



## UPAN Newsletter Volume 6 Number 5 | MAY 2019

*“Empowerment and Growth Through Knowledge and Unity”*

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# UPEP @ USP; ADA Hearing Impaired Agreement; Legislation Affecting BOPP & CJS; Charity @ CUCF

**NEXT UPAN MEETING: MONDAY, JUNE 10, 2019 6:30 – 8:30 p.m.**

**Kafeneio Coffee House 258 West 3300 South, Salt Lake City**

**TOPIC: WOMENS ISSUES MEETING** – please come and discuss issues specific to women inmates  
All UPAN Meetings are free and open to the public.

**\*\*\*\*\*NO UPAN MEETING HELD IN JULY\*\*\*\*\***

**AUGUST UPAN MEETING: Monday, August 12, 2019 6:30 – 8:30 p.m. Kafeneio Coffee House**

**GUEST SPEAKER: Stephanie Puffer of Bristol Hospice, Utah Hospice and Palliative Care Organization - to discuss possibilities for Prison Hospice in the new Utah State Prison**

**SEPTEMBER UPAN MEETING: Monday, September 9, 2019 6:30 – 8:30 p.m.**

**GUEST SPEAKER: David Leavitt, Utah County Attorney on changes and reforms**

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***Coming in June's newsletter:*** Report on May Focus Meeting on Visiting Policies in USP; Article on May UPAN meeting presentation by Greg and Angela Hendrix on the LS/RNR conducted on all UDC Inmates.

**“Believe in yourself and all that you are. Know that there is something inside you that is greater than any obstacle.” Christian D. Larson**

**Disclaimer: Formulate your own opinions about the information presented. This information is presented for the reader's enlightenment and evaluation.**

## **Mothers Are the Unsung Heroes of Prison by Molly Prince** Adapted from the

Marshall Project's *Life Inside* article by Jerry Metcalf\* published May 9, 2019 (Two days before Mother's Day this year.)

Mothers everywhere are impacted by their loved ones being in prison. Wives whose husbands are serving time and they are left to care for children and grandchildren. Sisters, also mothers, are suffering from the loss of brothers to the system as are daughters whose fathers are locked up and don't know the grandchildren. And mothers of incarcerated children of all ages. UPAN wishes all of them the best every Mother's Day and dedicates this article to all mothers whose daughters and sons are incarcerated this Mother's Day.

In his article *Why Mothers Are the Unsung Heroes of Prison*, Jerry Metcalf writes, "Every day, come rain, sleet or snow, worried mothers flood prison visiting rooms across the nation. They sacrifice their time and hard-earned money to see their 'babies' who have ended up in prison. Mothers, unsung heroes, hold our prisons together, though authorities who scan or search them before every visit, usually don't recognize their value. Disasters have been averted; assaults stopped, when another inmate said five simple words: 'What would your mother think?'"

Many times, the only person inmates have left is Mom. Moms send encouraging cards, commissary funds for needed items like food, hygiene, and warm clothing. Moms bring world news. Without moms, inmates might never hear news of their family and local community, missing news of births, deaths, marriages and divorces.

Metcalf continues, "We'd never know how much we are still loved and still thought of with respect and dignity. We'd never know what type of world awaits us. We've

pierced our mothers' hearts again and again with our selfish foolishness, not just our crimes, yet for reasons that only moms comprehend, they still hug us and kiss us and forgive. This unyielding love shifts our moral tilters, setting many of us back on the redemptive path. Over the years, many of the biggest changes I've accomplished in my incarcerated life have started with these other simple words from my mother: 'Jerry, what about this...?' 'Have you considered...?' 'I know things seem..., but believe me when I say...' I wouldn't be the loving, caring individual I am today—yes, even here in prison, where I'm a good friend and neighbor and contribute to the world through my writing—without the guidance my mother has drilled into me until it stuck."

I (Molly) agree with Jerry when he writes that "as a society, I believe we owe these mothers—and all mothers—a thank you for being the moral rock upon which we all stand. Instead of making it harder for our moms and other family members to visit us, or forcing them to visit us via video chat; instead of making it more expensive for them to accept our phone calls or send us emails; instead of making it damn near impossible to mail us a letter due to all the crazy rules like only blue or black ink, only white envelopes, no photographs on glossy photo paper; maybe we should consider just how much positive influence these wonderful ladies have on the penal system, every day of the year." UPAN wishes the best to all mother's, every Mother's Day!

\*Jerry Metcalf, 44, is an inmate at Thumb Correctional Facility in Lapeer, Michigan.

## **Utah Prison Education Project (UPEP) Presentation at April UPAN Meeting**

Summarized by Molly Prince

The April 8, 2019 UPAN meeting featured Dr. Cindy Fierro, co-director of the University of Utah's Prison Education Project (UPEP). Dr. Fierro teaches Gender Studies at the University of Utah. UPEP started in 2016 – 2017 as an outgrowth of the Praxis Lab on Education, Incarceration and Justice which researched mass incarceration and higher education programs. The co-founders included Dr. Erin Castro (who studies higher education in prison) and undergraduate students committed to social transformation and higher education. It also focuses on research and advocacy. Dr. Fierro presented a power point and handouts sharing a wealth of information about UPEP and its prison program.

UPEP has worked with Utah State Prison to introduce college level courses in the Draper prison. The first UPEP class was held in the fall of 2017.

**UPEP Explained.** UPEP's mission is to provide excellent college curriculum to individuals incarcerated

in Utah, to expand the field of quality higher education in prison through research, add to educate local and national communities about higher education in prison. UPEP provides on-site college curriculum to two groups of students incarcerated in the Utah State Prison, Draper. One is held in the women's facility (Timpanogos) and the other in the Wasatch men's facility. Through on-site coursework, UPEP instructors assist incarcerated students and non-incarcerated volunteers to live lives of impact, both in prison and post-incarceration, but fostering academic excellence, leadership, and civic engagement.

They provide courses in Timpanogos and Wasatch in the Fall and Spring semesters. The classes they provide in prison are identical class courses to what is being offered at the U of U in the community. The prison courses include a teaching class plus a learning lab (a 2½ hour session to tutor and support the students). There may be some options for Summer semester. Currently the classes are non-credit courses.

UPEP has managed to get 20 laptops which will be loaded with podcasts and eBooks for each facility. UPEP also offers a Lecture Series that is offered to correctional staff, students, and SLCC students in the prison to learn from.

### **Three Levels of Education offered in USP**

Dr. Fierro explained there are currently three levels of education offered in USP. The first level is South Park Academy which offers adult education for GED and high school diplomas. The next level is the programs offered through Salt Lake Community College (SLCC) which offer General Education certificate courses or Associate level courses. UPEP offers upper division undergraduate programs, which are currently non-credit due to them being non-tuition courses. It should be noted that SLCC and UPEP have re-entry persons to assist parolees to get into college once they are released from prison.

### **Admission to UPEP is not admission to the U of U.**

UPEP is free and all instructors are volunteer. They are professors from the University of Utah or other credentialed teachers / professors. Due to it being tuition-free, credits are not offered by the University. UPEP is working on grants to eventually be able to provide tuition for university credit. Once there is funding for tuition, prison students can become enrolled, but there will not be retroactive credit given. However, the quality of courses offered gives the prisoners participating in the program exposure to university level education.

### **Criteria for admission to UPEP program** includes:

- 1) having a high school diploma or GED
- 2) completion of the application and an essay reviewed by the UPEP admission team.
- 3) all behavioral standards of the prison must be met in order to participate in education.

Since beginning classes in 2017, UPEP has had a total of 39 students apply and currently have 15 in their programs. The courses offered over the past two years in Draper have included Philosophy, English, Creative Writing, Microbiology, Human Anatomy, Accounting, Anthropology, Schools and Society; and Global / Transnational Literature. While Lone Peak does not have formal courses, it has a book club sponsored by UPEP.

The reason UPEP is not available in CUCF is that there are not volunteer professors available to go to

Gunnison to teach. There is hope that this will change as the program grows.

**UPEP's Vision.** Since there are not any four-year college opportunities provided to incarcerated persons in Utah, UPEP has a vision to build a four-year college degree pathway inside Utah's state prisons. Due to the lack of access to college programs in Utah, our incarcerated population often turns to high-priced correspondence programs that are often not accredited in order to participate in college education. These expensive programs often offer very little value, without accredited transcripts, and do not prepare incarcerated people to pursue college education after release.

UPEP works with all education providers in the prison, including SLCC, and seeks to build the infrastructure to offer credit-bearing upper division undergraduate coursework to complete a bachelor's degree. UPEP hopes to accomplish this over the coming five years.

UPEP's vision for Draper is to be a full satellite campus for the U of U in Salt Lake City. The goal includes holding admissions in Gunnison and inmates there will be moved to Draper once they are eligible to participate and are accepted into UPEP.

**Why higher education in prison?** Every \$1 Utah invests in public higher education yields a \$3 return in increased tax revenues. Students who earn a bachelor's degree in Utah earn 85% more than those who did not finish high school. Higher education has been shown to decrease overall incarceration costs, reduce rates of re-imprisonment, improve post-release employment opportunities and job satisfaction, and positively impact children, families, and communities of incarcerated and formerly incarcerated people. Research shows that when prisoners have access to higher education, their risk of return to prison is reduced by 45%. The higher the educational degree, the lower the recidivism rate. Finally, a \$1 million investment in incarceration will prevent about 350 crimes while the same \$1 million invested in education will prevent more than 600 crimes. According to UPEP's research, correctional education is almost twice as cost effective as incarceration.

Dr. Fierro's presentation was filled with information and was inspiring to listen to, offering hope for the future as the UPEP program grows. UPEP needs volunteers in a variety of capacities. For more information please go to [www.prisoneducationproject.utah.edu](http://www.prisoneducationproject.utah.edu) .

## **Settlement Agreement Between the US Dept. of Justice and the Utah Dept. of Corrections Regarding the Americans with Disabilities Act (ADA)** by Molly Prince

On January 22, 2019 Director Mike Haddon of the Utah Department of Corrections signed a settlement agreement with the United States Dept. of Justice for the purpose of reaffirming and restating the "UDOC's obligations to provide appropriate auxiliary aids and

services whenever necessary to ensure effective communication with inmates who have hearing disabilities and its obligation to ensure that all inmates with disabilities have full and equal access to the UDOC's programs, services, and activities."

This agreement is a result of an investigation and compliance review conducted by the US Dept. of Justice after it received a complaint that Utah DOC failed to ensure effective communication for inmates with hearing disabilities. The investigation and compliance review began in January of 2018 after a formal complaint was filed under the Americans with Disabilities Act (ADA). The complaint alleged that Corrections failed “to ensure effective communication for inmates with hearing disabilities and thereby denies them participation in educational, vocational, religious and other programs on the basis of their disabilities.”

The settlement states that the UDOC – which includes its “officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with them” will not discriminate on the basis of disability in any of its services, programs, or activities. It further states that it will comply with all ADA requirements and implementing regulations. It also states that the UDOC will provide access to programs, services and activities. These include, but are not limited to, housing, recreation, commissary, dayrooms, telephones, and regular meals.

The agreement requires that the UDOC take appropriate steps to ensure that communication with inmates with a hearing disability be as effective as communication with other inmates so that hearing impaired inmates still can benefit from all programs, activities, and services offered all inmates.

**Provision of Auxiliary Aids & Services.** Section IV number 20 of the agreement requires that the UDOC will “ensure that appropriate auxiliary aids and services, including qualified interpreters, are made available to persons who have a hearing disability when such aids and services are necessary to ensure effective communication.” It goes on to state that “in determining what type of auxiliary aids and services are necessary, the UDOC shall give primary consideration to the expressed choices of the inmate and must honor that choice unless the UDOC can demonstrate that another effective means of communication exists.”

**Telecommunication Services.** Section IV item 21 requires that by July 2019 the UDOC will provide access to Telecommunications Relay Service, Utah Relay Service, or Video Relay Service as needed to connect persons with hearing disabilities with others. This means the prisons will provide functional TTY and a telephone that is compatible with hearing aids and where necessary, modified to enable volume control in each unit that houses an inmate with a hearing disability.

UDOC is also required to provide a videophone at a location accessible to prisoners who are deaf. Deaf and hearing-impaired inmates will be given access to these devices in a manner equivalent to access given to other inmates who use a standard telephone. Further,

the UDOC is required to ensure privacy of telephone calls by inmates using a videophone, TTY, or a telephone with volume control so their privacy is equal to that of other inmates’ phone calls.

Hearing impaired inmates are to have access equal to captioned television programming equal to other inmates in the same classification level.

**Qualified Interpreters.** Section IV item 22 requires “qualified interpreters for UDOC programs” be provided. This includes interpreters for “critical communication, complex information, exchanges, or anything involving legal due process; intake, orientation and classification; medical care and health programs; counseling and psychological services; educational, vocational, and programming required for parole or early release; due process hearings, disciplinary hearings, and hearings in which the inmate is a witness; classification reviews; grievance interviews or processes; religious services; non-criminal investigations conducted by UDOC; and pre-release instructions.

**Interpreting Service Agencies & VRI.** The settlement allows the use of interpreting service agencies and Video Remote Interpreting (VRI) services. VRI is a video-telecommunication service that uses devices such as web cameras or videophones to provide sign language or spoken language interpreting services. VRI is a type of telecommunications relay service (TRS) that is not regulated by the FCC. The requirement is to provide interpreters 24 hours/day, seven days a week.

**Record Keeping.** The UDOC is also required to document all requests it receives for qualified interpreters and the action taken in response to each request, including denials of services. When a verbal request for a qualified interpreter is received by UDOC personnel, the employee receiving the request will provide the inmate with an interpreter request form as soon as practical, but no later than one hour from the time of the request, and the employee will provide assistance in completing the form correctly when necessary. Documentation will be provided to the United States Dept. of Justice for compliance review.

**Delays.** If there is a delay in getting an interpreter for any reason, the UDOC will use the most effective, readily available means of communicating with the inmate until the qualified interpreter or VRI is present/available. The UDOC will inform the inmate of the status of the efforts being made to secure a qualified interpreter for the inmate within 30 minutes of making the request for the interpreter service and provide additional updates until the interpreter is present.

**Use of inmates or staff for interpreting.** The settlement also states that the UDOC “will not require an individual who has a hearing disability to bring or use another inmate to interpret for him or her.” However, it does provide for another inmate to interpret for an

individual who has a hearing disability if: 1) the individual with a disability specifically requests such assistance from another inmate, the inmate agrees, and reliance on that inmate is appropriate under the circumstances; or 2) in an emergency involving an imminent threat to the safety or welfare of the individual or the public where there is no interpreter available. The settlement also does not stop the UDOC from assigning an inmate helper as a supplemental support to assist a hearing-impaired inmate during announcements, alarms, or other auditory information.

While the UDOC is not supposed to use UDOC staff to interpret or facilitate communication for hearing disabled inmates, it does allow personnel to serve as sign language interpreters in informal communications, providing basic information to a hearing impaired inmate while waiting for a qualified interpreter to arrive, or in an emergency involving an imminent threat to the safety or welfare of the individual or public when no qualified interpreter is available.

**Visual / Other Notification Systems.** Within six months of this agreement date, the UDOC will have implemented an effective visual or other notification system so that hearing impaired inmates will not miss announcements, alarms, or other auditory information including times for meals, recreation, education, work assignments, and other events. This can include use of inmate helpers to notify hearing impaired of non-emergency announcements.

Further provision requires the UDOC to effectively communicate the contents of the Inmate Orientation Video and Inmate Handbook and similar publications to all inmates with hearing disabilities, including those for whom written language is not an effective means of communication. This can include using a video of a qualified interpreter signing the contents of the Inmate Orientation Video and Inmate Handbook, along with the appropriate technology for viewing.

**Medical Care.** In a medical emergency when an interpreter is not available, the UDOC will not delay in providing whatever medical care, treatment, evaluation, or service is needed. The UDOC will use the most effective and readily available means of communicating with the inmate until a qualified interpreter is present.

**Hearing aids and batteries.** The UDOC will continue to provide hearing aids to inmates who have a medically demonstrated need for a hearing aid in order to effectively communicate while incarcerated. Inmates may be required to pay a co-payment for hearing aids. *An indigent inmate may not be denied medical treatment or a hearing aid.* Appropriate replacement batteries will be supplied by the UDOC for hearing aids and cochlear implants. The standard replacement batteries will be provided as soon as possible after the request from inmate, but not longer than 24 hours after the healthcare request is submitted by the inmate,

except on weekends or holidays when it is within 48 hours. Non-standard replacement batteries will be ordered as soon as reasonably possible after an inmate health care request is submitted by the inmate, and not later than 24 hours on weekdays and 48 hours on weekends and holidays. (It would make sense for inmates needing these batteries to plan ahead and not wait until their batteries have gone dead before requesting replacements).

The UDOC will send hearing aids for repair within 24 hours on weekdays and 48 hours on holidays after an inmate health care request is submitted by the inmate. A temporary hearing aid will be provided to the inmate for use during the time their original hearing aid is out for repairs. The inmate can request to be informed about when it was sent out for repair and when it is expected to be returned by the repair company. The inmate can also request documentation listing the name of the repair company, date of repair, and the specific repairs performed on their hearing device.

**Other requirements.** UDOC will inform all personnel having contact with a hearing-impaired inmate of that person's disability and preferred auxiliary aids and services. By the end of March (2019) the UDOC should have submitted a draft *Effective Communication Policy* which incorporates the requirements of the settlement agreement. This policy will then be part of the UDOC's ADA policy. The UDOC is required to provide annual live and detailed training to all DOC personnel having contact with inmates regarding effective communication with inmates who have a hearing disability.

The UDOC also is required to designate one Statewide ADA coordinator and a Facility ADA coordinator at each prison. There are a variety of compliance measures including monitoring and reporting requirements that are part of the agreement that will be the responsibility of these coordinators. In addition, the UDOC has by now created a specific ADA Grievance Procedure for resolving inmate ADA complaints.

There is a qualifier included in the settlement agreement that states that the settlement agreement "does not require the UDOC to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial or administrative burden." And puts the responsibility of proof of such burden on the UDOC. At the same time, the department is required to take other action that would still ensure that "to the maximum extent possible, individuals with disabilities receive the benefits of services provided."

**No Retaliation.** Section IV item 43 of the agreement states that the UDOC agrees that it shall not retaliate against any person who filed or may file a complaint, provided information or assistance, or participated in any other manner in an investigation or proceeding relating to the ADA or the settlement agreement.

**Director of the Dept. of Corrections Mike Haddon** responded to UPAN's March 2019 inquiry about the settlement. He shared that Corrections was already taking measures to ensure improved and effective communications with inmates, that it would invest in improved telecommunication devices, more readily accessible interpreters and the required annual ADA training for staff, in addition to the variety of other requirements outlined in the agreement. He said that as of March, training had begun to educate staff so that

"all policies and procedures encompassed within the ADA agreement are implemented."

Dir. Haddon takes this very seriously. He stated, "As a department, we are always working to improve our operations and this agreement is a welcome opportunity to hold ourselves to a continued higher standard of making all of our programs, services, and activities available to our whole inmate population, including those with disabilities." The entire Settlement Agreement is at [https://www.ada.gov.udoc\\_sa.html](https://www.ada.gov.udoc_sa.html)

**Norwegian prison governor Tom Eberhardt: "Treat people like dirt, and they will act like dirt. Treat people like human beings, and they will act like human beings."**

## **NEW BOARD OF PARDONS & PAROLE DIRECTOR OF ADMINISTRATIVE SERVICES**

As of April, the Board of Pardons and Parole has selected Dennis Moxon to serve as the new Director of Administrative Services, taking over Greg Johnson's former role. Mr. Johnson moves into the position of being a member of the Board. Dennis Moxon joins the Board with more than 20 years of experience with the Juvenile Court, where he served as a Probation Officer and Probation Supervisor in Juab, Salt Lake and Utah

counties. Most recently, he was assigned to the Administrative Office of the Courts as the Assistant Juvenile Court Administrator for Delinquency and Juvenile Justice. He holds both a Bachelor of Science and Master of Public Administration degrees from BYU. UPAN welcomes Mr. Moxon to his new position. We look forward to continuing our work on the Outreach Committee with him.

## **2019 Legislation Affecting the Board of Pardons & Parole**

Summary by Molly Prince based on information provided by Greg Johnson, former Administrative Director of BOPP

**HB244 Misdemeanor Sentencing Timeline Clarifications.** Chief Sponsor: Rep. Eric K. Hutchings; Senate Sponsor: Daniel W. Thatcher. Signed by Governor March 25, 2019. Class A Misdemeanors carry a potential one year prison sentence. This bill changes the sentence to one year minus one day, which effectively gives the offender one day of credit. ICE was deporting at one year, so this bill stops folks from being deported because they got a misdemeanor conviction. This law does not apply to felons already serving time in Utah State Prison. It goes into effect May 13, 2019 and is not retroactive.

**HB301 Board of Pardons & Parole Amendments.** Chief Sponsor Rep. Eric K. Hutchings, Senate Sponsor Luz Escamilla. Signed by the Governor March 22, 2019. This bill makes changes to the Board of Pardons and Parole hearing notification procedures. It:

- provides that timely notice of hearings be given to the offender (*note – it does not define "timely"*);
- requires that the victim or victim's representative who requests to be notified of hearings provide their current contact information to the board; if the current contact information is available, then the victim or victim's representative will be notified of all hearings; and
- allows notification of hearings to county or district attorneys and law enforcement to be accomplished through the board's website rather than sent by mail.

**SB 54 Board of Pardons & Parole Amendments.** Chief Sponsor: Sen. Daniel W. Thatcher; House Sponsor: Rep. V. Lowry Snow. Signed by the Governor on March 21, 2019. Although case law supports that parole and termination dates can be rescinded by the Board, it was not explicitly stated in statute. This bill puts into law the board's authority to rescind an inmate's prison release date before an inmate is released from custody; and codifies the board's authority to rescind a parolee's termination date before termination occurs. This bill allows the Board's authority to rescind a date if new information is received. For example, if a person has a parole date and commits a major disciplinary violation, the parole date may be rescinded. Bed space at CCC rescissions are common. The way this type of rescission is based on lack of bed space for a person on their parole date, they will be notified by their prison case manager, and the Board will send the inmate a letter. It will be reviewed when bed space comes available, at least after 30 days.

**SB 88 Restitution for Crime Victims.** Chief Sponsor: Sen. Jani Iwamoto, House Sponsor: Rep. Craig Hall. Previously, victims could not claim restitution for things like alarm systems, window bars, surveillance cameras, etc. installed as a result of a crime. This bill provides that restitution may include expenses for reasonable security measures put in place by a victim in response to a criminal offense.

***Listen to the whispers that something is wrong before it becomes a problem, then crisis, then disaster. Oprah***

## Various Other 2019 Criminal Justice Legislation Passed in Utah

Summary by Molly Prince

*It is common knowledge that individuals who are incarcerated or otherwise involved in the criminal justice system often have trauma histories – meaning they have also often been victims of various types of abuse and other types of crimes. We are summarizing new bills enacted in Utah that relate to victim issues.*

**HB15 Victim Rights Amendments.** Chief Sponsor: Rep. Steve Eliason; Senate Sponsor: Todd Weiler. Signed by the Governor on March 25, 2019. This bill allows investigations to be reviewed at the request of a victim or victim's family. The bill provides that an individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may request review of a criminal investigation if:

- a) the incident was reported for investigation to a law enforcement agency with jurisdiction to investigate the incident;
- b) at least one year has passed from the date the incident was first reported for investigation to a law enforcement agency with jurisdiction to investigate the incident; and
- c) the law enforcement agency investigating the incident has not submitted the investigation results to be screened for criminal charges by the county or district attorney in the jurisdiction in which the incident occurred.

The bill also creates a review process for open investigations.

**HB20 Human Trafficking Amendments.** Chief Sponsor: Rep. Angela Romero; Senate Sponsor: Jacob L. Anderegg. Signed into law by the Governor March 21, 2019. This bill clarifies and amends certain language regarding human trafficking and creates an offense for trafficking a vulnerable adult. This bill:

- ▶ clarifies that human trafficking of a child is an offense for which no statute of limitations applies;
- ▶ clarifies that those who knowingly benefit from human trafficking of a child can be charged as perpetrators;
- ▶ clarifies that victims of human trafficking may pursue civil actions against anyone who knowingly benefitted from the trafficking;
- ▶ replaces references to "children engaged in prostitution" with "children engaged in commercial sex";
- ▶ directs law enforcement to investigate possible human trafficking of a child when they encounter a child engaged in commercial sex; and
- ▶ creates a first degree felony offense for trafficking a vulnerable adult.

**HB100 Sexual Violence Protective Orders.** Chief Sponsor: Rep. V. Lowry Snow; Senate Sponsor: Curtis S. Bramble. Signed by the Governor March 27, 2019. This bill establishes the Sexual Violence Protection Act. This bill also defines terms and modifies definitions; creates a sexual violence protective order and an ex parte sexual violence protective order; establishes procedures for the application, modification, and enforcement of a sexual violence protective order and

an ex parte sexual violence protective order; and requires that a sexual violence protective order and a dating violence protective order be placed on the statewide warrant system.

Of note is the provision that, "An individual may seek a protective order under this part if the individual has been subjected to sexual violence and is neither a cohabitant nor a dating partner of the respondent." This is a huge step in the direction of protecting potential victims of further sexual threats or violence because in the past Utah has prevented victims of sexual violence from obtaining protective orders civilly unless they were either a co-habitant or dating partner of the perpetrator.

This is a detailed bill and more information can be found at: <https://le.utah.gov/~2019/bills/static/HB0100.html>

**SB45 Domestic Violence Revisions.** Chief Sponsor: Sen. Allen M. Christensen; House Sponsor: Rep. Paul Ray. Signed in by the Governor on March 27, 2019. This bill adds aggravated cruelty to an animal to the list of offenses that may qualify as domestic violence.

**SB103 Victim Targeting Enhancements.** Chief Sponsor: Sen. Daniel W. Thatcher; House Sponsor: Lee B. Perry. This bill enacts provisions relating to sentencing for a criminal offense committed against a victim who is selected because of certain personal attributes. This bill defines terms; provides an enhanced penalty for a criminal offense committed against a victim who is selected because of certain personal attributes; and provides that this bill does not affect an individual's constitutional rights, including an individual's constitutional right of free speech.

This bill defines "personal attribute" as any of the following: age; ancestry; disability; ethnicity; familial status; gender identity; homelessness; marital status; matriculation; national origin; political expression; race; religion; sex; sexual orientation; service in the U.S. Armed Forces; status as an emergency responder; status as a law enforcement officer, correctional officer, special function officer, or any other peace officer.

It further states the defendant is subject to enhanced penalties if the defendant intentionally selects:

- (a) the victim of the criminal offense because of the defendant's belief or perception regarding the victim's personal attribute or a personal attribute of another individual or group of individuals with whom the victim has a relationship; or
- (b) the property damaged or otherwise affected by the criminal offense because of the defendant's belief or

perception regarding the property owner's, possessor's, or occupant's personal attribute or a personal attribute of another individual or group of individuals with whom the property owner, possessor, or occupant has a relationship.

The law further states that if it is found beyond a reasonable doubt that a defendant committed a criminal offense and selected the victim or property damaged or otherwise affected by the criminal offense based on the above criteria, then the perpetrator is subject to an enhanced penalty for the criminal offense. The enhancements are as follows:

- a class C misdemeanor is a class B misdemeanor;
- a class B misdemeanor is a class A misdemeanor;
- a class A misdemeanor is a third degree felony;
- a third degree felony is punishable by an indeterminate term of imprisonment for not less than one year nor more than five years;
- a second degree felony is punishable by an

indeterminate term of imprisonment for not less than two years nor more than 15 years.

If the defendant is found beyond a reasonable doubt to have committed a criminal offense that is a first degree felony and selected the victim or property damaged or otherwise affected by the criminal offense in the manner described above, the sentencing judge or the BOPP shall consider the defendant's selection of the victim or property as an aggravating factor. This does not apply if the penalty for the criminal offense is increased or enhanced under another provision of state law; or the personal attribute of the victim or property owner, possessor, or occupant is an element of a criminal offense under another provision of state law.

This law does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Utah Constitution or the laws of the state, or by the United States Constitution or the laws of the United States; or create a special or protected class for any purpose other than a criminal penalty enhancement.

***“Not everyone can be famous, but everyone can be great because greatness is determined by service.” Martin Luther King Jr.***

### **Charity Abounds at CUCF**

by Mark R. Moore

Charity isn't something which is normally nor easily associated with prison. Unfortunately, most often the public equates things such as selfishness, thoughtlessness, and abuse with the men who are sent here. Admittedly, there is a lot of that in prison. However, this is not always true. There are many individuals who feel the desire, need, and obligation to somehow give back to the community they once took for granted.

One notable example is the Community Service Program which has existed at the Central Utah Correctional Facility for over twenty years. This program teaches both crochet and sewing to inmates who desire to learn these skills. They are then able to give back by creating many items which benefit people in the community who are less fortunate and in need. These items range from crocheted blankets, stocking caps, scarves, stuffed animals, and even baby clothes to sewn items such as quilts, pajamas, t-shirt dresses, shorts, rugs, bucket hats, and many other items.

Where do we as inmates get all the tools and materials necessary to make all this? A small portion is purchased and donated by inmates themselves. However, most of these things are supplied through the generous donations of people in the outside community, including many of the families of the inmates in this program. Once in a while, donations are received from a few companies or vendors who are willing to help. Unfortunately, these are few and far between.

All the craft items produced are then donated back into the community with the help of the CUCF staff. Some

of the places who benefit from these donations include, but are not limited to, Primary Children's Hospital, Huntsman Cancer Center, The Road Home (and other homeless shelters), Tiny Tim's Toys of Draper, and many other charities. These agencies then distribute the crafts to many places and people in the Utah community. In addition, some of these items are even shipped overseas to places such as Africa.

Over the many years of this program's history within the CUCF, there have been hundreds of inmates who have participated there-in. They have freely donated many thousands of hours and much talent to assisting those in need. Currently, there are approximately 30 to 40 inmates per six-week terms participating in this program. They meet for about 11 hours each week.

Most just crochet, but the best and most talented also give their time as tutors, helping teach other inmates.

Many thousands of items are created and shipped every year. Over the last two terms alone we have made and shipped 190 stocking caps, 35 afghans, 19 quilts, 91 dolls, 4 crocheted animals, 4 preemie burial gowns, approximately 50 t-shirt dresses, 50 pajamas, and 30 bucket hats.

When asked why they participate in this program and why they give so much time and effort, participants will give different answers, such as "to be busy," "to get off the unit," "to see my friends," etc. But the one answer which is voiced the most is that they all feel they owe a debt to the society and community that they often took



for granted and where they committed their offenses. Donating their time, talents, and work allows them a sense of accomplishment, as well as a way to give at least something back to the community, even if it is only in this small way.

In addition to this, participation in the program encourages association with others in a positive and productive manner. Being active helps to prevent inappropriate behaviors as well as promoting development of pro-social attitudes. This, then, produces more mature and caring men who will become better, more productive members of society when released from prison.

There is also a second crochet program that was started in the new Ironwood housing unit just over two years ago. There are ten inmates who participate in the Crochet Club there. They spend two hours a day on five days a week doing crochet to donate back into the community. Again, all materials are donated by the inmates themselves, and their families and friends outside of prison.

It is very important to make certain that these programs can continue their work. Donations of supplies of all kinds are always needed and greatly appreciated.

***For the Community Service Program, the items which are most needed are as follows:***

- 4 ply worsted weight acrylic yarn in any color. Full skeins are best without “dye lot” numbers.

- Stuffing for crocheted animals.
- Sewing thread in 2,000 to 3,000-yard spools (or larger) in cotton, polyester, or cotton/polyester blend. Colors should be in white, black red, yellow, blue, or green – but any colors are appreciated.
- Basic all-purpose sewing machine needles.
- Quilt batting in at least queen size acrylic.
- Additional basic sewing machines are appreciated, especially a serger/overlock 4-needle type machine.
- An all-purpose steam iron (hand-held, plug-in type)

**These donations should be shipped to:**

Community Service Program, c/o Lt. Eddleman  
Central Utah Correctional Facility. PO Box 550,  
Gunnison, UT 84634

***For the Crochet Club, the items needed include:***

- 4 ply worsted weight acrylic yarn in any color. Full skeins are best in amounts to complete a single blanket in one color.

**This acrylic yarn should be shipped to:**

Ironwood Crochet Club – Programming,  
c/o Lt. Eddleman, Central Utah Correctional Facility  
PO Box 550, Gunnison, UT 84634

Please remember that these two programs are separate entities within CUCF. Therefore, please be certain to use the correct address for the program you wish to donate to so your donation arrives at the correct place.

If you are willing to help us keep these programs open and doing well for the many thousands of recipients, we will be deeply grateful. With your help we will be able to continue these works of charity for many years to come.

***“The best way to find yourself is to lose yourself in service to others.” Mahatma Gandhi***

**Bills That Did NOT Pass Legislation But Are Of Interest**

*These bills are worth paying attention to, as it is possible their goals will be revisited in future legislative session.*

**HB293 Plea in Abeyance Amendments.** Sponsored by Rep. Lawanna Shurtliff. This bill would have made a plea held in abeyance the equivalent of a conviction for the purpose of a future sentencing enhancement; and made other technical changes. It could be revisited in the future. It would have provided that, “for a period of 10 years beginning on the day on which an individual enters a plea in abeyance, the plea in abeyance is the equivalent of a conviction for the purpose of a future sentencing enhancement, even if the charge, to which the plea in abeyance is made, is reduced or dismissed in accordance with the plea in abeyance agreement.”

**HB481 Board of Pardons Revisions.** Sponsored by Rep. Ken Ivory. This did not pass but it proposed that if a person is found guilty and has a mental illness and sentenced to prison and refuses treatment that is ordered by the Board of Pardons and Parole, the time

does not count toward their sentence. It would allow the Board of Pardons to require an offender to participate in mental health treatment. This targets inmates who are admitted to the Utah State Hospital under Utah Law. The offender would not be credited for time served during any period of time during which the person refuses mental health treatment.

**SB231 Judicial Discretion in Sentencing.** Sponsored by Senator Kirk A. Cullimore. This bill would have modified provisions regarding the minimum term of imprisonment. It proposed to allow judges to make a finding at a defendant’s sentencing that reduces the statutory minimum prison sentence under specified circumstances; would have provided that the bill would not affect the authority of the sentencing judge to grant probation; and provided that the bill would not modify the authority of the Board of Pardons and Parole.

***“We are cups, constantly and quietly being filled. The trick is knowing how to tip ourselves over and let the beautiful stuff out.” Ray Bradbury***

## **UPAN Writing Exercise – Submission/Postmark Deadline: Monday, July 1, 2019**

By Warren Rosenbaum, UPAN Newsletter Editor and UPAN Writing Exercise Sponsor

**Reminder:** The UPAN Writing Exercise deadline is the day after the last week-end in June (only about five weeks away). Thank you to those who have already submitted. I have more info I wish to impart to those who have submitted and those who are considering a submission (limit three submissions per inmate).

I personally read EVERY submission at least twice because you have entrusted me with your writing, often from deep in your soul and is a creation unique to you. Something you can be proud of. Your writing and my responsibility I don't take lightly. Reading thoroughly assures me that I won't miss anything. Believe me, some submissions have touched my heart.

Deciding to write something and submitting it can be challenging to people who have not done this before. You think, "Should I write something that someone else will read or should I just skip it; but later I may wish I'd taken the plunge." Be assured, every entry is respected and looked upon with the dignity it deserves. I know it is a labor of love from your soul, often with a lot of perspiration. Don't be concerned about your writing ability or the quality of your writing -- never let that interfere with making a submission. Everyone who writes must start sometime and somewhere. If this exercise is your first attempt to put words on paper as a creative process, it's a breakthrough making the next time easier. You may be a man or woman of letters and UPAN's Writing Exercise may be YOUR beginning.

All entries are valued. UPAN may publish a booklet of entries. Some will seem to require a lot of effort from struggling people. Those are often taken to heart and loved by readers with the respect due a human being striving to be heard through the written word.

There will be NO first place, second place, or third place winners. That's my thinking but I may change. Each submission will stand on its own merits. Certificates of Recognition will be mailed to submitters.

**A few tips on writing:** There isn't one right way to be a good writer. There are vastly different styles and ways to communicate thoughts or experiences. A broad definition and acceptance of written material expands this opportunity for all submitters. Simply writing a few meaningful words on paper in some sensible order may touch some readers deeply. The words need not be sentences, just words. **An example:**

### **Who Sees Accurately?**

I see erroneous actions. I see I was not mature. Maturity sees right and wrong. I'm not the person they think they see. I see, family sees. When, the truth, will lawmakers, judges, and the DOC see?!

That could be a 6- or 7-line free-verse poem or a short (very short) memoir. All writing is worthy. Nothing will be rejected. **Remember:** "Regardless of skills or writing style, the end product makes it all worthwhile."

**Submission Guidelines:** **Fiction** (story), **non-fiction** (article or essay), **memoir** (personal experience) limit about 1,500 words each (six or so, handwritten pages). **Rhyming poem** or **free-verse poem** (non-rhyming) limit 100 lines each. And a special category: **CJS-Prison-Jail Complaints\*** (no word count limit, however book-length complaints are frowned upon – save some for next year.) These will be anonymous. IOW, confidential, no names revealed. Read page 10 of UPAN Newsletter February 2019 issue for more details. **Mail to:** UPAN Writing Exercise, P.O. Box 1018, Pleasant Grove, UT 84062

**Final Comment:** For many, the real reward will be the invaluable education that comes from finishing a written piece. The real benefits will extend far beyond a UPAN Writing Exercise recognition. Thank you, again, for your participation. Ed. (aka Warren Rosenbaum)  
\*CJS is Criminal Justice System.

This issue is full of important information but no space for jokes. Next issue has jokes. Cool?? Cool!! Ed.

### **Utah Prisoner Advocate Network**

President: Shauna Denos  
Past-President & Treasurer: Molly Prince  
Vice-president: Unfilled  
Secretary: Unfilled  
Director of Communications: Shane Severson  
Inmate Newsletter Volunteer Coord: Deon Corkins  
Director of Sex Offender Policy Issues: Faye Jenkins  
Director of Women's Issues: Britnee Webb  
Volunteer Coordinator: An Bradshaw  
Newsletter Editor: Warren Rosenbaum

Utah Prisoner Advocate Network  
P.O. Box 464, Draper, UT 84020  
**Website:** [UtahPrisonerAdvocate.org](http://UtahPrisonerAdvocate.org)  
**Email:** [Utahprisoneradvocate@gmail.com](mailto:Utahprisoneradvocate@gmail.com)  
**Facebook:** [Facebook.com/UtahPrisoner](https://www.facebook.com/UtahPrisoner)  
(**Note:** go there to view recent UPAN meetings)

***"Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." Margaret Mead***