

## RECOMMENDATION OF PROJECT I-11

**Provide an Opportunity for Earned Release for Inmates Who Are 50 Years Old and Have Been in Continuous Custody for 15 Years. Convene a working group to develop a protocol specifying what criteria to use when deciding which inmates will be allowed to participate in the program and to determine how the program will be administered.**

### *Rationale*

In 1990, Illinois' prisons housed 1,030 men and women over age 50. By 2013, this number had grown to 7,162, an increase of 600%.<sup>1</sup> These elderly inmates, commonly defined as those 50 years of age and older, have extensive and costly medical needs, and are more expensive to incarcerate than younger inmates.<sup>2</sup> The number of elderly inmates, and the costs associated with their incarceration, will continue to increase in the coming years because of the 1998 Truth-in-Sentencing law that drastically curtailed statutory good time for people with long sentences.

Given the escalating financial burden that these inmates will place on state resources, we are asking the Commission to recommend that inmates 50 years and older, and who have been in continuous custody for 15 years, be provided with the opportunity for release earlier than their current release date if their record justifies such a change.

An earned release program is consistent with the Illinois Constitution's mandate that the purpose of incarceration is to return prisoners to "useful citizenship."<sup>3</sup> Moreover, this category of inmates poses a low risk to public safety, since studies have consistently shown that "[r]ecidivism rates decline relatively consistently as age increases."<sup>4</sup> In fact, "[w]hen released from prison, the vast majority of people over the age of 50 do not return," and when compared to a recidivism rate of 40-60% amongst the general prison population, "the return rate of long-termers convicted of murder (most commonly people of advanced age) is the lowest (6.6%) system-wide, with only 1.3% returning for a new commitment."<sup>5</sup> Additionally, "[s]tudies on parolee recidivism find the probability of parole violations also decreases with age, with older parolees the least likely group to be re-incarcerated."<sup>6</sup>

In sum, implementing an earned release program for elderly prisoners will help to reduce the most costly inmates in our over-crowded prison system, and will benefit those inmates who have demonstrated that they are rehabilitated and can be reintegrated into society.

## *Implementation*

1. The Governor should convene a working group, including members of the Prisoner Review Board, IDOC, social services agencies, and community advocacy groups, to develop an “Elderly Rehabilitated Prisoner Earned Release Program,” which will allow inmates 50 years and older, and who have been in continuous custody for 15 years, to petition for his or her early earned release.
2. The working group should determine whether the Prisoner Review Board or another entity will be responsible for the program and also determine the rules governing the entity’s administration of the program.
3. The working group should adopt a risk and needs assessment tool applicable to inmates eligible to petition for the earned early release program.
4. The working group should develop criteria for granting early earned release. This could include, but is not limited, to the following:
  - a. The petitioner’s successful participation in programs designed to restore him or her to a useful and productive life upon release and, if such programs are not available, information demonstrating that the petitioner has attempted to participate in such programs or has engaged in self-education programs, correspondence courses, or other self-improvement efforts;
  - b. the genuine reform and changed behavior the petitioner has demonstrated over a period of years;
  - c. the petitioner’s remorse for his or her actions;
  - d. the petitioner’s ability to socialize with others in an acceptable manner;
  - e. the petitioner’s renunciation of criminal activity and gang affiliation if the committed person was a member of a gang;
  - f. an appropriate plan for living arrangements, financial support, and any medical care that will be needed when the committed person returns to society; and
  - g. input from the victims and their families.

Presented to the Illinois State Commission on Criminal Justice and Sentencing Reform  
by Project I-11  
February 18, 2016

**ILLINOIS DEPARTMENT OF CORRECTIONS**  
**Cross-section of Inmates Serving Long Sentence Terms**  
*June 30, 1990 versus June 30, 2013 Prison Populations*

	Adult Prison Population			
	June 30, 1990		June 30, 2013	
	<b>27,295</b>		<b>48,877</b>	
	Number	Percent	Number	Percent
Age 50+ years	1,030	3.8%	7,162	14.7%
25+ years served	32	0.1%	1,009	2.1%
Age 50+ and have served 25+ years	26	0.1%	807	1.7%
Age 50+ and have served 25+ years (excluding Sexually Dangerous Persons and Death Sentences)	26	0.1%	793	1.6%

## FOOTNOTES

---

<sup>1</sup> “*Cross-section of Inmates Serving Long Sentence Terms, June 30, 1990 versus June 30, 2013 Prison Populations,*” Prepared by IDOC Planning and Research Unit, attached hereto.

<sup>2</sup> “*The Impact of an Aging Inmate Population on the Federal Bureau of Prisons*” Department of Justice - Office of the Inspector General,” Executive Summary at i. Available at <https://oig.justice.gov/reports/2015/e1505.pdf>.

<sup>3</sup> Ill. Const. art. I, §11.

<sup>4</sup> “*Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines*” (May 2004), United State Sentencing Commission, at 12 and Exhibit 9 at 12. Available at [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405\\_Recidivism\\_Criminal\\_History.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_Criminal_History.pdf).

<sup>5</sup> “*Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety,*” Center for Justice at Columbia University, at 8. Available at [http://centerforjustice.columbia.edu/files/2015/10/AgingInPrison\\_FINAL\\_web.pdf](http://centerforjustice.columbia.edu/files/2015/10/AgingInPrison_FINAL_web.pdf).

<sup>6</sup> “*It’s About Time Aging Prisoners, Increasing Costs, and Geriatric Release,*” Vera Institute of Justice, at 5, citing Brie Williams and Rita Abraldes, “*Growing Older: Challenges of Prison and Reentry for the Aging Population,*” in *Public Health Behind Bars: From Prisons to Communities*, edited Robert B. Greifinger (New York, NY: Springer, 2007); <http://www.vera.org/sites/default/files/resources/downloads/Its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf>