

**THE
NEED FOR ESTABLISHING
A
HUMANITARIAN
MEDICAL PAROLE POLICY
IN
MASSACHUSETTS**

THE TIME IS PAST FOR ESTABLISHING A HUMANITARIAN RELEASE PROGRAM IN MASSACHUSETTS

TERMINALLY ILL OFFENDERS LEFT TO DIE BEHIND THE WALLS OF MASSACHUSETTS PRISONS

Factoring in all of the medical expenses and security costs, the last few years in the life of 92 year-old Nick Montos cost Massachusetts tax payers in excess of one million dollars. Mr. Montos, who was serving a sentence of 33 to 40 years for armed robbery, passed away in the early morning hours of November 30, 2008.

During the thirteen years he served in state prison, Mr. Montos had received treatment for a variety of medical conditions including, triple by-pass heart surgery, cancer, and a host of age-related medical complications. For the last six months of his life, he could only walk fifteen to twenty feet at a time and then, only with the assistance of a cane and help from other prisoners.

ELDERLY OFFENDERS IN MASSACHUSETTS PRISONS

Like many other states Massachusetts is experiencing a dramatic increase in the number of over 60 year-old prisoners. According to the latest data available from the Massachusetts Department of Correction, there are some 472 offenders who fall into this category.

MASS DOC INMATES BY AGE GROUPING

AGE	FEMALE	MALE	TOTAL
60-64	6	235	241
65-69	1	131	132
70+	1	98	99
TOTALS	8	464	472

DATA SOURCE: Mass. Dept. Of Correction - January 1, 2008

In their January 1, 2008 Inmate Statistics Report, the Massachusetts Department of Correction states that between 1999 and 2008 there was a 24% increase in the number of prisoners between the ages of 40 and 64 - (3,131 in 1999) to (3,892 in 2008).

Even more dramatically, the age groupings for their prisoners in the 65 and older category increased a whopping 88%. - (123 in 1999) to (231 in 2008).

MEDICAL COST SOARING

Available data indicates that the average annual cost for treating inmates who fall into the 60 years or older class exceeds \$69,000. At the present time, the average annual cost to Massachusetts tax payers for treating the 462 - 60+ year-old inmates held in Massachusetts prisons is a staggering \$32,568,000. Department of Correction officials have recently noted that of their \$542,581,493 - 2007 budget, some \$103,989,685 went towards inmate care expenditures including, medical vendors, pharmaceuticals, Lemeul Shattuck Hospital cost, transportation, and to the MADOC Health Services Division.

THIRTY SIX STATES HAVE MEDICAL RELEASE PLANS WHY NOT MASSACHUSETTS ?

Thirty six states including at least four other New England states, Connecticut, New Hampshire, Rhode Island and Vermont, offer medical release plans for terminally ill prisoners. Massachusetts, once in the forefront of criminal justice policy, now finds itself isolated from the mainstream of such progressive tax saving incentives. Further complicating future budgetary considerations is that Massachusetts now houses some 883 offenders (22 female and 861 male) in the over 55 year-old category, the demographic considered elderly. If current projections hold, that number will rise significantly in the next few years, placing a serious financial burden on an already overburdened correctional budget.

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STATES WITH MEDICAL RELEASE PROGRAMS

Alabama
Alaska
Arkansas
California
Colorado
Connecticut
Florida
Georgia
Hawaii
Idaho
Indiana
Iowa
Kentucky
Louisiana
Maryland
Michigan
Mississippi
Missouri
Montana
New Hampshire
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Tennessee
Utah
Vermont
Virginia
West Virginia
Wisconsin
Wyoming

are permanently incapacitated or terminally ill to be released. It also allows for the release of inmates over the age of 55 who have life threatening illness. Prison officials estimate that about 125 prisoners will qualify. Virginia, passed a law in 2001 that allowed inmates 65 or older and who have served at least five years in prison to apply for parole on the basis of their age and medical condition. Prisoners who are 60 years or older, and have served ten years may also apply to the Parole Board. As of early 2008, 729 prisoners were eligible to apply for compassionate release. In Oklahoma, medical parole for offenders began in 2000. Since then in excess of 135 prisoners have been released. According to Oklahoma correctional officials, only one or two have been returned to custody for minor infractions.

TAXPAYERS SIMPLY CANNOT AFFORD TO PAY EXPLODING END-OF-LIFE HEALTH CARE COST FOR PRISONERS.

Ron McCuan of the National Institute of Corrections has stated that the driving force behind medical release programs for prisoners is the rising cost of medical treatment. "Early release of terminal or infirm inmates without a doubt saves tremendous amounts of tax dollars", McCuan said. "The taxpayer simply can't afford to pay exploding end-of-life health care costs."

LEADING THE WAY THE PROJECT FOR OLDER PRISONERS PROGRAM

Possibly the most innovative strategy for addressing the issue of elderly, ill, and infirm offenders within the nations correctional system has been developed by Professor Jonathan Turley of George Washington University located in Washington, D.C. Professor Turley is the driving force behind the Project for Older Prisoners or (POPS) program. Since its inception in 1989, law students at George Washington University have been working with prisoners in five states, Louisiana, Maryland, Michigan, North Carolina, and Virginia. The G.W.U. students conduct interviews and evaluate low-risk older and geriatric prisoners. Individual cases are assigned to the students who visit with the prisoners to discuss parole and other release options that are based on their age and medical condition. Since its inception, the POPS program has secured the release of over 100 prisoners. None of those released offenders have been returned to prison.

SOURCE: State Dept. of Corrections websites -media offices -
USA Today - 8/14/08

A nationwide sampling of medical release criteria for terminally ill offenders indicates that participating states,

1. - Show a substantial reduction in prison-related medical care cost.
2. - That releasing aged and terminally ill prisoners poses little if any, risk to public safety.

A compassionate release law that went into effect in Alabama on September 1, 2008 allows inmates who

Under Massachusetts Law, the State Parole Board lacks the authority to release terminally ill prisoners sentenced subsequent to the enactment of the so-called Truth in Sentencing law that went into effect in 1994.

**A
DYSFUNCTIONAL
COMMUTATION PROCESS
WITH
A DISMAL RECORD**

Lacking any other remedy, advocates for terminally ill prisoners are left with no other recourse but to file for Executive Clemency. Action on Executive Clemency Petitions by the Advisory Board of Pardons and the Governor can take up to a year and filing such a petition is extremely burdensome.

When it comes to the issue of Executive Clemency, Massachusetts has a dismal record. Statistics available from the Advisory Board of Pardons indicate that in 2007 some 62 Executive Clemency Petitions were filed. Of those, only one received a favorable recommendation. That recommendation was denied by Massachusetts Governor Deval Patrick shortly before Christmas, 2008.

In the case of Mr. Montos, advocates first filed with the State Parole Board, and then with the Governor's Office. Unfortunately, Mr. Montos who was seriously ill, passed prior to any action being taken. But not however, before hundreds of Massachusetts taxpayers had signed petitions asking Governor Patrick to grant a commutation of his sentence and release him under supervised parole conditions to spend his last few remaining days with his sister in Florida

**A
DEMONSTRATED
NEED FOR CHANGE**

Given the dire budgetary constraints facing the Commonwealth, it is both prudent and wise to look for alternative solutions when it comes to the excessive cost of medical care for elderly, ill, and infirm offenders within our correctional system. Establishing a humanitarian medical release policy, in any form, is a proven method of saving overburdened taxpayers tens of millions of dollars in unnecessary medical cost annually.
