

# Pennsylvania Board of Probation and Parole



Leo L. Dunn

The core mission of the Pennsylvania Board of Probation and Parole (Board) is to protect public safety, utilize sound parole decision making practices, address the needs of crime victims and employ effective supervision methods to assist parolees reentering the community.

Parole serves a very important role in the criminal justice system. Most inmates who have been sentenced to prison will be released at some point and return to the community. Criminal justice experts agree that it is better for society if most individuals are reintegrated into the community on a gradual basis and under parole supervision rather than being released without it. Eight months prior to an inmate's minimum sentence date, the preparation of the case file begins for each individual. Until the maximum sentence date is reached and parole completion is achieved, interaction with the parole process can, and will, vary.

## WHAT IS STATE PAROLE?

The Board has paroling authority over sentences with a maximum date of two or more years that

*“The minimum sentence date is a parole eligibility date, not a guaranteed release date.”*

are served in state correctional institutions. A maximum sentence less than two years is a county sentence and county parole.

There is no right to parole under state or federal law. Parole decisions in Pennsylvania are not subject to judicial review unless the prisoner asserts a constitutional challenge to the denial of parole or seeks a writ of mandamus to compel the Board to exercise its discretion. The Board does not have the authority to parole from sentences of life imprisonment or death.

Minimum and maximum sentence dates are calculated by the Pennsylvania Department of Corrections. The minimum sentence date is a parole eligibility date, not a guaranteed release date. Pennsylvania inmates are not required to serve 85% of their maximum sentence to be released on parole.

An order by a sentencing judge which grants or denies parole to a person serving a maximum sentence in excess of two years is a nullity. A sentencing judge may make recommendations as to the length of confinement and conditions of parole; however, these orders are advisory and are not binding on the Board.

## THE DECISION MAKERS

The Board consists of nine members, appointed by the Governor with the advice and consent of the Senate. The Board may make parole and revocation decisions by a majority of the Board or in panels of two persons. Panels consist of one Board member and one hearing examiner or two Board members. A hearing examiner is also a decision maker empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Board.

For voting purposes, the Board uses three groups based on the inmate's current offense:

### Group 1 - Murderers and sex offenders:

The majority of the Board must vote 'yes' for an inmate to be paroled. These inmates are usually interviewed jointly by two Board members.

### Group 2 - Other violent offenders:

At least two Board members must vote 'yes' for an inmate to be paroled. These inmates are usually interviewed jointly by two Board members.

### Group 3 - Non-violent offenders:

RRRI-eligible inmates may be paroled if they receive a 'yes' vote from a hearing examiner. Other non-violent offenders need one 'yes' vote from a hearing examiner and one 'yes' vote from a Board member. These inmates are usually interviewed by a hearing examiner.

When determining if an inmate is ready to be paroled, the Board's decision makers use these principles to guide their decisions:

- Defer to the sentencing court regarding issue of appropriate punishment
- The sentencing court is the arbiter of just punishment
- Ensure all inmates are accurately and consistently evaluated for their readiness

## Definitions

**Board:** Pennsylvania Board of Probation and Parole

**DOC:** Pennsylvania Department of Corrections

**BCC:** Bureau of Community Corrections in the DOC

**CPV:** Convicted Parole Violator

**TPV:** Technical Parole Violator

**PV:** Parole Violator

**CCC:** Community Corrections Center

**CCF:** Community Corrections Facility

**CCJ:** Contracted County Jail

**PVC:** Parole Violator Center

**SCI:** State Correctional Institution

**RRRI:** Recidivism Risk Reduction Incentive (A sentence imposed upon a non-violent offender that can allow them the opportunity to reduce their minimum sentence upon completion of recommended programming, and while maintaining a good conduct record.)

- to be paroled to enhance public safety and use a structured decisional instrument
- Because of the significant stakes involved in violent crimes, the Board evaluates violent offenses at a more stringent standard than non-violent offenses
- The Board supports order and safety within the state Department of Corrections (DOC)

The Board is required by law to consider the following factors when considering parole:

- The nature and circumstances of the crime for which the inmate was convicted, as well as his/her entire criminal history, including any juvenile arrests or adjudications
- Information regarding the general character and background of the inmate
- Notes on the sentencing hearing testimony
- Emotional stability: physical, mental and behavioral condition and history of the inmate
- History of family violence
- Recommendation of the sentencing judge and prosecuting attorney
- Input from the victim and the victim's family
- Recommendation from the warden or superintendent of the facility where the inmate is incarcerated

Other requirements considered are the status of program completion and the person's adjustment to prison. The Board looks at all misconducts, but concentrates on those that occurred within the past two years.

#### UNDERSTANDING THE BOARD ACTION AND RELEASE PROCESS

The Board frequently clarifies the misunderstanding that the minimum sentence date is the parole release date. Public perception is they are one and the same. It is crucial that all incarcerated individuals in Pennsylvania understand the minimum sentence date represents the minimum amount of time a person must be incarcerated under DOC's control; an inmate becomes eligible for parole release after they have served their minimum sentence.

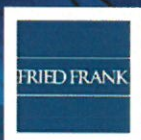
Additionally, an inmate's family and friends mistakenly believe after their loved one has been granted parole, they are immediately released. This is not the case as a positive Board Action triggers numerous other events that must take place before the inmate is released on parole.

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“If the parole denial contains a general statement the inmate does not demonstrate a motivation for success, it means that neither the completion of programs nor the interview statements show the inmate seems prepared to succeed as a law-abiding citizen.”

The Board Action, also called a Board Decision, (previously referred to as a “green sheet” because it was printed on green paper, but is now printed on white paper), will tell the inmate whether they have been granted or denied parole and the reasons for the decision.

#### Explanation of Parole Denial

If the parole denial contains a general statement the inmate does not demonstrate a motivation for

success, it means that neither the completion of programs nor the interview statements show the inmate seems prepared to succeed as a law-abiding citizen.

If the parole denial contains a general statement regarding risk and needs assessment, it means the inmate has a high risk of re-offending according to his/her evaluations.

If the parole denial contains a general statement regarding lack of remorse or not taking responsibility for the crime(s), it means the statements and actions during the parole interview, including the inmate’s written statement gave the impression the inmate does not care about the impact of his/her actions on other people and society.

#### Explanation of Parole Approval

If the parole decision grants parole, it will highlight the reasons for the approval. The Board Action also spells out the individual’s parole conditions.

Parole to detainer means the inmate is not being released. It is a grant of parole to a detainer sentence, which is a sentence separate from the one the inmate is currently serving. The detainer



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ensures that when the inmate has been paroled on the present sentence, the inmate will be turned over to the authority imposing the detainer sentence to serve the next sentence, rather than being released from confinement. It means the inmate is allowed to start serving the other Pennsylvania sentence while on parole or will be sent to the other jurisdiction, which lodged the detainer, to address that situation.

Parole release is not immediate when an inmate receives a Board Action granting parole. There are several things that need to occur before the inmate is released to parole supervision. After parole is granted, the inmate needs to work with the institutional parole agent to determine what criteria from this list must be met before release:

- Crime Victims' Compensation Fund Payment
- DOC RRRRI Certification
- Victim Awareness Class Completion (if applicable)
- DNA Sample (if a past or present felony conviction exists)

- Megan's Law Registration (if required)
- Completed Programming (if noted)
- Urinalysis (test results are good for 45 days)
- Chairman's Certification (if violent crime)
- Community Corrections Center (CCC) Bed Available Date
- Approved Home Plan (An in-state, Pennsylvania home plan is valid for 150 days; an out-of-state home plan is valid for 120 days)
- Release Orders from the Board
- Release Date from DOC

If the Board Action/Decision contains conditions that must be fulfilled before an inmate is released, they must complete them before any release processing will begin. Inmates must also remain misconduct free. Any detainers or new charges may delay or invalidate an inmate's parole.

#### **Community Corrections Centers**

A CCC, often called a halfway house, is a residency under the jurisdiction of the DOC. To be placed in

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a CCC, DOC must approve an inmate's placement and provide a bed date. This will be requested for the inmate by the Board's institutional parole staff if the Board Action/Decision states the inmate is to be paroled to a CCC. DOC is responsible for placing inmates at CCCs. The Board always encourages each inmate to work with his/her institutional parole agent to develop an approved home plan in order to expedite placement.

DOC controls the location and times for bed dates. The parole agent only makes a referral to a DOC Corrections Classification Program Manager. An inmate may check with their corrections counselor or the institutional parole agent if they have not received a bed date within one month of receiving a paroling Board Action.

Legally, an inmate cannot be released on parole prior to the minimum sentence date. If an inmate has completed all required programming, is a non-violent offender, has an approved home plan or CCC bed date, and has no detainers, release may occur within a short time frame. The average inmate is released within 130 days of an interview resulting in parole approval.

## PAROLE SUPERVISION

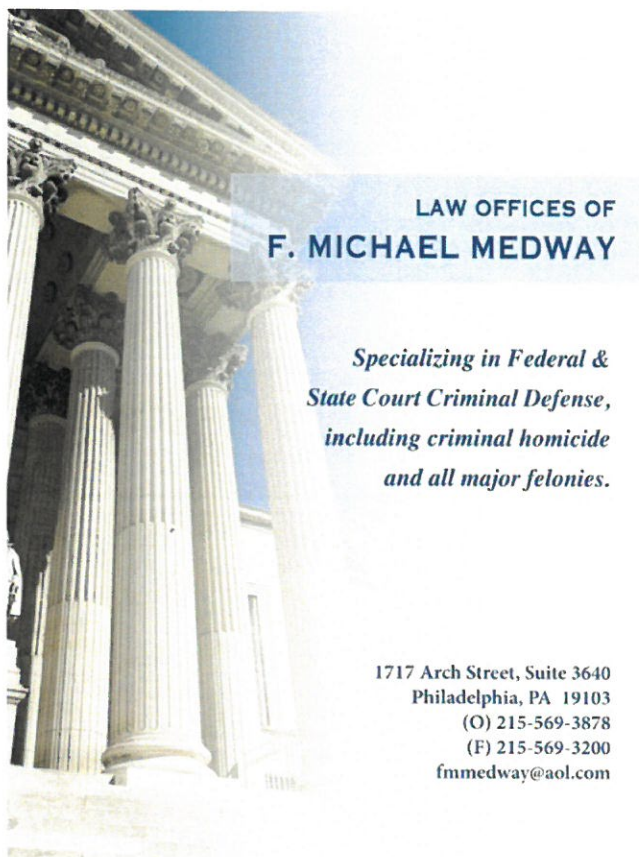
There are two types of parole conditions: general and special. General conditions of parole apply to every individual under parole in the state of Pennsylvania. Special conditions of parole are specific and individualized conditions placed on a parolee by the Board, the sentencing court and/or field supervision staff. Special conditions are in addition to general conditions and all must be followed to be in compliance.

### General Conditions of Parole

1. Report in person within 24 hours to the district office or sub office specified by the Board and not leave that district without prior written permission of the parole supervision staff.
2. Live at the residence approved by the Board at release and not change residence without the written permission of the parole supervision staff.
3. Maintain regular contact with the parole supervision staff by:  
Reporting regularly as instructed and follow-

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ing written instructions of the Board or the parole supervision staff.

Notifying the parole supervision staff within 72 hours of one of the following:

- Arrest
- Receipt of a summons or citation for an offense punishable by imprisonment upon conviction
- Change in status including but not limited to employment, on the job training and education

4. Comply with municipal, county, state and federal criminal statutes, as well as the Vehicle Code and the Liquor Code

5. Additionally:

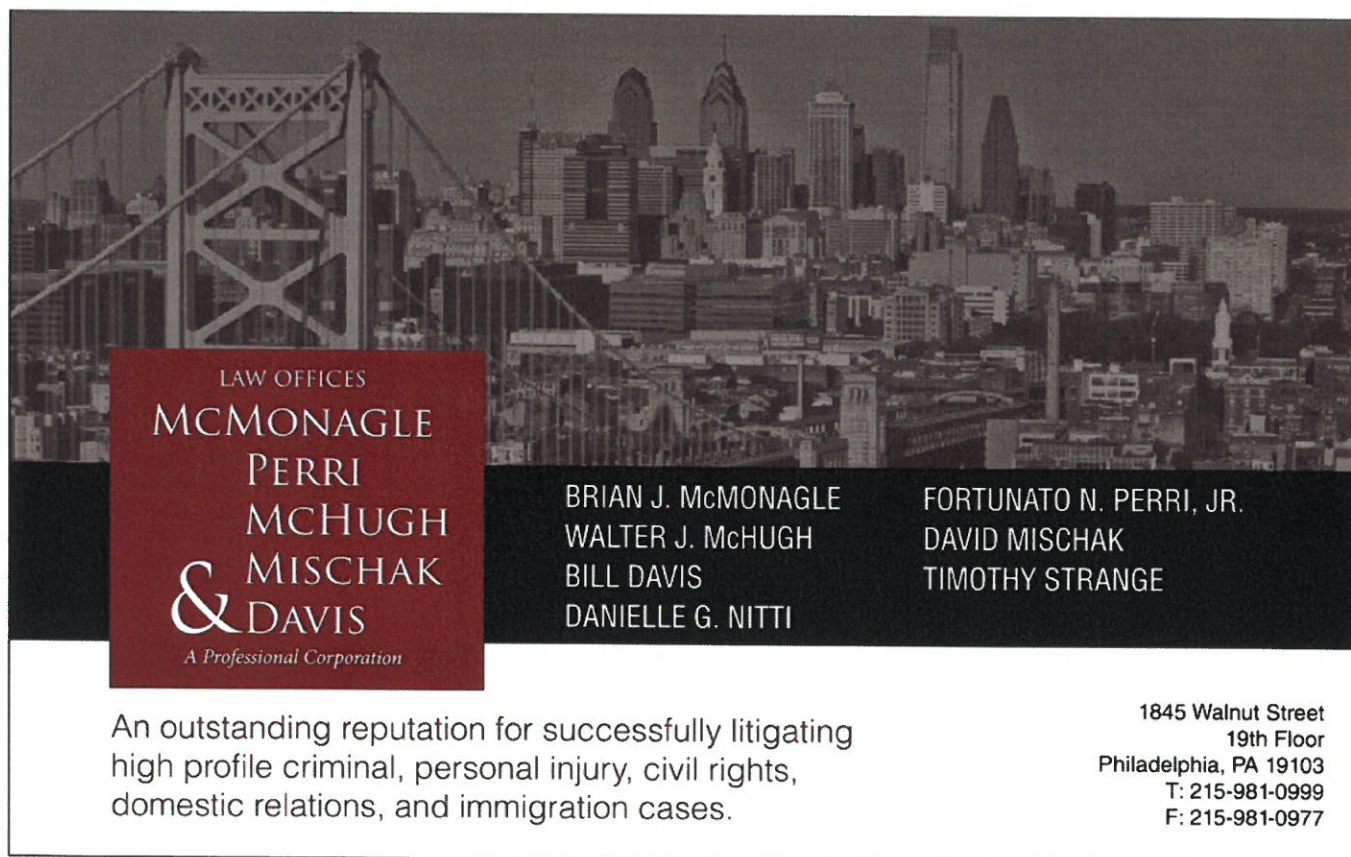
- Abstain from the unlawful possession or sale of narcotics and dangerous drugs and abstain from the use of controlled substances within the meaning of The Controlled Substance, Drug, Device and Cosmetic Act without a valid prescription

- Refrain from owning or possessing firearms or other weapons
- Refrain from assaultive behavior

6. Pay fines, costs, and restitution imposed by the sentencing court. Establish with appropriate county authorities within 30 days of release from prison a payment schedule for the fines, costs and restitution owed for those cases for which each individual is now on state parole. Thereafter, each person shall:

- Pay these obligations according to the established payment schedule or as ordered by the court;
- Provide proof of such payment to parole supervision staff; and
- Keep the parole supervision staff and the court informed of any changes in the parolee's financial ability to pay fines, costs and restitution.

Parole agents are peace officers. However, they are also permitted to perform these functions:



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- They can impose special parole conditions on any parolee in their caseload if they determine it is warranted.
- They have police power and authority throughout Pennsylvania to arrest without warrant, writ, rule or process any parolee or probationer under the supervision of the Board for failing to report as required by the terms of their probation or parole or for any other violation of the probation or parole.
- They are authorized to search on a reasonable suspicion standard without a warrant. Any item found in the parolee's possession that is a violation of parole/reparole from the search may be used as evidence in the parole revocation process.
- They can also supervise county parolees and probationers.

The parole agent is a parolee's first point of contact for any problems the individual may encounter while on parole. The parole agent is responsible for helpful guidance and also for enforcing parole conditions.

## VIOLATIONS OF PAROLE

There are two types of state parole violators: convicted and technical.

### Convicted Parole Violator (CPV)

A parolee who violates parole by committing a new crime while on parole. For a parolee to be recommitted as a CPV:

- (1) The crime must be committed during the period of parole or while delinquent on parole;
- (2) The crime must be punishable by imprisonment; and,
- (3) Parolee must be convicted or found guilty by a judge or jury, or plead guilty or nolo contendere in a court of record.

### Technical Parole Violator (TPV)

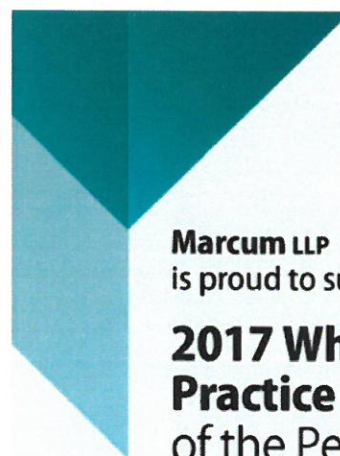
A parolee who violates probation or parole terms and conditions, other than a new misdemeanor or felony conviction. Examples include: missed curfew, signing out for work and not showing up, leaving the district without permission, etc.

### Points to Note

- If a parolee is arrested for a crime while

on parole or is accused of assaultive behavior against another person, they will most likely be returned to prison. Other parole violations may or may not result in re-incarceration depending on what the violation is and if it's a repeat behavior. All violations will result in a sanction ranging from curfew, increased urine testing, or attending programming to being placed in an in-patient treatment or technical parole violator center.

- If a parolee is arrested on new criminal charges, the Board has the authority to lodge a detainer against the parolee, which will prevent his/her release from custody, pending disposition of those charges, even though the parolee may have posted bail or has been released on their own recognizance from those charges.
- If a parolee violates a condition of parole/reparole and, after the appropriate hearing(s), the Board decides the parolee is in violation of a condition of parole/reparole, the individual may be recommitted to prison for a time specified by the Board.



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- If a parolee is convicted of a crime committed while on parole/reparole, the Board has the authority, after an appropriate hearing, to recommit the parolee to serve the balance of the sentence or sentences the parolee was serving when paroled/reparoled, with no credit for time at liberty on parole.
- A hearing is required before parole may be revoked. The parolee is entitled to assistance of counsel at revocation hearings and to free counsel if indigent. The Board does not appoint counsel. A public defender of the county in which an indigent parolee is incarcerated provides counsel. Rules of Criminal Procedure do not apply. Board regulations govern proceedings. In a parole revocation hearing, the standard of proof is preponderance of evidence. Parole revocation decisions can be made by a majority of the Board or in a panel of two persons.

## VIOLATION HEARINGS

Parolees have a right to both a first and second level hearing as part of their due process rights. A parolee may also choose to waive these rights.

### First Level Hearings

Preliminary hearings are for parolees with technical parole violations. These hearings are held within 14 days of detention on the Board's warrant.

Detention hearings are for parolees with new criminal charges. These hearings are held within 30 days of detention on the Board's warrant.

The burden of proof for preliminary and detention hearings is *probable cause*. *These hearings may not be needed under certain circumstances.*

**Possible Outcomes at First Level Hearings: "continue on parole" or "detain pending second level hearing"**

Continuing on parole after first level hearings means the decision maker did not find a reasonable basis to conclude the parolee violated parole or the circumstances did not warrant detaining the parolee.

### Second Level Hearings

Revocation hearings are for parolees who committed a criminal act while on parole or while

delinquent on parole and are convicted or found guilty by a judge or jury or the parolee pleads guilty or no contest in a court of record of a crime punishable by imprisonment.

This hearing is held either within 120 days from the date the Board receives official verification of the plea of guilty, no contest plea or guilty verdict at the highest trial court level or within 120 days of the date the Board receives official verification of the parolee's return to a state correctional institution depending on the circumstances. A parolee may waive this hearing.

Violation hearings are for parolees who violated either a general or special condition of parole. This hearing is held within 120 days of the preliminary hearing. A parolee may waive this hearing.

The burden of proof for revocation and violation hearings is *preponderance of the evidence*.

**Possible Outcomes at Second Level Hearings: "continue on parole - with or without new conditions" or "recommit"**

A parolee may be placed in a CCC, CCF or PVC.

A PVC is a secure CCC and individuals are not permitted to leave during their time there. Parolees will immediately receive programming at the PVC. PVC stays range between 60 to 120 days, depending on program completion and satisfactory adjustment. If an individual fails the PVC program, they will be unsuccessfully discharged and returned to a CCJ or a SCI. Individuals may be sent directly to a PVC after waiving hearings or as a result of the decision from a hearing.

In accordance with 61 Pa. C.S. § 6138, all TPVs will go to a CCC/CCF/PVC unless the violation was:

- Sexual in nature
- Involved assaultive behavior
- Involved possession of a weapon
- The PV poses an identifiable threat to public safety
- The PV is an absconder who cannot be safely managed in a CCC/CCF/PVC.

In that case, the PV will be returned to a CCJ or a SCI. Technical parole violators sent to a CCC/CCF/PVC will usually serve between 60 and 120 days, depending on their satisfactory adjustment while at the center. The maximum length

of recommitment to a CCC/CCF/PVC is six months. The PV will be released on automatic reparole at that time unless they are not in "good standing with the Board."

TPVs returned to a CCJ or a SCI will serve at most six months for the first violation, nine months for the second violation and one year for the third and subsequent violations before being automatically repared, without having to be interviewed or reviewed by the Board.

However, if the parolee has: 1) Committed disciplinary infractions involving assaultive behavior; 2) Committed a sexual assault; 3) Had possession of a weapon or controlled substance; 4) Has spent more than 90 days in segregated housing due to one or more disciplinary actions; or, 5) Has refused programming or work assignments, the PV is not entitled to automatic reparole.

Convicted parole violators will be returned to a SCI and will stay there until the Board determines they are ready to reenter the community. If convicted, the Board can recommit the parolee to serve the balance of their original sentence with no credit for time at liberty on parole. The Board has discretion in determining whether to award street time to some categories of CPVs.

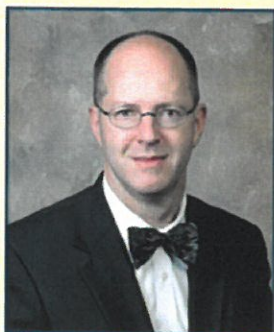
Continuing on parole after a second level hearing means either the decision makers did not find enough evidence to suggest the parolee violated parole OR it could mean there was enough evidence to recommit the parolee to prison but the decision makers determined the parolee could be safely returned to the street with additional sanctions.

Recommitment means the parolee was found to have violated parole and the decision makers chose to return the parolee to a CCC/CCF/CCJ or a SCI.

If a parolee waives his/her hearing rights, the Board will examine the facts of the case and make a decision based on the waiver, admission (if applicable) and any reports or evidence that are made available. The Board will then make a decision on whether recommitment is warranted based on that information and issue one or more Board actions reflecting that decision.

The parole process can be a complicated and confusing process to understand. Conditions. Violations. Hearings. Understanding the process is often easier when a name is attached to it, [click here to read more about a hypothetical situation.](#) 🗨️

## About the Author



**Chairman Leo L. Dunn** received a J.D. cum laude from Widener University School of Law Harrisburg in 2007 and three Bachelor of Science degrees from Penn State University in 1987. Mr. Dunn had a solo law practice and was an Adjunct Professor of Law at Widener University. Mr. Dunn has served the citizens of the Commonwealth for over 26 years for two state agencies. He was appointed Director of Policy and Legislative Affairs for the Board of Probation and Parole in 2012 after working nine years as an assistant director. Prior to working for the Board, Mr. Dunn spent 15 years with the Department of Agriculture serving in various roles. He was instrumental in the original development of the PA Preferred Program. He has served as a member of the Juvenile Act Advisory Committee, the Homeless Program Coordination Committee, the Mental Health Justice Advisory Committee at the Commission for Crime and Delinquency, and as chair of the GLBT Rights Committee and as a Council Member for the Solo and Small Firm Section of the Pennsylvania Bar Association. He currently serves as the Vice Chair of the Pennsylvania Bar Association's Corrections System Committee. Mr. Dunn is a northern Pennsylvania native. He is the first openly gay Board Member. Mr. Dunn was confirmed by the Senate as a Board Member on December 9, 2015. On March 15, 2016, Governor Tom Wolf appointed Dunn Chairman.

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