

HUMAN
RIGHTS
WATCH

OLD BEHIND BARS

The Aging Prison Population in the United States



Summary and Recommendations



Housing wing, California Medical Facility, Vacaville, California



OLD BEHIND BARS

Photographs by Jamie Fellner/Human Rights Watch



Life in prison can challenge anyone, but it can be particularly hard for people whose bodies and minds are being whittled away by age.

Prisons in the United States contain an ever growing number of aging men and women who cannot readily climb stairs, haul themselves to the top bunk, or walk long distances to meals or the pill line; whose old bones suffer from thin mattresses and winter's cold; who need wheelchairs, walkers, canes, portable oxygen, and hearing aids; who cannot get dressed, go to the bathroom, or bathe without help; and who are incontinent, forgetful, suffering chronic illnesses, extremely ill, and dying.

(this page) Prisoner's cell

(opposite, top) State Prisoner, age 65

(opposite, bottom) State Prisoner, in his sixties



Human Rights Watch presents in this report new statistics that testify unequivocally to the aging of the US prison population. Among our findings:

- **Between 2007 and 2010, as noted above, the number of sentenced state and federal prisoners age 65 or older increased by 63 percent, while the overall population of sentenced prisoners grew only 0.7 percent in the same period. There are now 26,200 prisoners age 65 or older.**
- **Between 1995 and 2010, the number of state and federal prisoners age 55 or older nearly quadrupled (increasing 282 percent), while the number of all prisoners grew by less than half (increasing 42 percent). There are now 124,400 prisoners age 55 or older.**
- **As of 2010, 8 percent of sentenced state and federal prisoners are age 55 or older, more than doubling from 3 percent in 1995.**
- **One in ten state prisoners is serving a life sentence.**
- **Eleven percent of federal prisoners age 51 or older are serving sentences ranging from 30 years to life.**

Using data from the United States Bureau of Justice Statistics (BJS), Human Rights Watch calculates that the number of sentenced federal and state prisoners who are age 65 or older grew an astonishing 94 times faster than the total sentenced prisoner population between 2007 and 2010. The older prison population increased by 63 percent, while the total prison population grew by 0.7 percent during the same period.

Some older men and women in prison today entered when they were young or middle-aged; others committed crimes when they were already along in years. Those who have lengthy sentences, as many do, are not likely to leave prison before they are aged and infirm. Some will die behind bars: between 2001 and 2007, 8,486 prisoners age 55 or older died in prison.

This report is the first of two that Human Rights Watch plans to issue on the topic of elderly prisoners in the US.¹ It presents new data on the number of aging men and women in prison; provides information on the cost of confining them; and based on research conducted in nine states where prisons vary significantly in size, resources, and conditions, offers an overview of some ways that prison systems have responded to them. The report tackles some policy considerations posed by incarcerating elderly inmates, and raises the human rights concerns that must be addressed if sound policies are to be developed for the criminal punishment and incarceration of older prisoners, both those who grow old in prison and those who enter at an advanced age.

Prison officials are hard-pressed to provide conditions of confinement that meet the needs and respect the rights of their elderly prisoners. They are also ill-prepared—lacking

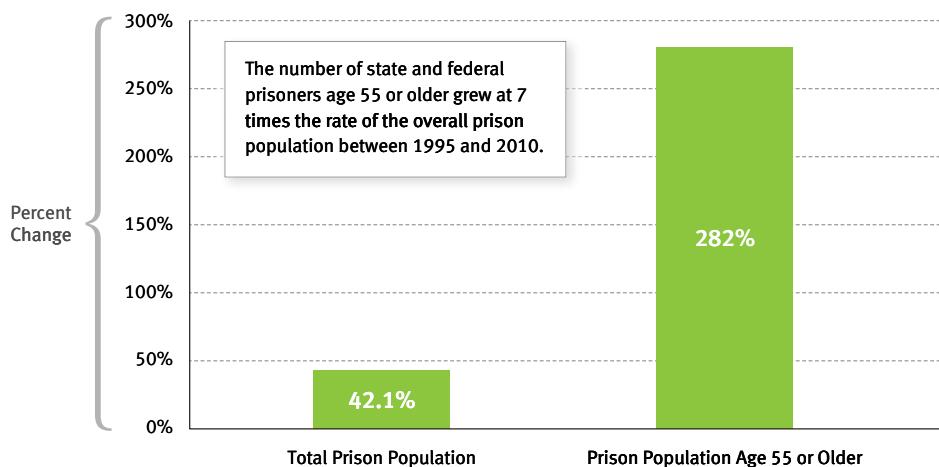
the resources, plans, commitment, and support from elected officials—to handle the even greater numbers of older prisoners projected for the future, barring much needed changes to harsh “tough on crime” laws that lengthened sentences and reduced or eliminated opportunities for parole or early release.

It is increasingly costly for correctional systems to respond to the needs of their geriatric populations, including their need for medical and mental health care. According to information gathered by Human Rights Watch, including previously unpublished data, annual medical expenditures are three to eight times greater for older state prisoners than for others. Since federal health insurance programs do not cover medical care for men and women behind bars, states shoulder the entire burden for their inmates. Taxpayers also bear the financial burden of expensive prison security and control measures for those individuals who, due to their age and infirmities, pose a negligible safety risk.

Providing medical care to older prisoners comes with a steep price tag because of their greater medical needs. Older prisoners are more likely than younger ones to develop mobility impairments, hearing and vision loss, and cognitive limitations including dementia. Older prisoners are also

¹ In this report we use the terms old, older, elderly, aging, and geriatric interchangeably to refer to people whose physical capabilities and mental acuity are markedly diminished by advancing age, wholly apart from any diseases which may have limited their physical or mental abilities. Nevertheless, because age, illness, and physical and mental disabilities so often overlap, we also use the former terms interchangeably with such terms as “old and infirm.” Similarly, we use the terms incarcerated persons, prisoners, offenders, and inmates interchangeably.

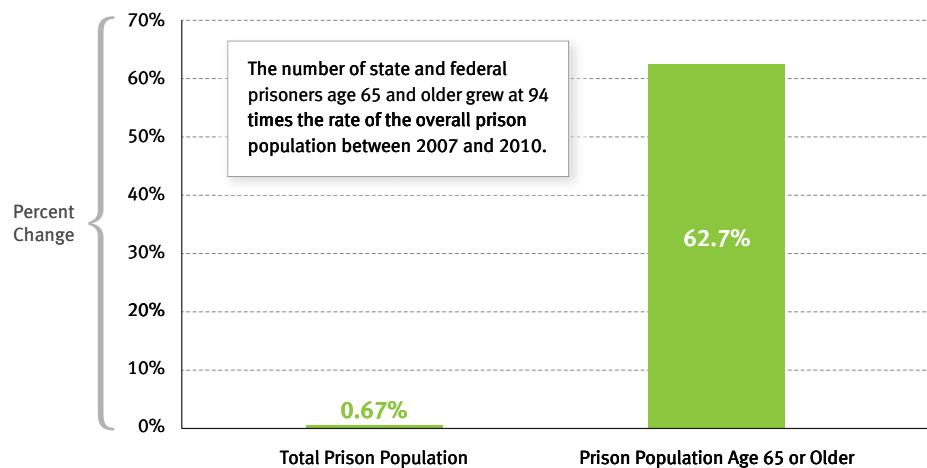
GROWTH IN STATE AND FEDERAL PRISON POPULATION, BY AGE, 1995-2010



Source: Bureau of Justice Statistics, Prisoner Series, 1995-2010

Note: Based on number of sentenced prisoners under jurisdiction of federal and state correctional authorities with sentences of more than one year.

GROWTH IN STATE AND FEDERAL PRISON POPULATION, BY AGE, 2007-2010



Source: Bureau of Justice Statistics, Prisoner Series, 1997 to 2010

Note: Based on number of sentenced prisoners under jurisdiction of federal and state correctional authorities with sentences of more than one year.

more likely to have chronic, disabling, and terminal illnesses. Prisoners who continue to age behind bars will eventually require assisted living and nursing home levels of care while incarcerated. Prison officials look at the projected increase in aging prisoners in their systems and realize in the very near future they will need to operate specialized geriatric facilities; some already do.

Corrections officials must respect the human rights of all prisoners, and what is required to respect those rights can vary according to the needs and vulnerabilities of the individual prisoner.

For an old and frail person, the right to safe conditions of confinement means not having to live in a dorm with younger persons prone to violence and extortion; the right to decent



Territorial Correctional Facility, Canon City, Colorado, on the yard



conditions of confinement means receiving extra blankets and clothing in winter because it is harder to stay warm; and the right to rehabilitation means receiving age-appropriate educational, recreational, and vocational opportunities. For an older offender who is mobility-impaired, accommodation of that disability will require assignment to a lower bunk, permission to take shortcuts to walk to the chow hall, or the assignment of someone to help push his wheelchair. For the older offender who breaks prison rules and whose mental capacities are weakening or who has dementia, staff disciplinary responses must be adjusted in recognition of the fact that the inmate is not engaging in willful disobedience. Ensuring older offenders who cannot take care of themselves are treated with respect for their humanity means providing staff or inmate aides who can help change clothes and clean up a cell when there is an “accident” due to incontinence.

Although we did not conduct the investigation that would be necessary to evaluate the extent to which the human rights of older prisoners are respected in any given facility, our research, including visits to 20 prisons, has convinced us that many older prisoners suffer from human rights violations. A significant reduction in the overall prison population, in the number of elderly prisoners, and/or a significant increase in funding are required if prison systems are to be able to house their elderly inmate populations in conditions that respect their rights.

We are also concerned that some elderly inmates are being unnecessarily held in prison despite the fact that their continued incarceration does little to serve the principal purposes of punishment: retribution, incapacitation, deterrence, and rehabilitation. For prisoners who no longer pose a public safety risk because of age and infirmity, and who have already served some portion of their prison sentence, continued incarceration may constitute a violation of their right to a just and proportionate punishment. Alternative forms of punishment should be imposed—for example, conditional release to home confinement under parole supervision—that would serve the legitimate goals of punishment. In our second report on older prisoners, we will examine the policies and procedures that have been enacted to permit the early release of prisoners on medical or compassionate grounds.

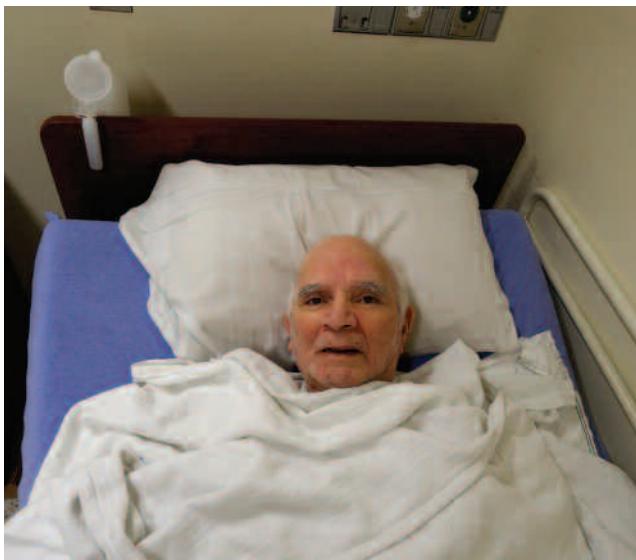
(this page, above) State prisoner, age unknown

(this page, bottom) State prisoner, age 81

(opposite, clockwise from top left) State prisoner, age 71; state prisoner, age 69; state prisoner, age 66; state prisoner, age 68







(above) Territorial Correctional Facility, Canon City, Colorado,
Corridor in housing unit
(top) State prisoner, age unknown

(above) Housing unit at Hocking Correctional Facility, Ohio
(top) Long-term Care Unit, Correctional Medical Center, Ohio

The rising tide of older persons in the United States as the “baby boomers” begin to hit age 65 has been called a “silver tsunami.” US corrections systems are also confronting a “silver tsunami” of aging prisoners. But the wave they confront is not the result of uncontrollable natural forces. It is the result of legislation enacted decades ago which is long overdue for reform.

Officials should review their sentencing and release laws and practices to determine which can be adjusted to reduce the elderly prisoner population without risking public safety. Meanwhile, corrections officials should review the conditions of confinement for their elderly prisoners,

including the services and programs available to them, and make changes as needed to ensure their human rights are respected.

A burgeoning geriatric prisoner population has important financial, practical, and moral implications for all Americans, not just those incarcerated. The United States should consider whether such a population is something that the country wants or needs. Human Rights Watch believes it is neither.

RECOMMENDATIONS

TO STATE AND FEDERAL GOVERNMENTS:

- Carefully analyze factors contributing to the growth in the number and proportion of elderly inmates in their prison populations.
- Review sentencing and parole/release policies that drive the burgeoning number of older prisoners to determine what modifications could reduce the population of elderly prisoners without appreciable risk to public safety.

TO STATE AND FEDERAL CORRECTIONS OFFICIALS:

- Undertake a comprehensive analysis of older prison populations to determine whether, and to what extent, they are being provided with adequate housing, medical care, and programs that respond to their unique needs and vulnerabilities. Develop comprehensive plans for the current and projected populations of older prisoners based on the needs assessment to protect their fundamental rights.
- Review custody and security rules and their implementation to ascertain which impose unnecessary hardship on older inmates and adopt appropriate modifications to those rules. In conducting that review, consult with older incarcerated men and women directly, through surveys or group meetings.
- Provide training for corrections officers working with older persons, including training in changing physical and mental conditions, and appropriate means of communication.
- Monitor older prisoners to ensure they are not being victimized, and take the potential for victimization into consideration in their housing decisions.
- Ensure that a senior official has the specific responsibility for monitoring, assessing, and pressing for improvements in confinement conditions for older prisoners.

OLD BEHIND BARS

The Aging Prison Population in the United States

Aging men and women are the most rapidly growing group in US prisons, and prison officials are hard-pressed to provide them appropriate housing and medical care. The number of state and federal prisoners age 65 or older grew at 94 times the rate of the overall prison population between 2007 and 2010. Unless sentencing and release policies change, US prisons will increasingly resemble old age homes behind bars.

Old Behind Bars: The Aging Prison Population in the United States includes statistics developed from federal and state sources documenting dramatic increases in the number of older US prisoners. Among the reasons for the increase are long (including life) sentences that reflect “tough-on-crime” policies. Many older prisoners remain incarcerated even though they are too old and infirm to threaten public safety if released.

Prison facilities, rules, and customs were created with younger inmates in mind. They can pose special hardships for the older prisoners who are frail, who have mobility impairments, hearing and vision loss, and cognitive limitations, including dementia; or who have chronic, disabling, or terminal illnesses.

In the nine states Human Rights Watch visited, many senior prison officials appeared aware of the unique needs of older prisoners, and many were struggling to respond. US prison officials, however, confront straitened budgets, prison architecture not designed for common age-related disabilities, limited medical facilities and staff, lack of planning, lack of support from elected officials, and the press of day-to-day operations. In circumstances like these, rights abuses are harder to avoid.

Among its recommendations, Human Rights Watch urges state and federal officials to:

- Review sentencing and release policies to reduce the growing population of older prisoners without risking public safety; and
- Ensure that prison policies and practices are reviewed to ensure that the rights of aging prisoners to dignity, health, and safety are fully protected.



Older man in a Colorado prison.
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