

Examining American Eugenics and Utah's Sterilization Laws

Jennifer Rust

Abstract

This paper explains the evolution of Eugenics from Mendel's peas to Nazi Germany. It reveals startling information about the role that American scientists played in the Holocaust. It further discusses that the desire to create a perfect human race can be traced to the American ideal of Providence. This pursuit of human betterment was set into practice by influential and famous Americans through selective immigration, restrictive marriage laws, encouraged procreation of individuals identified as superior, and the sexual sterilization of those deemed unfit.

Utah passed sterilization laws as early as 1925, modeled after sample laws drafted and constitutionally tested by American Eugenicists. There is evidence to support that Utah lawmakers and institutional leadership supported the sterilization of the feeble-minded for the benefit of society and to prevent future menaces to society or wards of the state. While this topic is both uncomfortable and provocative, it is imperative that we study history lest we be condemned to repeat it. Taking accountability for and gaining understanding of decisions made in the past, improves our national character and allows us to better take care of each other on a local level.

The modifications to Utah's sterilization laws from 1925 to 1988 mirror the national trend of increasingly recognizing the rights and value that developmentally disabled citizens possess. Federal legislation has been enacted to improve accessibility to public buildings and education through the Americans with Disabilities Act and the Individuals with Disabilities Education Act. From historically segregating these individuals to de-institutionalization to modern campaigns encouraging the inclusion of disabled Americans in the workforce, tremendous gains have been made. Yet an examination of the history provides a perspective into where we can go from here.



Jennifer Rust is a student at Salt Lake Community College majoring in History.

Examining American Eugenics

Early American settlers believed that they were both heavenly inspired and divinely commanded to colonize the New World in order to establish an elite civilization that would uphold the commandments of God while providing for a prosperous and educated populous for generations to come. This sentiment evolved into scientific efforts to grow consistently prolific vegetation, increasingly hearty livestock, and eventually smarter and stronger human beings. The purpose of this paper is to illustrate a brief history of Eugenics in America along with its global consequences, as well as identifying the ways in which Utah policy-makers and institutional leaders made decisions that mirrored the national trend.

Eugenics is defined as “the study of methods of protecting and improving the quality of the human race by selective breeding.”¹ In the United States, eugenics has historically been practiced through selective immigration, restrictive marriage laws, encouraged procreation of those individuals identified as superior, and the sexual sterilization of those deemed unfit. The unfit often being defined as those with documented criminal behavior or diagnosed as mentally or medically inferior. The eugenics movement in the United States originated in the early 1900’s and was designed to create and maintain a superior race.²

In America, this battle to wipe out whole ethnic groups was fought not by armies with guns, nor by hate sects at the margins. Rather, this pernicious white-gloved war was prosecuted by esteemed professors, elite universities, wealthy industrialists and government officials colluding in a racist, pseudoscientific movement called eugenics. The purpose: create a superior Nordic race. To perpetuate the campaign, widespread academic fraud combined with almost unlimited corporate philanthropy to establish the biological rationales for persecution.³

The names of those involved in promoting eugenics-based sterilization define power and prestige in the United States in the early 1900’s: the Carnegie Institution, the Rockefeller Foundation, the Harriman railroad fortune, Harvard University, Princeton University, Yale University, Stanford University, the American Medical Association, Margaret Sanger, Oliver Wendell Holmes, Robert Yerkes, Woodrow Wilson, the American Museum of Natural History, the American Genetic Association and a

¹ The New Lexicon Webster’s Dictionary of the English Language, 1989.

² Edwin Black, *War Against the Weak* (New York: Four Walls Eight Windows, 2003), 7.

³ *Ibid.*, xv.

sweeping array of government agencies from the obscure Virginia Bureau of Vital Statistics to the U.S. State Department.⁴

The conception of utilizing selective breeding with humankind began with the work of Charles Darwin and the idea of natural selection detailed in *The Origin of Species*, published in 1859. It continued with Gregor Mendel's botanical experiments in 1866. Mendel was able to identify hereditary elements and learned how to manipulate them in order to grow better peas. Darwin continued this work and in 1868 published *The Variation of Animals and Plants Under Domestication* in which he theorized that traits are identifiable and passed to offspring.⁵ Darwin's cousin, Francis Galton, is credited with the discovery that every human being's fingerprints are unique and no two are identical. It was he who "postulated that hereditary not only transmitted physical features, such as hair color and height, but mental, emotional, creative qualities as well."⁶ In his 1883 publication *Inquiries into Human Faculty and Development*, Galton created a new term of his discipline by combining the Greek words for 'well' and 'born' into "eugenics."⁷

Decades before Galton "penned the word" eugenics, Americans had been actively engaged in human breeding due to a dependency on slavery. This in conjunction with massive immigration held America's Caucasian elite in fear of "race suicide."⁸ The facts of Mendel's peas reached America in 1900 and the bigotry of early American eugenicists turned into race science. "Galtonian eugenics was reborn, recast, and redirected in the United States as a purely and uniquely American quest."⁹

Andrew Carnegie used his vast wealth made in the steel industry to create the Carnegie Institution. This institution was established and chartered "to encourage, in the broadest and most liberal manner, investigation, research, and discovery, and the application of knowledge to the improvement of mankind."¹⁰ While Galton proposed the idea of "positive eugenics, as suggesting, facilitating, and legally mandating biologically

⁴ Ibid., xxii.

⁵ Black, 12-13. Harry Bruinous, *Better For All the World* (New York: Alfred A. Knopf, 2006), 11.

⁶ Black, 15. Bruinous, 11.

⁷ Black, 16, Bruinous, 11.

⁸ Black, 21-22.

⁹ Ibid., 31.

¹⁰ Ibid., 31.

Examining American Eugenics

conductive marriages,”¹¹ Carnegie’s scientists focused on “negative eugenics” or the “practical means for cutting off defective germ-plasm” through such methods as segregation, sterilization, or euthanasia.¹²

Now that the eugenics movement had secured ample funding, a leader was needed. Holding a Harvard doctorate in biology, Charles Davenport was fascinated with the eugenics-based work of Galton and the two corresponded for years. Davenport held extreme racial biases and saw ethnic groups as “biologically different beings.” Encouraged by Mendel’s work as well, Davenport believed that “allowing the superior to thrive and the unfit to disappear would create a new superior race.”¹³ Funded by Carnegie, Davenport sought to “craft a super race of Nordics.”¹⁴ In 1903 he was elected to the oversight committee of the American Breeder’s Association (ABA) and succeeded in creating a eugenics committee that would apply the same breeding efforts directed towards plants and animals to be used with humans as well. The resolution establishing the committee specified that the goal was to “emphasize the value of superior blood and the menace to society of inferior blood.” Davenport argued that the United States government could reduce the \$100 million in annual spending for the destitute, insane, feebleminded, defective, and criminal elements by “segregation during the reproductive period or by sterilization” and that once defectives were eliminated in America, the same methods could be employed worldwide.¹⁵

The next order of business would be determining which American citizens should be targeted for sterilization. The chairman of the Carnegie Institution in 1904 was John Billings, a man known as “fastidious about record keeping,” “America’s foremost expert on hygiene,” and eventually as “the father of medical and vital statistics.” Billings, the Carnegie Institute, and Davenport would lead the charge to “usher America into an age of a new form of hygiene: racial hygiene. The goal was clear: to eliminate the inadequate and unfit.”¹⁶

Davenport sought to establish the Eugenics Records Office (ERO), in order to “quietly register the genetic backgrounds of all Americans, separating the defective strains from the desired lineages.” He felt that

¹¹ *Ibid.*, 18.

¹² *Ibid.*, 32.

¹³ *Ibid.*, 35.

¹⁴ *Ibid.*, 37.

¹⁵ *Ibid.*, 39, Bruinous, 17.

¹⁶ Black, 41.

primary information could be obtained from the country's existing charity organizations, institutions for the feeble-minded (such as the Utah State Training School), schools for the deaf and blind, hospitals for the insane, and other publicly funded institutions.¹⁷ He also wanted to collect "pedigrees on eminent, racially acceptable families, that is, the ones worth preserving." The ERO would also encourage public officials to "accept eugenic principles even in the absence of scientific support. Legislation was to be pressed to enable the forced prevention of unwanted progeny." Davenport acquired the financial support necessary to create this office from Mary Harriman, widow of railroad magnate E. H. Harriman, who had controlled the Union Pacific and Wells Fargo.¹⁸ The ERO was established in 1910 and acted as a second eugenics agency, independent of the Carnegie Institution.¹⁹ This created a trinity of eugenics offices that Davenport controlled: the ERO, the eugenics divisions of the ABA, and the Carnegie Institution.²⁰

With funding secured and leadership in place, the ERO needed someone to spearhead the data collection. Davenport and Harriman selected Dr. Harry H. Laughlin. "The campaign to create a superior race would soon be launched."²¹ Laughlin's staff set out on a mission to collect existing data from federally funded institutions housing those deemed undesirable. As Eugenics Director of the Carnegie Institution of Washington, he would become the most notable author and proponent of eugenics in the United States. His book, *Eugenical Sterilization in the United States*, published in 1922 by the Municipal Court of Chicago, provided a status report of the legislative success of individual states, a justification for the sterilization of the "unfit," and a detailed description, including illustrations, of the medical processes involved for both male and female subjects. His book further provided a suggested draft of sterilization legislation for states that had not yet enacted such laws that he believed would withstand constitutionality testing. Chicago Municipal Court Chief Justice Harry Olsen wrote in the introduction:

¹⁷ Ibid., 45.

¹⁸ Ibid., 46.

¹⁹ Ibid., 47.

²⁰ Ibid., 48.

²¹ Ibid., 51.

Examining American Eugenics

*The success of democracy depends upon the quality of its individual elements. If in these elements, the racial values are high, government will be equal to all the economic, educational, religious, and scientific demands of the times. If, on the contrary, there is a constant and progressive degeneracy, it is only a question of time when popular self-government will be impossible, and will be succeeded by chaos, and finally a dictatorship.*²²

Laughlin clearly expressed the purpose of his research in the preface to his book:

*The work designed also has an historical record of the several types of activities which characterized the early days of modern eugenical sterilization, and of the later working out, through legislation, litigation, experimental administration and scientific research, of a conservative state policy in reference to eugenical sterilization as an aid in protecting the country's family stocks from deterioration.*²³

Laughlin's research and literary work were not just intended to "cleanse the United States of its defectives" but to also set their sights on "the extent and nature of the socially inadequate in foreign countries."²⁴ "Prior to World War II, the Nazis practiced eugenics with the open approval of America's eugenic crusaders. As Joseph DeJarnette, superintendent of Virginia's Western State Hospital, complained in 1934, 'Hitler is beating us at our own game.'"²⁵

During the same time that the eugenics movement was gaining momentum in the Eastern states, "agitation for eugenical sterilization" was happening in Utah.²⁶ Dr. D.H. Calder, the superintendent at the Utah State Mental Hospital in 1912, first suggested sterilization in Utah.²⁷ He petitioned the Legislature to establish a Bureau of Eugenics, as done in other states, and even secured the support of the Governor.²⁸ However, the bill was defeated by a close vote of nineteen ayes to twenty nays, with

²² Harry H. Laughlin, *Eugenical Sterilization in the United States* (Psychopathic Laboratory of the Municipal Court of Chicago, 1922), v.

²³ *Ibid.*, vii.

²⁴ *Ibid.*, 61.

²⁵ *Ibid.*, 7.

²⁶ Charles R. McKell, *History of the Utah State Hospital* (Utah Historical Quarterly, 1955), 314.

²⁷ Eleanor Skeen, *State Care of the Feeble-minded in Utah* (Master of Social Work thesis, University of Utah, 1943), 104.

²⁸ *Ibid.*, 105.

five not voting.²⁹ When Dr. Frederick Dunn was the superintendent at the State Hospital, permissive sterilization legislation was passed in 1925.³⁰ Introduced as Senate Bill #135 by Senator Leroy Dixon from Utah County, the proposed law was entitled “Sterilization of Sexual Criminals, Idiots, etc” and defined as “An Act to prevent the procreation of habitual sexual criminals, idiots, epileptics, imbeciles and insane and providing penalties for the violation thereof.”³¹ The law gave broad discretionary power to the superintendents of the Utah State Hospital, sanitorium, and State Industrial School to authorize sterilizations if they were under the opinion that:

It is for the best interest of the patients and of society that any inmate of the institution under his care be sexually sterilized, such superintendent is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, the operation of sterilization or asexualization on any such patient confined in such institution afflicted with habitual sexual criminal tendencies, insanity, idiocy, imbecility, feeble-mindedness or epilepsy; provided that such superintendent shall have first complied with the requirements of this Act. (Which includes) if the said special board shall find that the said inmate is habitually sexually criminal, insane, idiotic, imbecile, feeble-minded or epileptic, and by the laws of heredity is the probable parent of socially inadequate offspring likewise afflicted, that the said inmate may be sexually sterilized or asexualized without detriment to his or her general health, and that the welfare of the inmate and of society will be promoted...³²

The requirements of the Act did afford some due process in that the superintendent had to file a petition to the board of directors “outlining the facts of the case and grounds for his opinion.” The petition was also served to the “inmate” and their legal guardian as applicable. A hearing was held to allow evidence either for or against the sterilization to be heard and was preserved and recorded. The statute also provided for an appeals process and a penalty for unlawfully performing sterilizations.³³ There were no criteria for how a superintendent should arrive at such a decision, leaving great discretionary power. No clear consideration was given that many residents of the institutions had diminished intellectual capacities and were generally illiterate. Therefore, it is difficult to

²⁹ Skeen, 106.

³⁰ McKell, 314.

³¹ L. 1925, ch. 82.

³² Ibid.

³³ Ibid.

Examining American Eugenics

determine how much the residents were able to understand about the consequences of the sterilization hearings.

Dr. Dunn had suggested that the sterilization law be broadened to include all those in the state who could be legally proven to be the parents of inadequate children regardless if they were in institutions or in the population at large.³⁴ South Dakota had such a comprehensive plan in place. Made possible through legislation, the so-called South Dakota Plan “provided for the identification, registration, adjudication, supervision, and the prevention of the marriage of all the mentally deficient in the entire state, and sought to establish a statewide program of social control.”³⁵ This legal latitude would never pass in Utah.

While the language of the initial statute had clear eugenic intentions, it is difficult to confirm the intentions of the legislature. The 1925 Senate Record simply documents the process by which the bill was passed: Introduced on 2/20/1925, backed by the Committee on Revision and Printing on 2/23/1925, passage recommended by the Committee on Public Health and Labor on 2/27/1925, passed the Senate after second and third readings on 3/9/25, passed the House on 3/12/1925, and after being backed by the Committee on Engrossing and Enrolling was signed by both the Senate President and Speaker of the House on the same day. There is no record of discussion or dissent.³⁶

It became problematic that this initial sterilization law included convicted criminals as well as those deemed mentally inferior. In 1929, the law was challenged by a male thief, in custody at the State Prison, accused of sodomy. The Utah State Supreme Court upheld the constitutionality of the statute but blocked the asexualization of the inmate because the state was unable to prove that criminal traits were either inherited or propagated. The Court stated, “The purpose of the statute authorizing asexualization is not for punishment but for eugenic and therapeutic purposes.”³⁷ This decision led to the 1929 amendment that required trained personnel to provide advice to the boards of institutions prior to making an order for sterilization.³⁸

³⁴ Skeen, 109.

³⁵ *Ibid.*, 40.

³⁶ 1925 Senate Journal held by University of Utah Law Library.

³⁷ *Davis v. Walton*, 74 U. 80.

³⁸ L. 1929, ch. 75. Skeen, 111.

In 1929, the Legislature approved the establishment of the Utah State Training School to provide more adequate training and housing than they had previously received at the Utah State Hospital. The facility opened in 1931, stating:

The true purpose of the School is to detect or discover the mentally deficient while young and adaptable, to take and train them in accordance with their mental abilities, and, when so trained and socialized, and then sterilized, to return them to their respective communities, where, under proper supervision they may function as normally as possible and be assets rather than liabilities.³⁹

There were 166 sterilizations of Training School residents from 1935 to 1940.⁴⁰

Superintendent Hubert H. Ramsey, who held his office from 1932 to 1950, was a staunch supporter of eugenics-based sterilization and may have been interested in advocating for broader laws. Under his watch, Training School social worker John F. Pero traveled to South Dakota and conducted extensive research regarding the South Dakota Plan. Pero also prepared a brief report arguing for similar legislation to be passed in Utah. Mark K. Allen, who was the school psychologist from 1932 to 1946, worked closely with Pero to identify the familial relationships of all the children that had ever resided at the school and which of their relatives had been deemed feeble-minded, insane or epileptic.⁴¹

When Utah state statute was amended in 1945, “or person” was added after each reference to “inmate.” “The word ‘person’ when used in this title shall mean any individual adjudged by a district court to be insane, an idiot, an imbecile, feeble-minded or epileptic.”⁴² This was a significant change as it began a slow evolution of acknowledging those with disabilities as individuals. Dr. Ramsey believed:

³⁹ Herbert H. Ramsey, *Second Biennial Report of the Board of Trustees of the Utah State Training School at American Fork, Utah to the Governor and Legislature for the period ending June 30, 1934*, 3.

⁴⁰ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

⁴¹ USDC Records: Historical Room: Pero, John F. Social Worker Studies.

⁴² L. 1945, ch. 130.

Examining American Eugenics

*The sterilization law in Utah is a good one. First, because it throws around the individual all the protection which the constitution provides, and second, because after it is understood, the procedure is not too cumbersome as compared to laws in other states.*⁴³

Religious groups that advocated against sterilization did not sway Dr. Ramsey. In fact he believed that their views were tempering and he held to his strong conviction of sterilization until his retirement in 1950. “So long as we consider mental deficiency an act of God, we shall have more of it.”⁴⁴ There were 339 sterilizations completed from 1941 to 1950.⁴⁵

In 1953, the entire Utah Code was reviewed and updated. Significant changes to the 1925 law included clearly defining the board of directors, as well as adding many footnotes providing justification for the law, including the citations of state and federal legal decisions upholding its constitutionality and the eugenics-based sterilization laws of Idaho, Montana, and Iowa. There were no changes made to regulate the power of the superintendents to recommend sterilizations or efforts to better educate the potential subjects.⁴⁶

Mark K. Allen had returned from BYU to the Training School in 1949 with a doctorate in psychology to serve as a consultant. In 1958, he wrote to the Human Betterment Association of America (HBAA) requesting information about sterilization statutes in effect nationally. He received information including a Digest of State Statutes and an Outline of a Suggested Sterilization Bill as well as other pamphlets explaining the benefits of sterilization. In the accompanying letter was the fact that Utah was “one of the very few states where sterilization seems to be prohibited except in cases of ‘medical necessity.’ Elsewhere, sterilization, according to our legal counsel, seems to be permissible, as is contraception, for the well-being of the patient.” The Executive Director of the HBAA said that because of that prohibition in state law, they had been unable to find a doctor to perform the procedure when their Medical Committee felt it was appropriate. She concluded by writing, “I realize that your personal concern is with the mentally ill or deficient and agree that the potential

⁴³ Ramsey, 10.

⁴⁴ Ibid., 13.

⁴⁵ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

⁴⁶ L. 1953, ch. 10.

children should be spared inadequate parents.” She recommended that if Utah statute was revised that “this prohibition might be deleted.”⁴⁷

Dr. Allen wrote to each state that had current sterilization legislation:

*We are recommending to the next legislature certain changes in our present sterilization law. Judging from the abstract that we have of your state law, we believe it contains some provisions which might be relevant to our situation. We shall be most grateful if you will send us a copy of your statute on sterilization.*⁴⁸

He received correspondence from at least eleven states. He painstakingly studied the statutes from each state, underlining in red pencil phrases that referred to the prevention of undesirable off-spring that would likely become wards of the state. There were 164 sterilizations performed from 1951 to 1960.⁴⁹

In 1961, two significant changes were made to the law. First, the amendment substituted “mentally deficient” for “idiot, imbecile, feeble-minded.” It is important to note that in the evolution of the treatment of the disabled that gradually less derogatory language was being used. Secondly, the law was amended to include that the person “is, in the opinion of expert witnesses, incurable and unlikely to be able to perform properly the functions of parenthood.”⁵⁰ This illustrates a significant shift in the ideology justifying sterilization. “There was a downgrading of the hereditary arguments supporting sterilization and a shift towards fitness for parenthood. This was consistent with the scientific and social attitudes in the rest of the country at that time.”⁵¹ Unable to scientifically prove the hereditary nature of mental retardation, Utah’s era of eugenic sterilization ended in 1961.⁵²

⁴⁷ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1958.10.24 Human Betterment Association to Dr. Allen.

⁴⁸ Ibid., 11.3 Dr. Allen to states with sterilization laws.

⁴⁹ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

⁵⁰ L. 1961, ch. 155.

⁵¹ Paul Murland Ricks, *Attitudes of Administrative and Professional Staff Personnel at the Utah State Training School Towards Sterilization of the Mentally Retarded* (Master of Social Work thesis, University of Utah, 1973) 16.

⁵² Ibid., 17.

Examining American Eugenics

With no sterilization procedures performed between 1961 and 1963, hearings resumed in 1964. Dr. Allen spoke in favor of the immediate and future benefits of sterilization. “We are talking about the economic capacity of the person to support a family, the ability to give proper guidance, and upbringing to children.”⁵³ Twenty-seven procedures were performed in 1964, but none again until 1971.⁵⁴

In 1968, Dr. Allen wrote again to the HBAA. He thanked them for sending the information in 1958 and explained that they were once again seeking to make legislative changes. He requested updated materials on what was occurring nationally:

*Our sterilization program has become quite inactive lately, not because of any opposition one can define, but perhaps because of a change in intellectual climate and emphasis in the treatment of the mentally retarded. This does not mean it is dead. We are now looking at our legislation and underlying concepts to examine how the program might be adapted to our present pattern of activities and philosophy.*⁵⁵

When this letter was returned with no forwarding address, he reached out to a colleague. “Whether I find them or not, I am curious to know if they ‘expired’ from want of interest under the ‘new look’ in work with the mentally retarded.”⁵⁶ A couple of weeks later Dr. Allen received a letter from the Association for Voluntary Sterilization acknowledging his request for “any up to date materials published since those we sent to you in 1958.” The Human Betterment Association of America had transformed into the Association for Voluntary Sterilization (AVS). Dr. Allen received pamphlets advocating voluntary sterilization, including one entitled, “The Population Bomb: Is Voluntary Human Sterilization the Answer?”⁵⁷ Further correspondence reveals a renewed interest in sterilization. Dr. Allen again sought information about what was happening in other states. The AVS responded, “I am sorry that we do not have more specific statistics on this matter, but we have found that

⁵³ Ibid., 18.

⁵⁴ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

⁵⁵ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1968.6.21 Dr. Allen to Human Betterment Association of America.

⁵⁶ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1968.6.29 Dr. Allen to Fred Butler.

⁵⁷ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1968.7.16 Association for Voluntary Sterilization to Dr. Allen.

the number of sterilizations within institutions has been dwindling from year to year, and we discontinued the rather exhaustive effort needed to keep track of the various institutions' practices."⁵⁸

Attempts made by Dr. Allen to amend state law to allow for voluntary sterilizations in 1967 were unsuccessful.⁵⁹ The religious groups that Dr. Ramsey believed were softening in their resistance to sterilization were becoming more active. In a letter from Dr. Evan T. Evans of the Utah OB-GYNE Society to Mr. Donald H. Higgins, Director of Public Relations, Association for Voluntary Sterilization:

I will forward...copies of our proposed...sterilization laws. If you have any constructive criticism for these laws, they would be greatly appreciated. Our committee feel that the attorneys have done an excellent job and will leave us with great latitude. Due to the peculiarity of the L.D.S. Church and the Catholic Church (which is campaigning day and night against us) we have to keep the laws on a medical basis not voluntary sterilization.

Dr. Evans requested 200 copies of "Case for Voluntary Sterilization" to be given to each member of the legislature.⁶⁰ Forty-two sterilizations were performed between 1971 and 1974 when the sterilization program at the Training School was suspended.⁶¹ In responding to a University of Utah Law School inquiry, Dr. Allen expressed, "The public attitude toward sterilization has changed considerably. Both laymen and specialists had seriously criticized the necessity of such a law."⁶²

Meaningful and remarkable changes to Utah's sterilization laws came in 1988 and are still in effect today. At this time the law was more appropriately entitled "Sterilization of a Person with a Disability." The term "inmate" was dropped entirely and replaced with "person." "Informed consent" is the first definition of the statute and is defined as "an understanding by the person to be sterilized of the nature and

⁵⁸ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1968.8.12 Association for Voluntary Sterilization to Dr. Allen.

⁵⁹ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1967 State of Utah Departmental Memorandum.

⁶⁰ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1968.10.19 Dr. Evan F. Evans to Association for Voluntary Sterilization.

⁶¹ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

⁶² USDC Records: Historical Room: Sterilization Laws: Correspondence: 1975.2.24 Dr. Allen to University of Utah Law School.

Examining American Eugenics

consequences of sterilization, the reasonably foreseeable risks and benefits of sterilization, and the available alternative methods of contraception.” In such cases where a person was unable to give informed consent, the statute provides for very specific considerations before a sterilization procedure can be authorized. For the first time, the subjective decision is removed from an individual superintendent and placed into the hands of the court. The decision-making factors include the degree of mental impairment, capability for procreation and reproduction, alternative methods of available birth control, advisability of postponing sterilization, and the likelihood that the person could engage in sexual behavior or could be sexually abused or exploited.⁶³

The evolution of Utah’s sterilization laws follows a national trend to increasingly recognize the rights of individuals with disabilities. Federal legislation has been enacted to improve accessibility to public buildings and education through the Americans with Disabilities Act and the Individuals with Disabilities Education Act. From historically segregating these individuals to de-institutionalization to modern campaigns encouraging the inclusion of disabled Americans in the workforce, tremendous gains have been made.

One critical decision made by the United States Supreme Court in 1927, with only one dissenting vote, has yet to be overturned and upholds the constitutionality of mandating the involuntary sterilization of Americans with disabilities. Further tragic is the fact that this was a test case designed with purpose to reach the Supreme Court and argued not by disability rights’ advocates, but by eugenicists in order to test the constitutionality of existing legislation.

Carrie Bell was the daughter of a feeble-minded mother and identified as feeble-minded herself. Raped at the age of 17, she gave birth to a daughter who was also labeled as defective by a social worker. This situation gave eugenicists what they were looking for: three consecutive generations of inadequate Americans. Working its way through appellate courts, the case would find itself in front of the Supreme Court.

⁶³ L. 1988, 62A-6.

Chief Justice Oliver Wendall Holmes wrote the opinion of the court in *Buck v. Bell*, in words that would “reverberate forever” as well as being quoted by the Nazi’s defense team at Nuremberg:⁶⁴

*It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles is enough.*⁶⁵

Sterilization had now become the law of the land. Utah would perform a total of 738 procedures from 1935 to 1974.⁶⁶

The history of eugenics in the United States is intricately detailed with distinct purpose that affects state and federal governments as well as politics globally. The governments’ role in policing the sexuality and defining the reproductive rights of American citizens remains an emotionally, religiously, and politically charged issue today. Access to abortion and birth control are polarizing topics with frequently changing legislation. In 2012, the Utah Legislature imposed a new law requiring a 72-hour waiting period for women seeking an abortion. The definition of marriage will be reviewed by the United States Supreme Court in 2013. One law that remains unchanged across the nation is the right of state courts to order the sterilization of those with disabilities. It will remain unchanged until the United States Supreme Court reverses its decision determined in a different era. However, it would seem that until nondisabled men and women are free to make choices about their sexuality and reproductive rights, disabled men and women will not be able to either.

⁶⁴ Edwin Black, *War Against the Weak* (New York: Four Walls Eight Windows, 2003), 121, Harry Bruinous, *Better For All the World* (New York: Alfred A. Knopf, 2006), 17.

⁶⁵ 274 U.S. 200, 47 S. Ct. 584.

⁶⁶ USDC Records: Historical Room: Sterilization Laws: Correspondence: 1980.3.27 State of Utah Departmental Memorandum Total Number of Sterilizations.

Examining American Eugenics

Bibliography

1925 Senate Journal held by University of Utah Law Library.

274 U.S. 200, 47 S. Ct. 584.

Black, Edwin, *War Against the Weak* (New York: Four Walls Eight Windows, 2003).

Bruinous, Harry, *Better For All the World* (New York: Alfred A. Knopf, 2006).

Davis v. Walton, 74 U. 80 (1929).

L. 1925, ch. 82.

L. 1961, ch. 155.

L. 1988, 62A-6.

Laughlin, Harry H., *Eugenical Sterilization in the United States* (Psychopathic Laboratory of the Municipal Court of Chicago, 1922).

McKell, Charles R., *History of the Utah State Hospital* (Utah Historical Quarterly, 1955).

Ramsey, Herbert H., *Second Biennial Report of the Board of Trustees of the Utah State Training School at American Fork, Utah to the Governor and Legislature for the period ending June 30, 1934.*

Ricks, Paul Murland, *Attitudes of Administrative and Professional Staff Personnel at the Utah State Training School Towards Sterilization of the Mentally Retarded* (Master of Social Work thesis, University of Utah, 1973) 16.

Skeen, Eleanor, *State Care of the Feeble-minded in Utah* (Master of Social Work thesis, University of Utah, 1943).

United States District Court Records: Historical Room.