


MEMO

TO: Board Members

FROM: John J. Talaber, Esq. 
Board Secretary

DATE: May 20, 2019

RE: Minutes – Board Meeting
April 17, 2019

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 April 17, 2019, of the Pennsylvania Board of Probation and Parole.

The meeting convened at 9:02 a.m. on April 17, 2019, with Chairman Ted Johnson presiding. A quorum of board members was established.

Board Members Maureen Barden, Leo Dunn, Jim Fox, Everett Gillison, Leslie Grey, Mark Koch, and Tony Moscato. Board Member Linda Rosenberg was absent from the meeting.

Also in attendance were Chad Allensworth, Chief Hearing Examiner, Hearing Examiner Office; Alan Robinson, Chief Counsel, Office of Chief Counsel; Tanner Widdowson, Director of Victim Services, Office of Victim Advocate (OVA); Pennie Hockenberry, Policy Director, Office of Victim Advocate (OVA); Meghan Dade, Executive Director, Sexual Offender Assessment Board (SOAB); John J. Talaber, Board Secretary, Office of Board Secretary; Neil Malady, Director of Policy and Legislation; Laura Treaster, Special Assistant to the Chairman; Deb Carpenter, Special Assistant to the Chairman; and Farrah Conjar, Executive Secretary to the Chairman.

I. APPROVAL OF MARCH 13, 2019 BOARD MEETING MINUTES

Board Member Koch moved to approve the board minutes; seconded by Board Member Moscato. The minutes were unanimously approved. An audio recording is available.

The Chairman recognized public guests Mark Bergstrom, Executive Director of the Pennsylvania Sentencing Commission; Dr. Diane Shoop, Executive and Policy Support Manager of the Pennsylvania Sentencing Commission.

Director Neil Malady introduced Mr. Jonathan Baughman, Intern, Policy and Legislation. Mr. Baughman was an intern with the Department of Health and will be with us for a month. He will be attending Yale Law School in the fall.

II. STAFF REPORTS

A. Office of Victim Advocate

Director of Victim Services Widdowson had no OVA update for the Board.

B. Sexual Offenders Assessment Board

Executive Director Dade reported that Clinical Director Diane Dombach will be retiring on June 22, 2019. SOAB is awaiting approval to “onboard” her replacement. Also, there is currently an open position for an Investigator in the Scranton region. Postings are expected for two Clerk Typist 2 positions in the Central Office. Director Dade welcomed referrals for qualified applicants. The updated concluded with no questions.

C. Special Assistant to the Chairman

Special Assistant Carpenter updated the Board on the new Live Scan fingerprinting requirements. Everyone with access to protected criminal justice information (CJI) is required to be Live Scanned every two years, and must participate in security and awareness training. This will apply to board members, hearing examiners, all OBS staff, and anyone that can access CJI. A representative will make contact to get Live Scan setup. Some general discussion ensued before ending the update.

D. Office of Chief Counsel

Chief Counsel Robinson did not have an update for the Board.

E. Office of the Board Secretary

Board Secretary Talaber advised that OBS staff will make board schedule changes to Outlook calendars, as permitted. Updated calendars should be attached to each email by OBS staff. The Board had no questions for Board Secretary Talaber.

F. Hearing Examiners Office

Chief Hearing Examiner (CHE) Allensworth reported that a draft of the Complaint Policy is available for board members to review, but it is pending with Human Resources. CHE Allensworth summarized the policy for classifying complaints, and advised that the average is about twenty (20) per year for complaints. Hearing Examiner Caryn Hamm is retiring in May 2019. A meeting is scheduled later in the week to further discuss Education and Training (for recruitment of hearing examiners).

CHE Allensworth advised that periodically Zoom has been used as a video conference tool. It is also used within OVA. Hearing Examiners have used Zoom from home during emergencies; for example, when a Hearing Examiner cannot make it to the institution that day due to an illness, and the cases for that Hearing Examiner would need to be rescheduled to another day. CHE Allensworth advised

that two hearing examiner openings remain, one for Hearing Examiners in Northeast and one in Central. Some discussion ensued about the recruitment of these positions. Education and Training needs to be worked out in order to get a qualified pool of applicants. Chairman Johnson advised that some board members would like to sit in for the interviews. The update concluded with no further questions.

G. Policy and Legislative Affairs

Director Malady reported that we continue to hear that there are no serious hiccups with the budget. Chief Counsel Robinson and Special Assistant Carpenter met with the Senate on the JRI II package. The Senate intends to move these bills at the end of April or beginning of May 2019. The NGA – National Parole Resource Center Workgroup is starting to meet. There are three proposals that will be included in a letter to the governor in solicitation of his support: (1) Medical Parole; (2) Re-Entry; and (3) Violation and Revocation actions. Chairman Johnson asked board members to let him know if they want to be involved in a workgroup.

An *ad hoc* legislative workgroup comprised of Board Members Fox and Moscato, and Director Malady will meet every board week with Chairman Johnson to go over proposals that may or may not be moving.

Director Malady reported that we have an approved mission statement. The mission statement was read aloud. Board Secretary Talaber advised that a resolution is needed before the mission statement will go into effect. Chairman Johnson moved for the resolution to go into effect, and Board Member Barden seconded the motion. The board unanimously approved the resolution. Board Secretary Talaber will circulate the resolution for signatures.

III. OLD BUSINESS

A. 85% Myth Letter

Special Assistant to the Chairman, Laura Treaster reported that the 85% myth letter was circulated on Monday afternoon. If approved by the board members, the letter will go to the governor's office for review. Special Assistant Treaster has many email addresses for judges, public defenders, district attorneys, and court administrators. Once all approved, the plan is to email the letter. The board cleared the letter for release to the governor's office. There was some general discussion about other misconceptions among Judges and District Attorneys. For example, there is a misperception that the Board automatically receives sentencing transcripts after every sentencing hearing. Special Assistant Treaster will provide a copy of the letter to Executive Director Bergstrom.

Special Assistant Treaster reported that she has been working on data cleansing as part of the OnBase project, and most of the errors involved not having a parole number identified when the document was uploaded into the system. A unique number (SID) was discussed as a future way to manage data/records. It was noted,

by Board Member Gillison and Board Secretary Talaber, as a point to consider now as a placeholder in the electronic management system is developed.

B. Various Issues – Chairman Johnson

1. Corrections Officers (CO) in Rooms – Chairman Johnson confirmed the policy is that COs must be in the room when the hearing examiners are interviewing or conducting hearings.
2. Utilization of Extended Release – Chairman Johnson encouraged decision makers to “release upon completion” if the inmate has done everything except therapeutic community, and decision maker’s discretion supports they no longer need to come back.
3. DOC recommending release – If the DOC recommendation is favorable for release, and individual is in TC or other program (other than sex offenders), DOC has been asked to get together with agents regarding the potential of the treatment continuing outside the institution, and the inclusion of that note in the recommendation to the board decision makers.
4. Juvenile Lifers (JL)- The Philadelphia portion of the population is nearing an end. Board Member Gillison will begin preliminarily looking at the 18-25-year-old JL population. A general discussion followed regarding data collection and the requirement of legislation to extend the JL rationale to this expanded population. Board Member Fox would also like to look at the Felony II population as a possible area of expansion. Chairman Johnson will gather information on statistics about extended JL

C. Governor’s Office -- Marcus Brown, Deputy Chief of Staff

Deputy Chief of Staff Brown talked about more cases coming out of the Pardons Board. Recently fees were removed for someone to have charges taken off their record. Deputy Chief of Staff Brown mentioned a meeting with the Innocence Project (involved with getting people out of prison who are wrongly convicted) where a man, wrongly convicted, went without services to support him once released from prison. There is a lack of services in Pennsylvania for people who are later exonerated.

Deputy Chief of Staff Brown’s recommended all involved in the board process to watch a recent 60 Minutes episode about the changing environment in the prison system – open environment, counseling sections, guards as advocates. Chairman Johnson also supported the comments, and elaborated on the episode. The update ended with a request from Chairman Johnson for how the board can help the Governor’s initiatives. Deputy Chief of Staff Brown replied that continuing conversations that move the parole process forward is the expectation, and he was complimentary about experiencing that during his attendance at the board meeting.

D. Prison Policy Initiative – Chairman Johnson

There was some interest in DOC personnel sitting in on parole hearings. Board members asked for advanced notification for when it will occur, and who will sit in. DOC wants to learn more about the parole hearing process. Board Member Dunn recommended that members have the right to refuse for certain cases (e.g. highly volatile). A process will be developed for board member review.

E. Board Dashboard

Special Assistant Treaster reviewed all the reports that are sent out to board members each month. Duplication was identified. Board Member Gillison and Special Assistants Carpenter and Treaster met to review the seven pages of data that is included in the reports. Questions were considered in order to determine what is still needed, what needs focused on, etc. Two basic categories emerged after the review – data on pre-release and post release information. Pre-release information includes, for example, population stats, cases not seen, productivity stats, etc. Post-release information includes, for example, recidivism rates, type and number of TPVs and CPVs, absconders, and other relevant information.

Special Assistants Treaster and Carpenter will be working over the next few weeks to pare down the report to more of a summary. Special Assistant Treaster asked the Board to notify them if there is something that should remain or be removed from the report. Board Member Gillison added that the inclusion of post data is important for decision making.

F. National Governor's Association Project

Board Member Barden provided an update on a meeting with people (from many diverse areas) to talk about the National Parole Resource Center, National Governor's Association Project. These groups work together to make some recommendations to the Governor about changes to certain areas that were identified as important: Medical Parole/Geriatric prisoners; Reentry focus; and Parole Violations and Revocations. Director Malady and Board Member Barden will meet to outline what is needed for Reentry and Parole Violations and Revocations. Board Member Koch will be handling Medical Parole. Some general discussion took place regarding the benefits of joint training with the Hearing Examiners.

G. Medical Parole

Board Member Koch framed medical parole as another potential avenue to create a group that can be paroled. House Bill 642 has some good things in it that may be workable. It considers people who are 55 years-old or older with no current or prior violent offense. Also, that they have been determined to be permanently medically incapacitated or terminally ill, as decided by DOC physicians. The bill does not provide for a right to parole. It provides that the parole board reserves the right to make the final decision in these cases. Aside from some terminology that may need to be revisited, the idea seems to be there in terms of providing an

avenue for people who are either terminally ill or aged to be potentially paroled, without giving them the right to be. Chairman Johnson invited board members to SCI Laurel Highlands to see the facility of inmates that are on IV, are on carts, or are in wheelchairs. Chairman Johnson purports that a visit to see the conditions firsthand would be beneficial for understanding the potential of this idea of medical parole for an avenue to parole. The idea is that sometimes better care (Medicare/Medicaid) or programming is available upon release in terms of safety and care. Director Malady mentioned the Senator Baker expressed an interest in having a hearing at SCI Laurel Highlands on this subject. Some general discussion about House Bill 642 took place.

H. APAI Presentation

Board Member Gillison provided feedback regarding two points he felt would be beneficial to explore further: Trauma-Informed care from the inmate's point of view and self-care. Self-care deals with the effects on the decision maker after the constant barrage of hearing difficult or sensitive matters. Board Member Gillison stated the decision makers should be utilizing the people that come here, for example, during face-to-face days to provide psychological support. Board Member Gillison suggested a presentation on trauma and self-care for the board and hearing examiners.

The conference was overall good and informative. There was a leadership development specialist who would make a great speaker to the board. During the conference, he spoke about understanding board dynamics and leadership dynamics, and understanding how decision makers actually do the job. Dynamics is a different level of leadership development that Board Member Gillison expressed as something the board should really consider hearing more about. Board Member Fox also added general comments about what he felt was a good conference. Mr. Fox commented that the board was very well reflected during Board Member Gillison's presentation on paper reduction and use of technology at the conference. There was a lot of interest afterward from other agencies, according to Special Assistant Mrs. Treaster.

Chairman Johnson recessed the meeting at 10:49 a.m.

Chairman Johnson called the meeting back into order at 11:01 a.m.

I. Violent and Sexual Crimes Chart

Board Secretary Talaber noted that the violent and sexual crimes chart has not been updated since June 2016. OBS has been collecting questions from various people regarding board designated offenses. Board Secretary Talaber referenced a handout and noted that the board's decision regarding the number of required votes is needed to update the chart on new crimes listed. Board Secretary Talaber reviewed crimes and the recommendations. The board heard all that were read and decided on the number of votes required for each as follows:

1. Recommendation One:

- Promoting Prostitution, Where the Actor Promotes the Prostitution of a Child Under the Age of 16 years is currently listed as a 2 vote violent case, but is a Tier II sex offense. Should this change to a 5 vote violent case?
 - This would affect approximately 12 cases a year.
 - The Board decided that this should be a 5-vote violent case.
2. Recommendation Two:
- Homicide by Vehicle is currently a 2 vote violent case. Should this change to a 5 vote violent case?
 - This would affect approximately 87 cases per year.
 - This recommendation was tabled until the May 22, 2019 board meeting so that Board Member Rosenberg could be involved in the discussion.
3. Recommendation Three:
- Homicide by Vehicle while DUI is currently a 2 vote violent case. Should this change to a 5 vote violent case?
 - This would affect approximately 199 cases per year.
 - This recommendation was tabled until the May 22, 2019 board meeting so that Board Member Rosenberg could be involved in the discussion.
4. Recommendation Four:
- Drug Delivery Resulting in Death is currently a 2 vote violent case. Should this be changed to a 5 vote violent case?
 - This would affect approximately 12 cases per year.
 - The Board decided that this should be a 5-vote violent case.
5. Recommendation Five:
- Possessing or Carrying a Firearm without a License is a non-violent case. Should it be a violent case, and if so, should it be a 2 vote violent case or a 5 vote violent case?
 - This would affect approximately 1,255 cases.
 - The Board decided that this should be a 2-vote non-violent case.
6. Recommendation Six:
- Involuntary Manslaughter is a non-violent case. Should it be a violent case, and if so, should it be a 2 vote violent case or a 5 vote violent case?
 - This would affect 90 cases per year.
 - This recommendation was tabled until the May 22, 2019 board meeting so that Board Member Rosenberg could be involved in the discussion.
7. Recommendation Seven:
- Criminal Attempt of a 5 vote case is only 2 vote case. Should this also be a 5 vote case?
 - This recommendation was tabled until the May 22, 2019 board meeting so that Board Member Rosenberg could be involved in the discussion.

8. Recommendation Eight:
 - New charge for consideration-18 Pa. C.S. § 3012 Involuntary servitude (F1)
 - The Board decided that this should be a 2-vote non-violent case.
9. Recommendation Nine:
 - New charge for consideration-18 Pa. C.S. § 3131 Unlawful dissemination of intimate image (M1 or M2)
 - The Board decided that this should be a 2-vote non-violent case.
10. Recommendation Ten:
 - New charge for consideration-18 Pa. C.S. sec. 2718 Strangulation (F1, F2 or M2)
 - The Board decided that this should be a 2-vote violent case.
11. Recommendation Eleven:
 - New charge for consideration-18 Pa. C.S. sec. 3013 Patronizing a Victim of Sexual Servitude (F2)
 - The Board decided that this should be a 2-vote non-violent case.

Board Member Gillison moved to adjourn the public session, which was seconded by Board Member Koch. The board unanimously voted to adjourn the meeting at 11:26 a.m.

The Board entered Executive Session at 11:30 a.m. to obtain legal advice on a number of issues from Chief Counsel Robinson. Board Member Fox moved to adjourn Executive Session, and Board Member Gillison seconded the motion. The Board unanimously voted to adjourn executive session at 12:05 p.m.

JJT/sst