pennsylvania
BOARD OF PROBATION AND PAROLE

**MEMO**

**TO:** Board Members

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

**DATE:** June 19, 2018

**RE:** Minutes – Board Meetings
May 14, 2018, May 15, 2018, and May 16, 2018

In compliance with *Act 175*, known as the *Sunshine Law*, effective September 17, 1976, the Office of Board Secretary provided notification to the public of the scheduled meeting on May 14, 15, and 16, 2018 of the Pennsylvania Board of Probation and Parole.

May 14, 2018 Meeting

The meeting was called to order at 2:08 p.m. on May 14, 2018, with Chairman Dunn presiding. Board Members Linda Rosenberg, Ted Johnson, and Tony Moscato were present. Board Member Leslie Grey arrived at 2:18 p.m. and Board Member Moscato departed the meeting at 2:23 p.m. Also in attendance were Melissa Repsher, Rich Podguski, Javier Cintron, and John Talaber. There was a general discussion about the history of Reentry Courts, the merits of the program, the tools available for the board members in the program, and reaching out to other entities in the criminal justice system about the Reentry Court program. As there was no quorum to support a motion, the meeting adjourned at 3:20 p.m. *sua sponte*.

May 15, 2018 Meeting

The meeting was called to order at 3:14 p.m. on May 15, 2018, with Chairman Dunn presiding. Board Members Linda Rosenberg, Everett Gillison, and Leslie Grey were present. Also in attendance were Luis Resto, Richard Dreisbach, Chad Allensworth, and John Talaber. There was a brief presentation and discussion on mental health services available to parolees in the community corrections centers managed by the DOC Bureau of Community Corrections. As there was no quorum to support a motion, the meeting adjourned at 3:55 p.m. *sua sponte*.

May 16, 2018 Meeting

The meeting was called to order at 9:03 a.m. on May 16, 2018, with Chairman Dunn presiding.

Board Members Maureen Barden, Mark Koch, Ted Johnson, and Linda Rosenberg were present when the meeting convened. Board Members Leslie Grey, Everett Gillison and Tony Moscato arrived soon thereafter and attended the meeting.

Also in attendance were Alan Robinson, Chief Counsel, Office of Chief Counsel; Chad Allensworth, Chief Hearing Examiner, Office of Hearing Examiners; John J. Talaber, Board Secretary, Office of Board Secretary; Victor Wills, Director of Policy and Legislation; Dr. Brett Bucklen, DOC Statistical Office; Meghan Dade, Executive Director, Sexual Offenders Assessment Board (SOAB);Janaki Theivakumaran, Executive Assistant to Director Dade; Jennifer Storm, Victim Advocate, Office of Victim Advocate; Laura Treaster, Special Assistant to the Chairman; Deborah Carpenter, Executive Assistant to the Chairman; Bill Otis, Executive Assistant to the Chairman, Neal Kokatay, Executive Assistant to the Chairman; Farrah Conjar, Executive Secretary to the Chairman.

The Chairman recognized the following guests who attended the meeting: Pennsylvania Sentencing Commission Executive Director Mark Bergstrom and Dr. Diane Shoop; Director of Public Safety for Homeland Security in Pennsylvania, Marcus Brown; DOC Deputy Secretary for the Field, Christian Stevens; and DOC Statistician, Dr. Bret Bucklin.

I. APPROVAL OF APRIL 18, 2018 BOARD MEETING MINUTES

Board Member Koch made a motion to approve the April 18, 2018 board minutes as written. Board Member Barden seconded the motion. There was no discussion on the motion and the board unanimously approved the minutes.

II. STAFF REPORTS

All reports referenced in public session were previously disseminated to the Chairman and will be made available upon request. 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. SOAB – no report.

B. Office of Victim Advocate

Victim Advocate Storm introduced new staffer Ashley Walkowiak, Executive Assistant, and Vicki Palmer, Victim Assistance Coordinator. Chairman Dunn and Victim Advocate Storm commented on the need to pay attention that victim input is reviewed. OnBase is involved with helping to work out technical glitches and further training is forthcoming. Also, over 3,500 pajamas were collected for Pennsylvania foster children. Chairman Dunn redirected to the next update with no further questions

C. Hearing Examiners Office

Chief Hearing Examiner Allensworth reported that OnBase testing and preliminary training has occurred for hearing examiners. They will continue to work out technical glitches. The Hearing Examiners' Office is in the process of developing education and training for the Deputy Chief position. Board Member Rosenberg raised the issue of a hearing examiner being threatened, asking what corrective action should be taken. After some discussion, Chief Hearing Examiner Allensworth stated that he will revisit the issue with DOC (Kelly Evans). The board did not have any further questions.

D. Office of Board Secretary

Board Secretary Talaber made an observation that we are within, approximately, two days from interview to the recording of the board action. While this is a positive, periodic work drops occur for staff. The OBS continues to work on efficiencies. Work is underway to get the 361 to board members, electronically. Board Secretary Talaber is estimating the recommit process to drop the time between hearing and waiver to board decision from 10-12 weeks to on average six weeks. Streamlining processes, implementing efficiencies and recent staff additions (Administrative Officer position) have been helpful. Board Member Rosenberg commented on the efficient OneDrive process for 361s. Chairman Dunn noted that timelines will change as efficiencies improve. The board did not have any further questions.

E. Office of Chief Counsel

Chief Counsel Robinson noted that Attorney Khadija Diggs has transferred to Technology Park for MOU alignment. Attorneys remaining at Central Office are Chief Counsel Robinson, John Manning, Morgan Davis and Timothy Keating. Most litigation will remain at Central Office, as it relates to PBPP (e.g. revocations, miscalculated sentences). Board matters, contracts, RTK, and other work will flow to Tech Park. This re-alignment remains a work in progress. Support staff remains with the Central Office. The board had no follow up questions.

F. Office of Policy and Legislative Affairs

Director Wills informed the board that JRI II passed the Senate, and is pending for the House. There has been no new information regarding board member appointment. The meeting moved on for the next staff report, with no further questions.

G. Laura Treaster, Special Assistant – Press, Media, Website

The DOC Website is scheduled for roll out on May 16, 2018. The site platform is now consistent with PBPP, SOAB, OVA and FETC sites. Other updates are anticipated between June and August 2018 to combine the above mentioned agencies via Intranet. The board had some clarifying questions about the scope of the website and its updates. Ms. Treaster explained, and Chairman Dunn confirmed that she is the administrator for DOC's Website for parole updates and/or new content. The board had no further questions.

H. Chairman Dunn's Executive Assistants

Executive Assistant to the Chairman, Deb Carpenter stated no updates are available from the steering committee due to subcommittees that are working on final recommendations. Subcommittee presentations will begin the last week of May and throughout June 2018. The steering committee will vote on the recommendations before a larger consolidation committee meets in July. Subcommittees will present plans or executing the approved recommendations. Also, Executive Assistant, Carpenter stated that she has been actively involved with recommit testing. She offered the board members training sessions for recommit. She asked Board Member Rosenberg for notice of any updates needed for the newly created e361 user guide. Board Secretary Talaber asked if Board Member Gillison would also begin testing the e361. Board Member Gillison answered in the affirmative. Board Member Johnson asked Executive Assistant, Carpenter what, if any, support is needed for her area. She commented that there may be a better indication in June after committee recommendations are in. Board Member Johnson commented that issues regarding the merger, DOC, victims, etc. need to be brought to the attention of himself or Executive Assistant Carpenter, for consistency. They will follow up via the steering committee. No further questions followed.

Executive Assistant to the Chairman, Bill Otis provided an update on statistics regarding DUI interlock devices. Board Member Gillison clarified the original question as whether the board has the legislative power to impose the use of interlock devices as the result of a condition. There was some discussion about this. Christian Stephens, Deputy Secretary for Office of Field Services PBPP, gave general input regarding the DOC process for interlocks, parole agent involvement and suggesting ways to share data. Chairman Dunn asked for data to assist with moving the conversation forward. Deputy Secretary Stephens indicated that DOC can find out how many individuals mandated for interlock devices are currently being supervised. Board Members Johnson and Gillison revisited the question of whether the board has the legislative power to impose. Chairman Dunn asked Executive Assistant Otis and Chief Counsel Robinson to conduct data and legal research on the matter.

Board Member Rosenberg requested board members make a notation regarding any red flags that might help answer the question for parole placement (e.g. note whether the board member feels the person would transition successfully with consistent adherence to medications). After some discussion the board had no further questions.

III. OLD BUSINESS

A. Approval to CCC Pending Violence Prevention Training

Deputy Secretary Stephens reviewed his proposal to no longer approve release to CCC with a completion of violence prevention condition. The item was tabled, without a vote to date. Board actions continue with this stipulation. Paroling to home plan is most beneficial, as approximately 90% of the violence prevention support/training occurs in the community, with very little at the centers. Chairman Dunn proposed that the board do a resolution so that there is no other option. Board Member Johnson asked what next steps are if the resolution is not followed. Chairman Dunn and Board Secretary Talaber confirmed that the Office of Board Secretary will have the authority to remove this. Board Member Barden asked if there is ever an instance when paroling to CCC with, pending violence prevention training is acceptable. It was clarified that this should not occur for the sole purpose of completing violence prevention training. Chairman Dunn asked Chief Counsel Robinson to write a resolution to incorporate this. There were no further updates or questions.

B. Suspending the Audit Process of County Probation Departments-Part 1

Board Member Rosenberg provided background on the Chief County Probation Officers Association task force (handout provided). Generally, the association is looking to implement state practices within county probation departments. Some counties are still in development of policies and practices, others are more advanced. After approximately one year working with the task force, the standing question is what standards PBPP want to audit them. Board Member Rosenberg provided Association feedback:

1. There has been an observation by the County Association and PBPP staff that the Association is more advanced on the implementation of the evidence-based practices.
2. There are certain standards that are not directly related to supervision. Chairman Dunn suggested the Association startup with the previously discussed three-year cycle, focus on the proposed items of unconcern, deferring the others to the third year.

C. PCL-R Assessments

Chairman Dunn and Board Member Gillison met previously regarding PCL-R assessments. The chairman presented their suggestion to focus solely on murder cases, due to the cost implications. More clearly, the focus would be on cases where the board splits in a tie (e.g. 4-4 vote), leaving one person to decide. In this scenario, the voting tie-breaker would request a PCL-R. At the Chairman's request, Meghan Dade, Executive Director, Sexual Offenders Assessment Board (SOAB) is also checking to see what the threshold is for the number of crimes in order to consider for PCL-R. This approach is preliminary and pending more research and discussion.

D. OBS Presentation – Conditions and Vote Clarifications

Board Secretary Talaber introduced Parole Manager, Rachel MacNamara who assisted in providing details for the presentation. Board Secretary Talaber raised the question as to the number of votes required for juvenile lifers (JL) who have a request for demographic change – two votes or five. Chairman Dunn noted that current voting rules allow for two votes. After some discussion Chairman Dunn noted for the record the board's unanimous vote by acclamation to require five votes for JL changes.

Parole Manager MacNamara distributed a handout on the votes required for action change, last update 3/2017. She reviewed conditions (most restrictive vs. least restrictive) and provided voting clarifications. Parole Manager MacNamara reminded the board that their decision will be recorded when decisions differ between a hearing examiner and a board member. However, for five vote cases the most restrictive condition will be applied for a decision to parole. The opposite applies for refusal cases; the least restrictive condition will be applied. The most restrictive/least restrictive condition is applied similarly for recommits where a prior liberty will be awarded. Board Member Barden suggested a special training day to enlighten her on the conditions, citing too many people are uncertain about it. Chairman Dunn agreed and stated that time will be set aside to review during an upcoming board meeting. Discussion ensued regarding conditions and how they are applied. Chairman Dunn asked the afternoon 361 session also include the topic of conditions.

Board Secretary Talaber raised the issue of disappearing detainer-only sentences. Board Secretary Talaber asked if the board wanted these back. Much discussion ensued on the issue, to include applying conditions to cover when it is understood that a detainer will go away. Victim Advocate, Storm added there have been cases when detainers were ignored due to the handling of complex multiple charges. Discussion continued around the potential for parole-to-detainer cases to go away and the move toward aggregation (topic introduced by Victim Advocate Storm). Chairman Dunn provided suggestions for board members to make sure desired detainer conditions are noted when voting to parole. Board Secretary Talaber

confirmed that the board wants the detainer-only back if the detainer disappears. The board agreed by acclamation.

Parole Manager MacNamara continued the OBS presentation to include information about recommit actions where the prior liberty will be awarded. If the person has multiple hearings, the most restrictive condition will be applied. If voting yes to give them all credit, no note is need. If voting to award partial credit, the decision maker shouldnote the reason. When voting and someone else makes a differing recommendation, do not cross off their recommendation. Staff Techs will determine if where signatures are needed. Decision makers should apply their initials to designate where they made a change.

E. Data Reports and Dashboard

Dr. Brett Bucklen, DOC Statistical Office deferred his 361 analysis to the afternoon session. Board Member Johnson proposed that the board hire one or two people dedicated to board projects such as automation, dashboard and stats. Board Member Johnson referred to the delay in moving forward with key board needs. His suggestion was, overall, to consider alternate ways of staffing board projects, as allowable. Much discussion followed to include an explanation of the selection process, budgetary considerations, a need to connect with DOC about work processes/collaboration, allocation of human resources once four positions are filled within the Statistical Office and an acknowledgement of the board's strides and progress already underway. There were no other additions on the topic.

F. Columbia University Study

Board Member Linda Rosenberg commented on the negative portrayal of the board and its effectiveness, based on the recent Columbia University study. Dr. Brett Bucklen clarified that county numbers negatively impact state parole numbers when they are rolled in. He added that start-to-state comparisons put Pennsylvania below average. Board Member Rosenberg continued on to say the board needs human resources in order to break out this kind of data and aid the board in getting in front of something like this study. She urged that the board needs a way to respond, for example, speaking points are needed. Fervent discussion took place about the article to include more about the board's emphatic need to respond.

The governor's office would have to approve the communications/media submission. Numerous suggestions were made for what the message should be, using it as an opportunity to highlight the board's efforts toward criminal justice reform. After some discussion, the Chairman agreed to take point and meet with Dr. Brett Bucklen, DOC Statistical Office and Ms. Laura Treaster, Special Assistant to the Chairman to draft a news release for the board's review. Chairman Dunn also stated that he would talk with the

governor's office about the matter. Director of Public Safety for Homeland Security in Pennsylvania, Marcus Brown, agreed with the approach of rolling up a response for the governor office to review and discuss.

DOC Deputy Secretary Christian Stephens commented that DOC has ensured representation at symposiums resulting from the article to aggressively defend our position. Deputy Secretary Stephens stated that he will see that the board is informed in order to maintain a consistent message. Chairman Dunn stated that he has also had the opportunity to speak to the article with some legislators.

IV. NEW BUSINESS

A. Proposal for Marijuana, Simple Possession Cases

Board Member Mark Koch discussed detain pending cases where there is a small amount of marijuana and/or paraphernalia and no other concerning factors. Board Member Koch requested the board think about how to move forward these in a better way for these low risk cases. General discussion followed around prioritizing who gets referral for treatment; considerations for why detained (e.g. tech may not have been charged); multiple unsuccessful efforts to divert; and the need for notes/background training. After general discussion, Chairman Dunn added that board members should focus on due process when reviewing cases and determining whether to detain.

B. Executive Session for Legal Advice

Chairman Dunn called for an executive session at 11:50 a.m. for purposes of legal counsel and advice. Board Secretary Talaber and Chief Counsel Robinson were permitted to remain with the board during executive session. Chairman Dunn re-opened public session at 12:08 p.m. and then directed a brief recess for lunch.

C. Suspending the Audit Process of County Probation Departments-Part 2

The board reconvened at 1:04 p.m. with a request from Chairman Dunn for a motion to adopt resolution 2018-01, where the board will not condition parole on placement in the community corrections center for the sole purpose of parolee violence prevention booster. So moved by Board Member Gillison, seconded by Board Member Johnson. The board unanimously approved.

Board Member Rosenberg made a motion to restart the 3 year audit process with the counties (with a list of 48 questions not being considered) until the third year of the audit cycle. Board Member Barden seconded the motion. There was a brief discussion among the board members, and the motion passed unanimously.

D. Replacing OVRT with Berk Assessment

Board Member Gillison made a motion to replace the POVRT with the Berk Assessment. Board Member Koch seconded the motion. There was brief discussion among the board members and the motion passed unanimously

E. 361 Discussion

Beginning at 2:12 p.m. there was a presentation and discussion on the board's voting instrument (PBPP-361).

Board Member Gillison made a motion to adjourn the meeting at 3:09 p.m., which was seconded by Board Member Johnson. The board passed the motion and adjourned the meeting.

JJT/SST