

BARBERS
OF
PARDOIS

NO PERSONAL ITEMS
SUCH AS PURSES OR
CONTRABAND ALLOWED
BEYOND THIS POINT

NO
SMOKING
BEYOND
THIS
POINT

leading the way

BY JANE H. WISE



photography by bradley slade

Kith Hamilton, '86, chair of the Utah Board of Pardons and Parole, sits facing the young man garbed in prison t-shirt and white pants in a hearing room at the Utah State Prison. The prisoner has been here before. Last time, the board recommended his release, but now he is back, picked up for possession of marijuana and use of methamphetamines. This setting is a parole violation hearing where Hamilton will first listen to him and then ask questions. Family members may also speak, and members of the public can write letters to the board. Hamilton will make another recommendation after the hearing; then other board members will review a report of the hearing, Hamilton's recommendation, information about the crime, and progress reports from the prison. A decision is finally made when at least three members of the board agree on what to do. ||| Hamilton starts the hearing, addressing the inmate with "Please raise your right hand, sir." He always addresses the prisoners with respect, saying "please" and calling them "sir" or "ma'am." The mother of a prisoner appearing before Hamilton sent him a letter saying that his hearing was the only time her son could remember someone calling him "sir" and saying "please" in the criminal justice system. "Thank you for showing him respect," she wrote. ||| The young man admits he was using drugs while he was on parole because of the "stress" of the new situation. Hamilton speaks clearly to the prisoner: ||| "You need to find another way to deal with stress." ||| "Do you realize that prison isn't the best place for you to be?" ||| "You have to deal with these problems." ||| "It's your call what happens from now on. Our job is to protect society." ||| "Ask for divine assistance." ||| Hamilton believes that God has guided him to his current positions: leading a board determining the fate of Utah prisoners and serving

on Governor Jon Huntsman Jr.'s cabinet. He often asks the men and women who appear before him to search for help from a higher source—something outside themselves that can broaden their perspective.

The next hearing of the morning is also for a parole violation. This 22-year-old man was also picked up with illegal drugs. Hamilton tells him, "You need to get your act together. We have to make a choice on how to use the state's limited resources. Should we bet on you again?"

"The answer will always be *you!* Look yourself in the face and say, 'I need to change.' It's got to come from you and not from anybody else."

Two hearings finished, and three more to go. What Hamilton says to each prisoner is different. He responds to them individually, sometimes using humor, sometimes lecturing, and sometimes drawing a hard line. All of the five cases involve people who are addicted to drugs.

"It's your life, man. If you don't care, why should the state of Utah care? Using drugs is going to kill you. It's time for *you* to make the decision."

"Find a source beyond yourself. Stop victimizing yourself."

"How are you going to succeed if you don't have a plan? Hopes aren't plans. You've got to have something concrete."

"You are a human being, and I care about you."

It's the last hearing of the morning, and a young woman is up for her first hearing before the board. Her mother and sister are ushered in. They are caring for the inmate's three young children while she is incarcerated. They sit in the back of the room in a section lined with padded folding chairs with boxes of tissues set on every other seat. They can see her but are not allowed to speak to her unless given permission by the hearing officer.

"Do you realize you are leaving your responsibilities on your family? Your mother's been crying the whole time we've been here in this hearing. Start your new life by recognizing what other people have done and are doing for you. Think of those people instead of yourself. Are you thankful for what they are doing for you? Write your mother a letter, and let her know you are grateful for what she is doing. It's your call what happens from now on. They can't do it for you."

Hamilton gives the women a chance to speak to each other. "The kids want me to tell you they love you," says the mother. "I love you, Mama," says her daughter. They gaze hungrily at each other. Small details are precious. "Your hair is getting so long, Honey," says the mother as she leaves.

Hamilton says that if the prisoners want to change, the board will give them a chance. That is his mantra: change = chance. The Utah Board of Pardons and Parole is in a unique position to give prisoners a chance. Utah judges impose indeterminate prison terms, such as zero to five years, five to fifteen years, or ten years to life. It is not the trial judge who determines how many years within that range will be ultimately served; it is the board. The five-member board determines each prisoner's actual length of stay behind bars, making about 14,000 of these decisions each year. The board literally holds life in its hands. Different from any of the other 49 states, only Utah's board can commute a death sentence to life without parole.

Three of the five-member board are alumni of the J. Reuben Clark Law School: Keith Hamilton, '86, chair; Curtis L. Garner, '84, vice chair; and Clark A. Harms, '90. In addition, John A. Green, '84, is administrative coordinator. The two other members of the board are Cheryl Hansen and Jesse Gallegos.

The board wants Utahns to understand how it works and envisions better communication with victims, their families, and inmates about that process. But the board's primary purpose is casting votes in the process that decides the fate of prison inmates. Each member of the board casts a single vote, and it takes a three-member majority to decide a case. It is a system that has been working in Utah in some form or other since 1913.

Three years ago Supreme Court Justice Anthony Kennedy gave a speech raising serious concerns about the nation's overreliance on incarceration as a criminal sanction. He concluded that resources were being mispent, punishments were too severe, and sentences were too long. In response to that speech, the American Bar Association put together a task force called the Justice Kennedy Commission on Sentencing. The next year it presented recommendations to the bar association concluding that society

would conserve scarce resources, provide greater rehabilitation, and decrease the probability of recidivism and the likelihood of restitution if it used alternatives to incarceration. It recommended that sentencing systems provide appropriate punishment without overreliance on incarceration. It recommended flexible sentencing.

Those kinds of recommendations have been in force in Utah for over 90 years. With the board's experience, knowledge, and insight, it will continue to lead the way for flexible sentencing systems.



From left to right: >>

Clark A. Harms, '90;

Curtis L. Garner, '84;

Keith Hamilton, '86;

John A. Green, '84.



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