Fiscal Imperative

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As the prison population rapidly ages, medical costs skyrocket, and compassionate release systems remain dramatically underutilized, states face a growing crisis both fiscal and humanitarian in nature.

Thousands of elderly and seriously ill incarcerated people who do not present a threat to society die behind bars at enormous public expense. The need for better policies that encourage compassionate release for older Americans is clear.

What the Data Tell Us

One of the most robust findings in criminology research is that elderly prisoners, especially if they have serious health problems, have a low likelihood of committing new offenses if released.

For example, a 2022 study by the United States Sentencing Commission found that recidivism for prisoners released after the age of 50 was 21.3 percent, compared to 53.4 percent for younger prisoners. The same study found that offenses of older people released from prison, when they did occur, were "less serious" than for younger people. Moreover, the study also found that the older the person was at the time of

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release, the less likely recidivism became.

These findings align with earlier federal research, which found that elderly offenders were far less likely to recidivate, with only 13.4 percent of offenders age 65 or older rearrested over an eight-year period compared to 67.6 percent of those under 21.

A Massachusetts Department of Correction study on releases from 2019 likewise found a much lower three-year recidivism rate for elders: 10 percent for women and 12 percent for men 55 and older, compared to 27 percent and 33 percent for women and men respectively for those 30-34 years old at the time of release—demonstrating, once again, that many older adults "age out" of crime.

The Scale of the Crisis

Federal data reveal the growth in compassionate release motions since the COVID-19 pandemic began. According to the US Sentencing Commission, the top reasons for granting compassionate release are serious medical or physical condition, terminal illness (9.2 percent), and unusually long sentences. The data also show that 42.4 percent of those granted release were Black, 32.8 percent were White, and 21.0 percent were Latine, highlighting the disproportionate impact on communities of color.

Research by Prison Policy Initiative indicates that older people make up four times as much of the prison population as they did two decades ago: from 4 percent in 2002 to 16 percent in 2022. Even more sobering, the same report notes that by 2024, 35 percent of people serving life sentences were at least 55 years old, with more than 69,100 older adults sentenced to die in prison. In Virginia, one in four prisoners is expected to qualify as "geriatric" by 2030.

My home state of Massachusetts is no exception. Indeed, a 2017 Pew study found Massachusetts to have the highest elderly imprisonment rate, with prisoners over the age of 55 comprising over 14 percent of those incarcerated. The cost per prisoner: $8,900. Healthcare for prisoners a decade ago in 2015 cost the state an estimated $8.1 billion, or a fifth of its total incarceration budget.

The state's situation with life sentences is particularly stark. As Prisoners' Legal Services reported:

Aging prisoners, who are often the ones most suited to medical parole, are frequently serving life sentences without the possibility of parole. At the beginning of 2020, over 1,000 prisoners were serving life sentences without parole in Massachusetts, more than half of whom were aged 50 or over.

Allowing these individuals to age and ultimately die in the custody of the DOC, which is ill-equipped to provide the costly medical care and accommodations they need, is simply bad policy.

Staggering Costs

The fiscal argument for compassionate release, in short, is compelling Research indicates that the cost of incarcerating elderly inmates typically ranges from $60,000 to $70,000 per year, twice that of younger prisoners, an outcome largely due to greater healthcare needs.

In Massachusetts specifically, the financial burden is extraordinary. At Lemuel Shattuck Hospital, a correctional unit where many of those serving life without parole die from age-related illness, spending in fiscal year 2022 averaged $523,010.58 per person.

This cost represents triple that of community-based care and could save the state millions annually through expanded compassionate release. Research by the American Civil Liberties Union (as reported by the American Bar Association) estimated that "releasing an aging prisoner will save states, on average, $66,294 per year per prisoner, including healthcare, other public benefits, parole, and any housing costs or tax revenue."

Massachusetts: A Case Study in Barriers and Opportunities

Massachusetts implemented its medical parole program in April 2018, making it one of the last states to establish

compassionate release policies. However, the program has faced significant challenges. Alexander Phillips, a 31-year-old inmate diagnosed with terminal cancer, was released as the first person released under the new program, but not without initial rejection and bureaucratic hurdles.

The state's approach has been criticized for its restrictive implementation. Correction Commissioner Thomas Turco III, in denying Phillips's application, indicated that Phillips, despite his terminal cancer diagnosis, was not incapacitated enough to qualify for compassionate release. This denial of medical parole reflects broader systemic issues.

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The Elder/Medical Parole Bill (H.2693) currently before the Massachusetts Legislature would address many of these concerns. This bill would amend the medical parole statute to improve access for individuals with cognitive incapacitation and would require the commissioner to base their decision on current risk to public safety given their medical situation.

The legislation would also create a new entitlement for elders (of any sentence category) to seek parole under certain circumstances, making release possible for elders who pose no risk to public safety.

National Trends and Opportunities for Replication

The COVID-19 pandemic accelerated compassionate release nationally, providing valuable lessons. COVID-19 and the First Step Act led to individuals incarcerated in federal prisons being released at a rate more than 17-fold what had been seen previously, demonstrating that rapid expansion is possible when systems are properly designed and implemented.

The First Step Act, passed in 2018, has since facilitated the release of over 4,560 people through compassionate release provisions, with 2,600 releases occurring during the COVID-19 pandemic alone. However, many states reported numbers of approved releases that were similar to, or at times lower than previous rates, highlighting significant variation in state-level implementation and the need for nonprofit advocacy and support.

Contrary to popular belief, many victims and survivors support reform. A 2022 survey of more than 1,500 crime victims found that six in ten victims prefer increased "spending on prevention and rehabilitation to prison sentences that keep people incarcerated for as long as possible."

The Path Forward: Five Key Steps

Effective compassionate release reform requires five key components:

1. Streamlined review procedures with clear timelines must replace the current system, where applications can languish for years
2. Expanded eligibility criteria focused on functional capacity rather than specific diagnoses, including cognitive impairments, chronic pain conditions, and cumulative health factors
3. Mandatory transitional care planning involving community organizations beginning six months before release. This program includes comprehensive medical assessments, housing placement assistance, benefits enrollment, and community support network development. Without such planning, even successful releases can fail—as happened when one aging inmate with dementia returned to federal custody within days because he lacked sufficient community support.
4. Partnerships with community-based long-term care providers to create innovative housing models for formerly incarcerated elderly individuals. These partnerships should include specialized transitional housing, assisted living arrangements, hospice care coordination, and family reunification support when appropriate. Cost-sharing arrangements between state corrections budgets and community providers can achieve savings while providing more appropriate care.
5. Training for healthcare providers on compassionate release advocacy to ensure that medical professionals

understand legal frameworks, assessment techniques, and community alternatives. Too often, prison medical staff lack the knowledge or incentives to advocate for appropriate releases, perpetuating a system that prioritizes custody over care.

Measuring Success

Comprehensive evaluation frameworks must track both humanitarian and fiscal outcomes. Humanitarian metrics should include quality-of-life indicators like pain management, family contact, dignity in end-of-life care, and access to cultural practices. Fiscal analysis should capture direct savings from per-prisoner costs, healthcare reductions through community-based care, and avoided infrastructure investments for aging-appropriate prison facilities.

This reform agenda addresses three critical contemporary concerns:

- Racial justice demands attention because the aging prison population disproportionately affects communities of color due to historical sentencing disparities. Moreover, federal data show that 5 percent of Black individuals' petitions for compassionate release were accepted (compared to 32.8 percent from White petitioners), but 50.4 percent were denied (compared to 26.8 percent from White petitioners).
- Fiscal responsibility requires acknowledging that warehousing elderly and terminally ill individuals at triple the cost of community care represents a profound misallocation of public resources.
- Community innovation offers an opportunity for transformative change. Organizations can develop specialized transitional housing, care coordination services, and advocacy programs.

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The Nonprofit Leadership Role

This crisis presents a unique opportunity for nonprofits to lead and make a significant impact through transitional care and housing programs.

Community organizations can develop specialized programs for elderly and medically fragile individuals transitioning from prison. These programs address the complex needs of people who may have spent decades incarcerated and require both medical care and social reintegration services.

Advocacy and policy reform organizations can work to expand compassionate release criteria and streamline processes. Key to this work are partnerships between criminal justice reform advocates, healthcare providers, eldercare organizations, and community-based long-term care providers. These collaborations can create comprehensive support systems that address immediate medical needs and long-term reintegration challenges.

In short, addressing the needs of aging prison populations and meeting the moral and fiscal imperatives of compassionate release offer a unique opportunity for nonprofits to improve people's lives and save taxpayer dollars at the same time.

About the author

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