



UPAN Newsletter Volume 10 Number 2 | **FEBRUARY 2023**
"Empowerment and Growth Through Knowledge and Unity"

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**Valentine's Day Ideas for Families – More on Compassionate Release –
Dell-Emerald Topics – Short Valentine's Day Poem – BOPP Audit Part 2 –
 AP&P Audit Part 2 – Prison Education Reform, HB 203 Moving Forward –**

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Next Meeting: Monday February 13, 2023 6:30 p.m. to 8:30 p.m. Family Meeting-updates on pending legislation.

Meeting Location: Virtual Zoom Meeting – link <https://bit.ly/3vqQjiA> Free and open to the public

Following Monthly Meetings: Monday March 13, 2023 Family Meeting reviewing new criminal justice legislation;
 Monday April 10, 2023 Guest Speakers: Liz Landry, from the Rape Recovery Center, and Doug Fawson, PREA
 Coordinator for the state, will present in April on the Prison Rape Elimination Act implementation in Utah.

UPAN continues virtual meetings. Also available on UPAN Facebook Live and on Facebook page afterwards.

Use link above or visit UPAN website for link (p. 10), or Utah Prisoner Advocate Facebook Page for link to current monthly meeting. Free to public.

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

**Valentine's Day wish from family to prisoner: "No matter how long each day may be,
 just remember you are 24 hours closer to me."**

"So many people from your past know a version of you that does not exist anymore." Unknown

Valentine's Day Ideas for Prison Families

By Molly Prince, LCSW

Valentine's Day can be a difficult time for both incarcerated people and their loved ones.

With the lack of contact visits due to the new visiting schedules implemented this past year, Valentine's Day

will again be a bit harder for families and our incarcerated loved ones than it was a few years ago. Remind your loved one that they are in your thoughts. Regularly. This applies to inmates as well as family and friends.

In Utah, there are mail room rules that have significantly reduced the chance to have fun finding, creating, and sending Valentines cards into incarcerated loved ones over the past couple of years. Also cards that may sometimes be available to inmates on commissary do not always say what they want to convey to those at home.

Incarcerated artists can draw their own cards and create other artwork. Writers can write their own poems, or simply compose heartfelt letters sharing how they feel about their loved ones. Gifts that creative and talented inmates make are sent out to family and friends, creating a special treat for the recipients. Sending these items out early enough to get through the mailroom and to the recipient in time can be tricky, especially at USCF. A letter from the heart is often the most treasured gift a mother, father, wife, husband, girlfriend, boyfriend, child, or friend can receive.

Cards are a bit more challenging for people in the community. USP and CUCF and many of Utah's county jails do not allow cardstock in, so once you find a card you love to send in, you have to copy it, front and back, which can be tricky in desktop printers. Be patient with yourself. (Note, there are some jails that are not receiving any letters or cards other than postcards, so use those if you need to).

Children can create cards, but again, they must be copied with a printer as the prison will reject crayon and marker created pictures and cards. But they will accept copies made on white paper. Use white envelopes to send everything in, but not security envelopes.

Sending in photographs is always appreciated by our incarcerated loved ones. They need to see you, your family, and what you've been doing. It will help them feel included in our lives out here. Be aware of the rules about what types and format of photos will be accepted in the prison or jail or program your loved one is in.

While Utah's incarcerated receive basic meals and some basic clothing, most essential needs are not provided in

Utah's prisons and jails. Receiving a deposit to their books to purchase hygiene and self-care items, over the counter medical supplies, writing or drawing supplies and envelopes, and commissary food, or phone time is important and welcome.

Both incarcerated folks and family members / friends can write what are referred to as "Open When" letters. These are letters you write with a specific purpose in mind to be on hand for when your loved one is feeling a particular way. Ideas for "Open When" include "Open when sad." "Open when we are arguing." "Open when you are having a hard day." "Open when you are missing us." "Open when you are happy." Open When letters can be written for any topic at all, sent and kept on hand to be opened when s/he is feeling the way described on the envelope. Having a letter on hand to open at specific times can help someone feel loved, calmed, or entertained.

Magazine subscriptions are always welcome. USCF and CUCF allow magazine subscriptions to go in from the publisher. This year has left tons of time on our incarcerated loved one's hands due to the move from Draper to USCF.

With the suspension for several months this past year of so much programming (both therapy and education), suspension of religious services, lack of staff, all the lock downs, and employment being reduced as well as suspended for so many for several months, there is a lot of empty time on incarcerated people's hands these days. Having things to read or do is important. This can include magazines for topics they are interested in, as well as word search, crossword, or Sudoku puzzle subscriptions.

There are several inmate mailing services available that can help you send in postcards with photographs you have chosen, but make sure you are only sending what the prison or jail will allow. Check the mail policy for the facility before using such a service.

UPAN wants to wish everyone the best possible Valentine's month this year.

"Loving someone you don't see every day is not a bad thing. It is just proof that love is not in the sight but in the heart." Unknown

Reasons Utah Should Use It's Compassionate Release Laws More Effectively

By Molly Prince, LCSW, Inspired by *Psychology Today's* 1/16/23 Blog by Michael Pittaro PhD

Michael Pittaro Ph.D. is known as "The Crime and Justice Doctor." He is Associate Professor of Criminal Justice with American Military University and an adjunct professor of criminal justice with East Stroudsburg University in Pennsylvania. He wrote a blog for *Psychology Today* discussing the history and use of America's Compassionate Release Laws. This article is based on the information contained in that article.

Aging prison populations have increased health concerns. It is well known to anyone involved in the criminal justice system or with prisons that aging and elderly inmates have significant numbers of health issues. He writes that "Elderly prisoners have the physical and mental health concerns of someone 10 to 15 years older." He goes on to report, "The average annual cost to taxpayers to incarcerate one elderly prisoner is between \$65,000 and \$75,000."

Reduced recidivism. Dr. Pittaro's report indicates that the recidivism rate for incarcerated people over 65 is significantly less than younger inmates. He writes that those 65 years and older recidivate at an average rate of less than 4 percent.

Most states have Compassionate Release Laws or Policies. Including Utah. Unfortunately, many states do not use them at the rate that would contribute to reduced prison populations and reduced taxpayer cost to house and treat them.

Utah is one state that fails to use the compassionate release policies in place that would allow for release of many of these incarcerated people to the community where their families and community resources are readily available to care for them and get them the necessary medical and mental healthcare they need, which is not efficiently or effectively accessible in our prisons. In light of the reduced recidivism statistics for elderly people who have released from prison, it makes sense that Utah should start aggressively utilizing the available options for compassionate release for this population.

“Prisons are, in many respects, a microcosm of society, particularly in the United States.” Dr. Pittaro writes, “In 2030, the last baby boomer will turn 65, and one in five Americans will be older than 65. This aging population is also well-represented within our nation's correctional system.” According to a report by Families Against Mandatory Minimums (FAMM) in October 2022, by 2030 prisons will house over 400,000 prisoners who will be 55 and older, making up nearly one-third of the incarcerated population.

<https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf>

Challenges in providing healthcare to older inmates documented. In 2016, the International Committee of the Red Cross hosted a conference titled “Aging and Imprisonment: Identifying the Needs of Older Prisoners.” This conference examined and discussed the institutional, legal, and healthcare needs of elderly incarcerated persons. A study was published by researchers after the conference which identified the challenges correctional systems face in providing healthcare to older inmates and highlighting strategies to improve the delivery of care.

<https://www.icrc.org/en/publication/ageing-imprisonment-summary-report>

Elderly prisoners have what is called “accelerated aging” and more health problems than their counterparts in the community. Dr. Pittaro goes on to write, “Few outside of the criminal justice system know that elderly prisoners typically have the physical health challenges of someone who is 10 to 15 years older. For example, a prisoner in his early 50s will often have the medical concerns of someone in their early 60s.”

Factors that contribute to what is being referred to as accelerated aging:

- Chronic physical and mental health conditions at a young age
- Emotional stress and trauma (particularly increased by incarceration)
- A history of drug abuse
- Lack of access to adequate healthcare prior to incarceration (as well as during incarceration)

Dr. Pittaro explains that for these reasons, medical correctional providers and researchers classify inmates in their 50s as “older or elderly prisoners.” In the community, many people in their 50s still see themselves as middle-aged, not elderly.

In recent years the number of prisoners aged 50 or older increased by 25 percent from 2009 to 2013—and as of today, elderly prisoners comprise 12 percent of the U.S. state prison population (MarshallProject.org, 2020.Aug 4, 2021). This increases the cost of operating prisons significantly. As noted above, the annual average cost to incarcerate one elderly prisoner is between \$65,000 and \$75,000. In some states, the cost is much higher.

Looking at the total costs in the US to incarcerate ill or elderly prisoners. According to the ACLU, in 1988, the United States spent approximately \$11 billion on the entire corrections system; however, in 2012, we spent approximately \$16 billion solely on the aging prisoner population.

What Can Be Done to Reduce the Elderly Prison Population? It has been known for years that one way to reduce the medical and financial burden of housing ill and aging prisoners is to implement early release of those individuals who fit the criteria of elderly or chronically ill, as well as those who are dying. This includes compassionate release. Dr. Pittaro reports, “This is an initiative that is well-supported by research.”

A 2014 study by the United States Bureau of Justice Statistics, for example, indicated that older prisoners are substantially less likely to engage in additional criminal behavior after they are released from prison compared to younger prisoners; and it found that the overall recidivism rate for inmates over the age of 65 is only 4%. Other studies have reaffirmed that age is one of the most reliable predictors of recidivism, and elderly prisoners have much lower rates of re-arrest when compared to younger ex-prisoners.

Dr. Pittaro (and UPAN) supports and advocates for release of older prisoners who meet low risk criteria. He writes, “A comprehensive understanding of the public safety risk posed by older offenders is an ideal first step in devising policies without compromising public safety and security, which is an obvious concern for politicians and constituents alike.” He goes on to say that based on the research, releasing nonviolent older inmates, specifically those with diminished cognitive or physical abilities, makes sense because the majority of elderly

prisoners pose very little threat to public safety and can be cared for in the community.

A solution for Utah's Prison System? If Utah began regular and routine use of its compassionate release policies, it could reduce the cost of operating our prisons, which are already understaffed. Based on the 2021 Legislative Audit of Prison Healthcare, the Clinical Services Bureau is in need of significant improvement in a variety of areas. It has been recommended by the auditors, by UPAN Medical Team, and others who have observed the operations of CSB that it currently operates in a reactive approach to providing healthcare, rather than a proactive approach. Using the compassionate release rules already in place is a start, and creating an additional early release policy for those elderly prisoners who are chronically ill, but not necessarily immediately terminal would enhance the ability to reduce our prison population, leaving resources available to improve the delivery of medical and mental health care to the rest of Utah's prison population. This, in the long run, will benefit everyone – incarcerated people, prison staff, families, and the community as a whole.

If UDC and the Board of Pardons & Parole would provide an evaluation of every elderly inmate with chronic or terminal medical or mental health concerns, and then release those people to the community, it could serve as a much-needed release valve for an already overcrowded, costly correctional system.

Dr. Pittaro writes, "Simple enough, right?" UPAN agrees – it is simple, but it appears that those involved in Utah's current criminal justice system are not motivated to explore this avenue, despite the past six years of UPAN, the ACLU, and the Disability Law Center meeting with BOPP administrators to advocate for an updated and more comprehensive approach to the Compassionate Release Administrative Rules the BOPP operates under for these types of decisions.

The Barriers to Compassionate Release Dr. Pittaro summarizes the history of compassionate release, **or compassionate parole**. It began in the early 1970s. Today, all states except for Iowa have a law to grant these releases.

There are **generally two primary categories: age-driven geriatric release and illness-driven compassionate release**. In terms of compassionate release for medical reasons, Utah has one category that is based on pending terminal illness or serious chronic illness that is not expected to improve. When it does occur, Utah most grants it when the prisoner has served a considerable portion of their sentence and is chronically or terminally ill. It does not look at <https://www.psychologytoday.com/us/blog/the-crime-and-justice-doctor/202301/why-arent-compassionate-release-laws-used-more>

compassionate release based on how old an incarcerated person is.

A practical solution in theory, compassionate release is far more complicated in practice. Not only is the process lengthy and cumbersome, but there are significantly high denial rates. For example, a 2018 report by the Marshall Project concluded that only 6 percent of 5,400 compassionate release requests from the Federal Bureau of Prisons between 2013 and 2017 were approved. Of those, 266 died while awaiting a decision.

Utah does not track the statistics regarding how many patients are released early due to medical needs, versus how many are requested and denied.

There are as many approaches to early release across the country as there are states. For example, in New Jersey, Dr. Pittaro reports that the former medical release law was replaced with a compassionate release program in which the courts determine who is released, not the parole board. Only one person was approved for compassionate release in 2021.

There has also been a considerable amount of pushback from some judges and politicians who oppose compassionate release—even though study after study has shown that the recidivism rates are incredibly low for this particular segment of the prison population.

Dr. Pittaro recommends, "While compassionate release legislation is a step in the right direction, more needs to be done. The adage 'actions speak louder than words' holds true here. Until more elderly prisoners are discharged, either through compassionate release programs or perhaps **clemency initiatives**, the government and correctional facilities will be forced to spend more and more resources on serving this aging population."

Utah is already struggling. It has been for years. UPAN continues to urge Utah's lawmakers, BOPP and UDC administrators to make the **humane and fiscally appropriate decisions**.* This includes an expedient and efficient review and revision of Utah's Administrative Rule on Compassionate Release. UPAN has been involved with the ACLU and DLC on the Outreach Committee of the BOPP for six years. For at least five of those years, after input from our organizations and suggested revisions, the current Rule revision has been languishing with the BOPP. It is time Utah addresses this issue.

* Additional article on Compassionate Release in UPAN Newsletter April 2019 issue pgs. 6-8.

"If someone is facing a difficult time, one of the kindest things you can do for him or her is to say, 'I'm going to love you through this.' — Molly Friedenfeld

Dell-Emerald Topics – Imagine This From Your Favorite Valentine Person

Beautiful Lady, as I glance at thee,
I see a heart of romance in thee,
Continue to take a chance with me,

(Imagine this from your favorite romantic person.) Poem by Warren Rosenbaum aka Ed.

For I want to forever dance with thee,
Through life's trials I'll advance with thee
As soon as the system grants you are free.

A Performance Audit of the Board of Pardons & Parole – Part 2 of 5

Summarized by Heidi Kubbe, UPAN Director of BOPP Issues

This article is referenced and quoted directly from

A Performance Audit of the Board of Pardons and Parole #2022-14 dated November 2022.

The Board's Paroling Philosophy Is Not Clearly Understood Or Documented

As discussed in last month's UPAN newsletter, the Board of Pardons is a decision-making organization. It makes thousands of decisions each year that affect the lives of people in prison and on parole, families, the general public, and the entire criminal justice system.

In the previous (2016) Audit of the BOPP, it was noted that there is a lack of common paroling philosophy that affects a large group of inmates. It reported that advocacy groups were expressing their concerns about the inconsistency of paroling decisions at that time. While the board has implemented a Structured Decision-Making (SDM) tool, the Board's philosophy has still not been adequately addressed. Because of this the Board's decisions are still confusing to offenders and to the public.

BOPP Still Needs to Establish a Clear Paroling Philosophy and Ensure Public Safety Is Appropriately Prioritized

With Utah's indeterminate sentencing structure, the Board has flexibility to determine when inmates have sufficiently reduced their risk to society. This approach can lead to individualized reviews, participation in programs and good behavior while incarcerated. However, it can also lead to sentencing inconsistency if a common parole philosophy is not followed. In the 2016 Audit, it was recommended that BOPP establish a common paroling philosophy to facilitate consistency in parole decisions.

Inmate advocate groups (including UPAN) and inmates themselves have expressed concern that the parole decisions are not consistent. They state that similar crimes receive very different sentence lengths. This seems to be a common issue for states that use an indeterminate sentencing structure, such as Utah. While each "similar" crime cannot be grouped into one box because of individualized situations and aggravating factors, the Board still needs to highlight those differences to minimize inconsistency.

According to the Board, its guiding philosophy includes a mission statement, sentencing guidelines, and SDM tools, of which public safety being the primary focus. However, this has not been updated since at least 2017.

Some of the "Board Principles" may read as guiding philosophies, but the Audit indicates that when there is any mention of some aspect of decision-making and guidelines, the references are vague and do not discuss SDM tools.

- Sentencing & Release Guidelines - "Utah's sentencing and release guidelines are reviewed to insure consistent decisions. Each case is evaluated on an individual basis and decisions rendered are on the merits of that case. Because aggravating & mitigating circumstances exist, decisions may vary from the guidelines."
- Intervention and Treatment - "The Board recognizes that some inmates are unable to make change without help. While the greatest potential for positive change lies with the individual, the Board operates on the premise that change can only be achieved by intervention & encouraged treatment."
- Judgement and Decisions - "The Board believes that decisions regarding human behavior are predicated on substantive information & objective evaluations, known behavior of the individual under consideration, & the public record. In making a final decision on a case, the Board exercises its best-informed judgment, follows principles outlined in this mission statement ..."
- Incarceration and Protection of Society - "The Board believes that incarceration results in protection of society by incapacitating the inmate; preventing further offenses through lockup; accountability; repayment to society, treatment, and rehabilitation."

A Commitment to Public Safety and How to Achieve It Is Not Fully Articulated by the Board

The Board has not fully communicated its commitment to public safety and how it plans to achieve it. The Board's mission statement reads, "A primary objective it to provide optimum protection to the public and safeguard the rights, privileges and interests of victim and offenders." This is vague and does not discuss how the Board plans to achieve it. Other states around Utah have articulated clear prioritization of public safety and provide how to achieve it. Some examples:

- Idaho – "contribute to public safety by utilizing sound, professional judgment, and evidence-based parole decision-making practices."
- Colorado – "increase public safety by evaluating an individual's potential for successful reintegration to the

community through the use of innovative evidence informed practices.”

- New Mexico – “to provide for the public safety... a balance of parole conditions, supervised enforcement, program services and interaction with the judiciary by working closely with the Corrections Department.”

The Audit recommends that the Board should use these examples and likewise define its efforts. The Board should include revisions that incorporate SDM and ensure that the policy includes:

- (1) the direction of parole in its jurisdiction,
- (2) its commitment to public safety, and
- (3) how BOPP plans to achieve it.

While this is primarily for internal use, the Board should also make it publicly available to increase transparency and minimize questions the public may have concerning the Board’s philosophy.

Public safety is not currently prioritized in the Utah Constitution or Utah Code regarding the Board and its decisions. However, public safety is noted as a factor of parole in Administrative Rule R671-101, which says “Rules are to be interpreted with the interests of public safety in mind so long as the rights of a party are not substantially affected.” Other states use more explicit language, as the language in this statute has not been amended since 1996. This is a cause that the Legislature should remedy.

According to the 2021 Adult Sentencing and Release Guidelines, Utah Sentencing Commission requires presentence investigators to document the aggravating and mitigating factors whether or not the guideline sentence is recommended. In addition, the commission notes, “Reasons should always be specified when the guideline sentence is not recommended.”

Rationale Sheets are Not Well Documented to Reflect Factors that Lead to Parole Decisions

Administrative Rule R671-305-1 states: “Decisions of the Board will be reduced to a written order. Orders entered following original hearings, re-hearings, special attention hearings, parole violation hearings, evidentiary hearings, and rescission hearings will be accompanied by a brief rationale for the order. [...] A copy of the order, and rationale statement if entered, shall be provided or mailed to the person who is the subject of the order.”

According to the BOPP, the rationale sheet is meant to fulfill this rule requirement. The Board revised its rationale sheet after the 2016 audit recommended that it adopt and implement a new “clear and direct” rationale sheet to provide meaningful information to inmates and collect useful data for analysis. The audit went further to say that BOPP should create a shorter list of decision justifications focused on public safety, that would provide inmates with useful information.

While the Board’s current rationale sheet may provide some indication of the reason for the decisions being

rendered, the National Institute of Corrections *Parole Essentials: A Practical Guide for Parole Leaders - Core Competencies* states, “... board members and executive staff should be able to ... Explain the policies and tools in place to help identify risk factors or criminogenic needs within the offender population and to guide decision making.”

Utah Administrative Rule requires the documentation of the Board’s rationale for its decisions. The current Rationale Sheet includes information limited to a small number of vague categories and does not provide adequate explanations.

In addition, the information in the rationale sheet cannot be used for analysis, as the data appears only in a scanned form in UDC’s Archivalware (UDOCA). Finally, the data are not reported in a way that would help to inform the Board’s philosophy and do not reflect the factors that led to the decision. Being able to report on BOPP’s philosophy will help ensure an accurate portrayal of what the Board sees as important.

During this audit process, Board members noted that they are working on a new electronic rationale sheet, which will allow them to link decisions and pull data.

Examples of additional details that will be available in the electronic rationale sheet are presented below.

- Nature of the Offense Aggravating: The facts or nature of your offense(s) are more egregious than other offenses with the same sentencing guideline crime category. This includes when multiple victims or repeated acts are combined in the conviction, or the damage/loss is greater than typical crimes in this category.
- Multiple Incidents: Your conviction combines or includes conduct that occurred over a long period of time or included multiple incidents into one or more charges. The sentencing guidelines are for a single incident associated with each offense. Multiple incidents of criminal activity are an additional aggravating factor that is not included in the sentencing guidelines.
- Risk or Behavior/Needed Risk Reduction: Your demonstrated risk or ongoing behavior warrants additional incarceration for risk reduction.
- Prior Supervision: The Board considered poor performance under prior supervision (probation or parole) as a factor in this decision.
- Institutional Behavior-Good: The Board considered your positive progress and good behavior while incarcerated.

Currently, the only information an inmate receives regarding the Board’s decision is in the rationale sheet. However, UPAN and other advocacy groups and inmates have continued to express concerns as they try to understand the rationale sheets. The lack of guidance inmates receive for self-improvement from these

rationale sheets is counterproductive to optimal rehabilitation and positive outcomes.

No information available on the use of the SDM Tool, the Board is not doing any analysis.

The SDM tool is intended to create common goals and objectives to promote Board unity and establish foundational principles to guide parole decisions. The result should be increased fairness and consistency in release decisions. However, it is unclear what effect the SDM has had because the Board has been unable to analyze decisions made since the implementation of this tool in February 2021.

With measures such as sentencing guidelines or recidivism, multiple years of data collection are required to assess these outcomes. Why has this not been done?

Recidivism is never discussed by the Board or from Corrections in a positive note. If the public knew that DOC was offering classes on behavior and needed programming and show that this would support reduced recidivism, this could carry over to Public Safety that the Board needs to insure before release and possibly concerns the public has with inmates being released.

BOPP Audit Recommendations:

1. We recommend the Board of Pardons and Parole

“To know the value of 15 minutes, just ask someone with an incarcerated loved one... Those 15 minutes are the lifeline of the relationship.” Prison Wife Quotes

A Performance Audit of the Oversight and Effectiveness of Adult Probation and Parole Part 2 of 4

Summarized by Faye Jenkins, UPAN Director of Sex Offense Issues

Information taken directly from the November 2022 auditor’s report at https://olag.utah.gov/olag-doc/2022-13_RPT.pdf

Inadequate Management of Turnover and Agent Monitoring Resulted in Negative Impacts

In response to the Legislature’s concern over AP&P’s supervision of individuals on parole and probation, the auditors evaluated AP&P to determine if its standards of supervision are being followed and if its standards are informed by best practices. They also reviewed past audit recommendations and looked to other states and the literature for ways AP&P can improve the quality of its supervision.

The legislative auditors found that AP&P must improve its management and oversight of agent retention across the state. This problem is most pronounced in Region 3, which has the largest volume of high-risk offenders and the least experienced staff. The loss of experienced agents from Region 3 to other regions through internal transfers was acknowledged by a 2015 internal audit of the Utah Department of Corrections (UDC). However, since 2018, increases in turnover from pay competition among local police departments in Salt Lake County have exacerbated this issue, causing Region 3 to experience:

update its policy to ensure it encompasses all parts of its guiding philosophy, including public safety, and make the policy publicly available.

2. We recommend the Legislature consider amending statute to include language that prioritizes public safety. “It is important that all case decisions regarding offender release, setting conditions for release, and responding to violations align with a parole board’s stated values and objectives, evidence-based practices, and the best judgment of its decisionmakers.” *National Institute of Corrections Source: National Institute of Corrections. Parole Essentials: A Practical Guide for Parole Leaders - Core Competencies.* The new Voting and Results module will enable the Board to examine aggravating and mitigating factors.

3. We recommend the Board of Pardons and Parole revise the rationale sheet and ensure that it is clear and direct, providing meaningful information to inmates.

4. We recommend the Board of Pardons and Parole analyze parole decisions for consistency.

5. We recommend the Board of Pardons and Parole amend the structured decision-making tool as further evidence-based information becomes available.

- Decreased levels of experience among agents and supervisors
- High rates of agent vacancy, increasing workload for agents
- Possible negative impacts on supervision quality

Recent agent pay increases should help alleviate turnover; however, AP&P needs a plan to better manage retention in Region 3 to avoid future loss of agent resources, which can negatively impact the quality of supervision.

(Knowing the personnel issues AP&P’s Region 3 is facing may help those currently on community supervision understand the reasons behind frequent changes in supervisors and inconsistencies in supervision standards.)

Turnover, Transfers, and Vacancy Has More Negative Impact on Region 3, Where Most Intensive Offenders Are Supervised

Region 3 is AP&P’s largest region in terms of staffing and offenders—43 percent of agents work in Region 3, supervising half of the state’s intensive-risk offenders.

Compared with other regions, Region 3 has the highest levels of turnover, vacancies, and losses to internal agent transfers. Turnover rates for Region 3 peaked at 20 percent in 2019. Region 3 frequently loses agents to other AP&P regions. At the time of sampling, 59 percent of AP&P vacancies were in Region 3, 32 percent in the Northern Region and 9 percent in all other regions. Some rural offices have waiting lists of agents who would like to transfer in and some experienced agents have turned down promotions to avoid working in Region 3.

According to the sample used in the audit, agents in Region 3 typically have two years less experience than agents in other regions but supervise the highest volume of intensive-risk offenders.

One of the major costs of turnover and vacancies is high caseloads. From 2019 to 2021, agents in Region 3 had a median caseload of 56 offenders, while the median in all other regions was 51 or less. This issue was raised in 2015 in UDC's internal audit on resource allocation. When other regions have a vacant position, they hire agents from Region 3, which leads them to be short-staffed and forces them to train new agents. Because new agents carry reduced caseloads, experienced agents in Region 3 then must manage higher caseloads.

Region 3's high turnover, transfer, and vacancy rates, combined with its significantly larger volume of offenders on supervision, create a disparity in public safety, where short-staffed offices are overworked and less-experienced agents are responsible for supervising the greatest volume of dangerous offenders.

Significant agent turnover can have negative impacts on supervision quality due to increased workload, frequent agent changes, and limited agent experience. During our review of high-profile case, we identified several turnover-driven issues that may have negatively impacted supervision quality. In three of the high-profile cases, offenders were transferred between three to four agents in less than a year. In another case, the transfer of an offender to a different agent may have contributed to a late reporting of an impaired driving charge, with the offender being reported to the Board of Pardons and Parole (the Board) six weeks late, rather than within the required 72 hours. In our audit interviews, two agents said that continuity in the agent-offender relationship is critical for building trust and were concerned that turnover is disrupting this continuity.

Beyond the high-profile cases, many supervisors and agents in Region 3 asserted that turnover is driving workload issues and agent burnout, which can decrease the quality of supervision. One Region 3 supervisor said they were "shocked" by the amount of turnover they have and feel like they are a "training ground for everyone else." Region 3 supervisors said high workloads are one of the primary reasons agents burnout and leave. Several agents and supervisors said

that high workloads limit supervision scope. As one agent said, "you're just putting a band-aid on," implying that they are unable to proactively address all position duties. **We recommend that Adult Probation and Parole create and implement retention strategies to ensure that the Division is adequately staffed and retaining experienced agents.**

More Effective Agent Monitoring Should Identify Noncompliance Concerns Earlier

The audit reviewed high-profile cases under the supervision of AP&P which revealed compliance concerns that should have been identified by more effective agent monitoring. The review identified instances of noncompliance with standards of supervision and department policy, many of which should have been identified and corrected by agent monitoring.

Effective agent supervision is more essential as AP&P deals with increased agent turnover. Increased turnover leads to having more agents who have less experience, and may be prone to miss important procedural elements that affect public safety. Given the necessary role AP&P supervisors play, they lack effective electronic methods to easily identify noncompliance by field agents. The Audit also found that supervisors are using employee performance plans less frequently with staff and that these plans are individualized less than half the time. This means supervisors are not effectively using performance plans to encourage employee improvement. **Therefore the Audit recommends that AP&P develop better methods for reviewing agent noncompliance, increase the quality and use of performance plans by supervisors, and establish training specifically for supervisors.**

Use of Performance Plans by Supervisors Is Decreasing and Not Sufficiently Individualized

Another important tool for monitoring and managing agent performance, especially for newer and poor performing employees, is the yearly performance plan. The review of supervisor use of performance plans showed that since 2017, fewer agents have been receiving their required yearly performance plan, and less than half of those plans have been sufficiently individualized. Required yearly performance plans are important tools for supervisors to monitor and motivate staff. A proper performance plan will review an employee's individual performance and document goals for future improvement. Without this annual review process, supervisors are missing an opportunity to address poor performance.

The percentage of agents and supervisors with a yearly performance plan decreased from 87 percent to 77 percent between 2017 and 2021. It is possible that this is a minor setback, perhaps compounded by COVID-19 and recent turnover.

The Auditors sampled more than 60 agents and viewed 150 yearly performance plans. They found that nearly half of those plans did not contain sufficient individualized recommendations for improvement but were mostly the standard template. This means that only 38 percent of the random sample of agent plans were crafted to each agent's individual needs. Employee performance plans provide a mechanism for supervisors to evaluate and improve employee performance. However, to be effective, these plans must be applicable and specific to the individual. **Auditors recommend that AP&P improve and monitor the frequency and quality of yearly performance reviews by supervisors.**

Supervisor-Specific Training Not Offered; Case Review Examples Suggests Supervisor Training is Needed. Except for the required Human Resources training and agent in-service training, there is currently no supervisor-specific training offered by AP&P. Supervisors are the second line in defense to check the

work of front-line agents and identify concerns before they become serious problems. This audit process identified several cases where supervisors were not effective in reviewing agent work. In one high-profile case the supervisor failed to properly review an agent's report, which was missing important details the Board members needed for their review. In other cases, supervisors missed incidences when agents failed to follow supervision guidelines for many months by not making successful field visits to verify the living conditions of the offenders. Furthermore, increased turnover results in having newer supervisors who lack the experience of more senior personnel. **Audit recommendation is that AP&P develop training for supervisors that include best methods for monitoring agent performance and the effective use of performance plans.**

To be continued next month with Chapter III: AP&P's Lack of Evidence-Based Practices in Specialized Caseloads Is Inefficient and Ineffective.

Kelly Bingham Testifies for H.B. 203 Legislation for Prison Education Reform

by Kelly Bingham and Molly Prince, LCSW

On January 30, 2023, Kelly Bingham, Director of Educational Opportunities for UPAN, presented to Legislative committee in favor of HB 203 Inmate Education Amendments. He reports that "Representative Ballard did an amazing job presenting and fighting off any push back she received from the committee."

His presentation to the committee is reprinted here in its entirety:

"As a previously wrongfully incarcerated individual and current Director of Educational Opportunities for Utah Prisoner Advocate Network, I want to speak to my experience in prison related to post-secondary higher education opportunities I had while incarcerated.

After being screened and testing out of any need for further high school education, I had zero options or opportunities for higher education. I was fortunate enough to have another inmate (not a case worker or DOC representative) introduce me to PrisonEd courses ran by Dr. Don Wright which has some outstanding self-help type courses to help inmates increase their knowledge and help them with various important needs as they go through their incarceration journey.

After a couple years and exhausting everything Dr. Wright and PrisonEd had to offer, I decided to invest in myself by getting a master's degree. After all the research I did there were only a couple of options. None that allowed me to receive a grant or assistance to help pay for the degree. The only options I had were not fully accredited by larger universities, but I had time on my hands and wanted to continue learning at a high level, so I jumped into and completed my master's degree with California Coast University in Organizational Leadership.

Having already received my Bachelor of Science in Business from University of Phoenix prior to incarceration I was left with little to no opportunity for growth while incarcerated had I not been able to afford to put myself through additional college courses, thanks to my family and friends supporting me along with jail staff at San Juan County Jail proctoring tests and allowing textbooks to be received.

Providing a post-secondary education opportunity for each person who is incarcerated is a must in our prison system today. Statistics show that individuals who receive a college education while incarcerated are less likely to commit another offense ultimately reducing the percentage of recidivism and reducing the amount of taxpayer dollars to continue to house repeat offenders.

H.B. 203 will help provide this much needed opportunity to those who wish to participate in higher education, ultimately helping lower recidivism rates and returning individuals back into our society with something to offer in a positive manner.

During the Education Convening this past year, representatives from legislators to educators in Utah to the Department of Corrections, all stood on a stage promoting higher education for all incarcerated individuals using the Bard prison initiative alum from "College Behind Bars" to promote higher education for those incarcerated. I found it hard to accept everything that was being said was happening in our jails and prisons when I had just experienced the opposite and zero opportunity.

This bill is a step in the right direction for improvement for everyone in our society. There are educators (SLCC) willing to provide the services, individuals (inmates)

willing to learn and grow, and legislators who support this effort. Now we need the Department of Corrections to partner and do what they say they want to see happen. And H.B. 203 will help push things in the right direction.

Thank you for your time and consideration of voting for H.B. 203.”

There were many who spoke to the need for education for our incarcerated loved ones including several formerly incarcerated individuals and a daughter of a current inmate. Over and over the same statement was that people (inmates) want to learn and grow and become better educated and want something better in life than their prior criminal way of thinking. Yet the same answer everyone got while incarcerated was, “You’re not eligible for programming until your CAP priorities are taken care of.” But at this point, it is too late to receive any education because that means the incarcerated person is almost out the door.

Ryan Hogan shared his experience of being told on both ends he didn’t qualify for programming or education at first because of CAP then because there was not enough time until his release. The Committee Chairman was blown away that Ryan was able to write a grant and receive money to fund the purchase of new computers for the education center in San Juan County Jail while he was an incarcerated individual.

The biggest push back with the bill was housing inmates in certain sections of the prison for education purposes only. The Department of Corrections does not want to be told who is housed where, no matter what. Those who supported and made great statements were Dave Bokovoy of Salt Lake Community College; Dave Durocher, Executive Director of The Other Side Academy/Other Side Village; Russell Peirson (please

forgive any misspelling), a graduate of Other Side; and committee member, Natalie Lewis of Safe Harbors; and Paige Norton of Paigenorton.org.

Deputy Director Jim Hudspeth was there to represent the Department of Corrections. After about ten people got up and told their stories about not having opportunities of higher education while incarcerated, Mr. Hudspeth maintained to the committee that each and every inmate has the opportunity to education.

According to Hudspeth, the policy is that once the CAP priorities are figured out (which is within 90 days) all inmates are eligible for programming and education. This means, then, that all inmates requesting programming and education that have been there for over 90 days need to be counted.

If all inmates who are requesting education and have been denied will notify UPAN, Kelly can track that. Jim Hudspeth indicated that an inmate doesn’t need a date to be accepted into programming, however UPAN’s experience through formerly incarcerated and families is that what nearly all inmates are told in terms of programming. That is also what ten people who testified were told while incarcerated. It appears clarification is needed from UDC on what the actual policies are and if those are being followed.

After some debate and clarification of Representative Ballard’s 2nd substitute, the bill passed unanimously. This is a great start to furthering the education of inmates. It is a small step as still this only takes care of inmates in state correctional facilities which doesn’t include county jails, but there are provisions in the bill to make sure county jail state inmates receive a counselor to help them figure out their higher education needs and get them to a spot where they can receive higher education. There is a long way to go but this was a very good step in the right direction!

Late Breaking - UPDATE ON PRISON EDUCATION PELL GRANTS

As of February 10, Kelly Bingham of UPAN will be sitting on a committee others and UDC to help implement the process for Utah inmates to be able to access PELL Grants for higher education. The Federal Law is in place and goes into effect July, 2023.

“Every time you smile at someone, it is an act of love.” Mother Theresa

Couple of Smiles and Maybe a Laugh Looking for a doctor? Avoid one that also owns a funeral home ~~ BTW, doctor’s visits are \$50, funerals are about \$10,000 ~~ A guy asks a lawyer at a party, “Excuse me, how much do you charge?” The lawyer responds, “I charge \$300 to answer three questions.” The man says, “That’s a bit expensive, isn’t it?” The lawyer says, “Yes. What’s your third question?” ~~ A person sent 10 puns to friends, hoping that at least one pun would make them laugh. No pun in ten did.

About the weather, did you make it thru those single digit nights without freezing? Let’s agree, cold ain’t cool! Ed.

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“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