Subject: [Prisoners' Rights] A Silent Reminder

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Stop and take a look at the photo of the prison cemetery in Mass, where gravestones are made of PVC pipe. It's enough to choke up the most hardened of advocates, lawyers, and the like. It says more than any report or briefing paper can. Sometimes we forget the power of the visual. Photos like this one remind us.

http://www.kunc.org/post/tempering-cost-aging-dying-prison-demands-justice#stream/0

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(http://mediad.publicbroadcasting.net/p/shared/npr/styles/x_large/nprshared/201808/630555624.jpg)

Nearly 90 former inmates are buried here on the grounds of the North Central Correctional Institution at Gardner. Before inmates, the state buried patients housed at what once was the Gardner State Colony for the "mentally disturbed."

MEREDITH NIERMAN / WGBH

Listen

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A Massachusetts state prison is expanding the graveyard where it buries inmates who die in custody, one consequence of the state's huge increase in aging prisoners. And as more inmates age and die behind bars, the cost of their care is skyrocketing, fueling new efforts to release prisoners who are too old or sick to pose a threat.

With 17 percent of its inmates now older than 55, Massachusetts has one of the highest rates of aging prisoners in the nation. And nationally the number of inmates older than 55 years old in state prisons has quadrupled since the '90s, due largely to longer prison sentences for violent crimes and an uptick in people older than 55 being sent to prison, according to the latest Justice Department report.

When some of these inmates die in prison and their bodies go unclaimed by family, they're buried in a prison cemetery, under crosses made out of white plastic plumbing pipe.

At a prison an hour north of Worcester, Mass., some 90 men are buried in graves bearing no names, only numbers.

"It's very humble. It's nothing much," said Kerry Keefe, the director of treatment at this state prison who's also in charge of burying prisoners whose bodies go unclaimed by family — about three or four a year.

"This isn't a bad place to spend eternity, but I think you'd want someone to cry for you," he added.

A local funeral home charges the prison about $1,000 per burial, but a new law creating a system for medical parole in Massachusetts could spare the state that small cost and millions of dollars more spent caring for the oldest and sickest of inmates.

All but four states in the U.S. have such a provision, also known as compassionate release, but it's rarely used. In Massachusetts, the new parole is an option only for prisoners who can prove they are physically or cognitively incapacitated.

But even Keefe, who expressed some sympathy for the inmates he's helped bury, is skeptical of releasing such prisoners.

"I get it kind of saves money," Keefe said. "It's fairly obvious the person can't do any kind of serious destructive behavior, but you got to pay attention and temper it with the demands of justice."

Also pushing back is Charlie Baker, the state's Republican governor. Baker's staff pressed state lawmakers last spring to exclude first-degree murderers and some sex-offenders from eligibility for medical parole.

In a medium-security state prison in Shirley, Mass., 38 beds in a locked unit are set aside for inmates needing assistance with basic daily tasks.

"We have individuals who are full care patients that may be post-stroke or in complete quadriplegia that just require our full care — with everything — dressing, changing, and diapering. And then we have patients who suffered from dementia and they are just confused," said social worker Elizabeth Louder who oversees what looks like a nursing home behind bars.

Massachusetts doesn't track the cost of caring for these inmates, but its prison hospital spends more than $283,000 a year to care for a single, sick inmate, four times the cost of housing an inmate in its maximum security prison.

Studies by Pew Charitable Trusts found that older prisoners with chronic illnesses cost at least two times more than other inmates. When prisoners need specialty care in off-site hospitals, officers go along to guard them, sending costs even higher.

Joseph Labriola, a 71-year-old inmate in the Shirley prison, said he was guarded around the clock when pneumonia landed him in a hospital off prison grounds.

"Two guards. You have one sitting at the door with a gun and the other one sits right next to your bed, and your leg is chained to the bed," he said.

Labriola has been in prison 45 years, serving life without parole for murdering an alleged drug dealer – a crime he says he didn't do. His health problems include chronic lung disease that he blames on exposure to Agent Orange when he was a soldier in Vietnam. He now gets around in a wheelchair, pushed by a younger inmate. More than anything, he doesn't want to die behind bars.

"Dying in prison has a special aura to it. You're not surrounded by people who love you, there's nobody's going to hold your hand on the way out the door," he said.

Peter Koutoujian, a county sheriff in Massachusetts, is adamant that medical parole is the best a solution for the worst-off inmates.

"If you're terminally ill or you're medically incapacitated, you shouldn't have to be in a jail number one and you don't need to be in a jail, number two," he said.

One big question surrounding the new policy in Massachusetts is where paroled inmates would go and who'd pay for their care. Backers of the new policy say federally-funded Medicaid or Medicare would cover costs.

Patricia Jehlen, the state senator who helped write the medical parole law, said some local hospice organizations are willing to take in prisoners.

"It's going to allow people to die in a little more humane circumstances," she said. "The growing number of elderly and incapacitated prisoners who are extremely expensive and hard to care for could be cared for in a much less expensive environment."

But Massachusetts is an unforgiving landscape for convicts looking for parole, partly due to the Willie Horton effect. Horton was a convicted murderer who raped a woman in the 1980s while furloughed from prison. Political ads featuring Horton in the 1988 presidential campaign helped sink former Massachusetts Gov. Michael Dukakis' bid for the White House.

Since 2000, 769 inmates have requested commutations — or a reduction of their sentence — from the state Parole Board, but only one request has been approved by a sitting governor, state records show.

Nationally, compassionate release programs have produced scant results. Few states are mandated to track the number of prisoners released under such programs and only a handful of inmates have won release in the states that keep any data, according to a report released in June (https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf) by

Families Against Mandatory Minimums, a nonprofit in Washington, D.C. A 2013 Justice Department report called the compassionate release program for federal prisoners "poorly managed and implemented inconsistently" and likely caused some eligible inmates to be overlook and left others to die before their requests were determined.

And back in Massachusetts, the state just rejected the first petition for medical parole from an inmate with pancreatic cancer, saying his release would still pose a public safety risk.

This story was reported in partnership with the New England Center for Investigative Reporting (https://www.necir.org/), *a nonprofit news center based out of Boston University and WGBH News.*

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MARY LOUISE KELLY, HOST:

A Massachusetts state prison is expanding the graveyard where it buries inmates who die in custody. The number of state inmates over the age of 55 in prisons across the U.S. has quadrupled since the 1990s. The most recent Justice Department reports show this is largely due to longer prison sentences for violent crimes and an uptick in people over 55 being sent to prison. As more inmates age and die behind bars, it is costing taxpayers a premium. Chris Burrell from the New England Center for Investigative Reporting starts this story at a prison cemetery north of Worcester, Mass.

CHRIS BURRELL, BYLINE: In a clearing in the woods, gunfire rings out from a nearby firing range over the hillside.

(SOUNDBITE OF GUNFIRE)

BURRELL: The most jarring thing about this prison cemetery isn't the gunshots but the grave markers, crosses made out of white plastic plumbing pipe - no names, only numbers. Some 90 men are buried here. And with one of the highest percentages of aging prisoners in the nation, Massachusetts is making room for more.

KERRY KEEFE: Very humble. You know, it's nothing much.

BURRELL: That's Kerry Keefe, the director of treatment at the state prison. He's also in charge of burying prisoners whose bodies go unclaimed by family, about three or four a year.

KEEFE: This isn't a bad place to spend eternity, but I think you'd want someone at least to cry for you.

BURRELL: A local funeral home charges the prison a thousand dollars per burial. But a new law in Massachusetts passed in April could spare the state that small cost and millions of dollars more spent caring for the oldest and sickest of inmates. It's called medical parole. All but four states in the U.S. have such a provision also known as compassionate release. But it's rarely used. In Massachusetts, the parole is an option only for prisoners who can prove they are physically or cognitively incapacitated. But even Kerry Keefe isn't so sure that murderers should get that chance.

KEEFE: It kind of saves money. It's fairly obvious the person can't do any, you know, kind of serious destructive behavior. But you've got to pay attention and temper it with the demands of justice.

BURRELL: Pushback is also coming from the state's Republican governor, who doesn't want to see some sex offenders or first-degree murderers released. And the governor's appointee, the head of state prisons, decides who gets out.

ELIZABETH LOUDER: Yes, sir, you're getting closer. You're almost to your room.

BURRELL: In a state prison in Massachusetts, social worker Elizabeth Louder watches over a special assisted living and nursing unit for inmates like this 82-year-old prisoner shuffling down a hallway. Around Louder, many of the 38 men locked up here are slumped in chairs.

LOUDER: May be post-stroke or incomplete quadriplegia that just require our full care - dressing, changing and diapering. And then we have patients who suffer from dementia. They are just confused.

BURRELL: Massachusetts doesn't track the cost of caring for these inmates, but its prison hospital spends more than $283,000 a year to care for a sick inmate, four times the cost of housing an inmate in its maximum security prison. Studies by Pew Charitable Trusts found that older prisoners with chronic illnesses cost at least two times more than other inmates. When prisoners need specialty care in offsite hospitals, officers go along to guard them.

JOE LABRIOLA: Two - two guards. They have one sitting at the door with a gun, and the

other one sits right next to your bed. And your leg is chained to the bed.

BURRELL: That's 71-year-old Joe Labriola, who's been in prison 4 1/2 decades serving life without parole for murdering an alleged drug dealer, a crime he says he didn't do. Labriola's health problems include chronic lung disease that he blames on exposure to Agent Orange when he was a soldier in Vietnam. He now gets around in a wheelchair pushed by a younger inmate. More than anything, he doesn't want to die behind bars.

LABRIOLA: Dying in prison has a special aura to it. You're not surrounded by people who love you. There's - nobody's going to hold your hand on the way out the door.

BURRELL: Peter Koutoujian, a county sheriff in Massachusetts, is adamant about a solution for the worst-off inmates. He says let them go.

PETER KOUTOUJIAN: If you're terminally ill or you're medically incapacitated, you shouldn't have to be in a jail, number one, and you don't need to be in a jail, number two.

BURRELL: One big question left hanging is where they'd go and who'd pay for their care. In many cases, backers say federally funded Medicaid or Medicare would cover costs. Pat Jehlen, the state senator who helped write the medical parole law, says some local hospice organizations are willing to take in prisoners.

PAT JEHLEN: It's going to allow people to die in a little more humane circumstances. The growing number of incapacitated elderly prisoners who are extremely expensive and hard to care for could be cared for in a much less expensive environment.

BURRELL: But in Massachusetts, getting one of these sick or dying prisoners released under the new parole law could be tough. The state just rejected the first petition for medical parole from an inmate with pancreatic cancer. For NPR News, I'm Chris Burrell.

KELLY: And that story comes to us from member station WGBH in Boston.