

EXCESSIVE INCARCERATION OF THE ELDERLY  
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Massachusetts incarceration rates have tripled since the 1980s despite significant decreases in crime rates. This occurred mostly because of changes in criminal justice policies that markedly lengthened sentences for virtually all crimes. Between 2000 and 2015, the number of those with sentences of 20 years or more tripled and the cohort of those with either life or 20+ year sentences increased from 17% of the prison population to 29%. By January 1, 2016, that number had grown to 31% of the total and mandatory life without parole (LWOP) sentences had increased by more than 50%. Life sentenced prisoners now account for 22% of DOC prisoners. Concomitantly, there has been a dramatic aging of the prisoner population. Prisoners aged 50 and over have increased  $5\frac{1}{2}$  fold between 1999 and January 1, 2015 (from 464 to 2552) to comprise 24% of the total. Only one year later, the proportion of prisoners aged 50-59 has increased to 17% while prisoners aged 60 and above now constitute 9% of the total. Massachusetts has long ranked high among all states with elderly prisoners. Already in 2011, the Commonwealth was third, with 19.4% aged 50 and older, trailing only New Hampshire (19.8%) and West Virginia (20%). The overall national average for such prisoners was 16% in December of 2012.

Especially concerning is that corrections experts have determined that prisoners aged 50 and older need to be classified as elderly because they age prematurely. This results from overall prison conditions, including stress, substandard health care and nutrition as well as histories of poverty and high levels of mental health problems. It has also been amply demonstrated that the cost to incarcerate these elderly prisoners is typically 2-3 times the overall average cost of all prisoners which in Massachusetts has risen to more than \$50,000/year. It has been shown that the high cost of incarceration has diverted funding from critical public areas such as public education,

social services, public health, and local aid, many of which are essential to mitigate the root causes of criminal behavior.

Also evident is that incarcerating the elderly does little to improve public safety. As typical of national trends, less than 10% of new crimes in Massachusetts are committed by those 50 and older. Additionally, data shows that recidivism rates (new crimes committed by those released from prison) drop dramatically as prisoners age, such that after age 50 less than 10% of released prisoners will commit new crimes. This contrasts with overall Massachusetts and national recidivism rates that typically average between 40% to 70%. Corrections experts agree that, in general, potential offenders "age out" of committing crimes, with peak ages for offenders occurring between 20-29 years, then progressively dropping off as people age. Additionally, study after study has shown that lifers, when they have been released, have by far the lowest recidivism rates of all offenders, very rarely reoffending and almost never killing again.

Aging Massachusetts prisoners present substantial challenges. Increasing numbers are afflicted with serious medical and mental health problems and the need for geriatric and dementia care has become critical. Prisons are not designed for those with elderly handicaps and mobility impairments resulting from debilitation and costly medical conditions. It is clear that continued incarceration of these elderly not only imposes a great moral and economic burden, but is also unnecessary to preserve public safety since risks of reoffense are so much lower as prisoners age.

Current efforts at criminal justice reform have largely focused on non-serious, non-violent, and non-sexual crimes. However, 69% of Massachusetts state prisoners in 2016 are serving sentences for so-called "violent" crimes (54% for "Person" and 14% for "Sexual" offenses). Drug, Property and Other offenders comprised 14%, 8%, and 8%, respectively. Massachusetts does not publish age breakdowns by governing offense, but in 2015, of those serving life sentences, 44% were 50 and older and 21% were

60 and older. Importantly, lifers make up 58% of all prisoners aged 60 and older and 31% of prisoners aged 50-59. Thus, to substantially reduce the aging elderly prisoner population, it will be essential that policies affecting at least some "violent" offenders, including lifers, will need to be reformed.

Most experts concede that the United States and Massachusetts are incarcerating many more prisoners than needed and often for far longer than necessary to ensure public safety. Consequences include the markedly aging prisoner population, with economic, societal and moral ramifications. For example, while Massachusetts' citizens may believe that the Commonwealth has abolished the death penalty, in 2015 alone, some 19 aging, mostly ailing, prisoners serving LWOP sentences have died in prison, most under morally troublesome and very costly circumstances with virtually no benefits to public safety. We have already seen the indefensible evolution of our prisons into the largest and neglectful reservoir of those with mental health problems. Now we are on the brink of an era which threatens to transform our prisons into the largest nursing home and elder care facilities. The results are certain to be equally disturbing and morally questionable - as well as totally unnecessary for public safety and wasteful of economic resources. The time is long overdue to provide viable mechanisms for the meaningful release of those prisoners over 50 who have served substantial sentences and become rehabilitated and who no longer present a significant risk to public safety.

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Documentation to support the opinions and facts in this report can be found in MASS(achusetts) INCARCERATION OF THE ELDERLY: Morally Questionable, Costly and Unnecessary for Public Safety (Norfolk Lifers Group, Norfolk MA, April 2016) by Dirk Greineder, available at [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing).