



Aging Behind Bars: The Case for Decarceration of Aging People from U.S. Prisons

Introduction

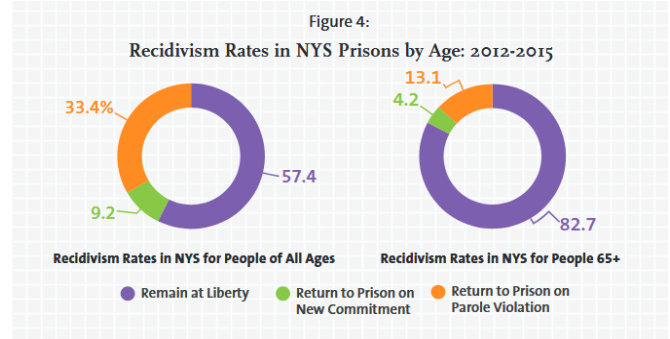
The 55+ population is the fastest growing demographic inside the U.S. carceral system.¹ Many within this subset have served decades of some form of life sentences as a result of past policies and approaches to sentencing.² Aging in prison entails exacerbated and compounding morbidities, early mortality, and strips vulnerable individuals of dignity in aging and death.³ Current opportunities for release for aging incarcerated people are limited in both theoretical scope and practice. While the aging incarcerated population continues to grow and be plagued by these issues, opportunity for meaningful intervention exists to better value redemption and healthy aging.

Current Context

The number of people in U.S. prisons age 50+ increased by more than 400% between 1993 and 2013, with the 55+ incarcerated population expected to exceed 400,000 by 2030, making older persons the fastest growing demographic inside U.S. prisons.^{4,1} One in seven incarcerated people in the U.S., many who comprise the aging prison population, have served decades of life with or without parole (LWP/LWOP) or virtual life (50+years) sentences.⁵ These sentences, dubbed “death by incarceration”, are a result of Rockefeller drug laws, “three strikes” laws wherein mandated minimum sentences were enacted for those convicted of three felony offenses, and generally racially-discriminatory, tough-on-crime eras of sentencing.²

Meanwhile, the living conditions in the U.S. carceral system accelerate aging and incidence of chronic health problems: dementia, general cognitive impairment, and other geriatric syndromes (incontinence, falls, etc) are all prevalent.⁶ This accounts for a disease burden that is notably higher among incarcerated aging people in comparison to their comparably-aged, nonincarcerated counterparts and a decreased life expectancy of two years for every year spent incarcerated, by one estimation.^{3,7} This is before taking into account the heightened risk of viral diseases faced by older people, such as during the height of the Covid-19 pandemic, a particularly poignant issue for those who were incarcerated and unable to social distance or maintain the recommended hygienic practices and living conditions.⁸ The risk to public safety and likelihood of

recidivism drops drastically as an incarcerated individual ages, particularly past the age of 65.^{4, 9} From a fiscal perspective of the tremendous cost to taxpayers to house people in the prison system for decades on end, to the moral injustice of keeping aging people to die lonely and in suboptimal care, current policies and practices are failing tremendously.



Current Policy Gaps & Deficiencies

Presently, less than half of states have geriatric parole or compassionate release policies.¹⁰ In places where such laws do exist, they are seldom used.¹¹ Instead, states shoulder huge costs to house and serve the complex medical needs of aging people in prisons. Even when compassionate release is available, the bureaucratic processes that applicants must wade through for a chance at release are demanding and arduous, with many dying still incarcerated before they are finally approved.³ In our current age of racial and social reckoning, those in the carceral system whose lives have been impacted and determined by the racist policies of decades past have been largely left out of the conversation of reparation.

Recommendations

Releasing aging people from prison is a fiscally smart initiative, with very low threat to public safety. Doing so would allow hundreds of thousands more people the opportunity to age and die with dignity, in the comfort of their families and communities, with access to choice and quality of care. The following policies and changes to current laws are recommended to actualize this.

- **Standardize geriatric parole laws in all 50 states:** One report estimates a savings of more than \$66,000 on average per aging person released from prison.¹² Creating universal standards for geriatric release will allow for more efficient release of individuals who have served decades and “done the time” by any measure, while also alleviating states and taxpayers of the tremendous cost of inadequately caring for these aging individuals. A defined and universal understanding of

who an “aging” person is in prison must be created. While 65 is the age by many metrics in this country that one is deemed an older person, the poor healthcare and inhospitable environment to a healthful diet or lifestyle accelerates the aging process and development of chronic disease, it is recommended to cast the metric of “aging” for an incarcerated person at 55 years old.¹³ Establishing this definition will allow for further clarity around when individuals are eligible and eliminate unnecessary bureaucratic burden of the parole process for those who are not.

- Abolish LWP, LWOP, and virtual life sentencing: So as not to create an enduring cycle of a ballooning aging prison population, the issue must be addressed at the root. Ending policies that entail lifelong, perpetual punishment will ensure this does not repeat as a pressing issue with each new generation. A 2012 Supreme Court decision rendered LWOP sentences for juveniles unconstitutional.¹⁴ When many of the aging individuals serving some iteration of a life sentence within the U.S. carceral system were sentenced to such as a juvenile or young adult, it’s sensible to retroactively apply this decision to their sentences. The case of Unger V. Maryland offers a promising case study in cohort release of aging individuals who’ve served lengthy sentences, demonstrating very low recidivism rates and successful re-entry when meaningful restorative supports are in place.¹⁵

- Reform state boards of pardons to foster more hospitable and viable conditions for parole: Parole boards in the majority of states operate in a rogue and private manner, with unfettered power and little oversight. In 44 states, board members are appointed by governors, often rewarded to former colleagues or political allies who may have little knowledge or interest in fostering meaningful opportunities for parole.¹⁴ These boards should adhere to greater standardized eligibility guidelines for clemency and commutation. A checklist-style guide that focuses more on an individual’s rehabilitative efforts and time served, as well as a evidence-based assessment that appraises the risk of reoffending, will be helpful in making clemency and commutation an actual viable process for the hundreds of thousands of aging people incarcerated, while maintaining public safety.^{15, 16}

Suggested Citation: Flores, M. (April, 2025). Aging Behind Bars: The Case for Decarceration of Aging People from U.S. Prisons. The Center for Health and Aging Innovation Issue Brief.

References

1. Skarupski, K. A., Gross, A., Schrack, J. A., Deal, J. A., & Eber, G. B. (2018). The Health of America’s Aging Prison Population. *Epidemiologic reviews*, 40(1), 157–165. <https://doi.org/10.1093/epirev/mxx020>
2. Widra, E. (2023, August 2). *The aging prison population: Causes, costs, and consequences*. Prison Policy Initiative <https://www.prisonpolicy.org/blog/2023/08/02/aging/>
3. Holland, M., Prost, S. G., Hoffmann, H., & Dickinson, G. (2020). Access and utilization of compassionate release in state departments of corrections. *Mortality*, 26(1), 49–65. <https://doi.org/10.1080/13576275.2020.1750357>
4. The Osborne Association. (2018). *The High Costs of Low Risk: The Crisis of America’s Aging Prison Population*. https://www.osborneny.org/assets/files/Osborne_HighCosts_ofLowRisk.pdf
5. Nellis, A. (2021). *No End in Sight: America’s Enduring Reliance on Life Imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/app/uploads/2022/08/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>
6. Williams B, DiTomas M, Pachynski A. (2021). The growing geriatric prison population: A dire public health consequence of mass incarceration. *Journal of the American Geriatrics Society* 69(12): 3407-3409. doi:10.1111/jgs.17454
7. Law, V. (2022). Aging Behind BARS. *The Nation.*, 315(13), 36–41.
8. Abraham, L. A., Brown, T. C., & Thomas, S. A. (2020). How COVID-19’s Disruption of the U.S. Correctional System Provides an Opportunity for Decarceration. *American journal of criminal justice: AJCJ*, 45(4), 780–792. <https://doi.org/10.1007/s12103-020-09537-1>
9. Farid, M., & Whitehorn, L. (2014). Release Aging People in Prison (RAPP): Challenging the Punishment Paradigm. *Socialism and Democracy*, 28(3), 199–202. <https://doi.org/10.1080/08854300.2014.957590>
10. *State Medical and Geriatric Parole Laws*. (2024, July 25). National Conference of State Legislatures. <https://www.ncsl.org/civil-and-criminal-justice/state-medical-and-geriatric-parole-laws>
11. Clarke, M. (2011 February 15). *Texas Pays for Geriatric Prisoners, Rarely Grants Medical Parole*. Prison Legal News. <https://www.prisonlegalnews.org/news/2011/feb/15/texas-pays-for-geriatric-prisoners-rarely-grants-medical-parole/>
12. ACLU. (2012, June 13). *At America’s expense: The mass incarceration of the elderly*. <https://www.aclu.org/publications/americas-expense-mass-incarceration-elderly>
13. Kodama, L., Williams, B., & Morris, N. P. (2023). Prioritizing Diversion and Decarceration of People With Dementia. *AMA journal of ethics*, 25(10), E783–E790. <https://doi.org/10.1001/amaethics.2023.783>
14. Lichtenberg, J. (2018). Against Life Without Parole. *Washington University Jurisprudence Review* 11(1), 39-65. <https://journals.library.wustl.edu/jurisprudence/article/2131/galley/18964/view/>
15. Justice Policy Institute. (2018). *The Ungers, 5 Years and Counting: A Case Study in Safely Reducing Long Prison Terms and Saving Taxpayer Dollars*. https://justicepolicy.org/wp-content/uploads/2021/06/Unger_Fact_Sheet.pdf
16. Horner, M. (2023, January 19). *Broken and Underutilized: Understanding Compassionate Release Programs for Older Adult Prisoners*. American Bar Association. https://www.americanbar.org/groups/law_aging/publications/bifocal/vol44/bifocal-vol-44-issue3/broken-and-underutilized-understanding-compassionate-release/