



## UPAN Newsletter

Volume 3 Number 4 | **APRIL 2016**

*"Empowerment and Growth Through Knowledge and Unity"*

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**NEXT UPAN MEETING: MONDAY, MAY 9, 2016 6:30-8:30 PM**

**Location:** Draper Library Meeting Room, 1136 Pioneer Rd. (12400 South), Draper, Utah

Guest Speaker will be Andrew McCullough who will be running for Utah Attorney General. We will hear from him and UPAN families can share their concerns about Criminal Justice Issues in Utah with him.

**JUNE UPAN Meeting: MONDAY, JUNE 13, 2016 6:30 – 8:30 P.M. Subject and Location: TBA**

**NEXT FOCUS MEETING: MONDAY, MAY 2, 2016 6-8 PM** TOPIC: Meeting new administrators of UDC

**Location:** Adult Probation and Parole Office, 36 W. Fremont Avenue, Salt Lake City UT 84101

Four of the new DOC leaders will be the guest speakers for this meeting. The guests are: Jim Hudspeth, director of AP&P; James Chipp, director of the Inmate Placement Program; Glenn Ercanbrack, Region 3 Administrator (Salt Lake, Summit and Tooele counties); and Jeremy Sharp, Law Enforcement Bureau chief.

**SPECIAL NOTICE:** Everyone attending **FOCUS meetings**, needs to get there **BEFORE 6 PM**. We have a new meeting room. **We are escorted back to the meeting.** Thanks for your cooperation.

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**Contact Info for: PrisonEd Foundation: Box 900693 Sandy, UT 84090 Email: [prisonedfoundation@gmail.com](mailto:prisonedfoundation@gmail.com)**

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**A Special Thank You to UPAN President Following Our March Meeting**

Dear Molly, I just wanted to say Thank You for the professional way in which you handled our Board of Pardons' audit presentation last night. I was very impressed with your meeting management skills as well as your friendliness. I know you worked more closely with Kade on this audit, but I wanted to express my appreciation for your respect for our office. It has been a pleasure working with you. Best, *DRU* **Darin R. Underwood** | *Deputy Auditor General*

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*"All things are difficult before they are easy." John Norley*

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

**2016 LEGISLATIVE UPDATE**  
**Molly Prince**

The 2016 Legislative session passed quickly. There were a few criminal justice related bills that passed – this year was tame compared to last year in terms of criminal justice issues addressed legislatively. For more information on all bills that passed, go to [le.utah.gov](http://le.utah.gov). All of the bills listed here have been signed by Governor Herbert.

We are disappointed to report that Rep. Sandra Hollins' Ban the Box bill did not pass.

**HB 16** sponsored by Rep. Jack Draxler passed. This adds the Class A misdemeanor offenses of enticing a minor and voyeurism to the provisions already contained in the Sex and Kidnap Offender Registry law allowing an offender to apply for removal from the registry five years after the offender completes the sentence and meets specified requirements; and it also provides that if an offender's petition to reduce the offender's time on the registry is denied, the offender may not petition again for three years. Loosely translated, this means that these two Class A misdemeanors would be eligible for early removal from registry.

**HB 30** passed. This bill, sponsored by Rep. Gage Froerer, amends certain portions of the Good Landlord Program. This bill doesn't really impact felons one way or another, as it doesn't change the current good landlord practices as they pertain to felons. Instead it is more a bill to address wording and technical issues. It defines "residential landlord"; prohibits a municipality from requiring a residential landlord to deny tenancy to certain individuals; prohibits a municipality from requiring a residential landlord to provide certain information on a tenant or on a contract with a tenant; permits a municipality to require a copy of an agreement between the owner of record of real property and a third-party provider who manages the property; if a residential landlord owns multiple properties, requires a municipality to charge a disproportionate rental fee reduction for each property that is in compliance; and makes technical and conforming amendments.

**HB 160**, sponsored by Rep. Craig Hall and Sen. Lyle Hillyard, passed. It requires justice court judges in the

five largest counties – Salt Lake, Utah, Davis, Weber, and Washington – to be law school graduates, which is now not the case. The bill was amended to exempt Utah's 24 smaller counties from this requirement.

**HB 405, Juvenile Sentencing Amendments**, would eliminate life-without-parole sentences for juvenile offenders. The maximum penalty that someone under the age of 18 in Utah could receive is an indeterminate prison term of 25 years to life. This bill was sponsored by Rep. V. Lowry Snow and Sen. Daniel Thatcher.

**SB 155, Indigent Defense Commission** passed. Sponsored by Senator Todd Weiler, this legislation creates a statewide oversight committee for public defender services in Utah. According to a March 13, 2016 Salt Lake Tribune article, a four-year study by a state task force (which included hiring the Sixth Amendment Center) reviewed the way defendants accused of crimes and unable to pay for legal services are being represented in Utah. Utah is one of two states in the nation to give the responsibility for indigent defense to individual counties, yet provides no state oversight to ensure they meet the constitutional obligation.

Utah's Indigent Defense Commission will be responsible for collecting data, reviewing public defender contracts in each county, creating caseload guidelines, and allocating funds from a trust fund to counties that need it. \$2 million was appropriated with the bill to fund the Commission of which \$1.5 will be used to set it up. No funding was provided to actually adequately fund defense services in Utah's counties.

The report from the study referred to above was released in October, 2015. It found flaws in the system. In justice courts, over half of the 460,000 defendants in one year never received legal representation. The report also found that in district courts where there are more individuals needing public defenders, there are problems within the system that prevent the public defender attorneys from effectively advocating for their clients. This includes funding. More work needs to be done on this issue.

**SUMMARY OF CHAPTER 4**  
***A PERFORMANCE AUDIT OF THE BOARD OF PARDONS AND PAROLE***

As reported in the February and March UPAN newsletters, the Audit Report on the Board of pardons and Parole is lengthy and detailed. This month we will summarize Chapter 4 of this document. Chapter 4 is entitled "BOP Should Adopt an Electronic File Management System."

The Auditors were surprised and shocked to learn, upon their first visit to the BOP offices, that the Board operates almost completely in a paper based system. It doesn't have a computerized information management system. The audit identified significant drawbacks to the Board's current system. These will be addressed in this article.

1. The system limits the ability to track critical data such as performance metrics and it restricts transparency.
2. This paper based system creates several operational inefficiencies such as difficulties in sharing information with surrounding criminal justice agencies and sequential, rather than simultaneous workflows.

The Audit recommends that the BOP move to an electronic file management system as has been done in other Utah criminal justice agencies and in other states. The Audit also recommended that the board evaluate internal resources (non-lapsing funding) and other funding sources along with state resources when seeking funding to invest in an electronic file management system which will be very costly.

**A paper based system is vulnerable to errors when making and entering board decisions, calculating sentence length, and credit for time served.**

The current decision making process of the Board relies on the hand written notes of board members notes and hearing officers' entries. These handwritten notes are often unclear and subject to misinterpretation. The report reads, "in most cases we could not decipher the handwritten notes to validate that clerical staff entered decisions correctly." It goes on to read that ensuring accuracy in recording board decisions and making sure all case file calculations such as time served is **critical**. Since these factors impact the timing of inmates' release from prison, they must be absolutely correct.

*UPAN comment: THIS PRACTICE USING A PAPER BASED SYSTEM WITH HANDWRITTEN NOTES THAT CANNOT BE READ BY AUDITORS AND MOST LIKELY CLERICAL STAFF IS UNACCEPTABLE! The decisions the Board makes on an hourly basis affects the future lives of so many – inmates, family members, as well as the community at large. We must demand accuracy and greatly reduce the margin for error!*

**Board decision making is unclear and vulnerable to inaccuracies**

The report informs us that "In order to make decisions, board members hand write their decisions on a paper voting form. When there are sufficient board votes, clerical staff enter the board's final decision into the UDC electronic offender database. There are two concerns with this process. First the writing on the forms is often cryptic and difficult to interpret. Second, there is a risk that clerical staff will record board decisions incorrectly, resulting in an inmate receiving a prison sentence that shortens or exceeds the intended length because of misinterpretation or data entry errors." According to the audit, even the board members and board staff acknowledge that this voting process is difficult to read and could be misunderstood. The Board has stated that the members are in favor of

adopting an electronic voting process to clarify and improve the decision making process.

**Board decisions are subject to human errors**

The Audit found that current policy requires two clerks who enter board decisions to examine each other's work (a recent change in policy) but they are not subject to any other internal or external review. The Auditors were unable to validate if staff entered board decisions correctly in all cases because the auditors also couldn't decipher some of the handwriting. Instead, the Auditors randomly reviewed the paper files, complaints submitted by inmates or their attorneys, and electronically tracked changes. They found errors.

The audit found that BOP clerical staff made 103 data entry errors in 2014, which is 1% of hearing decisions they enter. These occur when staff enter handwritten notes into the UDC electronic database. The audit did find one board decision entered incorrectly but not caught by clerical staff. This leads them to believe that not all clerical errors are simply typos, and some can be significant in terms of what a board decision actually is.

Another check and balance that the Board is not doing is that after entering results, board members do not review final orders to ensure accuracy. This concerns the auditors that information could be misinterpreted, inaccurately entered, or manipulated, which was also a concern raised by several office staff of the Board. The Auditors are not saying the clerical staff is incompetent, and report, "in fact, they are quite skilled in deciphering the board's handwriting. However, human errors occur which could be better controlled through electronic voting system."

The report states that other state parole boards as well as Utah's Courts have adopted electronic voting. They contacted Iowa, Georgia, Wyoming, and Texas and their parole boards vote electronically. An electronic voting system also tabulates results, reducing the possibility of human error.

Utah's Supreme Court also uses electronic voting. The report indicates that when using this method in the Supreme Court, all five judges can access case files and share supporting documentation for their decisions at the same time, ensuring all judges have all information as soon as it is entered. The Audit states, "by automating the Board's voting process, board members can, more clearly understand each other's intentions, staff time and resources dedicated to voting are reduced, and results, once automated, are entered accurately and cannot be altered."

**Case file calculations are vulnerable to inaccuracies**

Sentencing calculations can become complex if an offender has multiple offenses that a judge orders either consecutively or concurrently. In addition, credit for time served and maximum jurisdiction dates are also

areas at risk to be miscalculated in the BOP's current paper based system. The Board has case analysts who make these calculations and enter these dates and other information into the case file, and when done by hand, with the sheer volume of cases reviewed annually, mistakes can be made. The case analysts acknowledge that the result of getting a calculation wrong will affect an inmate by either serving too much time or not enough. This, then affects many others in the ripple effect.

Other mistakes can be made based on inaccurate calculations. One example is that a board member may take action, such as a warrant for an arrest, on an inmate's case who is no longer in their jurisdiction. Also, if documentation from surrounding criminal justice agencies is delayed, case analysts may not have the information they need to credit inmates for all the time they have served. There is not a mechanism in place for case analysts to check each other's work. So if a mistake is made, it remains in the case file. The report reads, "While hearing officers will occasionally identify a miscalculation, the burden of detecting inaccuracies rests on the inmate. Inmates can petition the board for a formal review if they identify inaccuracies." It further states, "we were able to document inmate letters sent to the board that led to board review and changes to the inmate's case file. While this review process is important, front end controls are preferable."

*UPAN comment: Based on recent events, we also realize that if information about outstanding warrants or unresolved charges in other jurisdictions is not included in the Board case file, poor decision making about release can occur. Tragedy can result, as happened earlier this year with the death of Officer Barney by the parolee that was allowed to parole and remain in the community while outstanding weapons charges were pending, reportedly unknown by the Board.*

#### **Paper Based System Limits Data Tracking and Transparency**

According to the Audit, paper files limit the Board's ability to track key performance metrics and data that could be used to improve their decision making process. The percent of decisions consistent with sentencing guidelines, percent of individuals paroled or expired from prison, and percent of inmates successfully completing parole are among the key performance metrics NOT currently tracked by the BOP. The auditors were unable to estimate the percent of decisions consistent with sentencing guidelines due to the sheer volume of paper and man hours involved to do so since the Board is not using an electronic file and data management system. The audit reports, "BOP case analysts use a spreadsheet to make sentencing guideline calculations, then print a paper copy of their analysis and attach it to the paper file. This is the only record kept of their calculations. Because this data is not available electronically, an

aggregate analysis of decisions consistent with guidelines can only be completed through a labor intensive process of pulling paper files and keying in the necessary data."

The Audit report reads "Utah's Sentencing Commission sets the guidelines used for estimating sentence length. The 2015 sentencing guidelines state 'except where there are aggravating and mitigating factors, the board is encouraged to make decisions compatible with the guidelines.' Since the Board does not compile its guideline calculations electronically, it is difficult to verify if they are releasing offenders above or below the guidelines. If the board's calculations are the official record, then this information needs to be available electronically." This would allow anyone looking into this matter the ability to collect data on sentencing guidelines as well as other performance metrics.

Voting data and aggravating and mitigating factors are not able to be captured in the current paper based system. It is vital the Board has this information about the types of decisions they make, the factors that drive those decisions, and how effective those decisions are.

The Board can also improve its decision making process by utilizing the data generated by an electronic system. In 2015 the Legislature provided funding for the BOP to hire a research analyst to comply with the new reporting metrics that is required by the Justice Reinvestment Initiative (HB 348). This analyst will also be able to help this agency understand how its decisions affect the larger criminal justice system. Effectively utilizing the research analyst's skills will not be possible until the Board adopts an electronic system.

#### **Paper files also are difficult to analyze and share**

They stop or limit the ability to share information with other governmental agencies, including the auditors. Currently, obtaining information from the BOP requires a paper file review, which takes an extensive amount of time and labor. An example cited in the audit states, "For example, the American Civil Liberties Union of Utah (ACLU) requested information from the board but was unable to get this information because of the paper based filing system. The following was the board's specific response to this request,"

"The Board cannot provide the information you requested. The Board uses paper files and does not collect the specified data. Compiling the information would require staff to search thousands of inmate and parole files by hand."

*UPAN President's comment: I am appalled at this response. It points to the lack of information accessibility for the Board to provide information that may reflect on its effectiveness and fairness in performing its duties. Even worse, the response holds a tone of refusal to allow the ACLU information and suggests an arrogance that the Board should not have*

*to be burdened to have to research thousands of files by hand when they made those decisions by hand. It is these situations and methods that have kept the Board and its decisions clocked in shadow and secrecy for dozens of years. This has allowed the Board to remain unaccountable for any possible mistakes, miscalculations, biased decisions, or poor judgment.*

The Audit quotes a response from a representative of the ACLU on this matter. "The most important questions from an ethical standpoint cannot be answered because of a lack of data" at the BOP. Utah's CCJJ also attempted to analyze data from the Board. The CCJJ research reported that their study "was a very time-consuming and a cumbersome process" when trying to deal with the paper files.

Previously, "PEW did a case file review to evaluate whether inmates were released before or after the date suggested by the Sentencing Guidelines. To conduct this review, they hand-pulled 200 cases but had difficulties with determining how the guidelines were calculated." The Legislative auditors pulled 500 paper files "to acquire basic information relevant for this report. Ineffective information sharing results in higher costs, time delays, and a lack of transparency."

**Operational Inefficiencies.** The paper based system creates a serious limitation on BOP workflow. Only one activity can be performed on an offender's file at a time in a paper system. The auditors state that "Board staff devote significant amounts of time...on printing, copying, filing, and locating paper files." This is an inefficient and expensive way to spend taxpayer money to manage Board staff time.

**Paper files hinder exchange of information with other agencies in the correctional system.** Electronic documents generated by other agencies in the correctional system including the DOC, county jails, circuit or district court systems, federal courts, etc. are

not accessible via the current way the Board operates. Electronic documents from these other agencies are sent to the Board, but instead of being incorporated into an electronic file on an offender, they are printed and converted to paper documents which then must be processed and read manually. Then when the Board's verdict on an inmate is given it is transcribed from paper into an electronic database to be shared with surrounding agencies. Also, with an electronic system, multiple people could access and work on one offender's case at the same time, rather than the file having to be handed from person to person. Is it possible this would help in coordinating decisions and making sure that all board members weigh in on a decision?

An electronic system would decrease staff time devoted to copying and printing and transcribing information which would increase efficiency and hopefully reduce clerical errors. As discussed previously, errors can be made by clerks transcribing handwritten decisions and notes and entering them into their computer system. Electronic voting of the Board Members would eliminate this problem. The auditors interviewed hearing officers that support the shift to an electronic data base. Finally, the fact that thousands of offender's files are in paper, there is no backup. A flood, fire, or natural disaster would result in permanent loss of records that are vital and relevant to thousands of Utah inmates. An electronic system can be backed up at different sites to ensure the information is safe.

UPDATE: An April 8 article in the SL Tribune reports the Board is researching electronic record keeping systems and it could cost up to \$10 million. Board Member Chyleen Arbon told the Sentencing Commission she hopes that "the shock and horror people feel when they hear about the lack of technology will lead to funding increase" to pay for it. We hope they choose a system compatible with the DOC, law enforcement, and the courts.

*A man is but the product of his thoughts -- what he thinks, he becomes. Mahatma Gandhi*

## **BOARD AUDIT – WHAT HAPPENS NOW?**

**By Molly Prince**

Over the past eight months, much attention has been focused on the Board Audit. UPAN families and their incarcerated loved ones provided information for the audit. The report was released February 1, 2016. UPAN News has several articles on the findings, audit recommendations and related issues. Here we are in April and you may be asking, "So, what happens now?"

I started researching that very question. I gathered information from the legislative website, as well as received input from Anna Brower of the ACLU. Finally, we asked the Auditors themselves when they presented their findings at the March UPAN meeting. I will do my best to describe the next step in this process.

### **Follow-up is Assigned to an Interim Committee**

The Board Audit was requested by the Legislative Audit Subcommittee. It has now referred the Board Audit and assigned the authority to oversee the Board's compliance with it to the Law Enforcement and Criminal Justice Interim Committee (LECJIC) This Committee will meet almost monthly between now and the beginning of the 2017 legislative session. Their schedule for meetings, open to the public, is posted on [le.utah.gov](http://le.utah.gov). According to Anna Brower, it should meet the third Wednesday of each month.

According to the Auditors, the LECJIC will determine how frequently they want the Board to report to them regarding the Board's progress toward compliance with the Audit recommendations.

I spoke with Senator Todd Weiler who is the Chair of this Interim Committee and verified that this committee will receive a presentation about and copy of the Performance Audit of the Board of Pardons and Parole. I have followed up with an email to him regarding the interest of UPAN families in assuring that the Board reports back to that committee on its progress several times between legislative sessions.

#### **Citizens can access Interim Committee meetings minutes online**

Anna reminded me that we can listen to the Interim Committee meeting online when it meets. We can also download the minutes of the meeting, including all relevant materials from the Committee website after the meeting is concluded. Find by starting at: [le.utah.gov](http://le.utah.gov).

#### **Connect with the Lawmakers on this Committee**

We have been encouraged by folks who understand how this process works to connect with several legislators on this Interim Committee. UPAN families can help them understand not only the importance of following up with the board, but also to support them in their roles by providing them with questions before the meetings as well as touching base with them for updates.

The following legislators are members of the LECJIC. Those listed first are perceived as the most approachable and or knowledgeable about issues regarding the Board or the Board Audit.

**Sen. Todd Weiler** – R – Senator Chair of this committee and very involved in criminal justice issues across the board

**Sen. Wayne Niederhauser** – R – the legislator who originally requested the Board Audit

**Sen. Sandra Hollins** – D – has expressed some concerns about racial biases in parole decisions as well as concerns about the matrix

**Sen. Daniel Thatcher** – R – involved in Sentencing Commission and has some familiarity with the issue

**Rep. Angela Romero** – D – has been involved in various legislation related to criminal justice issues in the past and would likely be concerned about data collection by the board regarding racial biases in parole decisions

**Rep. Kay McIlff** – R – in the past sponsored legislation that didn't pass the senate to give judges more discretion in sentencing and get away from mandatory minimums in certain situations

**Rep. Earl Tanner** – R – described as open minded

**Rep. Marc Roberts** – R – likes to restrain government

**Sen. Luz Escamilla** – D - open minded

**Rep. Don Ipson** – R – Representative Chair of this committee

**Rep. Brad Draw** – R

**Rep. Curtis Oda** – R

**Rep. Paul Ray** – R

**Rep. Edward Redd** – R

**Rep. Curt Webb** – R

**Rep. Raymond Ward** - R

If any UPAN participants have a relationship with any of these legislators, it is recommended you contact them and possibly arrange a meeting with them to bring them up to speed on why the information found in the Board Audit is so important. If you don't already have a relationship with anyone on this list who is your Rep or Senator, we encourage you to contact them and let them know you are in their district and share your concerns. Anyone speaking to their legislator could easily share the short Board Video created by the ACLU to help them become familiar with the problems we have in our process here in Utah.

#### **Description of the Law Enforcement and Criminal Justice Interim Committee**

According to the legislative website, this Interim Committee was established to study issues related to law enforcement, criminal law and procedure, corrections, public safety, illegal drug activity, weapons, and the criminal justice system. It states, "in studying these issues, the committee strives to maintain a balance between public safety, victim rights, and offender accountability and rehabilitation."

The committee has, by law, been **charged with oversight of** the following areas of Utah government: the Criminal Code, code provisions regulating controlled substances, law enforcement agencies, the Dept. of Public Safety, the Dept. of Corrections, the Division of Juvenile Justice Services, **the Utah Board of Pardons and Parole**, the Utah Commission of Criminal and Juvenile Justice, the Utah Sentencing Commission, the Utah Substance Abuse and Anti-Violence Coordinating Council, and the Office of Crime Victims Reparations.

This committee has the goal of "improving public safety, increasing the efficiency and cost effectiveness of the criminal justice system, and enhancing communication and collaboration between programs and agencies."

For years it has appeared that the BOPP has had no body tasked with oversight. However, it is becoming clear that the Law Enforcement and Criminal Justice Interim Committee actually **does** have the authority to oversee the Board. I believe that UPAN families have a responsibility to our incarcerated loved ones, ourselves, and the community as a whole to help this committee do just that.

*The successful man will profit from his mistakes and try again in a different way. Dale Carnegie*

## **Sex Offender Treatment Issues at Draper**

There have been a few developments in the area of SOTP in the Utah State Prison recently. We were made aware that the Legislative Audit Subcommittee has been approached by a legislator and requested an audit of SOTP in the Utah prison system. Now, before anyone gets excited, please be aware that there are a list of proposed audits before the Legislative Audit Subcommittee and so it could be months before this particular audit is voted on and assigned to the Office of the Legislative Auditor General. UPAN just wants you to know it is in the process.

This audit request is a result of families talking to their legislators. These are families who have loved ones in prison who have been unable to either get into SOTP in a timely manner, remain in SOTP, or be readmitted to SOTP in a timely manner. It won't hurt to have other UPAN families who have inmates in these situations to contact their legislators and explain the dilemma. That could facilitate the process of getting the audit assigned. It may finally be an audit that triggers the willingness of our legislature to appropriate treatment funds for the growing number of sex offenders in USP that need treatment. The prison has not received an increase in annual funding for SOTP in 20 years. It is still operating on the same treatment budget it had in 2006.

Since 2006, the program has undergone a variety of adjustments, including doing away with individual therapy and limiting treatment to group therapy and psychoeducational skills classes to reduce the cost of providing treatment so more inmates could participate. It had also reduced the length of treatment from 2+ years to 18 months. We have heard rumors the average intended length may now have increased back up to approx. 21 months. In any case, the successful completion of SOTP depends on the inmate being able to get into treatment, take full responsibility for the offense they committed that resulted in their incarceration, being able to understand the cognitive behavioral approach to treatment, gaining insight into their own choices and behaviors, and being able to successfully complete the packet of written assignments required, as well as presenting these assignments in group and passing off with therapist.

Sex offender treatment is a very challenging and difficult process for even the most well balanced and intelligent of persons. It pushes the participants to look deeply and face extremely sensitive and difficult issues, work through them, and make long lasting changes. This doesn't always work out for individuals with learning disabilities, language barriers, mental illness, etc.

It has also come to our attention that the Disability Law Center (located at 205 400 W, Salt Lake City, UT

84103, phone:801-363-1347 is also looking into problems that disabled inmates are facing related to being able to successfully participate in SOTP. Over the years, UPAN, the ACLU, and the DLC, have received letters containing complaints and concerns regarding the inability of individuals with special needs to successfully complete SOTP on the inside. The prison doesn't have a special needs sex offender treatment program to accommodate those individuals who have learning disabilities, developmental disabilities, or other disabilities or impairments that would limit their ability to be successful in the standard sex offender treatment program currently offered. These individuals often require a lot of one on one therapeutic attention with therapist and peers. Also, individuals with a lower IQ are not always capable of the insight oriented approach of standard sex offender treatment and need a more behaviorally based approach that uses repetition and reinforcement for good choice making. The prison program is not currently providing this.

However, A P & P staff who write PSIs in the community have been under the impression that there is a special needs sex offender treatment program available behind prison walls. This results in some defendants being sent to USP by judges who are under the impression that they can get treatment inside that is not available in the community. This results in these inmates spending decades in prison without being able to complete treatment, and eventually being released to the community to try to do outpatient treatment about an offense that occurred many years prior, without funding to help pay for their treatment. This is a recipe for failure.

Project Turn in SLC used to have a residential sex offender treatment program for individuals with learning and developmental disabilities. That no longer exists and has not for quite a few years. There is no residential treatment program in the community that we know of along the Wasatch Front to address these special needs for adult sex offenders. We have attempted to locate agencies that provide residential special needs s.o. treatment programs in the Salt Lake community and have come up empty handed.

This is a complicated situation. First, Utah needs legislation that allocates funding for outpatient and residential sex offender treatment in the community for special needs citizens. Second, we need funding and staffing for a special needs treatment program in the prison. It should be noted that not all special needs persons are housed in Olympus where the seriously mentally ill are housed. They are integrated within the prison population and may not be easily recognizable. Finally, Utah also needs a way for the DOC to attract

and retain quality individuals to fill the 100+ correctional officer vacancies in Draper.

We realize, at this time, there are a variety of factors that are challenging to individuals in SOTP at Utah State Prison, Draper. One of these includes the fact the DOC itself is facing some major challenges in order to provide sex offender treatment efficiently and effectively. Several months ago, due to shortage of correctional staff, inmates who require sex offender treatment were moved from SSD and other areas of the Draper prison and placed in the Promontory housing unit at Draper to complete their programming.

Promontory has long been the home of Conquest, the substance abuse treatment program. It is common knowledge that many drug offenders are not very open to, kind to, or even polite to individuals who have committed sexual offenses. So the individuals in SOTP in Draper are now living under program rules that are

intended for the substance abuse offenders already there, which is called a “therapeutic community.”

Unfortunately, the structure of this therapeutic community and the program rules were not designed with the specialized treatment approaches necessary for treatment of the average sex offender, much less developmentally delayed or otherwise disabled individuals who committed sexual offenses. Sex offender treatment requires some different therapeutic approaches from substance abuse treatment.

We encourage UPAN families having an interest in this situation to contact their legislators, inform them of the problems. We need a review of the current programming available. Suggest to them that additional funding is needed for additional treatment for regular SOTP and funding for USP to develop and staff special needs programming for sex offenders.

## **THE SECOND ANNUAL FAITH IN REFORM CONFERENCE**

**by Shauna Denos**

The Second Annual Faith in Reform Summit was held February 23, 2016 at Weber State University was sponsored by ACLU of Utah, The Calvary Baptist Church, The Catholic Diocese, Journey of Hope, Utah Prisoner Advocate Network and the American Democracy Project. A welcome and introductions for the opening speakers were given by Dr. Roderic Land from Calvary and Jean Hill from the Catholic Diocese.

**Dr. Ron Brown of the New Hope Center** in Clearfield “Can I get a hallelujah” was first. Dr. Brown is a very passionate and spiritual man who encouraged us not to be pompous with our faith. He encouraged us to remember that “What you have done unto the least of these my brethren you have done it unto me” Matthew 25:40 and that “Faith without works is dead” John 2:20. We need to tend to our fellow men/women physically, emotionally, and spiritually.

The next speakers were **Barbara and David Morris from the Calvary Road** in Ogden. They spoke about ministering to those both incarcerated and those being released. An example they gave was of a man that has been in Gunnison for 15 years. She has been helping him get those things in place he needs for when he gets out. Another example was of a young man who hadn’t had any outside contact for three years that they have befriended. They don’t want people to be afraid of getting involved with individuals who are or have been incarcerated. They quoted “Perfect love cast out all fear. When you have been rejected by family, friends or society, you need someone to accept you for who you are, you need acceptance from the faithful members of society.”

**Rep. Sandra Hollins**, District 23-Salt Lake City took a turn and encouraged each of us to write our own Reps and let them know we support her “Ban the Box” will in Utah. “Ban the Box” movement is sweeping across the nation as a way to give a fair chance of employment to everyone who has the skills and experience necessary to a job. She also posed the question, “If a felon has the skills and experience to a job, shouldn’t they be given an interview?” Last November, President Obama took executive action to “Ban the Box” on federal applications, now it’s our turn. Ms. Hollins ended by saying “If we expect these people to contribute to society, is it fair to shut them down at every turn?” Please note that Ms. Hollins legislation did not pass in Utah this legislative session. We hope she will try again next year.

There were several break-out sessions for workshops.

**Workshop 1 presented by Journey of Hope of Salt Lake City.** Human Trafficking in Utah. In this workshop they discussed the landscape of human trafficking in Utah and the work being done to help those affected. We learned that there are nine times as many more homeless women that are veterans. Fifty percent of the girls who are diagnosed with Attention Deficit Hyper-active Disorder (ADHD) have been misdiagnosed and instead have suffered some kind of trauma and should be diagnosed with PTSD. We have a police officer in every school but our education system does not have one psychologist per school. Instead one psychologist is assigned to several schools. 98% of the women in prison have suffered from some kind of sexual abuse. Sixty percent of the women in USP are from Weber county. The majority are in there on non-violent drug charges. The primary



reason behind the prison being filled with Weber county females is because Weber County has no treatment centers to help those who haven't the money to pay for it. So the women are charged with a third degree felony and are sent to prison for treatment. This compounds the problem in their recovery. With a 3<sup>rd</sup> degree felony, they are imprisoned for only about a year and you have to be there for eighteen months to get into the Excell treatment program in USP. In addition, now they have a felony charge and the stigma that goes with it. All because there is not affordable substance abuse treatment in Weber County for women.

**Workshop 2 : The School to Prison Pipeline:** Hosted by the **Racially Just Utah Coalition**, this workshop brought awareness about the School to Prison Pipeline and what it looks like in our state. Who does this affect? Those who are low-income, those of color, those with disabilities, those with language barriers, the homeless and the LGTB community. Contributing factors: overcrowded classrooms; racially, socially, and economically isolated environment; lack of effective and or educated teachers and school leaders (educated in what to look for within these groups to help the students); and insufficient funds for extra services. These "extra mile" services include more counselors, special ed, text books, and tech programs. A report from 2011 OCR data showed of the children expelled, three times as many black children, one and half times as many Hispanic children, and seven times as many native American children were expelled as main stream white children. Our schools have got to step up and take the time to educate themselves as to the difference in a child who doesn't want to be at school and causing problems and one who is suffering some kind of trauma in their life and needs help. There are eight times as many high school drop-outs in prison than there are high school graduates. The community needs to get involved.

**Workshop 3: Anna Brower (ACLU of Utah) and Michael Studebaker** (Weber County criminal defense attorney in private practice) hosted a breakout session on the serious problems with Utah's public defense delivery system. Anna discussed various reports that have documented how Utah's public defenders are overworked, underfunded and undertrained - especially in rural counties. Michael shared many of his own personal experiences as a public defender for Box Elder's juvenile justice system, and as a public defender outside of Utah. They discussed why the Sixth Amendment right to counsel - regardless of whether a person can afford a private attorney - is so critical to a fair and effective critical justice system. They also argued about the best routes for achieving serious reforms: Michael blasted the ACLU for doing nothing, while he himself has filed multiple lawsuits in the past several years; Anna insisted that the ACLU is working on a lawsuit that reflects what the ACLU has learned in other states with similar issues. But they agreed on this main point: that Utah's county-by-county public defense system is seriously failing defendants, and that policy-

makers aren't taking the issues seriously enough. *(Note: SB155 passed this legislative session that is a step in the right direction for remedying this problem. See 2016 Legislative Update article in this issue for more info.)*

**Panel Discussion** wrapped things up. Those on the panel were **Ron Gordon** from the Commission on Criminal & Juvenile Justice (CCJJ), **Chyleen Arbon** from the Board of Pardons, **Steve Gehrke** from the Department of Corrections and **Dan Blanchard** from A P & P. The panelists were asked many questions from the participants at the Summit. Among them were questions about sentencing scoring, implementing the new procedures recommended by the board audit, bills up before the legislature, and changing penalties for class C crimes. Also discussed were HB 348 and how all departments in the DOC, AP & P and the BOP are handling the required changes. Also addressed was how the Medicaid bill would affect the DOC.

The answer to all these questions had an overall theme: Yes, everybody (in the criminal justice delivery system) is trying to buy into reform. It's a matter of education and training, but everyone understands the changes have to be made now. That being said we also have to understand that this is going to take some time. This didn't happen overnight and it can't change overnight.

***Shauna's note:*** *I was impressed that Chyleen and Dan both said that their departments want to make these changes and want to see people succeed.*

The Board and the DOC which includes A P & P are looking at national evidence-based practices to come to an agreement on how these changes will be made. All the panelists suggested that we, as the public, get involved and let our representatives know that we want to see the Medicaid bill pass.

Also discussed briefly was the new transitioning process that Steve Gherke is implementing into the department. *(This was covered in March FOCUS meeting article last month).* This will mean better communication with the halfway houses, between the Board and the Department of Corrections, and focusing on the individual and what the risk and needs are for each individual to have a successful parole.

**The attendees and presenters were diverse.** Many people from different religions, cultures and volunteer programs were there to offer their advice and their expertise to help us understand what we as a community can do to help those in the greatest need.

I would like to thank all those who participated in the summit. They did a great job and we gained a lot of knowledge. This is the second Faith in Reform Summit, and the criminal justice reform movement in Utah is still relatively new. We are making progress and things are going to get better. We just have to remember to be patient and never give up!

## **Settlement in Lawsuit Against USP for Disabled Inmate not Receiving Required Treatment**

Source: Salt Lake Tribune, Sunday March 20, 2016 by Pamela Manson

In 2011, former inmate Richard Ramirez filed a lawsuit against Utah State Prison for not providing him with specialized treatment due to his inability to successfully complete USP's SOTP within the required timeframe.

According to the Tribune article, Mr. Ramirez has problems with reading and comprehension, as well as writing. This stopped him from being able to successfully participate in and complete the standard sex offender treatment program. According to the Americans with Disabilities Act, the prison violated his right to equal protection and due process in its inability to provide a specialized treatment program. He had been in prison since 1996.

In 2013 a federal judge appointed the law firm of Manning Curtis Bradshaw & Bednar in SLC to the case. The case was settled by both parties in March and dismissed by US District Judge Clark Waddoups.

The suit said that Mr. Ramirez was unsuccessfully discharged from SOTP and the program / prison refused him accommodations and re-admittance. Therefore, the article states, he "remained in prison for years longer than if his disabilities had been accommodated and if he had been given a chance to complete the SOTP."

According to the article, the UDC reports that it "regularly reviews its policies and procedures to ensure compliance with the Americans with Disabilities Act." It reports that spokesperson Brooke Adams stated that

this settlement agreement does not require the DOC to change its policy regarding SOTP. Further the DOC "will continue to provide treatment services and work with community groups, including the Disability Law Center, to ensure it meets the needs of prisoners with disabilities" since this case raised the issue about access to specialized treatment for special needs individuals.

Mr. Ramirez was paroled to a halfway house six months after the 2011 filing of the lawsuit. He successfully completed the treatment program there because he was offered individual therapy and his therapist made appropriate adjustments to the curriculum and the way treatment was administered. This gave Mr. Ramirez the chance he needed to succeed.

*UPAN comment: UPAN hopes this brings immediate attention to the many special needs inmates who require accommodation. This simple treatment accommodation could have been done years earlier for Mr. Ramirez within the prison setting. It is too bad that there had to be a lawsuit to force the DOC to pay attention to Mr. Ramirez' situation and come up with a workable solution – ask the Board to release to a halfway house for individualized treatment since the prison has not created a special needs program. Unfortunately, there continue to be many more special needs / disabled inmates needing both SOTP and Substance Abuse treatment that are not being accommodated in current prison programs.*

\* \* \* \*

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### **Truth of Yesteryear Still Applies Today...**

***So long as there exists in this world that we call civilized, a system whereby men and women, even after they have paid the penalty of the law and expiated their offenses in full, are hounded and persecuted wherever they go – this story will not have been told in vain." Victor Hugo in the introduction to Les Miserables***

**And a Final Smile:** What can you hold without ever touching it? A conversation. Till next issue, stay cool. Ed.