



UPAN Newsletter Volume 2 Number 8 | AUGUST 2015

“Empowerment and Growth Through Knowledge and Unity”

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Next Meetings: SEPTEMBER 14, 2015 UPAN MEETING

We are pleased to announce that we will have a guest panel at the September UPAN meeting to address the implementation of HB 348. This panel will include **Greg Johnson**, Administrative Coordinator for the Board of Pardons and Parole; **Steve Gehrke**, Transition Division Director for the UDC; and **Craig Burr**, Director of Programming for the UDC. The meeting will be held at the Hunter Library located at 4740 West 4100 South in West Valley City. 6:30 – 8:30 p.m. We are seeking questions from UPAN families that they would like to have answered on this topic. Please email your questions to: utahprisoneradvocate@gmail.com before August 31, 2015. (Or: UPAN, P.O. Box 464, Draper, UT 84020 (FYI: the October meeting will also be at the Hunter Library)

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Update on Sex Offender Treatment Program in Utah State Prison by Molly Prince

Background – Questions, Rumors, & The Facts

We have been contacted by many with questions and rumors about SOTP which range from rumors that SOTP is being discontinued at Draper, to rumors that it is being discontinued completely in the Utah State Prison System. After researching this over the past few months and discussing the situation with both Michael Robinson, Director of SOTP in April 2015, and Craig Burr, Director of Programming for UDC in July, we are hereby reporting the facts.

Limited Funding

The Utah legislature has not added additional annual funding for sex offender treatment in the prison system since 1996, yet the number of sex offenders required to do treatment (due to having a conviction of a sex offense) has at least tripled. Of approximately 7000 inmates in the USP system throughout the state (Draper, Gunnison and the state inmates being housed in county jails) there are about 2000+ who need sex offender treatment.

The Expansion Contract

There was a 2 year expanded SOTP program that started in 2012 in Draper. This funding was pulled together within the programming department budget the first year and then a limited amount of funds were found to extend it for the second year within Draper site. This was called the *Expansion Contract*. This funding was used to contract with private sex offender treatment provider agency, ISAT, to provide therapists for SOTP and funded 200 spots in SOTP that were OVER AND ABOVE the regular SOTP program at Draper. When that contract ended at the end of 2014, those 200 extra spots for treatment were closed. People were transferred into the regular SOTP program over a 3 – 4 month period as they closed down that contract. The bottom line is that the Expansion Contract has been discontinued due to the inability to fund it. There are no additional funds available within the Corrections budget to keep it going.

The regular SOTP program remains the same as it has always been in Draper. Sex offender treatment is long term therapy, often taking around 18 months to successfully complete. It requires the participants to explore themselves deeply and that takes time. In April, Mr. Robinson assured us that offenders will be enrolled into the program as soon as possible based on the SOTP criteria. The goal is to have inmates enrolled after being referred into SOTP which generally occurs after their original hearing and for those individuals to be in treatment prior to their rehearing date.

Dispelling Rumors Not Based in Fact

UPAN has received several letters from inmates saying that SOTP is being phased out of Draper. This is **not true**. What is true is that since the Dept. of Corrections contracts with county jails for beds, and as a result of some of the implementation of HB 348, (the new criminal justice reform laws) there are more beds available at USP once the contracted beds are filled in the county jails. The Draper prison is closing the SSD (Special Services Division for sex offenders) facility within Wasatch for renovation and repairs and is moving the residents from that housing unit to other housing units, where they continue to receive therapy.

SOTP in County Jails

SOTP has been provided in San Juan County Jail for many years and a year or so ago was started in Sanpete County Jail. We have been asked about rumors that there will be an SOTP program starting in the Uintah County Jail.

Our understanding is that both Uintah and Kane Counties have requested to start SOTP programs within those jails. According to Director Burr, those requests are under consideration. There must be funding within the Division of Institutional Operations (DIO) to fund SOTP for IPP (Inmate Placement Program) inmates in any county jail and right now that only exists for San Juan and Sanpete. Mr. Burr has stated that the possibility of Uintah County Jail starting a program is “something that is being looked at but nothing definite at this time.” UPAN believes that the only way USP can receive funding for SOTP in county jails at this time is if the legislature increases funding for SOTP in the future.

Another Rumor: “There is a change in how an inmate gets into SOTP”

There is nothing new in how an individual gets into SOTP. For the past decade or so, due to the large numbers of individuals requiring sex offender specific treatment in USP (about 1/3 of the prison population) the process has been that no one gets into SOTP prior to their original (first) board hearing. Once the individual goes to the Board, the Board orders a rehearing or release date pending the inmate’s successful enrollment in and completion of treatment. The language in the board decision may read something like “rehearing in January 2017 with a sex offender memo.” That is what the prison means when they say an inmate is “flagged” by the Board. The “memo” is a report that SOTP will provide at the rehearing stating if the inmate is in treatment, how they are doing in the program, if they completed, etc.

Encouraging Families to Educate Their Legislators about Need for Increased Funding

In summary, SOTP continues to be a treatment program offered in the Utah State Prison system. There is a mechanism in place that determines when an inmate will be assessed for entering the program, which is tied to the original Board hearing and the sentence the inmate is serving. This method was developed primarily due to the significant number of inmates waiting to get into a program that only has treatment slots available for about 15% of the offenders required to complete treatment in order to qualify for parole. If families of incarcerated individuals want to increase the opportunities for increased treatment spots for their loved ones to get into SOTP more quickly, we encourage UPAN participants, inmates, and their families to educate their legislators about the serious need for funding specifically earmarked for SOTP.

CALL FOR VOLUNTEERS TO EMAIL NEWSLETTERS TO INMATES

We continue to have incarcerated individuals write asking to receive a copy of the UPAN News in the mail. Many do not have their own families to send it in to them. We have DEEP APPRECIATION for all of our UPAN family members who already print and send the newsletter each month to not only their own incarcerated loved ones but to others as well. If you are interested in helping to get newsletters in to inmates by printing them (two sided) and mailing them in, please contact Heather Fabian at www.utahprisoneradvocate@gmail.com. Thank you!!

Press Release from People Not Prisons: With Site Decided, It's Now Time to Design Prison the Right Way August 12, 2015

“**People Not Prisons**” is a loose coalition of advocacy groups working on behalf of people with mental health conditions, people recovering from substance use disorders, and individuals trapped in Utah’s criminal justice system. It has a message for the PRC (Prison Relocation Commission) and the public: “The site has been selected, now it is time to focus on doing it right.”

The new prison promises many benefits for people trapped in the criminal justice system but we must be vigilant about the process to come.

On August 11th the PRC announced that it would recommend a site west of the Salt Lake International Airport as the new site of the Utah State Prison. This recommended site must be approved by the State Legislature, and then the governor, before the project can move forward. A special Legislative session will be held sometime in the coming weeks (*August 19*) to facilitate the decision-making process.

People Not Prisons supports this as an appropriate site for the new prison facility. The site is close to medical services, courts and legal resources, rehabilitation facilities and services, a large pool of potential medical and mental health professionals to be hired at the new prison, as well as to inmates’ families and volunteers along the Wasatch Front. The site also offers enough open land to build an innovative, up-to-date facility from the ground up, utilizing a rehabilitative model that would allow for more progressive correctional approaches, such as direct observation (as used at the Salt Lake County Jail).

“The Prison Relocation Commission’s process has been open and transparent to us as advocates,” said Jean Hill of the Catholic Diocese of Salt Lake. “Many of us have been attending these meetings non-stop for the past two years. Our concerns about proximity to volunteers and services were heard and responded to. Our demands that criminal justice reform accompany the relocation process were acted upon.”

Now that the PRC’s site recommendation has been announced, members of PNP encourage policymakers and the public they represent, to get engaged in the prison design process. The new prison should be designed to:

- offer more space for programming than does the current facility in Draper;
- utilize safer correctional design for the security of both inmates and correctional staff;
- provide better on-site medical and mental health treatment to inmates;
- reduce the use of restrictive housing and solitary confinement;
- offer significant vocational opportunities for both male and female prisoners;
- provide ample safe outdoor recreation access, even for prisoners in maximum security; and
- work in concert with more plentiful community-based treatment beds (including forensic beds in the state mental hospital, community correctional facilities, and in-patient substance abuse treatment).

“We are supportive of the selection of this site, but more importantly, we hope that members of the public will not lose interest in this process now that a location recommendation has been made,” said Anna Brower of the ACLU of Utah. “We need to hold our leaders’ feet to the fire to ensure that the promises of criminal justice reform and improved rehabilitative facilities are realized.”

The People Not Prisons Coalition includes: Utah Support Advocates for Recovery Awareness (USARA); Utah Association of Addiction Treatment Providers (UAATP); Odyssey House; First Step House; Utah AFL-CIO; Disability Law Center; Utah Prison Support; NAMI-Utah; New Roads Behavioral Health; Utah Prisoner Advocate Network (UPAN); The Catholic Diocese of Salt Lake City and several individual criminal justice reform advocates from various Utah communities.

Board of Pardons and Parole Rule Draft Revisions & Public Comment Period

Reviewed and compiled by **Molly Prince** and **Shane Severson** and including information provided by BOPP Administrative Coordinator **Greg Johnson**

The Utah State Board of Pardons and Parole has made several draft revisions in response to the comments gathered as a result of the last public meeting in July. UPAN is encouraged that they have chosen to take the community ideas and feedback into consideration. The revisions are focused in three primary areas:

- Original Hearings (impacting time cuts for sex offenders)
- Special Attention Hearings (relating to time cuts)

- Redetermination Hearings
All three draft revisions are currently in a public comment period until Monday, August 31st, 2015. There will be a public meeting held on August 31st at 9:00 am located at the BOP offices 448 East Winchester, Suite 300, Murray, UT 84107. Space is limited to 26 people so arriving early is recommended. Also, rather than attending the meeting to provide your

comments, it is recommended that you submit your comments to: (cont'd on page 4)

Utah Division of Administrative Rules
5110 State Office Building
Salt Lake City, UT 84114 and/or

Greg Johnson, Utah Board of Pardons & Parole
448 East 6499 South Suite 300
Salt Lake City, UT 84107

NOTE: Please put the Rule number and Rule name on the letter as well as the envelope.

It's recommended that public comments be submitted in writing in advance of the meeting so that all concerns may be addressed. Questions may be directed to Greg Johnson, Administrative Coordinator at (801) 261-6464.

BOPP Meeting Agenda

On August 31st the Board of Pardons will consider adopting the rules listed below. The Agency may make this rule effective as an emergency rule as authorized by Utah Code 63G-3-304.

R671-201. Original Hearing Schedule

The revised Draft of the Amended Rules for Original Hearings impacts sex offenders. It shortens the time to the Original Hearing for some levels of sex offenders. In response to comments, the Board proposes to change the time frame for original hearings:

Second degree felony sex offenses would have an original hearing in *12 months instead of 18*.

Third degree felony sex offenses would have an original hearing in *6 months instead of 12*.

The reason for these changes is to allow enough time for an inmate to have a hearing, complete treatment and still be far enough under Sentencing Guideline that the inmate could benefit from the time cut offered by UCA 77-27-5.4. Mr. Johnson reports, "The Board is making good faith effort to schedule hearings in a way that inmates can take full advantage of the Earned Time Program."

R671-311. Hearing Continuances / Special Attention Reviews

The proposed rule includes the identified situations in previous version of the rule for which a special attention review can be held but also establishes a reduction of incarceration time (identified as *earned time adjustments* in the rule, also known as "*credit*" or "*time cut*") of at least four months for an individual who successfully completes the highest ranked Case Action Plan priority. An additional four month time cut will be granted for completing a second Case Action Plan program. The definition of "*adjustment*" in this rule means "*a reduction of an offender's period of incarceration when a release date has been ordered by the Board; and has the same meaning as 'credit' as used in Utah Code Ann. 77-27-5.4.*"

The amended rule draft states, "*The Board may use special attention reviews or hearings to adjust parole conditions, review prior board decisions, and modify prior decisions when exceptional circumstances exist.*" It further states that "*Special attention reviews shall be initiated by Board staff when necessary to correct clerical or other errors in Board orders, or upon the receipt of written request explaining the exceptional circumstances for which modification is sought.*" In addition to a variety of other purposes for special attention reviews, the new draft includes the stipulation for "*modification of a prior decision due to changes in credit for time served,*" "*earned time adjustments*" and "*review of new and significant information not previously considered by the Board.*"

It further requires that "*unless the request for a special attention review is made by the Department (of Corrections) or Board staff, the Board shall request that the Department review the request and make a recommendation.*" Special attention reviews will be held administratively, (known as a paper review) based on written or electronic reports "*without the personal appearance of the offender.*"

Other relevant language in the Rule includes that if an offender gets a major disciplinary violation, a new criminal conviction, new criminal activity, or other similar committed by the offender, the earned time credit can be forfeited and the release date granted by the Board following an earned time adjustment is rescinded.

According to this rule, Programming that qualifies for earned time credit "*means a component, objective requirement, or program identified in an offender's case action plan that: 1) meets the minimum standards and qualifications for programs established by the Department pursuant to Utah Code Ann. 64-13-7.5 or 64-13-25; and 2) has been shown by scientific research to reduce recidivism by addressing an offender's criminal risk factors.*"

In addition "*Successful completion means that an offender has completed a case action plan component, objective, requirement or programming and has earned a completion rating of 'successful' as determined by standards set by the Department.*" Please note that there are a variety of Skills classes that will not meet this criteria for an earned time credit / cut. Most of the qualified programs will be the first two objectives / goals on the Case Action Plan (i.e. High School Diploma, Substance Abuse Treatment, Sex Offender Treatment).

It should be noted that the earned time adjustment will change the previously ordered release date, which then results in an earlier parole. There is a provision that if an offender earns a time adjustment prior to a Board decision setting a release date, the earned time and programming completion will be considered by the Board when making the release decision for that offender.

There may be circumstances when the previously ordered release date does not allow enough time for the full four or eight month time cut, however the Board reportedly will approve as much of a time cut as is practical (see Utah Code 77-27-5.4(3)(a)).

Everyone should be aware that “*Earned time adjustments may not be used to change an offender’s original hearing as scheduled by the Board.*” (Please note, there are some revisions regarding Original Hearings for certain classes of offenders that are already being adjusted.)

Another provision states, “*Earned time adjustments also may not be granted for a second or subsequent completion of the same classes, programs, or case action plan priorities during the same term of incarceration without an intervening release.*”

Individuals with a life without parole sentence or who have been ordered to expire a life sentence by the Board are not eligible for special attention hearing for time cuts. The Board may order the forfeiture of earned time credits for a major disciplinary infraction.

Finally, there is a provision that states, “*The Department shall notify the Board, within 30 days, of an offender’s successful completion of a case action plan program that is eligible for an earned time adjustment.*”

R671-316. Redetermination Hearings

Some of the comments from the last public meeting were about individuals with homicide offenses and original hearings set years or even decades in the future. This new draft creates a provision for those individuals to petition for redetermination of an original hearing date.

The original wording of the previous version of this rule has been stricken and the proposed wording of this Rule is as follows:

(1) Redetermination is a process whereby the Department of Corrections (Department) or an offender may request that the Board review new, material, and significant information, or reconsider a prior decision.

(2) Redetermination of a previous decision may be considered if:

(a) the time requirements of this rule are met;

(b) the offender has no new criminal convictions since the entry of the decision for which redetermination is sought;

(c) the offender has no pending major disciplinary violations; and

(d) the Board finds that a significant and material change in circumstances has occurred which it has not previously considered.

(3) The Department or an offender may submit a redetermination request, asking the Board to reconsider a prior decision, if:

(a) the decision ordered the expiration of a life sentence, and at least ten years have passed since the Board’s decision or any subsequent redetermination decision;

(b) the decision ordered a release, rehearing, or expiration of any sentence not involving the expiration of a life sentence, and at least five years have passed since the Board’s decision or any subsequent redetermination decision; or

(c)(i) the decision set an original hearing for a homicide offense, pursuant to Utah R. Admin. P.

R671-201-1(3)(a);

(ii) the original hearing was set more than fifteen years following the offender’s arrival at the prison; and

(iii) at least ten years have passed since the administrative review decision or any subsequent redetermination decision.

(4) A redetermination request shall:

(a) clearly and specifically state the reasons supporting the redetermination request;

(b) include a current report detailing the offender’s case action plan compliance, treatment participation and history, disciplinary history, and current risk assessment; and

(c) be signed by the offender if not submitted by the Department.

(5) If the request for redetermination is not submitted by the Department, the Board may request that the Department review the request, provide any updated institutional, medical, or other report requested by the Board, and make a recommendation regarding the request.

(6) The Board may make a decision regarding a redetermination request with or without a hearing.

(7) If the Board denies a redetermination request, the decision shall be accompanied by a brief statement or rationale giving the reason for the denial.

You may download the proposed rule changes at UPAN’s website www.utahprisoneradvocate.org or go to <http://www.rules.utah.gov/publicat/bulletin.htm>

RESTRICTIVE HOUSING IN UTAH STATE PRISON

(aka Maximum Security, Solitary, Administrative Segregation, Protective Custody) by Molly Prince

On July 21, 2015, I was invited to attend a presentation and discussion at the Utah Department of Corrections Administrative Offices on Restrictive Housing (RH). There were other organizations interested in the

wellbeing of our incarcerated citizens also represented in this meeting, including the ACLU of Utah and the Disability Law Center.

Over the past few years I have experienced a growing understanding of and concern about the facilities that are now referred to as “restrictive housing.” During that time, I have voiced my opinions and concerns about maximum security, solitary confinement, and protective custody with correctional personnel and administrators.

Nationwide, there is a growing concern about the housing environments and a variety of issues related to the humane treatment of individuals housed in the most restrictive areas of our nation’s prisons. Director of the Utah Department of Corrections Rollin Cook has also recognized that the issues of restrictive housing must be addressed in the Utah State Prison system, and the need to bring these maximum security units up to date and into the 21st century is urgent.

While the hope of a new and state of the art prison is on the horizon, Director Cook is not willing to wait for that. He expressed the Department’s intent and desire to have changes being implemented in both Draper and Central Utah Correctional Facility by the first of 2016.

Director Cook and the administrative staff, including the wardens and deputy wardens have been working on how to bring the Utah State Prison system’s policies and approach to restrictive housing into line with national standards over the past several months. Prior to the latest media attention on the conditions in Draper’s Uinta housing area that were triggered by the hunger strike the first week of August, Cook sent his wardens and directors to various conferences and other prisons around the country. They have learned how to create a more effective approach to RH management that will foster positive change for and within the offenders housed there, including providing them with opportunities to safely transition to less restrictive housing and eventually back into the community.

In fact, Deputy Warden Shane Nelson (Gunnison) went to Minnesota and sat on a committee for Restrictive Housing that resulted in a goal for that committee to come up with a state of the art model for RH that can be used nationally.

It was interesting to learn of the hunger strike in Uinta 2 during the first week of August, after having attended the DOC’s presentation only 10 days before. We had been introduced in the July 21 presentation to the Restrictive Status Housing Policy and Guidelines that have been developed and adopted by the Association of State Correctional Administrators (ASCA) in which Utah’s DOC administration has membership.

The ASCA established a sub-committee for the purpose of creating guiding principles that can be used by member agencies (such as Utah’s Department of Corrections) for the purpose of developing policies related to restrictive status housing. ASCA recognizes the importance and challenges associated with managing inmates who pose a serious threat to staff,

other inmates, or the safe operation of facilities. While it appears that the use of RH is necessary in correctional systems to help ensure a safe environment for both inmates and staff, UPAN is advocating that our system in Utah finds a way to manage all inmates in the least restrictive way necessary, while at the same time keeping everyone safe.

Over the years, I have become somewhat familiar with the intricacies and the monumental challenge our prison administrators are dealing with in safely and humanely managing all the different types of inmates (approx. 7,000 of them) that are housed in our state prison system, particularly restrictive housing.

According to the ASCA, *“based on the complexity of managing this population, some universal principles”* can provide various correctional agencies with a general framework and guidelines as they work to *“safely manage this population in a manner that promotes their positive transition to less restrictive settings while supporting an environment where other inmates may safely and actively participate in pro-social programs and activities.”*

The Policy Guidelines of the ASCA on Restrictive Status Housing does not include protective custody in their definition. However, in Utah State Prison at Draper, Uinta 1 (aka Super Max) is used to do just that. It houses individuals whose safety is at risk if they are to remain in general population or even in less restricted areas of the Uintas.

According to the DOC, the categories of individuals housed in Restrictive Housing in both Draper and Gunnison include Death Row Offenders (in Uinta 1 Section 1 in Draper); Level 2 offenders (this is based on a classification / privilege level); Security Threat Group (STG) offenders, also known as gang members; Level Two Safety Offenders (meaning protective custody); Level Two STG Safety Offenders (loosely meaning protective housing for individuals who are no longer gang members but are at risk due to that status); Notoriety (high profile) Offenders; Certain Life Sentence Offenders; Executive Director Override Offenders (meaning their classification levels may qualify them to be in general population but for a variety of reasons related to either their own safety or their threat to others, the Executive Director has overridden their classification and they are held in restrictive housing; and in the lower security levels of maximum security housing units other inmates are held due to disciplinary / behavior problems.

The privilege levels of maximum security inmates are very restricted. One loses all of his /her privilege levels once moved to maximum security, no matter what the reason, even when being taken there for their own safety, through no fault of their own.

We were informed that the Classification System that USP uses continues to be in a "complete overhaul." DIO Director Jerry Pope had informed us of this revamping several months ago in a FOCUS meeting. Currently the DOC is waiting for a consultant to process data and ensure that it meets national standards for classification systems. The projected completion for that will be sometime in 2016.

A serious area of concern is the housing of seriously mentally ill offenders in restrictive housing. Currently they are in the Draper prison, and housed in Olympus (men) and the Women's Facility Mental Health Unit in Timpanogos. When there are behavioral problems that are serious, those with mental illness can be taken to the infirmary or Uinta 1.

Director Rollin Cook emphasized the importance of seeking collaboration and input from community agencies and resources in addressing the mentally ill offenders' needs when it comes to restrictive housing. Currently in Draper and CUCF there are approximately 2000 inmates who are seriously mentally ill. In Draper, those who become behavioral problems or a risk to themselves or others are taken to Uinta 1 for housing. They are not currently able to properly manage acting out in the Olympus facility. For the mentally ill, USP is looking at alternative programs to help more humanely manage inmates with acting out behaviors including time out rooms, and looking at the use of color (of paint) and music to help soothe anxiety, irritability, and paranoid symptoms with the mentally ill population.

USP also received some legislative funding this year for additional positions for mental health therapists, which is sorely needed.

Warden Bigelow has been assigned as the project manager for revamping restrictive housing. USP has identified vision and mission statements regarding the provision of opportunities for education, mental health, programming, recreation, religious services and visiting in a safe, secure and cost effective environment. Also to encourage the offender's transition to less restrictive housing through a structured and progressive program. It is my understanding this will be behaviorally based, rather than time based.

The ASCA has identified *Guiding Principles for Restrictive Status Housing*. The following is a list, with an accompanying comment about where USP is in accomplishing meeting each. It should be noted that each of the following guiding principles will have a project leader assigned to it. I don't know who these project managers are at this point.

1. *Provide a process, a separate review for decisions to place an offender in restrictive status housing.* USP is working to put into place a system where someone OTHER than the prison staff that sent the offender to max (i.e. housing officers or

captain) will review the situation when an inmate is placed in maximum security. It was suggested this could include a licensed mental health professional to assess the offender, as well as other correctional staff not involved or invested in the decision to place the offender in restrictive housing in the first place.

2. *Provide periodic classification reviews of offenders in restrictive status housing every 180 days or less.* The goal is to make the progress out of RH based in the offender's progress rather than a designated period of time. Again, it was suggested in the discussion that this review include a licensed mental health therapist familiar with the offender.
3. *Provide in-person mental health assessments, by trained personnel within 72 hours of an offender being placed in restrictive status housing and periodic mental health assessments thereafter including an appropriate mental health treatment plan.* Those in attendance from the community agencies / advocates were very pleased to learn of this provision. This will require funding to appropriately staff the Mental Health Service in the Clinical Services Bureau of USP. A mental health treatment plan is great but needs the mental health staff to help counsel the inmate in developing appropriate coping skills in order to change behavior.
4. *Provide structured and progressive levels that include increased privileges as an incentive for positive behavior and/or program participation.* The wardens, deputy wardens and mental health administrators have already received training from the National Institute of Corrections on this and other principles listed here. This will possibly be directly connected to the new classification system that USP is working on.
5. *Determine an offender's length of stay in restrictive housing on the nature and level of threat to the safe and orderly operation of general population as well as program participation, rule compliance, and the recommendation of the person(s) assigned to conduct the classification reviewed as opposed to strictly held time periods.* The Division of Programming is reviewing appropriate programs that can be offered in RH.
6. *Provide appropriate access to medical and mental health staff and services.* This is an area that UPAN participants have long had concerns about - inmates' timely access to quality medical services, particularly when housed in maximum security units. At this point, items and progress related to this policy have not been shared with us.
7. *Provide access to visiting opportunities.* This is an area that UPAN will be sharing ideas and input

about. Currently the visiting is not allowed for WEEKS when an individual is taken to restrictive housing, no matter what the reason for the housing change.

8. *Provide appropriate exercise opportunities.* The administration is working on ways to have increased out of cell time and outside rec time and bring that to national standards even though the layout of the maximum security housing is not currently conducive to this goal.
9. *Provide the ability to maintain proper hygiene.* As of the July 21st meeting, there was nothing shared with us but there is a target date for all principles to have a plan in place by the first of the year.
10. *Provide program opportunities appropriate to support transition back to a general population setting or to the community.* As noted above, the Division of Programming is reviewing programs appropriate to RH. DOC has ordered 25 security chairs that can be used for school and other programs inside the Uinta and Hickory units. Note: Warden Crowther shared a photo of a security chair (I had images of torture). In reality, they are moveable to accommodate both large and small body types with places for the restraints to comfortably be secured to the chair. They are in use in other progressive prisons in the country. According to the Warden, the inmates he talked to that used them in a classroom setting in a maximum security unit appreciated them and the opportunity to program using them.
11. *Collect sufficient data to assess the effectiveness of implementation of these guiding principles.* This will go into effect once these changes are implemented.
12. *Conduct an objective review of all offenders in restrictive status housing by persons independent*

of the placement authority to determine the offenders' need for continued placement in restrictive status housing. This would be similar to #1 where staff or administrators separate from the officers that originally determined the offender needed to go to restrictive housing would do the reviews to determine if the offender is eligible to transition out of restrictive status.

13. *Require all staff assigned to work in restrictive status housing units to receive appropriate training in managing offenders on restrictive housing status.* This is VITAL and was totally supported by UPAN, the ACLU and Disability Law Center representatives present in this meeting. USP administration has committed to provide staff training in this area.

Director Cook and his staff have a goal of developing draft policies using the above guiding principles to be ready by November 1, 2015 and finalizing these policies by January 1, 2016. They will also be focusing on assembling adequate mental health treatment staff and housing policies, having staff fully trained and implement it. They have committed to an offender orientation so each offender in RH will know and understand what they will need to do to become eligible to move out of it. Finally, they have committed to orient community partners to their new policies as well.

The UDC welcomes input and ideas on implementation and resources in this process as they move forward in developing their Restrictive Housing policies. Serious and considered ideas and input can be forwarded to Jerry Pope, DIO Director for the Department. Mr. Pope's email is jpope@utah.gov.

A copy of the prison's Mission and Vision statements for Restrictive Housing, as well as the ASCA Policy Guidelines can be found on UPAN's website at www.utahprisoneradvocate.org

Legislative Audit of the Utah Board of Pardons and Parole is Underway! By Molly Prince

UPAN is pleased to report that the Legislative Audit Subcommittee has been assigned the task of performing an audit of the Utah Board of Pardons and Parole. We have no idea when the Board was last audited, or if it ever has been. But we are very happy this is occurring now! The audit has only just begun, and may take months to complete. We recommend that we all need to be happily patient, so the auditors can take the time to learn about and explore all the aspects of how the Board operates.

The Audit Subcommittee of the Legislative Management Committee provides a way for legislators to get in-depth answers to questions they have about the efficiency and effectiveness of state agencies and the use of taxpayer money, by allowing legislators to request performance audits. The four-member,

bipartisan subcommittee consists of the President of the Senate Wayne Niederhauser (R, District 9 Salt Lake County), Speaker of the House Gregory Hughes (R, District 51) minority leader Senator Gene Davis (D, District 3 Salt Lake County) and minority leader Rep. Brian King (D, District 28, Salt Lake County).

Senator Niederhauser is on a variety of other committees including Law Enforcement & Criminal Justice Interim Subcommittee. Senator Gene Davis is also on the Administrative Rules Review Committee and the Senate Judiciary, Law Enforcement and Criminal Justice Committee. Rep. Greg Hughes is Speaker of the House. Rep. Brian S. King is also on the Committee of Executive Offices and Criminal Justice Appropriations Subcommittee.

More information on legislative sub-committees can be found at: le.utah.gov

The Audit Subcommittee meets periodically to: (1) Hear and release recently completed audit reports, (2) Approve or deny new audit requests, and (3) Prioritize approved audits. While the Audit Subcommittee determines which audits are completed, the work itself and its audits are solely under the control of the Legislative Auditor General a constitutionally created position.

UPAN directors were contacted in July by the actual auditing staff and have shared a list of concerns about how the BOPP operates and renders decisions that the audit subcommittee can look into. Major issues reported to the auditors include the following:

- 1) A primary concern is the increased incidence of "natural life" decisions over the past few years.
- 2) Another primary concern is the widespread experience of inmates being kept incarcerated long over their original matrix that is completed by the Board's staff for original hearings (which is separate from the matrix calculated for the Presentence Investigation Report used in sentencing.)
- 3) Lack of transparency of the Board in a variety of areas including secrecy and lack of easily accessible public notification when a Board member is being appointed or re-appointed. Prior to electronic communication, these types of announcements were announced in the daily newspaper, and now the public has to search through complicated governmental websites for this information. The print media simply reports the final decisions. There also is no public input, these positions are simply appointments at the pleasure and discretion of the governor and confirmed by the legislature.
- 4) Lack of accountability to the inmate or the interested public by the Board in their reasons / rationale for their decisions. Currently the offender receives a one page checklist that is supposed to identify the "Rationale" of the Board decision by checking aggravating or mitigating factors. There is no accompanying written explanation of what facts or other information the Board used to make their determination in each area. For example, there may be a check mark next to an item saying the offender doesn't have remorse for their crime, but there is no explanation as to what information the Board used to come to that conclusion. When asked at a meeting about the Parole Board earlier in 2015 why there is no written explanation of the check-marked items on the "Rationale," Sheryl Reber of the Utah Attorney General's office stated that the rationale sheet is all that is required by Utah law. That needs to change!!
- 5) There is a serious concern by incarcerated individuals and their support systems that the Board doesn't consistently consider recommendations by prison personnel or the inmate's accomplishments in prison.
- 6) Another concern is that the actual 5 member Board and the pro-tem members disregard recommendations offered by Board Hearing Officers. UPAN participants

repeatedly report that Hearing Officers tell their incarcerated loved ones that they will recommend one thing and get not only the inmate's hopes up, but also the family's hopes. Often the decision comes back with significantly longer (in years) re-hearing dates than the Hearing Officer stated they were recommending. This complaint has been shared with Board staff over the past several years, but the practice continues.

- 7) Board members and hearing officers tend to spend much of the short time in the hearing (often 20 minutes or less) rehashing the offense of record rather than focusing on the programming and other accomplishments the offender has made while incarcerated. This happens not only in original hearings, where inmates expect to be asked to recount the details of their offense and discuss their level of responsibility and remorse, but also in re-hearings, sometimes over a decade and several re-hearings after the crime was committed and the original hearing held.
- 8) There have been multiple reports that during a hearing, the Hearing Officer or Board Member will ask the inmate a variety of questions, one after another, and end up not allowing the offender time to answer.
- 9) A 20 minute hearing to determine the future of a human being's life, and to determine that individual's willingness, ability, and preparedness to venture back out into society as a pro-social member of society seems a very short amount of time for any presiding Board staff to get to know the individual as he / she is today. The sheer amount of work the Board and the hearing officers are required to address each month suggests there is no way the individual presiding over the hearing can completely review each page of the file, read each letter of support, read every word in the Board Packet (aka Blue Packet) written by not only the offender, but also the case manager, housing officers, work supervisors, education specialists or anyone else in the prison system that knows the offender well from interacting with them on a daily basis within the institution.
- 10) In looking at the huge number of cases the Board must address each month, it doesn't seem possible that 5 individuals can truly closely know and understand each of the offenders they make decisions about. While we realize that many of these decisions are a result of paper reviews, terminations of parole, and corrections of clerical errors in previous decisions, a great many would appear to necessitate a significant amount of time and attention. Maybe Utah needs to explore a different way of structuring the BOPP so that merely 5 members and 4 pro-tempore members are not responsible for determining the fate and futures of hundreds (if not thousands) of offenders each year.

There are other issues that we are making a list of to submit to the auditors.

The Audit Subcommittee will be gathering information on offenders who are over matrix, and who were released both over and under matrix. They will take a random sample of a certain number of cases (500, for

example) during a specific time period to see the range of Board decisions in line with original matrices. We are looking forward to learning of their findings.

UPAN leaders understand that the Board does not use the presentence matrices developed at the time of sentencing. According to information presented in the April UPAN meeting by Jan Nicol, Chief of Hearing Officers, the Board has their own staff that re-calculates an offender's matrix for the original board hearing. Their reason for that is because throughout Utah there are many districts / regions. There doesn't seem to be consistency in the scoring of the matrix in different regions so the Board has two staff members that are tasked to re-calculate a matrix for each inmate's original hearing. If that is the case, then we do not understand how some inmates are 100+ months over their original matrix calculated by the Board. Why does the Board's matrix change for rehearing after rehearing? This is true for inmates who have not had disciplinary actions, and have completed their Case Action Plan requirements.

UPAN is working to create a survey for offenders to fill out, by their own choice. The purpose will be to identify how many are serving their sentences significantly over their original matrices and to gather specific, verifiable information about these cases. Once this is ready, it

will be sent out to our email list for families to send in to their loved ones. UPAN will forward to the auditors any other concerns or information we receive that would be of interest in an audit. We ask that if you email or write concerns, please keep things simple and straight forward. Be specific about your concerns. Please do not tell long stories, but instead give specific facts and timelines. The easier it is for the auditors to understand a particular case, the more likely they will use the information in their audit. If it is easy to read (clear handwriting), and easy to clearly understand in a step by step chronological order, it is more likely to be read and useful. Any information provided to the auditors needs to be verifiable, meaning the offender name and offender number needs to be included. If you plan to write about your situation to be used by the auditors remember that they cannot do anything about how someone's court case was handled, or prison issues. They cannot have an influence on how the Board may vote on an individual's case in the future. This is an audit of the Board only. We look forward to learning what the Legislative Audit Subcommittee will determine.

Please put "AUDIT" on the letter. Send to UPAN
Attn: AUDIT P O Box 464 Draper UT 84020

ACLU Looking for Natural Life Parole Decision Stories of Young Offenders

The ACLU is interested in interviewing people who have been denied parole in Utah. If you (or your loved one):

1. Were 25 or younger at the time of the offense
2. Have spent AT LEAST 10 years in prison AND been denied parole,

This is part of a larger advocacy effort to draw attention to practices and PROBLEMS with the Utah Board of Pardons and Parole.

These interviews may be used as part of a national ACLU research project about parole practices for YOUNG PRISONERS.

If you are interested in participating (this will NOT result in the ACLU "taking your case.") Please send the

following information to Anna Brower :

Useful Information for Inmates-- We receive a lot of requests from inmates to send the minutes from our meetings and other information. We started a monthly newsletter last June (2014). We want you to have the information but we have little time and financial resources.

We ask if you have family or friends that have access to the internet and email that you ask them to email us and get on our email list. We will email the newsletter to them as an attachment and they can print and mail it to you. Newsletter is posted on the UPAN website for copying. They can download and print it for you.

If you do not have anyone who can do that for you please write and request the newsletter.

- Name of prisoner
- Current age, AND age at time of offense
- Number of years spent in prison
- Number of times denied parole
- Information about any rehab program prisoner has completed, other activities showing a "change of heart"
- Contact information (address where incarcerated) for prisoner. Also (email & phone #) for primary prisoner outside contact (mother, husband, son, friend, etc.).

Inmates who fit the above criteria can send MAIL to:
ACLU, ATTN: BOPP RESEARCH YOUTH
OFFENDERS - 355 N. 300 W. SLC UT 84103

Disclaimer Formulate your own opinions about the information presented, intended for neutrality, not intending any opinion or comment to be UPAN's position other than where specifically noted. This information is presented for the reader's enlightenment and evaluation.

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