New York State's Aging Prison Population

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

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Message from the Comptroller

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New York State must maintain an effective criminal justice system to ensure the safety of the public. Over time, however, the policies and practices of our justice system may change in response to various factors. One such factor in New York has been a sharp reduction in the number of individuals incarcerated in our State prisons – a trend which has continued for over a decade.

Even as the overall prison population has declined, one group in particular has increased noticeably: older inmates. From 2007 through 2016, the total inmate count fell by nearly 11,000, or 17.3 percent, to around 52,000. Meanwhile, the number of inmates aged 50 or older rose by 46 percent, to more than 10,000.

While this trend is not unique to New York, it poses issues that the State must address, including the cost of incarcerating a growing number of older individuals. Various studies have concluded that costs associated with older inmates are higher due in large part to an increased need for medical care. While data detailing health care costs by age groups are not readily available for New York, overall health care costs for inmates in our State prisons have increased in recent years, reaching nearly $381 million in State Fiscal Year 2015-16.

New York, other states and the federal prison system have undertaken and proposed various initiatives aimed at addressing the challenges posed by an aging prison population. Along with these initiatives, organizations that study criminal justice matters have proposed additional approaches. For example, some experts have said that because of factors including recidivism rates that are generally lower for older individuals than for their younger counterparts, early release for older individuals may be an appropriate strategy in certain cases.

Though New York State has undertaken various initiatives relating to aging inmates, there is a need for more complete data on and analysis of fiscal and programmatic issues associated with an older prison population, including health care costs. This information would help policy makers, advocates, and stakeholders identify and assess the appropriate measures to address this challenge most effectively.

Keeping New Yorkers safe, protecting taxpayer dollars, and achieving an effective and humane justice system are fundamental goals which must be balanced appropriately and fairly. With further attention and analysis, New York can address our aging inmate population in a manner that promotes each of these objectives.

Thomas P. DiNapoli
State Comptroller

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New York's Aging Prison Population

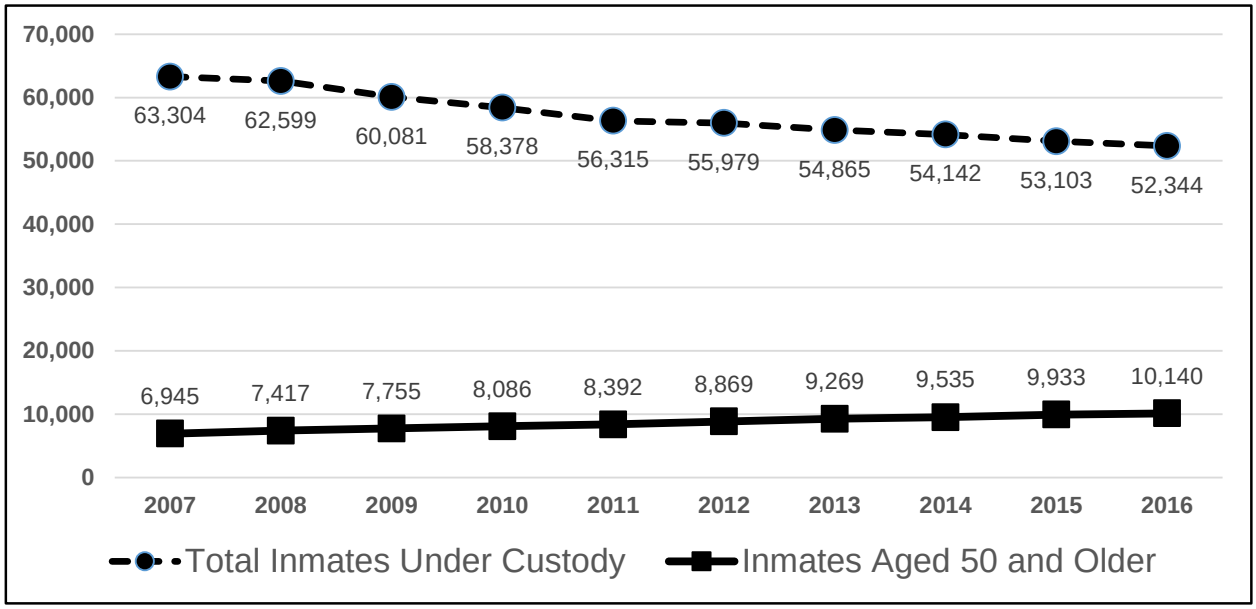
New York State's prison population has been decreasing, but the number of older inmates has been on the rise. This report details these trends and reviews certain issues related to an aging prison population. It suggests further data and analysis are needed to identify and assess next steps to address this challenge, including the potential for early release of older inmates, while ensuring public safety in the most cost-effective manner.

Fewer Inmates Overall, But More Older Inmates

New York State's overall prison population has declined noticeably over the last decade. Continuing a downward trend from a peak of over 72,000 in 1999,[1] the number of inmates declined by nearly 11,000, or 17.3 percent, from 2007 through 2016, as shown in Figure 1. Over the same period, the number of inmates aged 50 and over increased by 46.0 percent. Among age cohorts for which readily available data allow comparisons, no other age segment of New York's prison population increased over the ten-year period.

Figure 1

Total Inmates Under Custody and Inmates Aged 50 and Over
(From 2007 through 2016)



Source: Department of Corrections and Community Supervision
Note: Before 2012, Total Inmates Under Custody figures excluded incarcerated parolees and certain returned parole violators. As of 2016, 981 such individuals were included in the Total Inmates Under Custody figure.

[1] See New York State Department of Corrections and Community Supervision (DOCCS) Fact Sheet, February 1, 2017, available at: http://www.doccs.ny.gov/FactSheets/PDF/currentfactsheet.pdf.

Inmates in the 50 and over age range comprised 19.4 percent of the State's prison population in January 2016, as compared to 11.0 percent a decade earlier. As of 2016, nearly 2,400 inmates, 4.6 percent of the total, were 60 or older.[2] The average age of inmates under custody in New York State prisons was 38.3 years in January 2016, an increase of 1.8 years or 4.9 percent since January 2007.

An aging prison population is not unique to New York State. Factors contributing to the aging of state prison populations have included an increase in the number of prisoners sentenced to and serving longer periods in prison, and increased admissions of older persons, according to a U.S. Department of Justice report issued in May 2016. More than four times as many prisoners age 55 or older were admitted to state prisons in 2013 than in 1993, according to the report.[3]

The Impact on Medical Costs

The State Department of Corrections and Community Supervision (DOCCS) and other authorities have identified a number of issues related to the aging inmate population, including the potential for higher medical costs to care for older individuals. Research suggests that the physical health of the elderly incarcerated is worse than that of the general population.[4] Other research suggests that incarcerated individuals are medically older than their chronological age. Like individuals throughout society, inmates are also susceptible to certain health issues that commonly arise with advancing age. For example, while there is limited data about the prevalence of age-related cognitive impairments among New York's prison population, the number of cognitively impaired prisoners in the State's system may grow in coming years, based on rates of dementia and related conditions in the general population.[5]

Aging inmates generally are more costly to incarcerate than younger cohorts, primarily due to their increased need for medication and other medical care.[6] While figures on health care spending for the State's older inmates are not readily available, health care costs generally rise with an individual's age. Overall health care costs for New York State prison inmates reached $380.6 million in State Fiscal Year (SFY) 2015-16, an increase of $64.5 million, or 20.4 percent, from three years earlier.

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[2] See the DOCCS Profile of Inmate Population Under Custody reports for 2007 through 2016, available at: http://www.doccs.ny.gov/Research/annotate.html#pop. Data contained within the reports is as of January 1 of each year.

[3] See U.S. Department of Justice, Office of Justice Programs, *Bureau of Justice Statistics*, "Aging of the State Prison Population, 1993-2013," May 2013, available at: https://www.bjs.gov/content/pub/pdf/aspp9313.pdf.

[4] Researchers refer to inmates as "elderly" or "aging" at different ages, generally starting within the range of 50 to 65. See, for example, Seena Fazel et. al., "Health of elderly male prisoners: worse than the general population, worse than younger prisoners," *Age and Ageing* 30:403-407 (2001) available at: https://academic.oup.com/ageing/article/30/5/403/39844/Health-of-elderly-male-prisoners-worse-than-the.

[5] See Brian Fischer, "Older Adults in the New York State Prison System," in Center for Justice at Columbia University, *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety*, November 2015, available at: http://centerforjustice.columbia.edu/files/2015/10/AgingInPrison_FINAL_web.pdf.

[6] See Office of Inspector General, U.S. Department of Justice, Evaluations and Inspection Division 15-05, "The Impact of an Aging Inmate Population on the Federal Bureau of Prisons," May 2015, revised February 2016, available at: https://oig.justice.gov/reports/2015/e1505.pdf.

Currently, DOCCS pays almost all of the health care costs of individuals incarcerated in State prisons. This is due to the fact that federal law prohibits states from using federal Medicaid funds to pay for such services in most circumstances, even if inmates are eligible for and enrolled in the program.[7] When inmates are released from prison, State budgetary savings may result if they are enrolled in Medicaid, which is partly funded by the federal government, or obtain other health coverage.

In contrast to incarceration costs that may rise as inmates age, recidivism rates decline as offenders grow older, although recidivism among older offenders does occur. Among the youngest offenders, ages 16 to 20, more than half of those released in 2011 returned to State prison within three years.[8] Recidivism rates, which reflect inmates who return to prison after new convictions as well as those who violate parole, generally decline as age at release increases. Among offenders released in 2011 who were ages 50 to 64, 33.2 percent returned to prison within three years (6.1 percent for new convictions; 27.1 percent for parole violations); among those 65 and over, the recidivism rate was 9.9 percent (1.0 percent for new convictions; 8.9 percent for parole violations). The recidivism rate for inmates aged 65 and over fluctuates partly because the number of such releases is relatively small. For the five years ending in 2011, the average recidivism rate for inmates aged 65 and over was 14.7 percent.

[7] Exceptions include when an inmate is admitted as an inpatient in a hospital, nursing facility, juvenile psychiatric facility or intermediate care facility.
[8] See DOCCS, 2011 Inmate Releases, Three Year Post Release Follow-Up report, October 2015, available at: http://www.doccs.ny.gov/Research/Reports/2016/2011_releases_3yr_out.pdf.

Medical Parole, Clemency and Other Initiatives in New York State

While an aging prison population may be more expensive, addressing the implications of this trend raises complex issues. New York has used several approaches over many years to address issues related to aging and infirm inmates.

Medical Parole

The medical parole program, enacted in April 1992 at the height of the AIDS crisis, when approximately two-thirds of deaths occurring among New York prison inmates were AIDS-related,[9] gave the Parole Board (Board) the authority to release certain terminally ill inmates before they had served the minimum term of their sentence. Legislation enacted in 2009 also authorized the Board to grant medical parole to certain inmates suffering from a non-terminal illness, as well as inmates cognitively incapable of presenting a danger to society.

An April 2014 DOCCS directive on medical parole allows certain individuals to ask the DOCCS Commissioner or the Division of Health Services to consider the inmate for medical parole. If the inmate is not disqualified by reason of crime or sentence, the Commissioner may, in his or her discretion, order a medical evaluation and discharge plan for the inmate. Following a medical evaluation, the Deputy Commissioner/Chief Medical Officer advises the Commissioner if the inmate's medical status conforms to the criteria for medical parole. If the Commissioner certifies the inmate as eligible, the inmate is referred to the Board for consideration for release on medical parole.[10]

DOCCS's most recent annual report on the medical parole program indicated that of 525 certified applications submitted from the program's beginning in 1992 through 2014, 112 applicants (or more than one in every five) had dropped out of the medical parole process. In all but four of the dropped cases, the inmates died before their Board interview. The average time between the date of an application for medical parole and an applicant's Board interview during this timeframe was 23 business days, 15 of which represented a required waiting period to give the sentencing court, the District Attorney and the inmate's attorney a chance to comment on the inmate's release.

Of the 413 medical parole applicants appearing before the Board, 371 were approved, but 29 of this number were not released either because they died before release or were converted to regular parole before release. Additionally, 35 applicants were denied medical

[9] See "Decrease in AIDS-Related Mortality in a State Correctional System – New York, 1995-1998," January 8, 1999, available at: https://www.cdc.gov/mmwr/preview/mmwrhtml/00056161.htm.
[10] See DOCCS Directive, Medical Parole, April 8, 2014, available at: http://www.doccs.ny.gov/Directives/4304.pdf.

parole "due to risk assessment/criminal history," while 7 had their interviews postponed, but died before their next Board appearance. Two-thirds of inmates released to medical parole over the history of the program were discharged to nursing homes, with others discharged to hospitals, home care or hospice care.[11] Over the 23-year period, from June 1992 through December 2014, 6 of the 342 inmates (or 1.8 percent) released on medical parole were returned to prison.

Annual numbers of medical parole applicants are a small proportion of the overall inmate population. For example, certified medical parole applications received in 2014 represented less than one-tenth of one percent of the overall inmate population in that year. Of the 30 applications received in 2014, 17 inmates were granted medical parole, 6 individuals were denied, 6 applicants died before meeting with the Board and 1 application was postponed.

Legislation proposed in the SFY 2015-16 Executive Budget that was enacted in amended form authorized the DOCCS Commissioner to grant medical parole for certain nonviolent offenders suffering from a terminal illness. The Executive Budget memorandum in support of this initiative estimated "$1 million in annual savings of inmate health care costs from the expeditious release [of] non-violent inmates who meet the qualifications for medical parole." The memorandum also pointed to the time-consuming nature of the Board of Parole process, and noted that a number of inmates eligible for medical parole die in prison.[12] The amended version of this proposal in the SFY 2015-16 Enacted Budget included a provision to require the Board of Parole to either accept the Commissioner's grant of medical parole or conduct further review. According to the 2015 annual report of the State Assembly Committee on Correction, "Elderly and infirm inmates have been estimated to cost more than $100,000 per year to keep in prison. Releasing 327 inmates to medical parole since the program's inception [through 2013] has saved the state more than $15 million."[13]

Executive Clemency

Before the medical parole program was established, the longstanding but selectively used power of executive clemency was the only way a terminally ill inmate could be released from prison before his or her parole eligibility date.[14] According to an April 2016 directive by the DOCCS, executive clemency "rests within the sole discretion of the Governor," is granted in "only the most extraordinary and highly meritorious cases," and "generally

[11] See DOCCS, Medical Parole 2014, May 2015, available at: http://www.doccs.ny.gov/Research/Reports/2015/Medical_Parole_Report_2014.pdf.
[12] See the 2015-16 Executive Budget Memorandum in Support of Public Protection and General Government Article VII Legislation, Part A, available at: https://www.budget.ny.gov/pubs/archive/fy1516archive/eBudget1516/fy1516artVIIbills/PPGG_ArticleVII_MS.pdf.
[13] See Standing Committee on Correction, New York State Assembly, 2015 Annual Report, available at: http://nyassembly.gov/comm/Correct/2015Annual/index.pdf.
[14] See DOCCS, Medical Parole 2014, May 2015, available at: http://www.doccs.ny.gov/Research/Reports/2015/Medical_Parole_Report_2014.pdf.

commutes (reduces) the sentence imposed in court to the extent the inmate becomes immediately eligible for release."[15] The authority granted under clemency also includes the ability to grant pardons, which set aside convictions for individuals who have completed their sentences.

From 2006 through 2016, New York governors granted few petitions for clemency in the form of commutations for inmates in State correctional facilities, as shown in Figure 2 (figures exclude petitions for pardons). Over the period through 2015, commutations were granted for less than one-half of one percent of all petitions filed for this form of clemency.[16] In 2015, one of the three commutations was for an inmate over the age of 50.[17]

Although the overall number of sentence commutations remains a negligible percentage of the overall inmate population in New York, the total number of this type of clemency increased in 2016. Seven individuals, 5 of whom were age 50 or older, received clemency in the form of commutations in 2016. Information is not readily available regarding the number of applications that were received for sentence commutation in 2016.[18]

Figure 2

Clemency Petitions for Commutations Received and Granted (2006 through 2016)

Year	Petitions Received	Petitions Granted
2006	138	0
2007	159	0
2008	210	2
2009	232	1
2010	773	2
2011	243	0
2012	293	0
2013	149	0
2014	150	0
2015	254	3
2016	N/A	7
Total	2,601	15

Source: New York Office of the Governor
Note: The Total for Petitions Received is for 2006-2015 only.

[15] See DOCCS directive, Information Concerning Executive Clemency, April 2016, available at: http://www.doccs.ny.gov/Directives/6901.pdf.
[16] See data from the New York Office of the Governor, available at: https://www.ny.gov/services/apply-clemency.
[17] See Governor's news releases, "Governor Cuomo Grants Clemency to Four Individuals and Launches Pro Bono Clemency Program," October 2015, available at: https://www.governor.ny.gov/news/governor-cuomo-grants-clemency-four-individuals-and-launches-pro-bono-clemency-program, and "Governor Cuomo Offers Executive Pardons to New Yorkers Convicted of Crimes at Ages 16 and 17," December 2015, available at: https://www.governor.ny.gov/news/governor-cuomo-offers-executive-pardons-new-yorkers-convicted-crimes-ages-16-and-17.
[18] See Governor's news release, "Governor Cuomo Grants First-Ever Conditional Pardons to More Than 100 New Yorkers Convicted of Crimes at Ages 17 and 17," December 30, 2016, available at: https://www.governor.ny.gov/news/governor-cuomo-grants-first-ever-conditional-pardons-more-100-new-yorkers-convicted-crimes-ages.

Other Steps to Address the Aging Inmate Population

Additional initiatives that help address the challenges of New York's aging incarcerated population include operation of a 30-bed unit for the cognitively impaired (UCI), created in 2006 within the regional medical unit of the Fishkill Correctional Facility, a medium security institution. The unit specializes in the treatment of inmates with a variety of conditions such as Alzheimer's, Huntington's and Parkinson's diseases. Staff at the UCI includes specially trained physicians, nurses, clinical psychologists, social workers and corrections officers.[19] In 2012, the UCI reportedly cost $93,000 per bed annually, compared with $41,000 per bed for the general prison population.[20]

DOCCS also recently added 38 skilled nursing facility beds at its Walsh Medical Unit in Rome, increasing the number of beds for inmates needing long-term care to 150. An October 2014 DOCCS news release on the project stated that as the agency "continues to deal with an aging and sicker inmate population, there is a clear need for additional long term care beds."[21]

State prisons in New York have infirmaries, some shared among facilities, offering short-term care. Five DOCCS regional medical units across New York (including the Walsh Medical Unit in Rome) offer care that the State considers equivalent to services available in public and private nursing homes. Inmates who are considered too sick to be treated in prison infirmaries or regional medical units, or who need services not available within prisons, are transported to hospitals or other health care settings outside of prison for short-term care.[22]

In addition, the Governor's 2017 State of the State address referred to a plan directing DOCCS "to invest nearly $500,000 to create a fifty-bed dormitory at Ulster Correctional Facility to house eligible individuals aged 55 years or older."[23] Programs to be available at the dormitory would focus on "life skills, technology use, family unification, and health and wellness," with individuals placed there expected to "benefit from the age-appropriate environment to better prepare them to return to their neighborhoods."

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[19] See CorrectionalNews.Com, "New York Tackles Inmate Dementia with Special-Needs Facility," July/August 2008, posted July 29, 2008, available at: http://www.doccs.ny.gov/NewsRoom/external_news/2008-07-29_Prison_Gray.pdf.

[20] See Maura Ewing, The Marshall Project, "When Prisons Need to be More Like Nursing Homes," August 27, 2015, available at: https://www.themarshallproject.org/2015/08/27/when-prisons-need-to-be-more-like-nursing-homes?src=longreads#.bS7AEBYBD.

[21] See Anthony J. Annucci, Acting Commissioner, DOCCS, DOCCS News Release, "Walsh Regional Medical Unit Completes Second of Three-Phase Rehab Project," October 21, 2014, available at: http://www.doccs.ny.gov/PressRel/2014/Walsh_RMU.pdf.

[22] See Amy Neff-Roth, Observer-Dispatch, "Aging in prison: A look at prison health care facilities," June 24, 2012, available at: http://www.doccs.ny.gov/NewsRoom/external_news/2012-06-24_Aging_In_Prison_Health_Facilities_Uod.pdf.

[23] See Governor Andrew M. Cuomo, "2017 State of the State," page 196, available at: https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2017StateoftheStateBook.pdf.

The State Department of Health (DOH) has been implementing a plan to improve the continuity of health care services for individuals transitioning from incarceration to the community. One of the barriers to care is the State's suspension and reinstatement process for Medicaid. Under federal law, Medicaid coverage must be suspended for recipients incarcerated in a DOCCS facility. However, DOH has noted that the process for reinstating coverage upon release can result in delays and create "a problematic gap in which members cannot access services." In the absence of Medicaid coverage, some health care providers are reluctant to make appointments before or immediately after release, according to DOH. To facilitate "the arrangement of critical services prior to release," DOH is working to reinstate Medicaid coverage and issue a benefit card before release, but not allow services to be billed until after release.[24]

The State recently requested authorization of federal Medicaid matching funds for certain Medicaid services to be provided in the 30-day period immediately before release for inmates who are eligible for and enrolled in Medicaid, and have two or more chronic physical/behavioral conditions, serious mental illness or HIV/AIDS. As a new presidential Administration prepared to take office in January 2017, the State formally withdrew its proposal, indicating that it may be resubmitted in the future.[25] The goal of the proposal is similar to DOH's "reinstate without ability to bill" initiative; i.e., to establish linkages to health care before release to help individuals stay healthy and stable in the community. Since 1997, states have been able to bill Medicaid for enrolled inmates leaving prisons or jails for more than 24 hours and admitted as inpatients for treatment in hospitals, nursing homes, juvenile psychiatric facilities or intermediate care facilities.[26] The New York Medicaid program limits such coverage to inpatient hospital services.[27]

[24] See correspondence to the Centers for Medicare and Medicaid Services (CMS) from Jason A. Helgerson, State Medicaid Director, September 30, 2016, p. 2 of attachment entitled New York State Criminal Justice Partnership Plan Waiver Amendment, available at: https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ny/medicaid-redesign-team/ny-medicaid-rdsgn-team-amend-wdwl-01192017.pdf.

[25] See correspondence to CMS from Jason A. Helgerson, State Medicaid Director, January 19, 2017, available at: https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ny/medicaid-redesign-team/ny-medicaid-rdsgn-team-amend-wdwl-01192017.pdf.

[26] See memorandum from Director, Disabled and Health Programs Group, Center for Medicaid and State Operations, U.S. Department of Health & Human Services to All Associate Regional Administrators, Division for Medicaid and State Operations regarding "Clarification of Medicaid Coverage Policy for Inmates of a Public Institution," 1997, available at: https://csgjusticecenter.org/wp-content/uploads/2014/06/PolicyforInmatesofPublicInst1997.pdf.

[27] See DOH Update: Medicaid for Justice Involved Individuals, April 28, 2015, available at: https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/docs/incarcerated_4_28_15.pdf.

Other Perspectives on Aging Inmates

In addition to legislative proposals in New York aimed at addressing this issue, other states, the federal government and organizations that study criminal justice matters have initiated or recommended approaches related to aging inmates.

The Connecticut Department of Correction recently received federal Centers for Medicare & Medicaid Services (CMS) certification for a nursing home housing former inmates who have been paroled largely because of physical and/or mental disabilities. The first-ever certification by CMS means the state is eligible to receive federal Medicaid matching funds and Medicare resources for parolees housed in the facility. Connecticut officials say the certification gives terminally ill aging inmates the opportunity to be granted parole and receive more appropriate care outside prison.[28] Correctional health experts say the certification is a potential treatment model for some of the growing number of aging and infirm inmates in American prisons.

A 2010 report by the Vera Institute of Justice recommends that states "consider developing and validating assessment instruments that can identify people within [prisons] who are at low risk of recidivism."[29] Last fall, in further response to 2011 legislation requiring new written procedures for the Board to use in making parole decisions,[30] DOCCS proposed regulations, not yet adopted, to "allow the Board to consider other risk and needs assessments or evaluations" if available for review during an inmate interview.[31]

Under current regulations, the Board is guided by the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), a risk and needs assessment tool prepared for DOCCS. The proposed regulations would also require the Board to provide an explanation when it departs from the COMPAS assessment to deny parole and, for inmates serving a life sentence for crimes committed under age 18, consider the "diminished culpability of youth; and [their] growth and maturity since the time of the commitment offense." The Osborne Association's comments on the proposed regulations call on the State Parole Board to "expand its age-specific practices beyond 'minor offenders' by also giving special consideration to the age—and thus the relatively low risk—of older people."[32]

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[28] See Katti Gray, "Feds OK Nursing Home for Infirm, Elderly Parolees," available at: http://thecrimereport.org/2017/01/09/feds-ok-nursing-home-for-infirm-elderly-parolees.

[29] See Tina Chiu, Center on Sentencing and Corrections, Vera Institute of Justice, "It's About Time: Aging Prisoners, Increasing Costs, and Geriatric Release," April 2010, available at: http://archive.vera.org/sites/default/files/resources/downloads/Its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf.

[30] See Section 38-b of Subpart A of Part C of Chapter 62 of the Laws of 2011, available at: http://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S02812&term=2011&Actions=Y&Text=Y.

[31] See Department of State, Division of Administrative Rules, New York State Register September 28, 2016/Volume XXXVIII, Issue 39, available at: https://docs.dos.ny.gov/info/register/2016/sept28/toc.html.

[32] See correspondence from Elizabeth Gaynes, President and CEO, The Osborne Association to the DOCCS Board of Parole regarding Public Comment, Notice of Proposed Rule Making, 9 NYCRR, Sections 8002.1, 8002.2 and 8002.3, October 31, 2016 available at: http://www.osborneny.org/previewAbout.cfm?pageID=41.

Some experts have suggested that because of factors including recidivism rates that are generally lower for older individuals than for their younger counterparts, early release for older individuals may be an appropriate strategy in certain instances. For example, a former DOCCS Commissioner has written:

> …the most ill among the elderly incarcerated are not the only people who should be considered for early release. Research has shown that rates of recidivism decrease significantly with age, with the elderly incarcerated presenting the lowest risk of offending after release from prison. … By establishing innovative policies providing for early release of more of the elderly prison population, leaders in New York State can effect important change in addressing the problem of mass incarceration in the United States, effecting considerable cost-savings while ensuring the safety of the community.[33]

The U.S. Department of Justice's Office of the Inspector General (OIG) has analyzed the rising cost of health care and other impacts of an aging inmate population on the federal Bureau of Prisons. In addition to finding that aging inmates in federal prisons are more costly to incarcerate than younger inmates due to increased medical needs, the OIG determined that such inmates engage in fewer incidents of misconduct while incarcerated and have a lower rate of re-arrest once released than those who are younger.[34] Data are not readily available in New York to allow an analysis of the overall cost, including health care, for aging inmates in New York State prisons.[35]

[33] Brian Fischer, op. cit. See also, for example, Pew Charitable Trusts and John D. and Catherine T. MacArthur Foundation, "State Prison Health Care Spending," July 2014, available at http://www.pewtrusts.org/~/media/assets/2014/07/stateprisonhealthcarespendingreport.pdf and Tina Chiu, op. cit.

[34] Office of Inspector General, U.S. Department of Justice, op. cit.

[35] DOCCS posts on its website annual reports on inmates under custody in DOCCS institutions. These and other DOCCS reports include aggregate data on the number of inmates by age range, gender, offender status and certain other characteristics. Data on health services spending in DOCCS institutions (aggregate and by individual institution) is available from the Statewide Financial System.

Conclusion

This report shows that, while the overall size of New York's prison population has been decreasing, the number of older inmates has been on the rise. Among available age cohorts, no other age segment of New York's prison population increased over the ten-year period examined. The percentage of inmates aged 50 and over comprised 19.4 percent of the State's prison population in January 2016, up from 11.0 percent a decade earlier. These aging inmates generally are more costly to incarcerate than younger cohorts, primarily due to their increased need for medication and other medical care.

In New York, measures that may affect aging inmates include medical parole, executive clemency, and certain targeted health-related initiatives. Other states, the federal government and criminal justice organizations have identified additional approaches to address the challenges posed by aging inmates. Some experts and other observers believe that more of the elderly incarcerated could be considered for early release without jeopardizing public safety or undermining respect for the law.

However, more complete data on and analysis of trends in fiscal and programmatic issues associated with New York's aging prison population, including health care costs, is needed. Further research and analysis could help policy makers, advocates, and stakeholders identify and assess measures to address this challenge effectively.

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