession. Board Member Grey asked about the Pennsylvania Reentry Council. Director Rosa stated that a mission statement was not yet drafted, but he would share the information with the board members as it moves forward.

Board Member Potteiger asked Director Rosa if Mark Bergstrom and the sentencing commission were part of the assessment review process. Directors Rosa and Stephens indicated that he was part of that process.

Staff reports were completed.

IV. OLD BUSINESS

A. Board Decision Workflow

Board Secretary Talaber encouraged board members to keep the case files flowing to central office so we can board decisions moving toward the goal of 3,000 per month. Board Secretary Talaber reported that there were a few times over the past month where the Minimum Sentence Unit did not have a steady supply of work and it was a gentle reminder that the inflow into central office directly affects board decision outflow.

B. Board Training Schedule

Board Secretary Talaber

Board Secretary Talaber handed out a draft of the 2017 Board Meeting Topics and Training Schedule, and solicited suggestions before the final version would be handed out at the June 2017 board meeting. This draft was developed by looking at the board member training topic surveys, and with the goal in mind of including the necessary topics as we revamp the board’s voting instrument by the end of 2017. Board Secretary asked board
members to coordinate their suggestions to him so we can discuss at the next meeting. Board Member Johnson asked about the status of the Robina interviews. Chairman Dunn stated that Robina promised they would provide him with their first draft back soon, as it was currently going through their internal review process. Board Secretary Talaber reported that the current phase of the project is getting Robina access to the board and DOC data that they will use as they develop their recommendations. Board Member Burke asked about problems of printing the 361. Board Secretary Talaber reported that it was recently updated and the technical problem should now be resolved.

Chairman Dunn called for a seven minute recess at 11:06 a.m.

V. NEW BUSINESS

A. Discussion of Board Resolution 2016-04, Failure to Benefit from Treatment Programming.

DOC Executive Deputy Secretary (EDS) Shirley Moore Smeal thanked the board for the opportunity to speak with them.

As a preliminary matter, EDS Moore Smeal addressed juvenile lifer releases from parole once they had a board action, reporting that it takes about 38 days from the date DOC gets the referral until the inmate is released to community corrections. BCC staff are meeting the juvenile lifers before they are released, including a virtual reality experience, to ensure a good transition to the community. Board Member Rosenberg asked about “z-coding” of inmates and if that is for behavioral or assaultive reasons? EDS Moore Smeal explained that “z codes” are not always for behavioral or assaultive reasons, sometimes it for a medical or privacy issue. EDS Moore Smeal will provide the board with the codes and what they mean.

EDS Moore Smeal next addressed the issue of board actions mandating the completion of voluntary programs. For example, seeking safety is a voluntary program. EDS Moore Smeal will provide the board with a list of the voluntary programs. EDS noted this is an issue comes up a lot at the Joint Resolution Committee (JRC). Board Member Potteiger noted a case where the inmate requested that a condition of his parole be the completion of his GED, so he imposed the condition as a requisite for parole. It went through JRC, and during that time it was discovered that the inmate was refusing to attend classes because of the warm weather. EDS Moore Smeal suggested that instead of a condition of parole it could be addressed with BCC on the outside, but Board Member Potteiger expressed his concern that he did not think the inmate would follow through with getting his GED. Board Member Potteiger noted that because it was a condition of his parole, the inmate decided to go back to class to get his GED. EDS Moore Smeal cautioned that sometimes inmates are not capable of achieving a GED. Board Member Potteiger noted that in his case he directed staff to notify him if the inmate
could not complete his GED for academic reasons, and he would reconsider that condition for parole. EDS Moore Smeal will inform Board Secretary Talaber of the case should the inmate not be able to meet the condition for academic reasons.

Board Member Gillison noted that sometimes he will suggest a program for the inmate to take before the next time he or she is reviewed for parole (but not make it mandatory) so the inmate knows what to do. Board Member Grey does something similar, especially for employment opportunities for when the inmate gets out on parole. Board Member Johnson asked if there was a list of programs that he could have, so that when he is interviewing he can use it as a resource of programs the inmate could take at the different state correctional institutions. EDS Moore Smeal will send a copy of this list to the chairman for distribution. Board Member Gillison noted that sometimes after going through the JRC process, if the DOC would have just given the inmate the program, he or she would be done.

The chairman asked if the board members were comfortable delegating to Board Secretary Talaber and Chief Hearing Examiner Allensworth the power to address these voluntary program issues, and if they are unsure of what the board member would want, bringing that case to the board member. The board members generally stated that would be fine for voluntary but not mandatory programs.

EDS Moore Smeal addressed it is not the DOC’s intent to second guess a board member when they receive a JRC memo asking them to reconsider their decision. Rather, it is to provide them an opportunity to add additional information or educate the decision maker on a program, and to avoid putting inmates into a catch-22 situation.

EDS Moore Smeal next addressed the parole release pending and the cases not seen lists. The DOC has put an emphasis on trimming the list down by looking at the transfer cases or the fees owed, to avoid the inmate being rolled to another docket. DOC is working closely with Board staff to get it done.

EDS Moore Smeal moved on to the 11 JRC summary cases as they relate to Board Resolution 2016-04 that could not be resolved through the JRC. The first case involved a situation where the inmate already took SOP. Board Member Grey noted that during some interviews it is clear that the inmate did not benefit from the treatment program, and she could not parole them. Board Member Grey noted that if they do not take the class again there is no reason to see them again or risk paroling them to make a new victim. EDS Moore Smeal stated that not all inmates are able to articulate the program but they may have benefitted from the program. The board generally stated that sometimes the lower IQ inmates do a better job of understanding the program. Board Member Grey also noted that to get the SOP booster, the inmate needs a favorable parole decision, thus creating a catch-22 situation.
Board Member Johnson stated that sometimes the inmate has a long sentence, and they complete SOP years before their minimum sentence parole interview, they are not eligible for another class unless they get a favorable parole decision from the board. Board Member Johnson suggested that a program that was closer to the time of parole it might make a difference in a parole decision. Board Member Gillison noted that sometimes the inmate is just not ready to be released on parole, even with the programming. EDS Moore Smeal will go back and discuss with her staff perhaps making the SOP booster six months parole to the inmate’s parole date rather than waiting until the inmate is paroled. Board Member Koch asked if that would apply to the other programs also. EDS Moore Smeal also will consider the other programs too.

EDS Moore Smeal noted sometimes the pushback is due to staying true to the assessments. Board Member Burke asked about when someone lies on their TCU because it is a self-administered test, but at the interview information comes out that he lied on the TCU and needs AOD. The board members generally provided additional examples where this situation occurred. Board Member Koch noted that in most cases the DOC and board agree. Board Member Gillison noted that the cases we are reviewing are the 11 out of 3,000 board decisions a month. Board Member Koch noted that in cases where we do diverge it seems the board member is always wrong. Board Member Koch noted that board members are not drilling down just to see if the inmate understands the program, but rather drill down to “are you safe for the street.” EDS Moore Smeal noted that correctional plans are reviewed annually, and that sometimes changes the need for treatment. EDS Moore Smeal will work with Board Secretary Talaber on these cases to make sure we do the best we can with the resources we need to reduce recidivism.

Chairman Dunn noted that when the board member decides to disagree with the DOC, it should no longer be a JRC case. EDS Moore Smeal agreed, and will work with Board Secretary Talaber to clean off the current JRC list and we will implement some things. EDC Moore Smeal notes that we will sometimes agree to disagree. Board Member Potteiger noted that in his time as a board member, the number of cases referred to the JRC has been greatly reduced, and this is a good dialogue for both agencies to continue. EDC Moore Smeal agreed the progress that has been made has been tremendous.

Board Member Johnson asked that when the case is taken off JRC, what does that mean for the inmate. Chairman Dunn stated it depends on the decision. Board Member Potteiger noted that based on the resolution, it becomes an application case. Board Member Gillison stated that was a good thing because it puts the burden on the inmate to let us know when he thinks he is ready. EDS Moore Smeal noted that DOC has 20,000 inmates in programs a year, and sometimes mandating a program a second time for the inmate will cost another inmate the ability to take that program the first time. Board Member Johnson asked if there is way for an inmate to volunteer to
get on a waiting list for SOP. Board Member Burke thinks that this situation could be worked on at a local level at the institution, through the CCPM, program facilitator, or a therapist. EDS Moore Smeal encouraged the board members to send up cases that concern them to her attention. Chairman Dunn noted that updating our assessment instruments will give us a clearer picture of what the person is like. Working with DOC on this issue should minimize the future cases that got through JRC. The board thanked EDS Moore Smeal for her time and the great discussion.

Chairman Dunn proposed that they delay training for a little while so that a discussion could occur on the consolidation. The board agreed to an abbreviated lunch, with the public session resuming for 45 minutes.

B. Goldenrod Files and Decision Making

Board Member Gillison proposed that board members only receive the “goldenrod file” rather than the entire file when making their decisions. There was a motion by Board Member Gillison that board members receive only the golden rod file rather than the entire file to be piloted for a period of two months. Board Member Potteiger seconded the motion. There was no further discussion, and the Board unanimously voted in favor of the motion.

C. Specialized Center Board Decisions

Chairman Dunn suggested that for specialized centers, there be a motion that the board will not send anyone to a specialized center, and the Board Secretary and his staff could change it so that they do not go to the specialized center, and Director Stephens and his staff could have the conversation with BCC. Board Member Burke suggested we wait until we redo the board decision making instrument. Board Member Potteiger suggested that the discussion be tabled until 12:45 p.m.

Chairman Dunn adjourned the meeting for a 25 minute lunch break at 12:20 p.m. The Board reconvened its public session at 12:55 p.m.

D. Board Consolidation with DOC

Chairman Dunn sought concerns, comments, or questions. Board Member Johnson noted that there appear to be three groups of board members: (1) who are in favor of the merger; (2) who are not in favor of the merger; or (3) have no position on the matter. Board Member Johnson wanted to know how the idea came about, what is going to be different so he can understand as a board member what is happening. Board Member Potteiger asked if the board was in public session and Chairman Dunn responded “yes.”

The Chairman provided the organizational structure of the proposed merger and other state models for parole and DOC organizational structure.
A robust general discussion occurred among the Board Members and Director of Public Safety for Homeland Security for Pennsylvania, Marcus Brown, about the benefits and detriments of a merger with varied opinions on this topic.

The Board thanked Mr. Brown for his service and for attending the meeting.

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

JJT