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STATE INITIATIVES TO ADDRESS AGING PRISONERS

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You asked for a discussion of how other states have addressed aging or medically infirm prisoners. You were particularly interested in initiatives that have transferred such prisoners to facilities such as skilled nursing facilities (nursing homes).

SUMMARY

This report provides examples of initiatives to cope with the aging prisoner population in California, Florida, Louisiana, Nevada, New York, Pennsylvania, Virginia, and Washington. Other states have similar initiatives.

California law allows the Department of Corrections and Rehabilitation to contract with public or private entities to establish and operate skilled nursing facilities to incarcerate and care for inmates. But, it appears that California has not used this law to date. Instead, the state is building a 1,722-bed prison in Stockton to house medically infirm prisoners, including those with Alzheimer's disease and mental illnesses. California also has a program where convicted murderers serve as aides to other inmates who have dementia.

Florida has four facilities that house large numbers of elderly prisoners, with varying eligibility criteria. Louisiana's state penitentiary has a hospice for prisoners near the end of their life, as do at least 75

prisons in 40 states. (OLR Report 2008-R-0597 describes Connecticut's prison hospice program.) Nevada and other states have a wide range of programs for elderly prisoners that address rehabilitation and diseases of the elderly. New York's Unit for the Cognitively Impaired, located in the Fishkill Correctional Facility, primarily serves prisoners with dementia. In Pennsylvania, the Laurel Highlands facility serves sick and elderly inmates. A minimum security facility, it houses nearly 1,400 inmates, approximately 400 of whom are over 50.

Most older prisoners in Virginia are housed at the Deerfield Correctional Center. In 2009, Virginia compared the costs and benefits of contracting for privately operated assisted living or nursing facilities for geriatric offenders, compared to the state operating such facilities. It found that the center is less costly than caring for these prisoners at private nursing homes in the same area would be.

To address the needs of prisoners 50 and older, Washington created an assisted-living unit at the Coyote Ridge correctional facility. The unit, which has a capacity of 74 inmates, is inside the fence of a regular prison but is segregated from other units.

INTRODUCTION

According to a 2012 study by Human Rights Watch, an advocacy group, the number of state and federal prisoners age 55 or over nearly quadrupled to 124,400 between 1995 and 2010, while the prison population as a whole grew by only 42%. The growth rate for prisoners age 65 and older has been more rapid. Policy changes such as "truth in sentencing" and two and three strikes laws, as well as the abolition of parole for certain violent offenders and reductions in compassionate early release, have resulted in more elderly prisoners. In addition, more elderly people are being convicted of crimes. In 2010, 9,560 people 55 and older were sentenced nationally, more than twice as many as in 1995.

An increasing number of prisoners need wheelchairs, walkers, canes, portable oxygen, and hearing aids; cannot get dressed, go to the bathroom, or bathe without help; or are incontinent, forgetful, suffering chronic illnesses, extremely ill, or dying.

The National Institute of Corrections identifies arthritis, hypertension, ulcer disease, prostate problems, and myocardial infarction as being among the most common chronic diseases among elderly inmates. Diabetes, hepatitis C, and cancer are also common. Prisoners are also more prone to dementia than the general population because they more often have risk factors such as hypertension, diabetes, smoking, depression, substance abuse, and head injuries from fights and other violence.

The costs of caring for elderly prisoners are high and growing. States spend on average $70,000 a year to incarcerate someone age 50 or older, nearly three times what it costs to house a younger prisoner, largely because of the difference in health-care costs, according to the National Institute of Corrections.

While many states allow for compassionate release of geriatric prisoners, a 2010 study by the Vera Institute of Justice, which reviewed laws related to the early release of geriatric inmates in 15 states and the District of Columbia, found that these provisions are rarely used.

According to the Vera Institute study, at least 27 states have a definition for who is an "older prisoner" for purposes of compassionate release: 15 states use 50 years as the cutoff, five states use 55, four states use 60, two states use 65, and one uses age 70. While Connecticut does not have a specific age, CGS § 54-131k requires that, to be eligible for compassionate parole release, a prisoner must be physically or mentally debilitated from age or illness, incapable of being a threat to society, and have served half of his or her sentence.

While somewhat dated, a 2008 report by the Illinois General Assembly Legislative Research Unit (Illinois' equivalent of our office), http://www.ilga.gov/commission/lru/april2008firstrdg.pdf, describes laws in 18 states affecting elderly prisoners and facilities and programs for this population in these states.

INITIATIVES IN OTHER STATES

California

Contracts with Private Providers. Cal. Penal Code § 6267 allows the Department of Corrections and Rehabilitation to contract with public or private entities to establish and operate skilled nursing facilities to incarcerate and care for inmates who (1) have limited ability to perform activities of daily living and (2) need skilled nursing services.

The facility must address the long-term care of inmates as needed. In addition, it must be designed to:

1. maximize the inmates' personal security,

2. maximize the facility's security, and

3. ensure the safety of the outside community.

The contractor must obtain a license for the skilled nursing facility.

The department must provide for the facility's security to ensure the safety of the outside community. It must enter into an agreement with the contractor about placing and review it to determine if the contractor's compliant. The department may revoke the agreement if it is not complying.

The department's ombudsman program must provide ombudsman services to prisoner-residents of contracted skilled nursing facilities. On the other hand, the Office of the State Long-Term Care Ombudsman does not have to advocate on behalf of residents of any skilled nursing facilities operated by or under contract to the department or investigate their complaints.

It does not appear that California has entered into contracts for nursing homes under this law to date.

State Facility. The California Health Care Facility – Stockton is being built as an intermediate-level medical and mental health care facility for inmates in the California state prison system. By centrally locating its inmates with the highest level of medical and mental health care needs in one facility, the state hopes to provide health care to prisoners more cost effectively and efficiently.

The 1,722-bed facility will have diagnostic and treatment centers. It will house the state's most medically infirm prisoners, including those with Alzheimer's disease and mental illness. The facility will employ approximately 1,100 nurses; more than 400 psychiatric technicians; more than 140 physicians, mental health providers, and pharmacists; and 130 allied health professionals.

The facility is currently in design. It will be surrounded by a 13-foot tall lethal electrified fence and have a 24-hour patrol and 11 45-foot tall guard towers.

The facility will cost between $700 and $750 million to build. It was authorized in 2007 by AB 900, which provided $7.7 billion to add 53,000 prison and jail beds for inmate treatment and rehabilitation and reduction of prison overcrowding, pursuant to a court order. Further information about the facility is available at http://www.chcfstockton.com/.

Program for Prisoners with Dementia. As described in the February 26, 2012 edition of The New York Times, convicted murderers at the California Men's Colony help care for prisoners with Alzheimer's disease and other types of dementia. They assist the other prisoners with activities of daily living, such as showering, shaving, applying deodorant, and changing adult diapers. They also conduct exercise classes and run meetings designed to stimulate memory and lessen disorientation. They escort inmates to doctors, acting as their intermediaries. Prisoners who participate in the program are trained by the Alzheimer's Association and are paid $50 a month.

Florida

By Department of Correction policy, a physician assesses and diagnoses all inmates who are limited in performing activities of daily living. These prisoners are provided with a service plan designed to meet their medical and mental health needs and are housed consistent with their custody level and medical status. Inmates who are blind, deaf, require a walker or a wheelchair, or who have specialized housing or service needs are assigned only to institutions designated for such custody and care.

According to a 2011 annual DOC report, as of June 30, 2011 there were 17,492 elderly inmates in prison, which represented 17.1% of the total population. Among the units that house large numbers of elderly prisoners are:

1. the south unit of the Central Florida Reception Center, which is specifically designated for elderly as well as palliative care inmates;

2. Zephyrhills Correctional Institution, which has two dorms specifically designed for elderly inmates as well as inmates with complex medical needs;

3. River Junction Work Camp, a work camp for minimum or medium security elderly inmates who are in good health, and able to work; and

4. the F-Dorm at South Florida Reception Center, which has 84 beds designated for palliative and long-term care and provides step down care for inmates who can be discharged from hospitals but are not ready for an infirmary level of care at an institution.

The eligibility criteria for entering these facilities vary. The unit at the Central Florida Reception Center houses male inmates at least age 50. They must have no recent violent disciplinary reports. The Zephyrhills Correctional Institution houses male inmates at least age 59, and serves as a corrections mental health institution. To be eligible for the work camp, inmates must be at least age 50; have no escape history; be eligible for parole within 10 years; and have no violent, sex, or homicide offense history. The South Florida Reception Center dorm houses male inmates who are at least 59. Inmates must have no serious escape or recent violent disciplinary reports.

Louisiana

Louisiana State Penitentiary (Angola) has a large population of aging men serving long sentences, with 85% of the approximately 5,100 inmates expected to die there. The prison, in partnership with University Hospital Community Hospice in New Orleans, created a program that meets national standards for community hospice programs. Prison staff and inmate volunteers provide support care within the prison infirmary, at no additional cost to the prison. The community hospice provided consultation, training, and services without cost.

Sick inmates are moved into hospice care when doctors think they have only about six months to live. They are given extra privileges and a hospice team of fellow inmates. Each patient is assigned six hospice volunteers who visit him regularly and care for his needs. Further information about prison hospice programs, including the one at Angola, is available at http://npha.org.

Nevada

The Department of Corrections (DOC) has recently expanded its programs for older prisoners in light of growth in this population due to longer sentences and longer life expectancy rates. Typically, these programs admit persons 50 and older depending on the program's criteria and program objectives. The program objectives include:

1. rehabilitation,

2. improving cognitive behavior, physical agility, emotional condition, and nutrition,

3. facilitating community re-entry,

4. prescription management,

5. encouraging social interaction, and

6. addressing diseases of the elderly.

In light of the growth in the elderly population, staff members at the Northern Nevada Correctional Center created the Senior Structured Living Program (SSLP) to serve aging offenders. Seniors can participate in various forms of therapy, recreational activities, and programs to maintain their cognitive skills. One of the program's objectives is to reduce criminal behavior in individuals and enhance their sense of responsibility as members of society, as many in the group have not been in the community for many years.

The program is open to prisoners at least 60 years old who have not committed disciplinary offenses for at least one year. Prisoners who participate in the program receive work time and meritorious credit for active participation. While in the program, prisoners do not qualify to hold outside jobs or attend full time educational programs. Inmates who are in transit or temporarily assigned to the institution for a variety of reasons are not eligible for the SSLP. Members must also participate in daily and weekly therapy activities as well as in group therapy programs that target their offense history, and they are expected to complete daily life skill assignments.

DOC is planning to expand the program's capacity and extend it to other DOC facilities in southern Nevada. The expansion will allow the department to process prisoners on waiting lists and place them in the program.

New York

New York's Unit for the Cognitively Impaired, located in the Fishkill Correctional Facility, primarily serves prisoners with dementia. According to a February 26, 2012 article in The New York Times, the unit had cared for 84 inmates between 2006, when it opened, and early 2012. The unit has a cost of about $93,000 per bed annually, compared with $41,000 in

the general prison population. Fishkill also operates as the regional medical hub for the state prison system and the unit occupies the third floor of the prison's four-story medical center. The unit provides a maximum-security environment in a medium-security prison, allowing it to accept inmates of any security classification from any facility throughout the state system.

An expansion at the Walsh Medical Unit in Rome will add 38 skilled nursing facility beds in 2014.

Pennsylvania

In 1980, there were just 370 inmates age 50 and older in the Pennsylvania prison system, according to the Department of Corrections' statistics. By 2010, that number had grown to 8,462.

The state correctional institution at Laurel Highlands serves sick and elderly inmates. A minimum security facility, it houses nearly 1,400 inmates, according to the DOC, approximately 400 of whom are over age 50. The rest are younger inmates who require special medical treatment and healthy prisoners who work in food service, maintenance, and janitorial services.

The prison has two skilled care units that house about 100 inmates, many of whom are transferred from other prisons. There is a referral process and a waiting list for inmates to move to Laurel Highlands There is also a four-bed hospice that provides specialized nutrition, chaplain visits, and other measures. The prison medical staff includes 26 registered nurses, 42 licensed practical nurses, 30 certified nursing assistants, who are all state employees, together with four contracted physicians.

The prison provides specialized programs to meet the needs of geriatric and seriously ill inmates, including medical care for long-term illness, life skills programs, recreational activities that are individualized to meet the needs of older or infirm inmates, substance abuse programs, psychological assessment and treatment, and religious services.

According to the November 21, 2011 edition of LancasterOnline, in late 2011, the average annual cost to house, feed, and care for a state prison inmate was $32,986, including $4,737 for health care, according to DOC spokeswoman Susan Bensinger. Laurel Highlands' annual per-inmate cost was $45,993 or nearly 30% higher. That includes an average health care cost of $14,003. A 2004 study by a legislative task force found that the average annual cost per inmate receiving long-term care

at Laurel Highlands was $63,500, compared to $62,000 per patient in a publicly-funded nursing home in the same county (the latter does not include security costs that would occur if the nursing home housed prisoners).

Virginia

Existing Facility. In Virginia, the number of inmates age and older increased almost seven-fold, from 822 to 5,697, from 1990 to 2010. As of March 2011, 82% of the inmates 65 and older and 62% of inmates age 50 to 64 were incarcerated for a violent crime, compared to 57% of younger inmates. Of those age 65 and older, two-thirds were sentenced when they were 50 or older and nearly half when they were at least 60.

Most older prisoners in Virginia are housed at the Deerfield Correctional Center. Deerfield is a one-story and handicap accessible institution that addresses inmates' mobility needs. Among other special health care equipment, additional handicap accessible vans are available to transport the population.

Since 1998, the center has been devoted to housing older male inmates as well as those with special health care needs. In 2005, its assisted living unit increased from 40 to 56 beds. By December 2006, just 8 years after opening, the Department of Corrections expanded the center from 497 to 1,059 beds to provide additional housing for geriatric inmates and inmates needing assisted living services. The expansion required an additional 194 employees. As of 2011, approximately 16 inmates were wheelchair dependent and an additional 61 required wheelchairs when going for medium to long-distance trips.

A new 18-bed medical infirmary was also part of this expansion. The infirmary provides a skilled nursing level of health care. In addition, four of six units at the center are equipped with a nurse's station for easy access to nursing care. While the infirmary is sufficient for the department's immediate needs, DOC anticipates needing to expand it over time as more Deerfield housing units and pods are converted to assisted living. Such expansion will be integrated with DOC's plan for a future statewide correctional medical center which would include surgery, radiology, medical oncology, dialysis, and physical rehabilitation services.

The department offers the following geriatric treatment programs at Deerfield: horticulture, library with large print books, assisted living services including reality orientation to check for dementia, Alzheimer's' Disease and cognitive abilities. There is peer tutoring, a computer

program for the blind, and a cooperative effort with the Virginia Beach library to assist blind and visually challenged inmates. In addition, other substance abuse, sex offender treatment, educational services, and recreational services are offered to geriatric inmates who are at other prisons throughout the state.

A 2011 presentation by the department noted that geriatric prisoners leaving the correctional system pose specific re-entry challenges. It noted that there are a declining number of assisted living facility beds and inadequate number of Medicaid nursing home beds. There is a lack of specialized housing for violent offenders and sex offenders.

Privatization Study. The state's 2008 appropriations act required the department and the Virginia Parole Board to analyze the costs and benefits of contracting for privately operated assisted living or nursing facilities for geriatric offenders, compared to the state operating such facilities. The study found that the gross cost of private facilities was more than twice that of housing prisoners at Deerfield. While Medicare and Medicaid would substantially reduce the state's cost, the cost estimate for the private facilities did not include security costs that would be incurred in housing prisoners. The FY 2010 per capita expense at Deerfield was $29,600 while most other medium security dormitories averaged $18,000.

The study also notes that contracting for privately operated assisted living or nursing facilities for lower risk geriatric offenders is difficult. There are limited public facilities for geriatrics in the community. Many of these for profit facilities have long waiting lists and many do not accept offenders.

Washington

Washington had 2,495 inmates age 50 or older, the state's definition of elderly, as of 2011. To address the needs of this population, the state established an assisted-living unit at the Coyote Ridge correctional facility. The unit, which has a capacity of 74 inmates, is inside the fence of the regular prison, but segregated from other units. The unit has two nurses assigned 24 hours a day, seven days a week.

To qualify for the unit, an inmate must be disabled and considered a minimum security risk. The average age in the assisted living unit was 59, a figure skewed slightly by three inmates in their 30s with disabilities. Nearly all the inmates in the assisted-living unit were convicted of murder or sex crimes, although a few are serving time for assault, drug or property crimes.

KEY WEBSITES CITED IN THIS REPORT.

2012 Human Rights Watch study
http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf, last viewed March 1, 2013.

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2008 Illinois General Assembly Legislative Research Unit report
http://www.ilga.gov/commission/lru/april2008firstrdg.pdf, last viewed March 1, 2013.

Virginia privatization study
http://sfc.virginia.gov/pdf/Public%20Safety/September%2024%20mtg/Final%20Geriatric%20Report%20for%20Item%20387-B%20incl.%20Ex.pdf, last viewed March 1, 2013.

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