Managing Elderly Offenders

Project team: Maeve O’Brien, Department of Justice Health Services, WA
Titera Tewaniti, Kiribati Prison Service
Jake Hawley, Corrections, Victoria
Darryll Fleming, Queensland Department Corrective Services.
Introduction

In line with community trends where the aging population is increasing, the same is occurring in prisons. Known as the 'greying' of the prison population, research shows that the aging prisoner population is a global trend and one that requires attention on equally compelling issues of economic cost, institutional management, facility design and humanitarian concerns. There is growing attention to this area of penology and the increase in available literature from both gerontological and criminological research arenas is evidence of this. Dawes (2005, p.125) explains the difference in classification of 'aged' between those in the community (60-5 years) and those in prisons (50 years) where an apparent 10 year differential in overall health is attributed to former lifestyles of prisoners, including substances abuse, poor diet, stress, and economic disadvantage.

To gauge the extent of what we are learning about, approximately 9% of the Australian prison population is aged 50 years and over (ABS, 2004, p. 13). Lemieux, Dyeson and Castiglione (2002) assert that the number of older prisoners in American prisons has increased by 50% since 1996. In the UK the number of elderly prisoners trebled in the ten years up to 1999 (Dawes, 2005). In Australia from 1987 to 1997 the number of prisoners over the age of 65 have tripled (Dawes, 2005).

The characteristics of the sub groups of aging prisoners may give you an idea of why there is a 'greying population'. Firstly, child sex offenders make up a considerable number of elderly prisoners. The nature of their offending and the fact that many victims may not have reported until adulthood means the remand or sentencing does not come until later in life. Next, there are the habitual criminals who have a lifelong pattern of reoffending and for whom imprisonment holds no deterrent or discomfort. Lastly there are the 'lifers' who have either grown old in prison; or who have committed homicide later in life, perhaps as a result of domestic violence or; may be imprisoned to protect the community [incapacitation] due to psychopathic serial offending such as rape.

Despite the growing number of aging prisoners O'Donnell, Fazel, Hope and Jacoby (2002, p. 23-25) assert there is little known about the financial burden placed on prison budgets, or the mental or physical or social needs of this group. The management of common community health conditions and illnesses of the elderly such as dementia,
Alzheimers, cardiac and terminal illnesses will become an integral part of the sentence management of elderly prisoners. Ethical problems arise in the case of dementia and Alzheimers. For example, if a person does not remember what their crime was or is unaware they are being punished, what then is the purpose of their imprisonment? Historically, palliative care for terminal illnesses has not been a high priority for correctional administrators, but this may change because of the increasing numbers of ‘greying’ prisoners and the expected increase of natural deaths in custody.

Physical environment is another consideration with an aging population. Not all prisons have ground floor cells or wheelchair access. As awareness heightens, the management of age related illnesses and disabilities will become part of the design and architecture consideration of newly built prisons. This was the case in Western Australia when an Aged and Assisted Care Unit was incorporated into the design and construction of Acacia Prison. At Casuarina Prison, the Health Centre Infirmary has been adapted to manage the elderly prisoners who need medical care. In Queensland, a strategy to assist elderly prisoners included the training for prisoners to Carers Certificate 2. Dawes (2005, p. 130) draws attention to issues related to the release of elderly prisoners back to the community and calls for a better understanding of the specific challenges therein.

This brief overview of the issues, international and national trends and current practices for managing elderly people in custody raises the question of how aware and prepared correctional Administrators in Australia are to manage this emerging phenomenon and scope creep of their role. The paper concludes with four (4) Recommendations. The purpose of the paper, in conjunction requirement of the Australian Correctional Leadership Program 2006, is to stimulate discussion and collaboration across correctional jurisdictions for a strategic approach to the problem.
Key Issues Relating To the Management of Elderly Offenders

- How is the term ‘Elderly’ defined? - management considerations for placements in Units;

- Compliance Management – Offenders with dementia or other health problems leading to non compliance with operational procedures;

- Prison Design – ground floor cells, wheelchair access, ramps, safe showers and etc for elderly prisoners;

- Cost of imprisonment – 3 times higher than younger offenders;

- Healthcare – costs of medication, medical escorts, incontinence, fractures from falling;

- Staff – training required for custodial staff, new staff required - Occupational Therapists, and Carers;

- Sentence planning- will need to include medical and operational management of age specific diseases such as osteoporosis, dementia, Alzheimers and provision of special dietary requirements; Sentence Plans may include reality of dying in prison;

- Terminal illness – increased medical care and increase in natural deaths in custody;

- Human Rights – ethical considerations of risk to the community versus the cost of imprisonment – are their better options?

- Cultural Issues – families obligations of caring their elderly family members;

- Throughcare / Transition challenges – no suitable accommodation on release, offenders unfit for employment on release and having limited finances;

- Independent Living to Assisted care Units – Reverse of current philosophy in prison design and management. Elderly prisoners’ inability to look after themselves and the prisons duty of care in looking after them;

- Prisoner safety – Easy prey for predatory behavior, bullying and stand over tactics;

- Impact on other prisoners – conflict with noise and activities;

- Prisoner Transport – Special vehicle design required for wheelchairs, more frequent hospital visits increase costs and staff;

- Emergency Management Responses – Amendments required for fire evacuation and duress alarm management for deaf and blind prisoners.
International Trends

1. The numbers of elderly offenders are increasing:

- The number of male prisoners in England and Wales aged 60 and over has trebled in the ten years between 1992 and 2002. (Dr Elaine Cawley, Surviving the prison experience Prison Service Journal Issue 60).
- The population of older prisoners in Canada now makes up the fastest growing age group. (Uzoaba, 1998),
- The number of elderly prisoners in U.S. prisons has increased by more than 50% between 1996 and 2002. (The Prison Journal, Jun 2003, Vo. 67),
- In England, over a four year period between 1996 and 2000, the over 50 years female prison population rose by 48%.

In contrast, these trends are less pronounced in Sweden but it is noted that the number of older people being diverted from court to hospital for psychiatric treatment has risen. For those individuals diverted from court that were 50 and over a 33% increase was recorded between 1995 and 1999.

2. Ageing populations:

- The percentage of growth in the geriatric population is increasing in all correctional jurisdictions. Americans older than 50 will comprise 33% of the country’s population by 2010. (Corrections Today, Aug 2001, 63:5).

3. Technical capacity to pursue and secure convictions:

- There is a much greater readiness for police and prosecutors to pursue and secure convictions against sex offenders, including those charged with historic offences (many elderly men in prison are serving sentences for crimes allegedly committed two, three or even four decades ago. (Dr Elaine Cawley, Surviving the prison experience Prison Service Journal Issue 60),
- It could be argued that the increasing imprisonment of elderly men is an unintended but in-principle foreseeable consequence of judicial and political decisions that mandate that more people go to prison for a certain range of offences, and that some of them stay for substantially longer periods. (Dr Elaine Cawley, Surviving the prison experience Prison Service Journal Issue 60).

4. Increased cost in managing elderly offenders:

- Health and mobility needs of older prisoners generate significant financial implications. (Prison Service Journal Issue 60).
- Escalating inmate health care costs are a concern for the correctional industry. Older inmates tend to be a heavier burden on prison health care services. The cost
of medical services for geriatric inmates is estimated to be Four to five times more expensive. (*Corrections Today* Aug 2001; 63, 5),

- In America it costs $69,000 per year to house one elderly inmate, $22,000 to house a younger prisoner whilst it costs an average of $32,000 for a full service Nursing Home. (*Corrections Forum, Nov/Dec 2003*, 12, 6).

5. The need to develop policies to manage elderly offenders

- Older prisoners are scarcely recognised at the policy level as a distinctive or special group. (*The Howard Journal* Vol 44 No 4 September 2005).
- At present, the Prison service has no overall policy or strategy for dealing with women who are in later life. (*Prison Service Journal Issue 145*).
- Some sections of the prison population have been recognised as having special needs, for eg: young people and women, but when staff are presented with a group whose needs have not been formally recognised, the aged and infirmed, those needs are not addressed. (*Dr Elaine Cawley, Surviving the prison experience* Prison Service Journal Issue 60).
- This institutional thoughtlessness is related to the traditional prison principal that ‘one size fits all’ – in other words that ‘everybody gets treated the same’. (*Dr Elaine Cawley, Surviving the prison experience. Prison Service Journal Issue 60*).

6. Planning special needs units and routines for the elderly

- The pains of imprisonment are magnified for older infirm women by the inflexibility of the structure and nature of prison. (*Prison Service Journal Issue 145*).
- Facilities often need to be retrofitted: colour coded floors and buildings adding wall hand rails and wheel chair ramps, providing rest areas, widening door frames and entries, revamping space to include nursing and convalescent rooms etc. (*Corrections Compendium June 2003*).
- The physical layout of most prisons (for example, long corridors and stairs) and the inflexibility of their practices, timetables and routines make it extremely difficult for those with restricted mobility and other age related problems to not only adapt but to conform. (*Elaine Crawley, The Howard Journal, Vol 44 No 4 September 2005 p 345-356*).
- Studies indicate that many existing prisons are not designed for older prisoners, nor do they meet their specific needs. Despite the fact that policymakers are well aware of the changing prisoner population, little systematic planning has been conducted to address the multitude of issues facing prison systems. (*Dr Elaine Cawley, Surviving the prison experience Prison Service Journal Issue 60*).

7. Prison release options for Elderly/Infirmed and or terminally

- The legislative analysts’ office (US) which advises lawmakers on budget matters, has endorsed early release for a select 200 non violent inmates. (*Vanessa St. Gerard, Corrections Compendium, May 2003; 28, 5*).
Some states in the US will rely more on Secure Nursing homes on the outside for the purpose of housing prisoners. (Dr Elaine Cawley, Surviving the prison experience Prison Service Journal Issue 60).

At present there is no formal system in England and Wales for dealing with the early release of prisoners on grounds of old age or poor health. (Eva Steiner, Probation Journal, The Journal of Community and Criminal Justice 2002).

In 2002 France introduced a new system of medical parole. The new French system is part of a law on patients rights introducing into the Code of Criminal Procedure an article which permits at any time during a prison sentence the early release by a judge of any prisoner suffering from a terminal condition, or, more generally, whose state of health is incompatible with continued detention. (Eva Steiner, Probation Journal, The Journal of Community and Criminal Justice 2002).

Working in a ‘old folks home’ is something will be resisted by many prison officers – not least because much of the work involved in working there is seen to represent a threat to professional status – ..."to be dishonorable, domestic, and thus arguably also unmanly". (Elaine Crawley, The Howard Journal, Vol 44 No 4 September 2003 p 345-336).

Australian Trends

1. Numbers of elderly offenders are increasing:

- Consensus has been reached by senior Correctional staff from all States and Territories represented at the Australian Correctional Leadership Program Brush Farm Corrective Services Academy, 2006) that the numbers of elderly offenders in custody has been steadily increasing in recent years.

2. Ageing community population

- Australia’s population, like that of most developed countries, is aging as a result of sustained low mortality rates and increasing life expectancy due to improved lifestyle and healthcare (Australian Bureau of Statistics 2003).

3. Technical capacity to pursue and secure convictions

- The introduction and or review of Federal, State and Territories legislations and or reviews and more specifically, the use of electronic recording devices, DNA testing, use of CCTV, Whistle Blower protection has contributed toward the trend for the pursuit of and securing of convictions against the elderly for ‘historical offences’.

4. Increased costs in managing elderly offenders

- Consistent with International trends increased costs in managing elderly offenders is an issue that is noted across all correctional jurisdictions.
5. The need to develop policies to manage elderly offenders

- All states and Territories recognise and support the need to develop specific policies that identify and consider the special needs of elderly offenders,

6. Planning special needs units and routines for the elderly

- The majority of Correctional jurisdictions report that the absence of purpose built facilities to accommodate the needs of elderly offenders requires immediate and ongoing planning and in some cases significant structural and operational change will be required.
- It is further reported that the consideration of elderly offenders is, or has not been, factored into the majority of centre routines and structures.

7. Prison release options for the elderly/infirm or terminally ill

- The release options for the elderly/infirm or terminally ill prisoners vary significantly between the States and Territories,
**Trends Comparison**

Research indicates that national trends are comparable with international trends and that current practices when managing the elderly in custody are not dissimilar. This means that the aging population, the need to identify elderly prisoners as a special group, the need to develop strategic standards and policies is a global issue.

All trends require ongoing evaluation and monitoring to ensure appropriate mechanisms are in place and reviewed for contemporary practices.

All trends require an integrated response given that the management of the elderly encompasses a multidisciplinary approach to achieve best outcomes for the prison and the prisoner. It is evident that there is no correctional jurisdiction with current capability to address the myriad of needs for the elderly, acutely infirm and the terminally ill. At a minimum, this integrated approach most certainly requires a commitment from governments, allied health professionals, community stakeholders, aged care service providers, families, medical and relevant cultural representatives.
Recommendations

1. Standards Development
   • Form a National Strategic Planning Committee for collaborative development of Standards and implementation of best practice management of the elderly in custody.
   • Accreditation of Special Care Units against Minimum Standards;
   • Agreed definition of “Aged or Elderly” prisoner in regard to physical and mental capabilities.

3. Prison Design
   • Purpose built Special Care Units be incorporated in new facility design;
   • Professional advice for re fit and renovation of existing buildings to Aged Care units;

4. Alternatives to imprisonment
   • Educate judiciary on custody issues for aged;
   • Influence political debate around ethical and legal implications of prisoners with dementia i.e. value to deterrence and protection of the public;
   • Legislative changes for new Releasing options such as Medical Parole and program exemptions for Parolees with Alzheimer’s and dementia;

4. Prison management strategies
   • Implementation of accredited staff training in special needs of aged prisoners
   • Development of policies and procedures for management of elderly prisoners
   • Employment of Carers, OT’s or ENs to staff Special Units
   • Inclusion of ‘Elderly’ in Risk rated classification
   • Partnerships with community aged care organizations and volunteers
   • Outsource care and management of acute elderly prisoners – onsite and off site
   • New activities required in prisons – keeping the elderly active and healthier to minimize the impact on the system.
Australian Correctional Leadership Program, 31 July 2006 to 04 August 2006

Research Project
'Managing Elderly Offenders'

Maeve O'Brien Department of Justice Health Services
Titera Tewaniti Kiribati Prison Service
Jake Hawley Corrections Victoria
Darryll Fleming Queensland Dep of Corrective Services

Worldwide improved lifestyle and medical care has decreased mortality rates and increased the proportion of aging populations.

This increase is mirrored in the prison population.

Emerging issues for the management of an aging prison population

Key Issues
• Is the Age really the Age?
• Increase in Elderly Prisoner Numbers
• Prison Design
• Costs
• Healthcare
• Terminal Illness / Increase in Deaths in Custody
• Staff
• Compliance Management
• Sentence Planning

Key Issues
• Through care / Transition challenges
• Human Rights
• Cultural Issues
• Independent Living v Assisted Living
• Prisoner Safety
• Impact on other Prisoners
• Prisoner Transport Vehicles
• Emergency Management Responses – fire evacuation/duress alarm

International Trends
• The numbers of elderly offenders are increasing
• Ageing populations
• Technical capacity to pursue and secure convictions
• Increased costs in managing elderly offenders
• The need to develop policies to manage elderly offenders
• Planning special needs units and routines for the elderly
• Prison release options for elderly/acutely infirm and or terminally ill.

Australian Trends
• The numbers of elderly offenders are increasing
• Ageing population
Australian Trends

- Technical capacity to pursue and secure convictions,
- Increased costs in managing elderly offenders,
- The need to develop policies to manage elderly offenders,
- Planning special needs units and routines for the elderly,
- Prison release options for Elderly/Infirmed and or Terminally Ill

Trends Comparison

- National trends are comparable with international trends
- All trends require ongoing evaluation
- All trends require an integrated response

Recommendations

- Standards Development
- Prison Design
- Alternatives to Imprisonment
- Prison Management Strategies

Questions?