

# West Virginia's Aging Prison Population

SARA WHITAKER, OCTOBER 2023

## Aging in Prison: A Definition

50-year-olds are not typically considered “elderly,” but the physical and psychological burdens experienced by people behind bars contribute to accelerated aging. Researchers estimate an incarcerated person’s “physiological age averages 10 to 15 years older than their chronological age.” One study found that each additional year behind bars translated to a two-year decline in life expectancy. Given these findings, prison experts, the Department of Justice, and the WVCBP consider people age 50+ behind bars to be elderly.

Sources: Tina Chiu, “It’s About Time: Aging Prisoners, Increasing Costs, and Geriatric Release” (New York, NY: Vera Institute for Justice, 2010), 4-5, <https://www.vera.org/downloads/publications/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf>; Brie A. Williams, MD et al., “Aging in Correctional Custody: Setting a Policy Agenda for Older Prisoner Health Care,” *American Journal of Public Health* 102, no. 8 (2012): 1477, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3464842/pdf/AJPH.2012.300704.pdf>;

Evelyn J. Patterson, “The Dose-Response of Time Served in Prison on Mortality: New York State, 1989-2003” *American Journal of Public Health* 103, no. 3 (March 2013): 1, <https://doi.org/10.2105/AJPH.2012.301148>; Office of the Inspector General, U.S. Department of Justice, *The Impact of an Aging Inmate Population on the Federal Bureau of Prisons* (Washington, DC: 2016), <https://oig.justice.gov/reports/2015/e1505.pdf>.

Over the last two decades, lawmakers have created new criminal offenses and longer sentences, leading to more people going to prison for longer periods. This practice has resulted in record numbers of incarcerated elderly West Virginians. In 2002, there were 445 people age 50+ in West Virginia prisons.<sup>1</sup> By 2022, there were 1,209 people age 50+.<sup>2</sup>

**Today, one out of every four people in prison is elderly.**

At the same time, woefully inadequate release policies have made it nearly impossible for ill and infirmed people to obtain compassionate release.

## Two Decades of Indifference

Between 2002–2022, West Virginia made almost no use of policies intended to release people with serious or terminal illnesses:



**TWO PEOPLE GRANTED  
MEDICAL RESPITE**



**ONE PERSON RELEASED THROUGH A  
CONDITIONAL PARDON (21 YEARS AGO)**



**NO ONE RELEASED  
BY FULL PARDON**

During the same period, **478 people died.**

Source: WVCBP analysis of DCR Annual Reports from 2002 to 2022.

## Greater Needs at a Greater Cost

People in prison suffer much higher rates of chronic physical conditions and infectious disease than the general population.<sup>3</sup> Elderly people behind bars bear the brunt of these ailments. Elderly residents use a disproportionate share of prison medical services and “have five times as many visits to health facilities per year than similarly aged people who are not incarcerated.”<sup>4</sup>

Further, an elderly resident’s day-to-day activities are challenged by “hearing loss, vision problems, arthritis, [and] hypertension.”<sup>5</sup> They require more accommodations, such as walkers, wheelchairs, hearing aids, and breathing aids.<sup>6</sup> Incarcerated people have a constitutional right to health care, which is why it costs “between three to nine times more” to incarcerate elderly residents.<sup>7</sup>

1. “Annual Report FY 2002” (Charleston, WV: West Virginia Division of Corrections), 119, [https://dcr.wv.gov/resources/Documents/annual\\_reports/AR2002.pdf](https://dcr.wv.gov/resources/Documents/annual_reports/AR2002.pdf).  
2. “FY 2022 Annual Report” (Charleston, WV: West Virginia Division of Corrections and Rehabilitation, December 2022), 37, [https://dcr.wv.gov/resources/Documents/annual\\_reports/FY22 ANNUAL REPORT WVDCR.pdf](https://dcr.wv.gov/resources/Documents/annual_reports/FY22%20ANNUAL%20REPORT%20WVDCR.pdf).  
3. Leah Wang, “Chronic Punishment: The Unmet Health Needs of People in State Prisons” (Northampton, MA: Prison Policy Initiative, June 2022), <https://www.prisonpolicy.org/reports/chronicpunishment.html>.

4. Tina Chiu, “It’s About Time: Aging Prisoners, Increasing Costs, and Geriatric Release” (New York, NY: Vera Institute for Justice, 2010), 5, <https://www.vera.org/downloads/publications/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf>.  
5. Chiu, “It’s About Time,” 5.  
6. Chiu, “It’s About Time,” 5.  
7. *Estelle v. Gamble*, 429 U.S. 97 (1976); Mary Price, “Everywhere and Nowhere: Compassionate Release in the States” (Washington, DC: FAMM, June 2018), 9, <https://fam.org/wp-content/uploads/Exec-Summary-Report.pdf>.

As the elderly prison population in West Virginia tripled over the last 20 years, prison spending skyrocketed from

**\$84.0 million PER YEAR**  
to **\$223.8 million**

Since 2002, West Virginia has spent

**\$3.5 billion ON PRISONS ALONE**

Source: WVCPB analysis of DCR Annual Reports from 2002 to 2022.

Some people are serving sentences for crimes they may not remember. People behind bars experience higher than average rates of cognitive decline and dementia.<sup>8</sup> Five years ago, West Virginia opened its first Dementia Unit at St. Mary's Correctional Center.<sup>9</sup> Due in large part to the state's aging prison population, experts predict the number of incarcerated people with dementia will triple in the next 25 years.<sup>10</sup>

Experts have known for decades that age is one of the most accurate predictors of criminal system involvement. Likelihood of committing a crime peaks during adolescence and early adulthood, then decreases as a person ages.<sup>11</sup> In addition, studies show that older people are the least likely to be re-arrested after coming home from prison.<sup>12</sup>

## Solutions for an Elderly Population

**1 A Second Look Policy:** Under West Virginia law, courts are unable to reconsider long sentences—even when a person no longer poses a threat to the community. This is particularly cruel for the 302 West Virginians currently sentenced to “Life without Mercy,” who are forever denied the possibility of parole.<sup>13</sup> The average person serving this “slow death penalty” is 53 years old and has already served 20.9 years of their sentence. This includes a dozen men and women born in the 1940s.<sup>14</sup> **A humane and evidence-based policy would empower judges to take a “second look” at people who have served at least 10 years of their sentence.**

**2 Eliminating Technical Violations:** Probation and parole began as reforms to keep people out of prison, and yet a quarter of people sent to West Virginia prisons in 2022 were there because of a “technical violation” of probation or parole.<sup>15</sup> A technical violation does not involve a new criminal charge, but instead a violation of a person's supervision terms, such as a positive drug screen or a missed appointment. **West Virginia can send 767 fewer people to prison this year by eliminating technical violations of probation and parole.**

**3 Compassionate Release Policies:** Between January 2020 and September 2023, 9 out of 10 people who died in West Virginia prisons died of natural causes.<sup>16</sup> The average was 65.8 years old. Most prison deaths were attributed to heart disease, cancer, liver disease, respiratory disease, and other illnesses. And yet, not a single person was granted medical release during this period.<sup>17</sup> A more effective policy would broaden eligibility for medical release, require prisons to promptly **produce medical and institutional records for eligible individuals, and entitle a person to an evidence-based review within 60 days of eligibility.**

**4 Stop Using the Prison System to Solve Every Problem:** Each year, lawmakers create new criminal offenses or increase penalties for existing offenses. **These laws make no attempt to prevent future harms from occurring.** Instead, they focus on increasing punishment after a crime has occurred, despite the Department of Justice and researchers showing that increasing punishment does little to deter crime or incentivize positive behavior.<sup>18</sup> Longer sentences simply do not make us safer, but they do increase the prison population over time.

8. Farah Acher Kaikow, Lars Brown, and Kristin Brunzell Merz, “Caring for the Rapidly Aging Incarcerated Population: The Role of Policy,” 3, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10129364/pdf/nihms-1894051.pdf>.

9. “FY 2019 Annual Report” (Charleston, WV: West Virginia Division of Corrections and Rehabilitation, January 2020), 10, <https://dcr.wv.gov/resources/Documents/FY2019%20ANNUAL%20REPORT%20WVDCR.pdf>.

10. Kaikow, Brown, and Merz, “Caring for the Rapidly Aging,” 3.

11. Chiu, “It’s About Time,” 5.

12. Emily Widra, “The Aging Prison Population: Causes, Costs, and Consequences” (Easthampton, MA: Prison Policy Initiative, August 2023), <https://www.prisonpolicy.org/blog/2023/08/02/aging/>.

13. “DCR stats life sentences (Life Without Mercy).pdf” provided by Sallie Daugherty, email message to author, June 26, 2023, <https://wvpolicy.org/wp-content/uploads/2023/09/DCR-stats-life-sentences-Life-Without-Mercy.pdf>.

14. WVCPB analysis of “DCR stats: Life Without Mercy.”

15. DCR, “FY 2022 Annual Report,” 31.

16. WVCPB analysis of “RE: FOIA Request for WVDCR deaths in custody 01/01/2020 to present,” mailed to author from Sallie Daugherty, <https://wvpolicy.org/wp-content/uploads/2023/10/2023.09.26-DCR-FOIA-Response.pdf>.

17. WVCPB analysis of DCR Annual Reports from 2020–2022.

18. “Five Things about Deterrence” (U.S. Department of Justice, National Institute of Justice, May 2016), <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.