

# Elder Parole is an Aging Issue

## The U.S. has a prison problem

- The United States has the second highest prison population of any country in the world, at 1.7 million people, placing it right behind China. <sup>1</sup>
- Out of every 100,000 Americans, 505 are in prison, giving the U.S. the fifth-highest rate of prison incarceration in the world, right behind Cuba. <sup>2</sup>
- If New York State were a country, its rate of 350 per 100,000 people in prison would rank it number 14 among more than 200 countries.

## While the number of people in New York State prisons has been declining, the number and proportion of older people in prison has been rising

- One in every four incarcerated people in New York State is age 50+, about 7,600 people. This is up from 12 percent in 2008. <sup>3</sup> This makes the prison population older, on average, than the state as a whole.
- There are half as many people in prison in NYS today compared to 2008, dropping from 63,000 to 31,000. At the same time, the number of incarcerated people who are 50+ increased from 7,500 to 7,600. <sup>4</sup>
- While the overall population of people in prisons in New York State is declining, the proportion who are over 55 is increasing steadily because of long and indeterminate sentences – even more common in the 1980's and 1990's – which leave people still in prison who were convicted decades ago. <sup>5</sup>
- Almost all people inside who are over 55 have already served 15+ years. Many are already parole-eligible, yet face denial after denial based solely on the one thing they can never change, namely their crime of conviction.
- People are dying behind bars no matter how much they have done to improve themselves and regardless of whether they pose a risk to community safety.

## **The physical and mental stresses of living in the prison environment have created a health crisis in the prison system, with prisoners in their 50s exhibiting sickness and disability at a rate equal to community-dwelling people in their 70s and 80s. This is called accelerated aging.**

- While 31 percent of the community-dwelling population has had a chronic condition (e.g., asthma, hypertension, heart disease, arthritis, liver problems), 44 percent of incarcerated people do. For incarcerated people aged 50 or above that number skyrockets to over 72 percent.<sup>6</sup>
- People in federal and state prisons are much more likely to contract serious infectious diseases like tuberculosis and hepatitis, with a prevalence rate of 21 percent among people in prison compared to 5 percent among community-dwelling people.<sup>7</sup>
- Incarcerated people nationally died of COVID-19 at twice the rate of the general U.S. population, after adjusting for age and sex, in the year between April 2020 and April 2021.<sup>8</sup>
- The prevalence of HIV/AIDS is also three times higher among people in prison compared to those outside.<sup>9</sup>
- Older incarcerated people also experience higher rates of cognitive impairments, depression, anxiety, and trauma.<sup>10</sup>
- Due to accelerated aging, the New York State Department of Corrections and Community Supervision recognizes incarcerated people 55 and older as being older.<sup>11</sup> This is in line with many other state departments of corrections and the federal corrections system.<sup>12</sup>
- The average age of death for incarcerated people is 58 years. If New York State's prisons were a country, a life expectancy of 58 would rank it among the bottom ten in the world. Each additional year in prison takes two years off a person's life expectancy.<sup>13</sup>

## **The number of people who are dying in prison is rising**

- From 2010-2020, 1,278 people died in custody of New York State prisons. That is more than the 1,130 who were executed in New York State between 1608 and 1972, when this state had the death penalty.<sup>14</sup>
- Half of all deaths in prison are among people age 50+.

## **Prisons are no place to grow older**

- Most prisons are not accessible to people using wheelchairs, walkers, and other assistive devices.
- There are few or no accommodations for incarcerated people as their needs change with increasing age
- Prison health care systems are more equipped to address physical trauma rather than the management of chronic conditions associated with older age. As a result, many chronic conditions go untreated.<sup>15</sup>
- People experiencing sensory and cognitive decline have a harder time following orders from prison guards, completing work assignments, and navigating the physical environment of a prison
- Isolated from life and relationships outside prison, transitioning back into communities find it more difficult the longer they have spent behind bars.

## Older people who have served long sentences pose a negligible risk to community safety

- People who have served longer sentences for violent crimes return to prison at lower rates than those who serve shorter sentences for non-violent crimes.
- In addition, older people released from prison are less likely to commit new crimes than younger ones.
- Less than 2 percent of people 55+ who served prison time for violent crimes return to prison for new crimes.<sup>16</sup>

## Despite the lower risk, New York State is spending more to incarcerate older people

- New York does not document the differential costs of incarcerating older people in its state prisons, but data from other states indicates that the annual costs for those over 55 are two to four higher than for others – ranging from \$100,000 to \$240,000 per year (as compared to \$60,000 per year for younger people).<sup>17</sup> Much of this additional cost is due to additional medical needs of older incarcerated people.
- Medical costs rose to \$7,600 per person in 2021, up 29 percent from \$5,900 in 2013. In the same time period, the share of people incarcerated in the New York State prison system who are age 55 and above rose from 16 percent to 24 percent.<sup>18</sup>
- The growing older adult population in New York State prisons is effectively turning them into the state's only public nursing homes
- Many people in prison are eligible for Medicaid, but since federal law prohibits states from using Medicaid funds to cover people in prison, these costs must be borne entirely by state taxpayers. If released, Medicaid costs would be shared between the federal and state governments.<sup>19</sup>

## Unfair incarceration and parole practices disadvantage Black and Latinx people and the communities they leave behind

- Black people are overrepresented among the prison population; comprising 48 percent of all incarcerated people in New York State, while comprising just 15 percent of the state's population. A further 24 percent of incarcerated New Yorkers are White (compared to 56 percent of the state's population), 24 percent are Latinx (compared to 19 percent of the state population), and 9 percent are Asian or Pacific Islander (compared to 1 percent of the population). Native American people comprise less than 1 percent of both the prison and general populations in the state.<sup>20</sup>
- Black people are incarcerated at 7 times the rate of White people.<sup>21</sup>
- According to an analysis by the New York Times 1 in 6 Black or Latinx men are released after their first parole hearing compared to 1 in 4 White men.<sup>22</sup>
- Imprisoned Black people are also 30 percent more likely to get a disciplinary action and 65 percent more likely to be sent to solitary confinement. Disciplinary tickets on a person's record make it less likely that they will be granted parole. Yet, investigations have revealed rampant discrimination and capriciousness in the disciplinary system.<sup>23</sup>
- Black and Latinx people also receive worse treatment in prisons. Investigations by the New York Times and the state attorney general's office turned up widespread race-based abuse of Black and Latinx imprisoned people.<sup>24</sup>

## Communities benefit when their elders are returned to them from prison

- Upon release, formerly incarcerated older adults often make important contributions to their communities, including by interrupting gun violence, mentoring young people, and ultimately promoting community safety.
- A recent New York Times article detailed the stories of several people returning from prison around the United States who took up careers helping others with the help of social services programs.<sup>25</sup>
- Programs such as The Osborne Association, The Fortune Society, Bard College Prison Initiative, Stand Together, and others have successfully helped people both during and after incarceration to start new chapters in their lives.

## The older adult advocacy and services community can help support older persons who are returning to communities after many years behind bars in several ways

- Provide key linkages to housing, health, legal, and social services, including Medicare and/or Medicaid benefits
- Connect them to employment programs like SCSEP.
- Provide opportunities for them to both receive needed services and give back to their communities
- Help them manage chronic conditions made worse by poor healthcare in prison.
- Help them navigate an affordable housing market made more difficult by limitations on where people convicted of felonies can live
- Provide support to family and friend caregivers of older, formerly incarcerated individuals
- Braid Older Americans Act funds with other funds to allow older adult center services to be made available to people returning from prison who are at least 50 years old.
- Create multidisciplinary teams to provide services and support for recently released people.<sup>26</sup>

## More info

- The National Association of Area Agencies on Aging found that only 9 percent of AAA had programs designed to help older people returning from prison, yet three out of four were interested in addressing the needs of this population if funding were available.<sup>27</sup>
- A group of civic leaders, aging organizations, and other activists are advocating for a fair elder parole process in New York State by passing both [Elder Parole](#) (S.2423 Hoylman-Sigal/A.2035 Dávila) and [Fair and Timely Parole](#) (S.307 Salazar/A.0162 Weprin). The two bills together would allow people over 55 who have served at least 15 years to be considered for parole. These bills would not require people to be released, just to have a fair hearing before the parole board.

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- <sup>2</sup> *Ibid.*
- <sup>3</sup> New York State’s Aging Prison Population: Share of Older Adults Keeps Rising. (2022). Office of the NYS Comptroller. <https://www.osc.state.ny.us/reports/new-york-states-aging-prison-population-share-older-adults-keeps-rising>.
- <sup>4</sup> *Ibid.*
- <sup>5</sup> The now-reformed Rockefeller drug laws, passed in 1973, instituted long prison sentences for people convicted of selling or possessing small quantities of controlled substances, including cannabis, yet did not succeed in curbing drug sales or use. Selling two or more ounces of narcotics or possessing four or more carried a minimum penalty of 15 years to life in prison and a maximum of 25 years to life in prison. Since 2009, when these laws were reformed, many of these people were diverted to treatment programs. Yet, many people convicted under the old scheme are still serving their sentences.
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- <sup>16</sup> Prescott, J. J., Pyle, B., & Starr, S. B. (n.d.). Understanding Violent Crime Recidivism. *Notre Dame Law Review*, 95. <http://ndlawreview.org/wp-content/uploads/2020/05/9.-Prescott-et-al.pdf>.
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## Brookdale Center for Healthy Aging

2180 Third Ave., 8<sup>th</sup> Floor, New York, NY 10035  
[www.brookdale.org](http://www.brookdale.org) |   @hunterbrookdale

### About the Brookdale Center for Healthy Aging

The Brookdale Center for Healthy Aging is the City University of New York's (CUNY) aging research and policy institute, located at Hunter College. Since 1974, we have been working to improve the lives of older adults through research, professional development, and advancements in policy and practice. We work to ensure that aging is framed not as a disease, but as another stage in the life course. Our vision is to make it possible for everyone to age as well as anyone can.