

Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations

December 2017
Report Summary

Nationally, the percentage of older adults in prison has increased dramatically: from 1993 to 2013, the number of people 55 or older in the custodial state prison population increased 400 percent, from 3 percent of the total state prison population to 10 percent. The cost of incarcerating older people is double that of housing younger ones due to health care expenses, and recidivism research demonstrates that arrest rates drop to just more than 2 percent in people ages 50 to 65 years old and to almost zero percent for those older than 65.

The Justice Reinvestment Initiative (JRI), a partnership between the Bureau of Justice Assistance of the U.S. Department of Justice's Office of Justice Programs and the Pew Charitable Trusts, is a data-driven approach to criminal justice policy that seeks to improve public safety, curb corrections costs, and reinvest the savings in evidence-based public safety strategies. Decreasing the elderly and infirm prison population is consistent with two common goals of the JRI process: reserving prison for people who pose a high risk for re-offending and reducing costs.

Compassionate release policies, which allow people who meet certain aging or medical criteria to be released earlier than their statutory release dates, offer one promising avenue for reducing aging prison populations. They serve both a compassionate purpose (allowing elderly or seriously ill people to spend their final months or years with their closest loved ones), and a practical one (corrections institutions are poorly equipped to care for seriously ill people). To date, JRI legislation in eight states—Alabama, Alaska, Arkansas, Louisiana, Maryland, Mississippi, North Dakota, and South Carolina—have created or expanded release policies designed to reduce the number of elderly or infirm people in their custody.

It is too soon to determine whether these policies are effective at safely and significantly reducing the elderly and

infirm prison population. Nonetheless, there are lessons to be learned from the policies implemented in JRI states. Drawing on the experiences of these JRI states as well as existing literature about incarcerating elderly and seriously ill people, this report examines the challenges states face in using compassionate release mechanisms to reduce these populations and related costs. Case studies of Mississippi and South Carolina illustrate both the shape these laws can take and the barriers faced in designing and implementing these policies.

This report offers suggestions that target the most common challenges faced by states that adopt or modify compassionate release policies, including to:

- expand eligibility to include even those convicted of more serious offenses;
- include expansive medical and geriatric criteria to clarify and broaden medical eligibility standards;
- make geriatric parole consideration automatic to ensure that more people are considered for compassionate release;
- assign correctional staff to help people navigate the sometimes complex process of applying for geriatric parole;
- speed up the process, because time is of the essence for gravely and terminally ill applicants;
- modify the approval process for victims and law enforcement so that while their input is considered, it is not given outsized weight; and
- improve release options and relationships with community providers so that those released have a treatment plan and place to go if their applications are granted.

For more information

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The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse

of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America's increasingly diverse communities. For more information, visit www.vera.org.

To read the full report, visit www.vera.org/aging-out. For more information about this report, contact Rebecca Silber, program manager for

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