



UPAN Newsletter Volume 11 Number 1 | **JANUARY 2024**
“Empowerment and Growth Through Knowledge and Unity”

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Letter to Self – ACLU Mailing Address – Words of Appreciation for UPAN Helpers – Bear 2 Housing Unit Opened – Resident vs Non-Res Tuition Fees – Tattoo Removal – Volunteer Newsletter Mailers Needed – *Dell-Emerald Topics* – BOPP Decisions – Compassionate Release Basics – Payment & Collection of Criminal Fines, Fees & Restitution

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Next Meeting: Monday, January 8, 2023 6:30 pm - 8:30 pm. **Speaker:** Ian L. Quiel, Head of Postconviction Division with the Utah Indigent Appellate Defense Division. Meetings are **FREE** and open to the public. **Join at** <https://bit.ly/3vqQjiA> *Please see Mr. Quiel’s article in December 2023 UPAN Newsletter & come prepared with questions.*

Following Monthly Meeting: Monday, February 12th, 6:30 pm–8:30 pm. **Family Meeting.** Join at <https://bit.ly/3vqQjiA>

Unless otherwise stated, UPAN continues virtual meetings. 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.

In This Issue: Meeting Announcements, UPAN Newsletter contents in this issue and UPAN Disclaimer	Page 1
» Letter to Self AND ACLU Mailing Address	Page 1
» Words of Appreciation for UPAN Volunteers & Contributors by Molly Prince LCSW	Page 2
» Bear 2 Housing Unit Opened in November from UDC news release	Page 3
» Resident vs Non-resident Tuition Fees by Karen Thompson, UPAN Director of Special Projects	Page 3
» New Pilot Program Offering Tattoo Removal by Kennedie Starr	Page 4
» Volunteer UPAN Inmate Newsletter mailers needed by Molly Prince, LCSW	Pgs. 4-5
» <i>Dell-Emerald Topics</i> Contemplations by several authors	Page 5
» BOPP Decisions, Utah Code Guidance by Molly Prince, LCSW	Pgs. 5-6
» Basics of Compassionate Release by Molly Prince, LCSW	Pgs. 6-8
» <u>Payment & Collection of Criminal Fines, Fees, & Restitution (2021 Changes)</u> by Faye Jenkins	Pgs. 8-10
Couple of Smiles & Maybe a Laugh plus UPAN contact information and Facebook info	Page 10

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

“In 2024, we have a brand-new calendar containing 366 days. We can fill them with things left undone from previous years: the words we forgot to say, the love we forgot to show, and the charity we forgot to offer.” MGP

To be happy in 2024 you must: Let go of what’s gone, be grateful for what remains, and look forward to what’s on the way.”

Letter to Self for 2024

Dear Self in 2024 – Remember to not get worked up over things you can’t change and people you can’t change. It’s not worth the disappointment, anger build up, or the headache. Control only what you can. Everything else, LET GO. Love, Me

ACLU Utah Office Moved in October 2022

The American Civil Liberties Union office moved in October 2022. The forwarding order has expired. UPAN has received letters from prisoners wondering why their mail was returned. This is why. The ACLU phone number remains (801) 521-9862. The correct mailing address is: 311 South State, Suite 310, SLC 84111

Words of Appreciation for UPAN Volunteers and Contributors

By Molly Prince, LCSW

As we move into the new year, UPAN wants to express our deep appreciation for another year of dedication by our volunteers to our mission of helping improve conditions and help incarcerated and families advocate for their needs.

Directors. This includes acknowledging and gratitude for the countless hours each of the directors of UPAN spend on various issues. UPAN's directors are all volunteer and spend a lot of time and energy attending meetings in their areas of interest, helping to gather information, sharing information, communicating with UDC administration, and responding to incarcerated people regarding the wide range of issues associated with Utah's Prison System.

Newsletter mailing list volunteers. There is a very special group of volunteers that provide a valuable service. This is the group of 61 newsletter volunteers who spend their own time, supplies, and postage to print out and mail out newsletters to approximately 410 incarcerated people who have no family in the community to do so. Some of these volunteers have been mailing out newsletters every month for over 9 years. Many of the incarcerated family members of these volunteers have been released, yet they generously continue to serve in this important capacity.

Gayle A, one of the newsletter volunteers responded, "I appreciate being acknowledged for the expense and time making copies, buying paper, envelopes, postage and mailing the most informative newsletter that has got to be so important to Utah's prison population. Best wishes, to all of you who do so much more than I do, for working tirelessly and persistently on their behalf. I know of no other state with such a dedicated network of volunteers who are so steadfast and determined in their support to these men and women and I am grateful for them. Happy and blessed Thanksgiving wishes to all of the staff of UPAN. God bless you."

Family members and friends. We want to share our gratitude to all the family members and friends of our incarcerated who gather information to help us understand things that are occurring in the prisons so we know how to approach UDC administration with the issues. Your experience, and the experience of your incarcerated loved ones is vital to informing how we prioritize the vast array of issues that need to be addressed in our prison system.

For everyone on the UPAN Family Facebook Group who shares their information, experiences, and support to each other on this very difficult prison journey, we want to emphasize how important each of you are! We watch you share your love and support with each other during the darkest and most difficult times, as well as your care and congratulations for those family members who are

experiencing successes and even news of releases of their loved ones.

Those who provide information and help with research. We have volunteers who take on specific tasks to help us gather information that we can use to advocate for various improvements and to bring attention to issues specific to our prisons. We appreciate all of those who take the time to compile and provide us with specific information, both from behind the walls and from our prison family and community. Because of the help from prison families who are helping with these things, we finally realized the implementation of a picture program this year, along with other less obvious results in other areas.

Financial supporters. While UPAN runs on the time, energy and resources of all of its volunteers, there are caring supporters who believe in our mission and contribute financially to UPAN to help keep things running. These include contributions that come in periodically from incarcerated people, whom we know do not have a lot to spare. UPAN acknowledges and appreciates your generosity!

We have one steadfast and loyal supporter in the community who contributes a monthly check and has done so for many years. We have a few who send end of year donations. And various UPAN directors and family members sponsor Facebook Giving Campaigns to help raise funds to keep UPAN going. These contributions have helped us to purchase a scanner to more efficiently scan letters received from the inside and forward to the appropriate director, as well as other equipment and services that UPAN needs periodically.

UPAN receives small quarterly checks from the giving campaign with Smiths grocery stores (Kroeger) from people who have designated UPAN as the recipient that they want Smith's to contribute to. We used to receive the same type of contribution from Amazon Smile, which was discontinued by Amazon this past year. A little bit offered by many adds up!

Families and people who believe in UPAN can donate to UPAN through the website, or by mailing a check or money order to PO Box 464, Draper, Utah 84020. These donations are deeply appreciated. Once in a while one of us does a Facebook fundraiser to help out.

All of these contributions assist in covering the increasingly expensive process of hosting meetings on Zoom each month, required subscriptions for online presence, and mailing out newsletters on Mail Chimp which increases security and privacy of recipients, and protecting our website.

Thank you to all of the UPAN directors, volunteers, families, and supporters. We wish you a safe, healthy, and happy 2024!

Bear 2 Housing Unit Opened in November at USCF Information taken from UDC November 17, 2023 News Release

Until now, the Bear 2 housing unit has not been occupied since USCF's opening in July 2022. As of November 20, 2023 Bear 2 has been opened to house male inmates due to an increasing inmate population in USCF. The opening of the Bear 2 unit will happen in phases. It will begin with 64 men.

It is UPAN's understanding that the reason Bear 2 was not opened prior to this had to do with a shortage in correctional officers to staff it. The press release states, "The safety of our correctional officers is priority, and we have a plan in place to account for staffing and programming needs. A short-term staffing plan will be implemented from Nov. 20, 2023 until January 6, 2024."

UDC recently added 12 new officers at USCF. 24 more are scheduled to graduate in January. This will assist in reducing the pressure on current staff. The press release informs us that UDC continues to pursue efforts to address the challenges of the staffing shortage.

It reads, "Bear 2 has capacity for 384 inmates in six different sections. It is a general population building and includes dorm and cell-based housing. The original plan was to open Bear 2 in 2024, but the increasing number of intakes and the need for general population beds require the unit to be opened now.

UDC will continue to assess the needs for inmate housing as well as the availability of staff."

Improper Classification of Resident vs. Non-Resident Status for College Tuition

By Karen Thompson, UPAN Director of Special Projects

UPAN was informed by family members that their incarcerated loved one was being overcharged for college tuition. Their loved one had been extradited to Utah from another state and was being charged out of state/non-resident fees. Other incarcerated students may be improperly classified as out-of-state residents. It is worth looking into. Incarcerated students can look into how much they are being charged for tuition and if they are paying resident or non-resident rates.

UPAN has contacted UDOC and they have agreed to review it and determine if others are being charged higher tuition fees due to improper non-resident status.

The difference in in-state college tuition and out-of-state tuition is substantial. Correcting your residency status can be a significant reduction in costs and something that is worth checking into.

What can be done to correct the residency classification of an incarcerated student. This will be a team effort between incarcerated students and their support systems helping them with this.

This is a complicated process and will normally require support and assistance from family or friends in the community to assist inmates to get their Utah residency properly classified. It will take some time and mailing back and forth of notarized forms, but families are able to get their student's residency properly classified.

These instructions are written for family, friends, or other support people to follow to help the incarcerated person they are assisting. The process takes time and you must complete the steps as listed.

If an incarcerated person was ever issued a Utah Driver's License but was arrested and then extradited from out of state, you may have to reestablish proof of being a state resident. Begin by downloading the form (link below).

YOU MUST HAVE a current Power of Attorney to represent your loved one in this effort. Print the form (below) from the Utah Driver's License Division (DLD) and send it to your loved one to sign and have notarized.

Any personal information can be left blank but they need to sign it and date it and return it to you. They would need to use the name they had their Utah driver's license under. This is important if someone has gotten married or divorced and changed their name, without changing it with the Utah DLD at the time. Complete the form they signed providing your Utah address and return it to the Utah Drivers Licensing office in your area.

You are requesting the information on file from their original Utah driver's license, establishing them as a Utah state resident. Once you receive information confirming they meet Utah State Residency requirements, make a full copy and provide that information to the admissions or records department of your loved one's college or university. The school can update their status to resident and apply the appropriate fees.

It is important to remember that the schools also require a proper Power of Attorney and a notarized release form to discuss school records or status of the incarcerated student with you. Also remember each school has their own information release forms, so make sure you obtain those and have your loved one sign them and return them to you. Once all forms are notarized and provided to the appropriate offices, things run a lot smoother.

Always keep copies of ALL signed and notarized forms for future reference. You may have to repeat the process. We hope this helps. If families or support people have questions, you may email utahprisoneradvocate@gmail.com attention Karen Thompson. We will keep you informed as we learn more.

<https://dld.utah.gov/wp-content/uploads/sites/17/2023/05/DLD-266M-REV-3.23.pdf>

"Focus on the step that's in front of you, not the whole staircase." Unknown

UDC is Piloting a Tattoo Removal Program

By Kennedie Starr

For thousands of years, people from a variety of cultures, traditions, and communities have marked different parts of their bodies with tattoos, displaying images, colors, words, and other symbols. Some of the earliest tattoos marked on humans, discovered by archeologists, date back over 5,200 years. They can hold meaning, tell a story, express passion, signal identification, and more.

Tattoos can also reveal affiliations and symbols that might not serve the individual throughout the entirety of their life. Perhaps the images permanently stamped onto one's body are no longer representative of that person's story—the person no longer identifies with its meaning, purpose, and memory. The good news is that people are allowed to transform and welcome change that may come over time. Just as people can alter their bodies with colors and images, branded onto their skin, they can also remove them through safe technology and professional hands.

The Utah Department of Corrections (UDC) is piloting a program with this type of bodily transformation in mind. UDC has begun an initiative to support incarcerated individuals who would like to remove their tattoos, specifically images and markings associated with gangs. UDC considers the removal process to be an integral component of rehabilitation. The goal is to expand the program to all UDC facilities if it demonstrates positive results for incarcerated persons. Removing tattoos may help individuals in securing future employment and opportunities following their release.

How It Works. To remove tattoos, an abrasion tool is used, generating temporary scabs on the surface of the skin that pull up the tattoo ink. As the skin begins to heal, the scab eventually falls off, and the ink crumbles off along with the dead skin. After a removal session, the healing process can take 2-4 weeks. Depending on factors such as the tattoo's size, pigment, and the individual's skin, one may need a few removal sessions.

UDC has partnered with Tatt2Away to support

incarcerated individuals with clean and safe removal procedures. According to their website, Tatt2Away is a non-laser removal company, located in Draper, Utah, that has supported more than 35,000 people with tattoo removal, utilizing the natural scabbing and abrasion method described above.

How someone applies for this program. Because this is a pilot program, it is not yet available to all incarcerated individuals. Entry into the pilot is limited, and to be considered eligible, an interested individual must first schedule an Offender Management Review (OMR) to speak with an officer about becoming a Modified/ Monitored individual.

This first step is an essential part of the pilot because one of the primary goals of the program is to remove gang-affiliated tattoos, according to Jade Watkin, a specialist with UDC's communications office. After completing the process to become a modified/monitored individual, an interested individual can request to be a part of the pilot program. UDC suggests noting one's interest in the tattoo removal pilot program throughout the OMR process.

Transformational Opportunities. For some people, tattoos may have served a purpose or meaning at one point in time. The purpose may not always be essential, permanent, or wanted by the individual. There are so many reasons why someone may want to remove a tattoo, and that option should be available to everyone. The removal of gang-affiliated tattoos should be a widely accessible service, and UDC's leadership in this effort is admirable. Hopefully, it can expand over time and be made available to even more individuals.

The transformational opportunities that removal can support include employment, safety, rehabilitation, the formation of new connections, and the development of one's sense of self. Tattoo removal is a key aspect of strengthening our communities, especially as incarcerated individuals seek to move forward and reestablish roots after their release.

Volunteers Needed to Print & Mail Newsletters to Inmates

Once again, UPAN is seeking more volunteers to print out and mail our monthly newsletters to inmates in the Utah State Prison system. UPAN is all volunteer. We rely on the kindness and generosity of prison families and community members to help us print and mail newsletters to inmates who have no one else to do so. We have been publishing a monthly newsletter since June 2014. UPAN emails the newsletter to over 1,200 individuals that include family members and friends of incarcerated persons, interested community members, various community agencies, legislators and other elected and appointed government officials, corrections officials, and news reporters.

UPAN asks that any incarcerated person who has family or friends in the community who can print and send the newsletter into them, to ask them to do so. For inmates who have no one in the community to do this, UPAN has volunteers who generously donate their time and money to provide this service. UPAN currently has over 60 volunteers that print and mail monthly newsletters to over 400 state inmates who do not have family or friends to do this for them.

Several of our long-time volunteers have had to either cut back on the number of people they mail to, or step back completely from this job over the past year. This has left a waiting list for incarcerated persons who have

no one on the outside to print and mail UPAN's monthly newsletter to them. We hope to be able to assign these folks to new Newsletter Mail Volunteers. It has been said that volunteers do not necessarily have the time; they just have the heart.

If you want to help, please email and let us know how many individuals you wish to send newsletters to. Send to deon.corkins@utahprisoneradvocate.org

How it works. The 10-page newsletter can be printed front and back on lightweight (20-lb.) printer or copy paper for a total of 5 printed sheets that will fit into one white #10 envelope for the cost of one Forever stamp (currently at 66 cents each). The newsletters are printed in black and white and mailed in a #10 white envelope. Security envelopes or colored envelopes are not allowed by Utah prisons. You will use UPAN's return address of: UPAN, PO Box 464, Draper, UT 84020 on newsletters that you mail in to inmates who are not your own loved ones. We ask that you do this every month.

When addressing the envelope, it is important to list the prisoner's name AND offender number and the facility he / she is housed in. The prisons will return any mail that does not contain offender numbers, or if the offender number does not match the name. **You will be assigned inmates to mail to.** If you volunteer to do this, our Inmate Newsletter Volunteer Coordinator, Deon Corkins, will assign you the number of inmates you have

requested. She will send you an email with the name, offender number, and housing address of the people you are assigned. If you begin to send to additional inmates that are not on the UPAN list, we ask that you notify Deon of this so we do not duplicate efforts. Volunteers do this each month for their list of recipients until they notify UPAN that they no longer can volunteer in that position.

Double checking addresses. We ask that before mailing each month, you check the Offender Search on the UDC website, www.corrections.utah.gov to confirm that the housing location of your assigned recipients has not changed. Inmates are moved frequently, therefore this will reduce the amount of returned mail UPAN receives and eliminate Deon having to look up and re-send to inmates who have been moved to the various locations that house state inmates around the state. Volunteer mailers can check the locations of ten inmates in less than 5 minutes. Please do this, thanks.

For the past 9-1/2 years, UPAN has provided timely information to thousands of incarcerated via the newsletter. We hope to continue providing newsletters to people who have no one out here to print and mail to them. The tireless efforts of our newsletter mailing volunteers over the years has been the key to its success!

Dell-Emerald Topics **Contemplations**

"Be proud of how you handled this year, sis. The silent battles you fought. The setbacks you overcame. The dark days when you had to wipe your own tears and pat yourself on the back. Celebrate that." Woman First Class

*"I look upon the bones of my past, as they lay beneath my feet.
The death of burdened cycles, and demons I've released.
I look upon the many versions, and journeys now complete,
As I've sat within my darkness, so my light can be unleashed.
And from it found my power, the magic deep inside of me,
To bring my soul to balance, between my chaos and my peace."* Christi L. Starkweather, author.

"It is important to remember that every setback you encounter is actually a step forward. They might feel like obstacles in the moment, but in reality they are just guiding you to a better, brighter place. Setbacks are chapters in your story, not the conclusion." Carrie Marie Bush.

You... If every single person who has liked you in your lifetime were to light up on a map, it would create the

most glitteringly beautiful network you could imagine. Throw in the strangers you've been kind to, the people you've made laugh, or inspired along the way, and that star-bright network of you would be an impressive sight to behold! You're so much more than you think you are. You have done so much more than you realize. You're trailing a bright pathway that you don't even know about. What a thing. What a thing indeed!" Donna Ashworth, writer, poet.

The Procrastinator's New Year's Resolution: My goal in 2024 is to accomplish the goals I set in 2023, which I should have done in 2022 because I made a promise in 2021, which I planned in 2020.

Utah Code 77-27-9 Guiding BOPP Decisions

By Molly Prince, LCSW

UPAN receives numerous letters and other communications regarding challenges incarcerated individuals experience related to decisions made by the Utah Board of Pardons & Parole (BOPP). UPAN cannot do anything to intervene in individual decisions. We can share ideas on how you can gather more information about the decisions. UPAN does not have attorneys who provide legal advice. However, we can share one of the Utah laws which the BOPP has to follow. Here it is in entirety:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Dept of Corrections except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing and recorded the proceedings and decisions of the board.

(c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if: (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years [of age] old at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any

offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(g) The board may not parole any offender convicted of a homicide unless:

(i) the remains of the victim have been recovered or

(ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in good faith in efforts to locate the remains.

(3) The board may rescind:

(a) an inmate's prison release date prior to the inmate being released from custody; or

(b) an offender's termination date from parole prior to the offender being terminated from parole.

(4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of [its] the board's members or by a designated hearing examiner in the performance of its duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(5) (a) The board may adopt rules consistent with law for [its] the board's government, meetings and hearings, the conduct of proceedings before [it] the board, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

“Out of suffering have emerged the strongest souls; the most massive characters are seared with scars.” Kahlil Gibran

The Basics of Compassionate Release by Molly Prince, LCSW

This article is specifically to share the very basic steps that must be taken for a compassionate release to be requested from the Board of Pardons & Parole (BOPP).

In Utah, everything the BOPP does is governed by an Administrative Rule. The Utah Administrative Code Section R671-314-1 governs how Compassionate

Releases are requested and the guidelines the BOPP must follow when considering them. It states that the BOPP shall consider a compassionate release when very specific exceptional circumstances exist.

How a compassionate release for medical reasons is requested. A compassionate release request which is submitted by UDC on behalf of an incarcerated person does not limit or disqualify other requests for special attention or redetermination consideration that the incarcerated person is eligible for or has submitted.

Compassionate release consideration must be started when the BOPP receives a written request, explaining the circumstances supporting the release. There are guidelines of what is required within that request that are included below.

The Board will consider a compassionate release submitted by the Utah Department of Corrections (UDC) for medical reasons that are "exceptional."

The following circumstances are considered exceptional:

If the incarcerated person's risk for public safety and recidivism risk is "significantly reduced due to the effects or symptoms of advancing age, medical infirmity, disease, or disability, or mental health disease or disability."

Also, it will be considered if the UDC Correctional Health Services (CHS) determines that the incarcerated patient "suffers from a serious and persistent medical condition which requires extensive medical attention, nursing home care, or palliative care."

If the compassionate release request is submitted based on the above medical / mental health disease or disability, the CHS of UDC will include a report that specifically identifies and details the specific effects, conditions, or symptoms to be considered; the treatments available; and, when possible, the prognosis of such effects, conditions, or symptoms."

A formal hearing is not always required for compassionate release. The BOPP is allowed to make a decision regarding a compassionate release request without a formal hearing UNLESS the compassionate release would occur before the inmate's Original Hearing.

Any victim of record will be consulted. The Rule also states that, "Before granting a compassionate release without a hearing pursuant to this rule, the Board shall make a reasonable effort to contact, inform, and consider the input of any victim of record in the case for which the offender is incarcerated, if the victim of record has previously requested notice of hearings pursuant to Utah Code Subsection 77-38-3(8)."

Non-medical reason someone might be considered for a compassionate release. The Rule further states, "Consideration of a compassionate release will also be considered upon the request of the Department, offender, or other interested person, if an offender's

immediate family member dies within 120 days of a previously scheduled release. An immediate family member is defined as a parent, step-parent, spouse, child, sibling, grandparent, or grandchild by this Rule.

The request must include a death certificate or other verification of the family member's death that is acceptable to the BOPP. The BOPP may request that the UDC review the request, provide any institutional or other reports requested by the BOPP, and UDC may make a recommendation regarding the request.

What families need to provide to the BOPP when a compassionate release is requested for medical reasons. As with any consideration for a release from prison to parole, the BOPP needs the following information. The family is the logical support system to provide this information and be involved in the planning of the care of the individual being considered for compassionate release.

1. Where will the inmate live upon release? Be specific about the address. Will they live with a family member? Will they be admitted to a care center or nursing home? The specific information is necessary as part of the Board's consideration.
2. Who will take care of the releasing patient, get them to their appointments (doctor, parole agent check-in, other appointments to apply for services)?
3. Do you have a hospital or clinic and doctors they are accepted with. (Many incarcerated patients already have specialists at the University of Utah Medical Center or the Huntsman that will continue to see them). Include this information in your list of information you are providing to the BOPP.
4. How will their medical bills be paid? NOTE - I recommend that you apply for Utah Targeted Adult Medicaid through the Dept. of Workforce Services immediately upon release and their parole agent will need to verify they are justice involved / on parole. You can receive help with this application process from the Utah Health Policy Project 801-433-2299, 2369 West Orton Circle Suite 20, West Valley City, UT 84119.
5. How will their housing be paid for, if not living with family members?
6. How will their living expenses be paid for? Ideas: since someone being released for a terminal medical diagnosis will not likely be able to work, you could help them apply for SNAP, and financial assistance through the Dept. of Workforce Services.
7. If they qualify for Social Security or have a retirement program, who will help them get that started?
8. Any other information relevant to how the person who is being considered will live, meet their daily living needs, receive their medical care, hospice care, or other necessary care.

All of the above are considerations the BOPP will look at in their decision-making process, so the more specific

and arranged they are, the better.

There is not any mention in the Administrative Rule about the length of time the BOPP can take to make a decision once the recommendation from UDC is submitted.

Blessed are those who see beautiful things in humble places where others see nothing.” Unknown

2021 Changes to the Payment and Collection of Criminal Fines, Fees, and Restitution by Faye Jenkins

This article is being reprinted due to questions that have come in about this topic. It was originally published in the July 2021 UPAN newsletter.

H.B. 260, sponsored by Rep. Karianne Lisonbee and Sen. Michael Kennedy, **went into effect July 1, 2021**. It was a comprehensive overhaul of Utah’s criminal justice code regarding the order, collection, and payment of fines, fees, and restitution.

The legislature has recognized for many years the unreasonable burden excessive fines and fees (compounded by accumulating interest, service charges and penalties) place on people who are unable to pay due to incarceration and lack of employment during and after their incarceration. The domino effect also negatively impacts recipients of restitution and child support orders as a formerly incarcerated person’s small income is divided between so many needs and responsibilities.

A few changes in the law includes clarification of processes, the order of payments, (restitution comes first), controls accumulating interest while a person is incarcerated, and opens a door for a person who is truly trying to get back on their feet and be responsible to petition to the courts or the Board of Pardons and Parole for mercy and forgiveness on the unpaid balances as their sentence terminates. As I attempt to explain the recent changes to the law, please realize I am not a lawyer and am only sharing my understanding as I read the newly implemented Utah Code. Most of this article comes directly from the text of the Code.

Criminal Accounts Receivable

At the time of sentencing, or according to the conditions set in a plea of abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant. This account includes the fines, fees, and restitution the defendant is ordered by the judge to pay. If no fine, fee, or restitution is ordered at sentencing, there is a provision for restitution to be ordered at a future date prior to terminating one’s sentence.

Restitution

The new law puts priority on discovering and ordering restitution prior to the termination of one’s sentence. Law enforcement investigating the case, prosecutors filing criminal charges, and AP&P officers creating the Pre-Sentence Investigation (PSI) report are all responsible for gathering information from the victim(s) regarding any and all estimated financial damages resulting from the criminal behavior of the defendant.

There will be more information about compassionate release in general in future UPAN newsletters. This information is the practical information needed to understand how the process works.

The sentencing court is responsible for determining and ordering a defendant to pay restitution, which becomes part of the criminal accounts receivable. If restitution has not been ordered at the time a person is considered for parole by the Board, the Board will ask the court to see if there is a need for restitution.

The following new rules regarding restitution apply to those who are sentenced after July 1, 2021.

- If no restitution is ordered at the time of sentencing, the court will schedule a restitution hearing, unless the prosecutor certifies that he/she has consulted with the victim(s) and the Utah Office of Victims of Crime, and no restitution is owed.
- The court must enter an order of restitution before the earlier date of either the termination of a person’s sentence, or within seven years of the day when a person is sentenced if convicted and imprisoned for a first-degree felony, within 3 years if convicted for other felonies, or 1 year if convicted for a misdemeanor.

If the defendant objects to the order of restitution, they may express concerns with the order at the time of sentencing or they may make a written request to the court within 20 days of notice for a restitution hearing to voice their objections.

Payment of Debts

If a defendant is ordered to prison, and the prison sentence is not deferred in favor of probation, the defendant is given the day of sentencing to pay the ordered payments directly with the courts. Otherwise, the criminal accounts receivable for the defendant is transferred to the Office of State Debt Collecting (OSDC) for processing and collection of payments.

All other criminal accounts receivables are managed by the courts. The court will also establish a payment schedule for the defendant that will consider:

- the needs of the victim if the criminal accounts receivable includes an order for restitution
- the financial resources of the defendant, as disclosed in the financial declaration
- the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;
- the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

- the rehabilitative effect on the defendant of the payment of restitution and method of payment; and
- any other circumstance that the court determines is relevant.

If a defendant is sentenced before July 1, 2021, and the Department of Corrections or the Office of State Debt Collection is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.

Suspension of Debts

If a defendant is incarcerated either in the county jail or a state prison,

- all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court or the board expressly orders the defendant to make payments according to the payment schedule; and
- the defendant shall provide the court with notice of the incarceration or involuntary commitment.

The suspension of payments remains in force for 60 days following the day the defendant is released from being incarcerated.

Forgiveness of Debts

At any time prior to the termination of one's sentence, the defendant may petition the sentencing court, to modify the payment schedule, or remit, in whole or in part, an unpaid amount of the defendant's criminal accounts receivable that is not the principal amount owed for restitution. The defendant may also petition the board to modify the payment schedule when under jurisdiction of the Board of Pardons and Parole.

"Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs, interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and damages.

Within 90 days after the termination of one's sentencing, the defendant may petition the sentencing court or the board to remit, in whole or in part, the unpaid amount of the criminal accounts receivable. In deciding to remit an unpaid amount of a criminal accounts receivable, the court, or the Board, shall consider:

- whether the defendant has made substantial and good faith efforts to make payments on the criminal accounts receivable;
- the needs of the victim;
- whether the remission would further the rehabilitation of the defendant;
- the ability of the defendant to continue to make payments on a civil accounts receivable; and
- any other factor that the court or the board determines is relevant.

Civil Accounts Receivable and Civil Judgment of Restitution

A "civil accounts receivable" is any amount of the criminal accounts receivable that is owed by the defendant that has not been paid on or before the day

the defendant's sentence is terminated or when the court enters an order for a civil accounts receivable.

A "civil judgement of restitution" is any amount of the criminal accounts receivable that is owed by the defendant for restitution that has not been paid on or before the day on which the defendant's sentence is terminated.

When a person's sentence is terminated, the board will provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination. Within 90 days after the day on which a defendant's sentence is terminated, the court shall:

- enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket; and
- transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection.

A criminal accounts receivable may also be referred to the courts for a civil accounts receivable judgement if more than 90 days late in payment. This does not apply to those who are incarcerated - no payments are due while a person is incarcerated.

Office of State Debt Collecting Responsibilities

OSDC has the overall responsibility for collecting and managing state receivables. The "accounts receivables" they manage are subject to high interest and fees. These accounts include "civil accounts receivables" and "civil judgement of restitution" sent to OSDC after a person completes their sentence or due to defaulting on payment for more than 90-days. **OSDC's "accounts receivables" do not include the "criminal accounts receivables."** OSDC is required to manage due to a person being sentenced to prison. The criminal accounts receivables are NOT subject to the same interest and fees imposed upon the other "accounts receivables" managed by OSDC.

The new law specifically states OSDC may not impose an interest charge on criminal accounts receivables or accounts subject to a post-judgment interest rate.

Interest and fees assessed by OSDC are considered "penalties". For civil accounts receivables and civil judgements of restitution, these penalty interest charges and fees begin the day the judge enters an order to pay a civil accounts receivable and a civil judgment of restitution. An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution.

The order to pay a civil accounts receivable and civil judgment of restitution include the government's right to create a lien on the defendant's real property until the judgment is satisfied and may be collected by any means authorized by law for the collection of a civil judgment. (This means OSDC can garnish wages.) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the

civil statutes of limitation and expire only upon payment in full. (This means these debts cannot be removed by bankruptcy.)

OSDC shall disburse money collected from a defendant for a **criminal accounts receivable** in the following order of priority: 1) restitution, 2) to the cost of obtaining a DNA specimen from the defendant, 3) to any criminal fine or surcharge owed by the defendant, 4) to the cost owed by the defendant for a reward, 5) to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility, 6) to any other cost owed by the defendant.

OSDC shall disburse money collected from a defendant for a **civil accounts receivable** and **civil judgment of restitution** in the following order of priority: 1) to any past due amount owed to the department for the monthly supervision fee, 2) to restitution owed by the defendant, 3) to the cost of obtaining a DNA specimen from the defendant, 4) to any criminal fine or surcharge owed by the defendant, 5) to the cost owed by the defendant for a reward, 6) to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility, 7) to any other cost owed by the defendant.

If a person makes a restitution payment to a victim or third party for a civil judgment of restitution or enters into any other transaction that does not involve the OSDC, that person needs to provide notice to OSDC and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made. The payment may only be credited towards the principal of the civil judgment of restitution and does not affect any other amount owed to the OSDC.

Non-Payment

One more thing: Mark Hugentobler's podcast (*All My Friends are Felons*) featured an interview with a young mother of three children and her successful new direction in her life. You don't always have to read, sometimes you can listen. Here's the link: <https://www.spreaker.com/user/manga-sensei/evelyn-matue> Enjoy and learn, Ed.

"Only those who attempt the absurd will achieve the impossible." M.C. Escher

Couple of Smiles and Maybe a Laugh What did the pirate say when he turned 80 years old? Aye matey ~~ What does a CIA agent do when it's time for bed? He goes undercover ~~ I didn't think wearing orthopedic shoes would make a difference, but I stand corrected ~~ What do you call a bear with no teeth? A gummy bear.

A New Year! A new beginning! Let's quit riding on this bumpy road and head for the freeway. A goal that's cool. Ed.

"Between yesterday's mistakes and tomorrow's hope, there is a fantastic opportunity called TODAY!" Unknown

Senior Newsletter Editor: Molly Prince, LCSW Detail Newsletter Editor: Warren Rosenbaum

Utah Prisoner Advocate Network Contact Info

Our Contact Information:

Utah Prisoner Advocate Network
P. O. Box 464, Draper, UT 84020

Website: UtahPrisonerAdvocate.org
Email: Utahprisoneradvocate@gmail.com
Facebook: Facebook.com/UtahPrisoner

"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