

A Question of Compassion: Medical Parole in New York State

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Fact Sheet

From 1993 to 2013, the number of people age 55 and older in state prisons grew 400 percent, while the overall state prison population grew by 55 percent. This trend has major implications for the delivery of health care in prisons, as departments of corrections are faced with the higher costs and more complex medical needs of the aging population. It is a landscape that demands a closer look at the legal process for compassionate release: policies and laws under which medical and correctional administrators, parole boards, and/or the courts may grant early discharge from prison to people on the basis of serious illness or age-related impairment.

This report presents findings and recommendations of the Vera Institute of Justice's (Vera) case study of one state that has made considerable advances in its application of compassionate release laws, yet still faces challenges in making full use of the provision: New York. Vera conducted research and analysis of New York State's compassionate release program through a partnership with New York's Department of Corrections and Community Supervision (DOCCS) to explore how DOCCS could make more effective use of the mechanism. Between 2013 and 2017, DOCCS received 476 requests for compassionate release; 84 of which were granted and 72 of which resulted in ultimate release. Yet during those same five years, 143 medical parole applicants died in custody.

New York's medical parole law is broadly written: few conviction types are categorically excluded; anyone can make a request; and terminal and nonterminal illnesses are included and are not defined by a life-expectancy prognosis. DOCCS designates administrative nursing staff to oversee the program; has a detailed policy with time limits and clearly defined roles and responsibilities; and keeps a database that follows and tracks people whose medical conditions do not initially meet the medical eligibility standards. Still, twice as many medical parole applicants die in custody than are released, and an unknown number of eligible people are never referred. Moreover, even for people who are referred, found eligible, and granted release by the New York State Board of Parole, DOCCS faces challenges in finding suitable community placements to accommodate their medical and nursing needs.

Findings

Vera received detailed case-level data for medical parole requests from 2013 through 2015 and, from this, analyzed a sample of 251 cases. Researchers found that:

- > Few requests for medical parole make it as far as release—only 12 percent of cases in Vera's sample.
- > Fifty-five percent of initial medical parole requests and 44 percent of those approved were for incarcerated people age 55 and older.
- > The six most common conditions for medical parole requests in cases for which this information was available (76 percent) were cancer, end-stage liver disease, cerebrovascular disease or accident, diabetes or other endocrine disorders, pulmonary conditions, and renal disease.
- > Most requests for medical parole were concentrated among people who came from the five boroughs of New York City and the four counties nearby.
- > The average time it took a case to progress from initial request to parole board interview was 3.7 months.
- > Requests were sometimes initiated too late in a person's illness—24 percent of applicants in Vera's sample died while in custody. In 50 percent of these cases, the person's death occurred less than two months after the request was initiated.
- > In a survey of facility clinicians, 28 percent believed they were treating at least one eligible patient they had not yet referred for medical parole. They identified time constraints and lack of administrative support as the primary barriers to doing so.
- > The parole board granted medical parole in 68 percent of cases, a higher rate than the board's overall parole grant rate of 25 percent.

Recommendations

Despite the relatively broad scope of its statute, New York's compassionate release policies are not producing the desired results. New York State could improve outcomes by acting on the following recommendations.

Nonlegislative changes. Vera researchers identified certain nonlegislative changes that could make the process more effective, including:

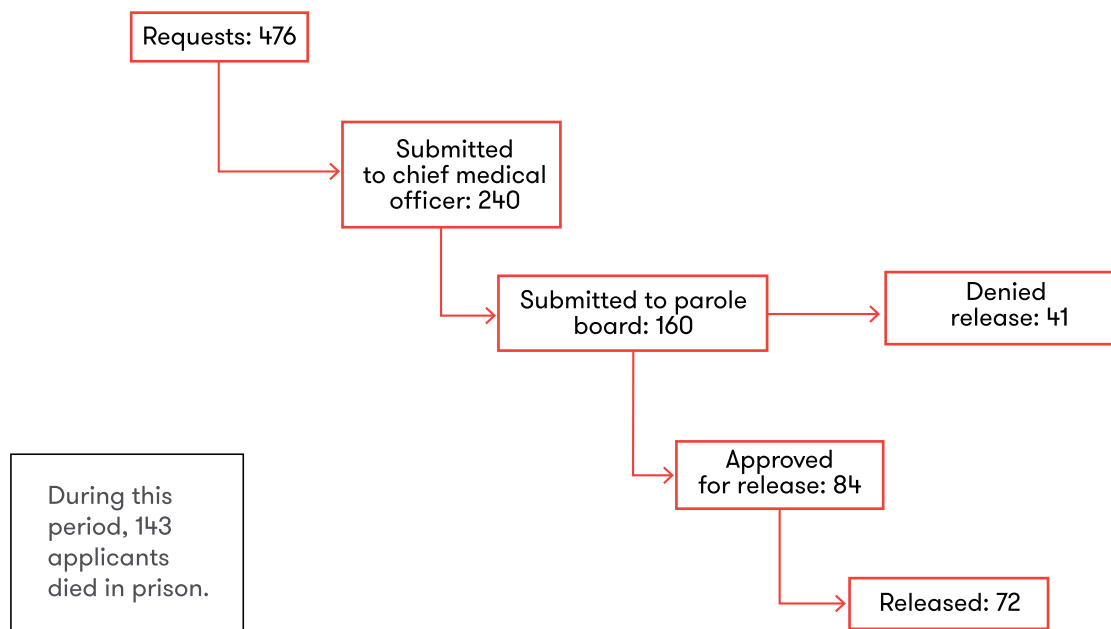
- > initiating new requests for medical parole at earlier stages in people's illnesses;
- > understanding and reducing the barriers to more medical parole requests through improved data collection capacity;
- > improving communication between DOCCS and the parole board; and
- > engaging families in the discharge planning process.

Legislative changes. Legislative changes are also necessary to maximize the use of medical parole in the state, including:

- > clarifying who should conduct the public safety/risk assessment;
- > rethinking the role that notification of victims and law enforcement plays, including both the length of the comment period and the information provided to them; and
- > prohibiting blanket exclusion policies for people with felony convictions in community health care settings.

As policymakers in New York and across the country debate the merits and parameters of compassionate release legislation, the findings and recommendations of this report may help them bridge the gap between policy goals and outcomes.

Department of Corrections and Community Supervision case outcomes for compassionate release applicants, 2013-2017



Source: New York State DOCCS Compassionate Release Monthly Reports, end of year 2013-2017. Note that the 72 people granted compassionate release include those who left prison through medical parole, full board case review, and commissioner's discretion; seven applicants were approved for release by the commissioner's discretion, an option that went into effect in April 2015. The chief medical officer is a deputy commissioner of DOCCS who leads its Health Services division.

For more information

To read the full report, visit <http://www.vera.org/medical-parole-new-york-state>. For more information about this report, contact Léon Digard, senior research editor, at ldigard@vera.org. The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core

priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America's increasingly diverse communities. For more information, visit www.vera.org.

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