



UPAN Newsletter Volume 11 Number 5 | **MAY 2024**
“Empowerment and Growth Through Knowledge and Unity”

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Four Articles for Moms (& Everyone) on Mother’s Day – Scheduling Changes in BOPP Original Hearings – S O Registry Re: State & Nat’l Parks – Rocky Mtn Innocence Center April Mtg Summary – IPP Beaver County Correctional Facility

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Next Meeting: Monday, May 13, 2024 6:30 pm – 8:30 pm. Speaker: Pace Johnson, Managing Attorney with Pace Johnson Law Meetings are FREE and open to the public. Join all meetings at <https://bit.ly/UPAN-Meet>

Following Monthly Meetings:

Monday, June 10, 2024 6:30 pm – 8:30 pm. Speaker: Evan Done, Associate Director of Utah Support Advocates for Recovery Awareness (USARA)

No Meeting in July

Monday, August 12, 2024 6:30 – 8:30 pm. Family Meeting

Monday, September 9, 2024 6:30 – 8:30 pm. Speaker: Brian Redd, Executive Director, Utah Dept. of Corrections
 Please submit questions to utahprisoneradvocate@gmail.com by August 10, 2024

Monday, October 14, 2024 6:30 – 8:30 pm. Speaker: Jennifer Yim, Administrative Director of BOPP.

Please submit questions to utahprisoneradvocate@gmail.com by September 10, 2024

UPAN continues virtual meetings the 2nd Monday of every month EXCEPT July & December. Zoom link <https://bit.ly/UPAN-Meet>

Available on UPAN Facebook Live and on UPAN’s Facebook page afterwards. Visit UPAN Facebook page for newsletters. Visit website (page 10) to subscribe to the UPAN Newsletter, or Utah Prisoner Advocate Facebook Page for link to current monthly meeting. Free to the 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.*

NOTE TO READERS: The speakers for UPAN’s September and October meetings invite questions. In the meeting notices above are EARLY deadlines for submitting your questions. Ed.

“Mother’s Day is for every woman who holds nothing back... who gives her heart, soul, and energy to those she cares about and still finds a way to love them more every single day.” Andrew Blackburn

Women Spending Mother’s Day in Prison or Jails by Molly Prince, LCSW

Each May UPAN devotes an article for Mother’s Day to women impacted by incarceration. Last year it was devoted to the mothers of the incarcerated. A couple years prior to that it focused on women (including mothers) who make a difference in criminal justice reform. Another year we focused on mothers whose

husbands and fathers of their children are incarcerated. This year, UPAN wants to remember all the mothers who are currently incarcerated. **Mother’s Day wishes for incarcerated mothers.** Sending Mother’s Day thoughts and wishes to all mothers who are in prison or jail.

- ♥ Wishing every mother who is incarcerated a day that brings good memories, even if bittersweet, of the good times with their loved ones.
- ♥ Wishing a day of peace and hope for the future.
- ♥ Hoping that mothers inside are receiving cards, letters, emails, pictures, or whatever form of communication is allowed, from their children.

- ♥ Wishing a day that includes a phone call home to talk to your children, no matter what age they are.
- ♥ Hoping that all mothers can receive visits from their adult children sometime around Mother's Day.
- ♥ Wishing that those caring for your younger children will arrange to bring them to visit, or arrange a video visit during the week or on Mother's Day weekend.

Mother's Day reminds us again that people behind bars are not nameless "offenders," but are beloved family members and friends whose presence — and absence — matters.

The Impact of Incarceration on Mothers and Families

By Molly Prince, LCSW

According to a KSL.com report by Amanda Dickenson in July 2023, there are an average of 400 women in the care and custody of the Utah Dept. of Corrections. Approximately 70% of them are parents of minor children based on information available to Trisha Reynolds, LCSW, Intergenerational Program Director for UDC.

While the percentage is smaller for fathers in prison, the number of parents in prison still affects one out of every 14 children nationally.

Dickenson's article states, "Being a mom is one of the most challenging roles any woman ever takes on. We worry about our kids when they're at school. We stress about how other kids are treating them. We're concerned that they're eating right and growing properly. Imagine the magnitude of that worry if you're a mom in prison and can't be with your kids when they wake up or put them to bed at night."

According to the Prison Policy Initiative, in 2021 nearly 150,000 incarcerated mothers nationwide spent Mother's Day apart from their children in the US. 58% of all women in US prisons are mothers, as are 80% in jails, including many women who are incarcerated awaiting trial simply because they cannot afford bail.

Most of incarcerated mothers were the primary caretakers of their children. Incarceration rips children away from their source of security and support. While many women end up in prison, the majority of incarcerated women are in jails. Separation between mothers and their children is devastating on many levels. Many children are shunted into foster care, which means they are less likely to stay in contact with their mothers; to relatives who are not financially ready to take care of them; and sometimes in more fortunate situations, to loving relatives who can support their relationship with their incarcerated mother. It has been said that when mothers are incarcerated, the whole family is incarcerated.

The words of Utah mothers in prison. The KSL article explains what mothers in USCF have said about how they feel about being away from their children. Utah's incarcerated moms say that the hardest part of prison is being away from their children.

Reynolds shared what moms in prison say about being apart from their children. She states, "They all said the same thing... This is the most painful part of being incarcerated." The moms say, "We deserve to be here, but our children don't deserve this separation from us." One mom described not being with her children as feeling like "her heart is shattered inside of her chest."

Incarcerated mothers' options to try to remain involved in their children's lives. Like all moms, moms in prison have a wide range of how they interact with their children.

"Some of them have really positive relationships with their children and really frequent contact," Reynolds explained to Dickenson for the KSL report, "Many of them are involved in day-to-day parenting decisions with their child's caregiver through regular phone calls or visitation." Letters are also an option.

Limitations to using phones.

Cost. Incarcerated mothers, their families or the child's caregivers must pay for those calls. Family members receiving the calls must deposit money on their phone account with an inmate calling service (Global Tel Link). These calls are not cheap. The prison reports it attempts to keep the cost of the calls down, but they are about 11 cents a minute, which adds up quickly, particularly when mothers are attempting to stay in regular contact with their children.

One \$3.33 call for ½ hour per day can add up to \$24 a week, or \$100 a month. This is quite expensive for mothers who are only able to make between 40 cents and 80 cents per hour, if they are fortunate to have one of the limited number of jobs available. It also puts a financial burden on the caregiver of the children.

People not involved in the prison life world do not realize how precious each of those minutes is and how quickly they pass.

Availability. There are phones available in the sections to make calls on. But lockdowns, going to programming, other classes, or work, classification levels, and other factors can limit the opportunity incarcerated mothers have to use those phones. The children have their own school and activity schedules and are not always available to receive calls when moms are able to place

those calls. It is a delicately balanced dance of scheduling and planning calls around everyone's schedule.

Technical problems with phone calls. As with all inmate calling services, Utah's phone system provider is not always user friendly. Challenges sometimes occur logging on to make a call. There are also instances where it simply does not work. Calls may be cut off for no reason. Mom and child may not be able to hear each other. Sometimes there is static, other times it sounds like someone is talking underwater. (Not funny! Ed.)

Incarcerated parents and children eventually learn to adapt, but having a parental relationship through the phone is significantly challenging.

Both in-person and video visitation are available to mothers who have the privilege levels for it. Video visits can be scheduled by the family member coordinating the visit in advance, and are offered Monday through Thursday. In-person visitation can be scheduled for Friday, Saturday, and Sunday.

Benefits of video visitation include the expanded opportunity to more families who live far away and would not otherwise be able to visit in person. They are offered at no cost to the inmate or family and can be scheduled based on the number of visits the incarcerated parents are allowed, based on their classification.

Drawbacks to video visitation again have to do with the challenges of this technology not always working properly. This leads to frustration and sadness for both children and parents. Complaints UPAN receives are that the videos sometimes cut off and both parties must sign in again, and are limited to 30 minutes each. Incarcerated parents must be escorted to the visiting room ahead of the time for the visit, and when there is miscommunication with staff, sometimes an inmate is not escorted to the visiting area. Or if someone's name that has a scheduled visit does not get put on the list sent to the housing unit the night before, they will lose that visit because they will not be escorted to the visit. The visit can be rescheduled. In video visits, it is impossible to look at each other in the eye at the same time, which takes away from the visit.

How incarceration and re-entry can harm mothers and their children. Beyond having to leave their children in someone else's care, incarcerated moms are impacted by the brutal side effects of incarceration. These can include lack of necessary medical care as they age, the onset and / or exacerbation of mental health problems, increased risk of self-harm and suicide, and a much higher likelihood of ending up homeless or deprived of essential financial benefits once they are released.

According to the Prison Policy Initiative (PPI), women who are pregnant when they are locked up have to contend with a healthcare system that frequently neglects and abuses patients in the prison systems across the US. In a 50-state survey of state prison systems' healthcare policies, PPI found that many states fail to meet even basic standards of care for expectant mothers, like providing screening and treatment for high-risk pregnancies. In local jails, healthcare, and particularly pre-natal care is often even worse (across the board) than in state or federal prisons.

More challenges await incarcerated mothers and pregnant women when they are released from jail or prison. Formerly incarcerated women experience extremely high rates of food insecurity, according to a 2019 study. PPI reports that in the US, the 1.9 million women released from prisons and jails every year have high rates of poverty, unemployment, and homelessness. There is a shortage of agencies and organizations able and willing to help formerly incarcerated women restart their lives.

When we incarcerate women rather than offering them diversion and treatment alternatives, we inflict potentially irreparable damage to both them and their families. The majority of women who are incarcerated would be better served through alternatives in their communities. So would their kids.

Keeping parents out of jail and prison is critical to protect children from the known harms of parental incarceration, including:

- Traumatic loss marked with feelings of social stigma and shame and trauma-related stress – this is also experienced by incarcerated parents.
- More mental health problems and elevated levels of anxiety, fear, loneliness, anger, and depression and incarcerated mothers are also impacted by these problems.
- Less stability and greater likelihood of living with grandparents, family friends, or in foster care.
- Difficulty meeting basic needs for families with a member in prison or jail – and mothers trying to rebuild their lives after incarceration experience these same areas of lack upon re-entry, which continues to impact their children.
- Lower educational achievement, impaired teacher-student relationships, and more problems with behavior, attention deficits, speech and language, and learning disabilities.
- Problems getting enough sleep and maintaining a healthy diet – for both children left behind and mothers in jail and prison.
- More mental and physical health problems later in life. This applies to both formerly incarcerated and children of incarcerated parents.

<https://kslnnewsradio.com/2044475/parents-in-prison-affect-one-in-14-children-heres-how-utah-helps/>
<https://www.prisonpolicy.org/blog/2021/05/05/mothers-day-2021/>

U of U's Utah Prison Education Project Launches Bachelors Degree Program in Dell

Summarized by Molly Prince, LCSW

This article is based, in part, on a KSL News Radio report by Heather Peterson from Apr 2, 2024, 4:00 PM

Women incarcerated at the Utah State Correctional Facility in Dell housing began applying for the new bachelor's degree programs at the end of March 2024. This is being offered by the University of Utah's Prison Education Project.

This is one of the results of the federal government allowing incarcerated students to access financial aid through Pell Grants in order to pay college tuition, which began in July 2023. Each college or university has their own financial aid department that offers the applications and administers the Pell Grants.

<https://www.ed.gov/news/press-releases/us-department-education-launch-application-process-expand-federal-pell-grant-access-individuals-who-are-confined-or-incarcerated>

According to the KSL News Radio report referenced below, UPEP Education Manager Daycy Gomez said, "We are rolling out on a degree-bearing program where the students can work on getting their degree through the University of Utah. And this is a bachelor's degree."

In the past, inmates who were part of the education program could only earn their credits toward a degree for college courses through Brigham Young University. Also, for years, UPEP offered university courses that did not qualify for credits, as tuition was required to receive credit.

https://kslnnewsradio.com/2092225/prison-education-project-u-of-u-/?fbclid=IwZXh0bgNhZW0BMQAABHXWVaQi-UYDuA8viTfIKSCluJvztpB3rtp5nBCfyAGNVkBG50yuc0aHOHQ_aem_AQDn_sbPFIHVtU1ON0rGJpkhX4H6oVg2xDw5jWgAHTrrj5s8_eNQ141uLydIIKk0qI

"Education is the most powerful weapon which you can use to change the world." – Nelson Mandela

HB358 Requires the Development of a Pilot Prison Diversion Program and Stops UDC From Moving Forward with the Nursery in Women's Facility

By Molly Prince, LCSW with information from Director Trisha Reynolds, UDC

This article is to follow up on the April 2024 UPAN newsletter that summarized HB358 which passed this year. It requires a shift in Utah from opening a Women & Children's Nursery in USCF to developing a Prison Diversion Program.

As reported previously, in 2023 the Correctional Postnatal and Early Childhood Advisory Board was legislatively mandated to research prison prenatal and nursery programs. The Advisory Board was to study what other states have been doing regarding accommodations for pregnant women entering prison, to birth their children, and be able to keep them for a period of time and bond in the nursery.

I reached out to Trisha Reynolds, LCSW, Inter-generational Program Director for UDC who is on that Advisory Board and has been working on this project since its inception. She informed me of all of the following information that those on the Advisory Board learned, which also contributed to the basis of the bill

Computer lab needed for this new project. UPEP is working to raise money for a computer lab so students can do research for class. To donate, go to their website <https://prisoneducationproject.utah.edu/>

"Our students don't have access to laptops right now. And so, they're not able to use learning management systems like Canvas, for example, which a lot of professors use. So the professors rely on paper," Gomez said.

In preparation for the new program, Gomez said UPEP is raising money for a computer lab. "It's so necessary because the University of Utah is a research-1 school, and so our students need to be able to do research and conduct that research for their classes that this degree-bearing program is going to provide."

The KSL news article states that an R-1 Institution is "the highest tier of research universities in the United States," according to SAGE Scholars, a college preparation organization.

So far, the bachelor's degree program with the U is only available to female inmates. UPEP hopes to eventually expand the program and offer classes to men in the prison as well.

sponsored by Rep. Candice B. Pierucci and Senator Heidi Balderree.

During COVID, many of the mother and infant nurseries in prisons throughout the country emptied out. Many states found that they could achieve the same, or better, outcomes for justice involved mothers and their babies by keeping them in the community with additional support. Reynolds explained that the nurseries in correctional facilities tend to have strict criteria. And the idea is that if the mom's situation is low-risk enough to qualify for a nursery bed, it's low-risk enough to be in the community. Reynolds explains that diversion programs are the next evolution in the world of prison nurseries, and many states with nurseries are now moving in this direction.

2023 USCF Diversions. Dir. Reynolds reports that they were successfully able to divert all pregnant women at USCF to a community program who would have been eligible for a nursery bed during 2023. Two moms gave birth while incarcerated, but both of them had long sentences so would not have been eligible for the nursery program. She states that the Advisory Board intends to keep up the momentum of diverting eligible pregnant women, but with more support as they build a formal Prison Diversion Program for pregnant mothers.

If, after trying diversion for a few years, they find a population that cannot be diverted but *would* be eligible for a nursery bed, they will be able to revisit the idea of a nursery.

So far in 2024, there have been two expectant moms that did not qualify for diversion that possibly could have been eligible for a nursery bed if the legislature would have moved forward with the nursery, and if it could have been funded and equipped to house them.

Pending charges are roadblocks to diversion. The biggest challenge was that both of these women came to prison with pending charges that had to be resolved first. Going to prison with pending charges creates delays in them seeing the Board of Pardons & Parole. Dir. Reynolds is working toward solutions in order to resolve these types of barriers and delays as they create a more formal diversion program.

At this time, two other pregnant moms in 2024 are both leaving before they are due to give birth, with a lot of support in place.

Building a Diversion Program needed to come first. It was really challenging for Trisha Reynolds to try to build a nursery *and* a diversion program with no funding, leaving Reynolds as the only staff in the Intergenerational Program. She informed UPAN that after re-evaluating the situation, she and the rest of the Advisory Board, which had by this time studied a variety of programs in other states, decided it would be a better use of the very limited time and resources available to focus on one program at a time. Research across the country is showing that a diversion program is the best model for the most women and children, in the long run. The hope now is that lawmakers will support UDC's diversion efforts with funding during the next legislative session.

Challenges developing the nursery program. The nursery was only going to be able to accept mothers with sentences in the 18-24 months or shorter range. Of course, that would have also involved working with the BOPP since indeterminate sentencing can be complicated. Dir. Reynolds shared that they "heard from all the national experts and researchers in this space that it was crucial for moms and babies to leave the nursery together." She also explained that some states tried accepting moms with longer sentences and having the baby stay only a few years, but they found that

separating the mom and baby after that initial period of attachment and bonding actually created worse outcomes for the babies. She stressed the importance for babies of incarcerated mothers to have a consistent caregiver without any disruptions in attachment. This means that in cases of long sentences, it's better overall for the baby to be with their primary/long-term caregiver from day one.

Adequate resources in the community exist for a successful Prison Diversion Program for pregnant mothers. When doubt was expressed about if there are adequate resources in Utah's communities to create a successful Diversion Program, Reynolds responded, "As for resources in the community, I think we *do* have what we need to make this work. We just need to bring the right people to the table." She elaborated that there are five residential substance use treatment programs that take mothers & children, and one that even takes fathers & children. She says, "We are so lucky to have these types of programs in Utah. Most of our diverted moms have gone directly into these programs." Others have been able to return home with family and additional wraparounds support (therapy, home visiting, etc.).

Dir. Reynolds shared her vision for the Diversion Program, saying "My vision for this program really involves two big pieces:

- Specialized parole -- higher intensity, more support, hand-picked agents with specialized training and smaller caseloads. I'm envisioning part social worker, part parole agent, or maybe some sort of tag team approach to supervision. Minnesota uses doulas* (definition below) as care navigators -- just one idea.
- A multi-disciplinary team consisting of agencies and organizations that can provide for all of a family's needs -- food security, child care, housing, substance use treatment, early intervention, etc. Each case will be staffed with this team and services will be pieced together on a case by case basis to best support each family's unique needs."

* Doulas: a woman trained to give nonmedical assistance to a woman during labor, providing emotional and physical support throughout the process of childbirth.

She also identified some barriers to resolve in order to make this work. A few of those include:

- Medicaid barriers that impact funding and access to treatment. She will be engaging Medicaid to help.
- The BOPP's willingness to parole people early and learning how much risk they are willing to tolerate. Blake Hills from the BOPP is on the Advisory Board to help us with this piece.
- Housing is going to be the biggest need. For those who go to residential treatment, it won't be an issue, but not everyone needs that level of care. The Advisory Board will be engaging various housing-related partners in the community for help.

One other thing that HB358 directs is that the Advisory Board will be housed with UDC. Dir. Reynolds will take over as Coordinator of the Advisory Board. Then, someone from A P & P will be appointed to take her seat. She explains, "AP&P will have a huge role in a Diversion program."

Director Reynolds will take over as coordinator of the Advisory Board in May. Advocacy groups and other stakeholders are welcome to attend their meetings. There is a goal to have a formal proposal for a Prison Diversion Pilot Program ready to present to legislative interim committees on or before November 30.

Reynolds assures us that, "In the meantime, I will keep trying to divert each and every mom on an individual basis, and learning what I can from those cases to inform our formal pilot."

Creating a peaceful housing space for pregnant and postpartum moms. Dir. Reynolds has worked it out to convert the existing space that was going to be the nursery into a housing section for pregnant & postpartum

Note: This writer wants to extend our deep appreciation to Director Trisha Reynolds for being so open in sharing so much important information about her work, the evolution of the Advisory Board and the shift of focus from nursery to diversion so it can be clearly understood.

"I've made it a principle not to be over-influenced by minor disappointments." Marianne Moore

Changes in How the Parole Board Schedules Original Hearings

Summarized By Molly Prince, LCSW

Between HB248 that passed this year, which has a section about how the Board of Pardons & Parole schedules original hearings, and an Administrative Rule revision that governs how the BOPP reviews for and schedules Original Hearings, here is information that may be useful for incarcerated individuals and their support systems. All information was taken from the official documents concerning these amendments.

According to HB248, Inmate Amendments, Section 77-27-7 was amended in the 2024 legislative session.

This revision in the law gives the BOPP six months after the date of someone's commitment to the custody of the Department of Corrections for a conviction of a felony or class A misdemeanor offense, to set a date for either a release or a hearing. It also requires the inmate to be promptly notified of that date as soon as it is set.

As part of determining the hearing date, the board is required to consider the type and severity of current offenses; prior criminal history; criminogenic risk factors; and evidence-based assessments.

Board Administrative Rule 6- 671-201: Original Hearing Schedule and Notice was also amended this year. This rule amendment was completed in response to an ongoing effort by the BOPP to update its administrative rules to ensure consistency with current law and address concerns raised in its 2022 legislative audit.

moms. They don't want to reassign use of the space too much at this point in case the idea and plans for a nursery are revived in the future. She writes, "This will give the moms a more peaceful space with peer support in which to grow their babies. It will also support our new breastfeeding program as the freezer for breastmilk storage is in that section." (The breastfeeding program allows moms who are postpartum but had to remain in prison to produce their milk and freeze it, to be picked up or delivered to their baby's caregiver for their baby.)

Overall, it appears that the unrelenting work of Director Reynolds and the Correctional Postnatal and Early Childhood Advisory Board over this past year has been very productive. They have studied and toured other programs, and learned what other forward thinking prison systems are doing regarding nurseries and diversion programs. They have also identified community resources and will continue their work to develop a Pilot Prison Diversion Program for expectant mothers this year. Utah is moving into a new day for pregnant mothers entering the criminal justice system!

Summary of this new rule change: This rule amendment requires the Board to conduct a scheduling review of everything in the incarcerated person's file within six months of commitment to prison in order to determine the month and year of an original hearing and to provide notice of that hearing within six months of their commitment to prison. This is a paper review. It replaces the former schedule of original hearings based on offense type that was used for years.

It also set standards for handling the original hearings for those who are under 18 at the time of the commitment offense.

The following is a copy of the new Administrative Rule that went into effect April 1, 2024.

<https://adminrules.utah.gov/public/search//Current%20Rules>

R671-201. Original Hearing Schedule and Notice.

R671-201-1. Schedule and Notice.

(1)(a) The Board shall conduct a scheduling review to determine the month and year of an offender's original hearing, and provide notice to the offender, within six months of the offender's commitment to prison.

(b)(i) No original hearing may be scheduled for any offender whose prison commitment includes a sentence of death.

(ii) No original hearing will be scheduled for any offender whose sentence includes a commitment of life without the possibility of parole.

The Board will not consider parole for any offender whose prison commitment includes a sentence of life without parole, unless the requirements of Subsection 77-27-9(7) are met.

(iii) Every other offender will be scheduled for an original hearing as described in this rule.

(2) For purposes of this rule, "scheduling review" means the process by which the Board schedules the month and year for an offender's original hearing.

(3) The date of the original hearing may be adjusted if:

- (a) an offender requests a delay or continuance;
- (b) an offender has un-adjudicated criminal charges pending at the time a hearing would normally be held;
- (c) a Class A misdemeanor commitment has expired [prior to] before an original hearing; or
- (d) the Board determines that other unusual or extraordinary circumstances impact the scheduling of an original hearing; or
- (e) calendar constraints exist.

(4)(a) When scheduling an original hearing by scheduling review, the Board may consider the following, guideline date, pre-sentence report, nature of the offense, rehabilitative needs, and any relevant documentation provided.

(b) If the Board obtains and considers additional information which was not available to the offender before or at the time of sentencing, the additional

information shall be provided to the offender. The offender may provide a response to any of the disclosed materials before or at the original hearing.

(5) When scheduling an original hearing by scheduling review, if the offender was less than 18 years of age at the time of the commitment offense, the original hearing shall be scheduled:

(a) no later than 6 months before the individual's 25th birthday, so long as the individual is in secure care, in the provisional custody of the Division of Juvenile Justice and Youth Services, at the time of the hearing.

(b) no later than 10 years after the individual's transfer to the custody of the Utah Department of Corrections if the individual is transferred to the custody of the department before their 25th birthday, so long as the total amount of time after the date of sentencing does not exceed 15 years.

(6) When the Board sets an original hearing in Subsection (5), the Board shall make a referral to the victim advocate at the Department of Health and Human Services to provide support and assistance should the victims of record choose to participate in any Board hearings to which they are entitled to participate.

(7) An offender may request in writing that their original appearance and hearing before the Board be continued. The request shall specify the reasons supporting the request. The Board may grant or deny the offender's request in its sole discretion.

Utah to Expand Sex Offense Registry Restrictions to State and National Parks?

By Faye Jenkins

Those who have committed a sexual offense against a minor or child are aware of the community restrictions they must follow in addition to updating the registry every 6 months. According to Utah's statute, the restricted areas include:

- a licensed day care or preschool facility
- a public swimming pool or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex
- a public or private primary or secondary school that is not on the grounds of a correctional facility
- a **community park** that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex
- a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity

This list highlights the challenges people commonly face following Utah's registry laws. Ambiguity! In some counties, local law enforcement applies a very strict

standard to enforcing area restrictions. Any location that provides educational or recreational opportunities for children is off-limits to people required to register, regardless if they are present for the benefit of their own children. Other counties are more relaxed by enforcing compliance narrowly to the areas specifically identified in the statute.

The ambiguity of what is a "community park" is a sensitive issue for people on parole. Traditionally, when AP&P asked the Sex Offender Registry Office for more guidance on which areas to include as community parks, parole officers were directed to include "State Parks", areas managed by the state to preserve natural resources and provide outdoor recreation. This broad interpretation of a park often prohibits people on parole from enjoying hiking, fishing, or water sports and other types of outdoor recreation offered in many State Parks.

It recently came to my attention that the Sex Offender Registry Office directed AP&P to expand the interpretation of a "community park" to also include the state's National Parks. Expanding the rule to include both state and national parks would mean that in addition to local community parks, another 54.4 million

acres of managed outdoor recreation areas are off limits to people on the registry from visiting with their families and friends.

I reached out to Dr. Leslie with the Sex Offense Management Board (SOMB) to learn if she could determine the authenticity of the rule and the extent of its application to people on and off parole. After talking to involved individuals, she said that State and National Parks are in the “gray area” and there is no definitive rule restricting people on the registry from entering National Parks, though discussions continue. With that said, any restrictions to state and national parks for people on parole should be made on an individual basis.

The SOMB has the defined task to clarify registry laws and advise the state in its effort to move toward more

Dell-Emerald Topics Mother’s Day reminders: “Reach for partners that make you better. Do not bring people into your life who weigh you down. Good relationships feel good. They feel right. They don’t hurt.” Michelle Obama

“Being a mother is learning about strengths you didn’t know you had.” Linda Wooten

April 8, 2024 UPAN Meeting Summary:
Attorney Jennifer Springer of Rocky Mountain Innocence Center

By Molly Prince, LCSW

Jennifer Springer, Managing Attorney from the Rocky Mountain Innocence Center, which is an affiliate of the national Innocence Center, presented at the April UPAN meeting. She discussed the work of the RMIC, and encouraged attendees to utilize the National Registry of Exonerations as a valuable resource. The Utah RMIC is small and they cannot take on every case that comes their way. RMIC is a small 501(c)(3) non-profit organization that was founded in 2000 to correct and prevent the wrongful conviction of innocent people in Utah, Wyoming, and Nevada. They do their work pro-bono. They must be very selective in the cases they take on due to small staff. They currently have the staff that can handle about 40 cases.

She spoke about the reality of wrongful convictions, the role of eyewitness identification, and the importance of objective protocols in forensic labs.

She also discussed the work of RMIC in the process of post-conviction litigation and the potential for newly discovered evidence to exonerate the innocent. She also addressed the complexities of accessing government records, the need for expert testimony in trials, and the ongoing efforts to expedite the release of wrongfully convicted individuals.

Data on wrongful convictions. Ms. Springer explained that 3,493 people have been exonerated to date through the Innocence Centers throughout the country, with 2020 being a record year for DNA exonerations, wrongful convictions, and RMIC presentations.

Wrongful Accusations and Misconduct contribute to wrongful convictions. Ms. Springer discussed the

risk and evidence-based laws. As they move forward, they will work towards clearing up the ambiguity of restricted areas, which includes defining what constitutes a community park.

Ultimately, the decision to restrict people on the registry from entering State and National Parks is up to Utah’s legislators. If these restrictions apply to you and your family, I encourage you to talk to your local legislative candidates and elected representatives to share with them what it would mean to be permanently prohibited from spending time with family and friends in these magnificent areas. Kindly remind them that some of the best rehabilitation is found through connecting with others and immersing oneself in nature. Prohibiting access to the state’s great State and National Parks is contrary to these proven principles.

prevalence of wrongful accusations in homicides, child abuse, and drug cases. She shared areas of concern that contribute to wrongful accusations and convictions, including the role of eyewitness identification in these cases.

For example, the largest percent of exonerations in child sexual abuse cases is due to perjury or false accusations; the largest percent of exonerations in homicide is official misconduct (such as in police investigations or forensic work) followed by false accusations; the largest number of exonerations in sexual assault cases is due to mistaken witness ID, and those numbers are similar in drug cases.

She discussed the occurrence of official misconduct by officers who do not follow policy and procedure. This includes cases where it is discovered that evidence was planted or witnesses threatened. Ferreting out these situations that result in wrongful convictions, and proving them, has potential to exonerate many people.

Unreliable Forensic Evidence and Wrongful Convictions. Ms. Springer discussed the widespread issue of unreliable forensic evidence that contributes to wrongful convictions, highlighting the lack of scientific validation for disciplines like footwear analysis and microscopic hair comparison. She emphasized the need for objective scientific protocols without human bias in forensic labs.

Other contributing factors to wrongful convictions. The frequency of exculpatory evidence being withheld, and fabrication of evidence, contribute to the causes of wrongful convictions. This is particularly relevant in

terms of major causes of wrongful convictions that are disproportionately affecting minorities. (The legal term exculpatory describes evidence in a criminal matter that is favorable to, or tends to absolve, the defendant. This type of evidence may justify or excuse the defendant's actions, or show that the defendant is not guilty at all. <https://legaldictionary.net/exculpatory>)

She mentioned other issues that contribute to faulty evidence that lends itself to wrongful convictions. These can include contextual bias influencing fingerprint analysis and coercive interrogation techniques leading to false confessions.

Addressing Wrongful Convictions and Investigation Challenges. Questions were asked about the lack of proper investigation in wrongful conviction cases. Ms. Springer acknowledged the concerns, noting that such cases are unfortunately common, but pointed out the potential for newly discovered evidence to exonerate the innocent.

She also advised against family members conducting interviews or leading investigations, given their credibility could be compromised. The complexities of accessing government records for loved ones was mentioned, and the importance of accreditation standards in laboratory testing and reports.

The need for qualified expert testimony in trials, even though such services might be expensive, was also discussed. This includes having truly qualified experts, not individuals that are deemed experts without proper training and certifications. She also went over the importance of making sure that appropriate procedures for tracking evidence were followed, including verifying the whereabouts of all evidence and maintaining the chain of custody.

Post-Conviction Litigation and DNA Testing. Throughout the presentation, Ms. Springer explained the process and challenges of post-conviction litigation, specifically focusing on DNA testing and its potential to establish innocence. She highlighted the need for clear and convincing evidence to prove innocence and pointed out the potential consequences of waiving the statute of limitations and other considerations.

Utah Post Conviction Remedies Act. Ms. Springer touched on the Utah Post Conviction Remedies Act 78B-9-105. The following fall under it:

- The conviction was obtained or the sentence imposed in violation of the United States or Utah Constitution.
- Newly discovered material or evidence exists that requires the court to vacate the conviction or sentence because:
 - ▶ Neither the petitioner or counsel knew of the evidence at the time of trial or sentencing and it could not have been discovered thru exercising of reasonable diligence;

- ▶ The material evidence is not merely cumulative of evidence that was already known;
- ▶ The material evidence is not merely impeachment evidence; and
- ▶ Viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received.
- ▶ Preponderance of the evidence standard (except for those claims identified in Subsection 78B-9-104(1)9h)).
- ▶ The petitioner must establish that there would be a reasonable likelihood of a more favorable outcome; or
- ▶ If the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgement of the fact finder.

She further clarified the role of the RMIC's unique approach to post-conviction determination of factual innocence. Lastly, she touched on the process of presenting newly discovered evidence and the potential for litigation in cases of Brady violations*, while also discussing her agency's ongoing efforts to expedite the release of wrongfully convicted individuals in collaboration with the Board of Pardons and Parole.

*Basically, a Brady violation involves the proof that evidence that would have been favorable to the accused was not presented in court and it was suppressed by prosecution and was material to either guilt or punishment

Re-Entry Strategies. Regarding a question about how to approach the Board of Pardons & Parole at a hearing when one is appealing their conviction and is innocent, Ms. Springer stressed that since the BOPP can only go on the legal documents they have received which includes that conviction and the judgement and sentence paperwork, rather than argue innocence in a board hearing, one can take a different approach so the hearing is productive.

She stressed the importance of focusing on positive achievements one has accomplished during imprisonment, having a solid plan for release, and having a supportive family and community for successful re-entry. She suggested strategies for individuals who have been incarcerated and emphasized the noteworthy and speedy forgetting curve of witnesses, suggesting that providing written statements or letters of support could counteract this.

How to contact the Rocky Mountain Innocence Center for a Screening Application
358 South 700 East B235 Salt Lake City, UT 84102
(801)355-1888 www.rminnocence.org

“Success is what happens after you have survived all your mistakes.” – Anora Lee

IPP Information: Beaver County Correctional Facility

By Evelyn Matue

The Beaver County Correctional Facility (BCCF) has the largest amount of bed space contracted with the Inmate Placement Program (IPP). According to the 2023 Jail Programs Booklet (which you can find here: [JAILBOOK2023.fix_pdf \(utah.gov\)](#)), there are 355 beds available for housing to Corrections, with 145 of those beds used in their recently expanded Beaver Residential Substance Use Treatment Program (BRT).

They continue to be aggressive in their commitment to inmate programming. Inmates are screened upon arrival and offered placement in the Residential Treatment Program as soon as openings occur. Moral Recognition Therapy (MRT) has been integrated into BRT and is available to those who are not yet in the program as well.

The BRT program is an inpatient substance abuse treatment program at the Beaver County Jail located in Beaver, Utah. The program serves males that are identified with substance use dependence. The BRT program is based upon a therapeutic community (TC) model and Transrational Model of Changes (TMC) and provides individual and group therapy and behavioral modification classes.

Throughout the program, the residents participate in a vast array of substance abuse therapy, anger management, victim awareness, healthy decision making, personal growth, and responsibility. Residents are expected to participate in the program for a minimum of seven months (short term residents) to qualify for completion. However, residents identified to need more extensive treatment can participate up to eighteen months (long term) to qualify for completion. MRT has been integrated into the Residential Treatment Program. This program was summarized in a review conducted by

the Utah Criminal Justice Center in an informative Evidence-Based Practice Adherence Summary Report. [2015-CCJJ_UDC-EBP-Adherence-Summary-ReportFinal-for-Distribution-1.pdf \(utah.edu\)](#)

Beaver School District provides high school education in this facility. It has had a great year. They revised their curriculum and helped successfully graduate 38 inmates with a high school diploma.

Other programs and courses offered in BCCF:

A music program is available in which incarcerated participants are instructed in music theory and playing guitar.

Thinking for a Change which is a cognitive restructuring class is offered to all inmates with six (6) groups running at a time.

Life Skills offered by Utah State University include Inside Out Dad, Relationships, and Smart Steps.

Religious services are conducted by volunteers. These include LDS Indexing, LDS 12-Step, and AA that help those housed at the BCCF deal with their needs.

Employment is offered through jobs in the culinary, janitorial, laundry, instructional, painters, and inmate work crews. With 85 jobs available to incarcerated individuals, this work program gives them the skills and the tools to become successful upon release. Plus, the inmate community work crews continue to provide a valuable resource to the county. The crew is able to offer many man hours of labor at a much more affordable price to the local cities and county. The crew is in demand and receives good feedback from the community.

“Don’t ever make decisions based on fear. Make decisions based on hope and possibility. Make decisions based on what should happen, not what shouldn’t.” Michelle Obama

Couple of Smiles and Maybe a Laugh My friend said, “You seem to be gaining weight.” In my defense I replied, “I’ve had a lot on my plate lately.” ~ I love elephants. Anything unrelated to elephants is irrelephant ~ The word “dentures” is a better word than substitooths ~ When George won a 3-million-dollar lottery he said he’d give a quarter to his political party. Now he has \$2,999,999.75.

Helping another in need is rewarding for both of you. And remember, smiles are contagious. Part of being 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