Sunday News
Lifers are growing part of prison population
Life without parole Medical release Commutation Parole
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What's behind the increase of older inmates in the state prison system?

Experts point to everything from aging baby boomers and longer life spans to overall prison population growth and a trend toward stiffer sentences.

"Lifers" make up a sizable portion of the elderly state prison population, said Dr. Larry Rosenberg, a Millersville University assistant professor of sociology who teaches a course on modern corrections.

The elderly prison population also includes repeat offenders incarcerated after their "third strike" and inmates serving long sentences for crimes committed in their 40s and 50s, he said.

Older men are generally less likely to commit violent crimes, Lancaster County District Attorney Craig Stedman said. His office also prosecutes only a small number of drug dealers over age 40, he said.

But Stedman has noticed a recent increase in older sex offenders.

"We do prosecute a lot of older men for these offenses compared to other crimes, and they tend to get the long sentences, which keep them in," he said.

Regardless of why they landed in prison, it's increasingly difficult for inmates of any age to get out.

Nearly 4,800 men and women currently are serving life sentences in state prisons.

Many "lifers" committed their crimes while in their 20s, Rosenberg said. Life in Pennsylvania means no chance of parole, so even young lifers eventually will grow old in prison.

The most recent figures available -- from a 2005 state government report -- show that the number of elderly lifers in Pennsylvania grew 35 percent from 2001 to 2004, when it reached 1,077.

Five convicted killers ages 67 to 80 currently are serving life sentences handed down in Lancaster County.

Ann Schwartzman, policy director for the Pennsylvania Prison Society, acknowledged that some lifers committed brutal crimes. But, she said, some may have turned their lives around after decades in prison and might deserve a chance at freedom.
"We all change as individuals," she said. "At some point as a society we need to determine, 'Are these just people we can toss away, or does anyone deserve a second chance?'"

She also points out the high cost of medical care for elderly inmates.

Terminally ill inmates can petition the court for a medical (or "compassionate") release.

Courts statewide typically grant about five or six medical releases per year, Department of Corrections spokeswoman Susan Bensinger said.

An inmate, prison or someone acting on the inmate's behalf can petition for release. The inmate must have a placement lined up in a hospital, long-term care nursing facility or hospice-care location, which can include a home.

A medical release requires a doctor's statement that an inmate will die within a year. This is particularly difficult to obtain, Schwartzman said.

The Prison Society supports more frequent use of medical release for humanitarian reasons. But the state could also save money, Schwartzman said, since Medicaid and other federal programs presumably would cover some expenses for inmates who are released.

But Rosenberg points out that such a change would simply shift the financial burden from the state to the federal government. "We as taxpayers pay one way or another," he said.

It's unlikely that a released inmate would recover and pose a threat to public safety, Schwartzman said. She advocates careful screening and risk assessment before releasing an inmate.

"We're talking for the most part about older offenders who are not able to get up from their beds, who have severe illnesses," she said.

Others strongly oppose the idea of releasing inmates who haven't served their time -- regardless of their medical condition.

"Victims of violent crimes or relatives of a person who's been murdered are certainly not advocating for the release of any lifer," Rosenberg said.

Victims and the public have a right to expect that offenders will serve lawful sentences, Stedman said.

But some unique cases may warrant consideration, he said. The inmate's illness/age, prison conduct record, nature of the crime and time remaining on the sentence would be factors to consider.

"I would certainly emphasize that the wishes of the victim [or surviving family] would have to carry significant weight, if not a complete veto power," Stedman said.
He cited the case of the Lockerbie bomber, who is still alive two years after his release on "compassionate grounds."

The state Board of Pardons considers inmates' applications for commutation, or reduction of a sentence currently being served.

The governor grants or denies the board's recommendations. Neither is required to explain its decisions.

Commutation of life sentences once was common. In the 1970s and 1980s, hundreds of applications were heard and commutations granted. But both have dropped sharply in recent years.

A 1997 state constitutional amendment changed the pardon board's makeup. It now includes the lieutenant governor, attorney general and three appointees: a crime victim, corrections expert, and physician, psychiatrist or psychologist.

The amendment also requires a unanimous vote -- as opposed to the previous majority -- to recommend commutation of a death or life sentence.

The push for the amendment was fueled in part by the case of Reginald McFadden, who had served 26 years of his life sentence in 1994, when Gov. Robert Casey granted a commutation recommended by the board, 4-1.

Three months after his release, McFadden was arrested for rape and two killings in New York.

Since 1995, the board has heard 28 applications for commutation of a life sentence. Governors granted six of the 10 recommended commutations.

"[The board and governor] just don't commute very many lifers," Board of Pardons secretary Tracy Forray said. "They don't hear that many cases now."

Susan Feldman is the only Lancaster Countian to have a life sentence commuted in recent memory. Feldman, convicted of the 1968 murder of Elizabeth Sanger, was released in 1978.

Feldman's co-defendant, Grover Sanger Sr., is serving a life sentence for the crime. In a letter to the Sunday News, Sanger called opposition to commuting life sentences "my personal pet peeve."

Lifers have the lowest recidivism rate of any offender category, he said.

"Yet people seem to prefer having a drug dealer, burglar, rapist or child molester living among them, even though they pose a much greater threat of recidivism," Sanger wrote.
At least three older inmates serving life sentences for murders committed in Lancaster County recently applied for commutation, according to the district attorney's office.

They are: George Burkhardt, 74, for his role in the Swarr robbery/murders; Lee Chong Moua, 55, for the 1989 murder of Saysane Ratjavong; and Richard A. Heberlig, 55, for his role in the 1979 murder of Barbara Jean Frey.

The applications' status is unclear. The process takes two to three years. The DOC lists all three men as current inmates.

"The tag line 'I'm getting too old for this' feels more real every day," Heberlig wrote in his 2008 application.

"Sitting and sleeping on steel in perpetual cold ... makes any morning an exercise in kinks and aches. They say you age an extra year's worth for every five or so in prison. I do believe it."

Older inmates eligible for release often face an uphill battle as they plan their return to the community.

Many older inmates have burned bridges, or their loved ones have since died, Schwartzman said. "They don't have that support system ... that community to go back to."

Older inmates also might have out-of-date job skills or limited experience with modern technology, such as computers and cellphones, she said.

A support system isn't just a luxury. It's required as part of a "home plan" that spells out an inmate's proposed living arrangements after release.

One sex offender who wrote to the Sunday News said he has been eligible for parole for nearly two years but has struggled to find programs to help him rejoin the community.

The man, whose two home plans were rejected as "unsuitable," said he accepts responsibility for his crime and blames no one but himself.

"It's easy to get in here," he wrote, "but hard to get out."