Community Savings, or Community Threat? California Policy for Ill and Elderly Inmates Epilogue

In December 2011, the receiver's coordinator of utilization management, Dr. Ricki Barnett, consulted with Dr. Joseph Bick, medical director at the California Medical Facility (CMF) in Vacaville, on whether to add Carl Wade''s name to the list of those who qualified for medical parole under the new California law. Wade''s medical records had already been assembled, along with the views of the relevant medical specialists, in preparation for his failed attempt to secure compassionate release. So the doctors' review was straightforward.

The verdict: Wade's life expectancy was too short to allow Wade to find proper placement under the medical parole program. He did not apply. But on May 17, 2012, the First District Court of Appeals in an unpublished decision ruled in favor of Wade's release under the compassionate release program. The state attorney general elected not to appeal the case to the state Supreme Court, and in late May Wade—now 66 and confined to a wheelchair—was scheduled for release from CMF into the custody of his sister and her family in Chico, CA.[1] But on May 31, 2012, at 3 a.m., Wade died in the prison hospice unit before he could move out.

Meanwhile, Receiver Clark Kelso moved closer to achieving his goal of opening a new California Health Care Facility in Stockton designed specifically for ailing prisoners. The $900 million, 1.2 million square----foot facility was scheduled to open in 2013 with 750 mental health beds and an equal number of beds for long----term care patients suffering chronic ailments and needing supervision (short of hospitalization) round the clock. Kelso's office announced on March 9, 2012 that Nate Elam, health services CEO at CMF, would head the Stockton operation.

[1] Bob Egelko, Convicted murderer to get 'compassionate' release, *SFGate.com*, May 25, 2012. Also Elizabeth Larson, "Appellate court orders man convicted of 1986 murder released due to terminal illness," *Lake County News*, May 23, 2012. See: http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2012/05/25/BA4N1ON2UF.DTL&type=printable

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Kelso was hardly alone in worrying about the expense to taxpayers of keeping elderly, sick prisoners incarcerated. In Minnesota, for example, where 10 percent of prisoners were over 50, the medical budget had tripled in the previous decade to $68 million per annum.[2] In January 2012, Human Rights Watch released the first of two related studies, *Old Behind Bars: The Aging Prison Population in the United States*. It used data and interviews—including some with prison doctors like Dr. Bick—to document the extent to which, in all states, the numbers of elderly inmates in state and federal prison systems were deteriorating (both physically and mentally) and dying.

The report touched on the unsustainable costs of keeping such prisoners behind bars, although recent changes in Medicaid regulations were likely to offer states some financial relief. In 2014, any person—inmate or not—with an income below 133 percent of the federal poverty line was scheduled to become Medicaid----eligible. That meant federal reimbursement for outside hospitalization costs for inmates would become standard. As the report noted, this would not affect the costs of transport, or guarding patients in treatment.[3] A second HRW report, due out later in 2012, promised to review "procedures regarding the early release of geriatric and infirm prisoners."[4]

In California, it was becoming clear that federal oversight of California prison medical care was nearing an end. In January 2012, Judge Henderson cited recent substantial improvement in prison health care in an order that required Receiver Clark Kelso, state officials, and a prisoners' advocacy group suing the state to file a report by April 30 on steps needed to end the receivership.[5]

Not all agreed, however, that the receivership had been effective. On April 19, the nonprofit Legislative Analyst's Office issued a reporting calling for California to create an independent board to monitor health care in the prisons. The report criticized what it claimed were higher medical costs incurred by the receivership. One efficiency, it suggested, could come from the consolidation of "what currently are two duplicative bureaucracies overseeing the prison medical system"—the California Department of Corrections and Rehabilitation (CDCR) and the receivership.[6]

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[2] Paul McEnroe, "Minnesota' Million Dollar Inmates," *Star Tribune*, April 1, 2012.
[3] Human Rights Watch, *Old Behind Bars: The Aging Prison Population in the United States*. ISBN: 1-56432-859-7. January 2012, p.79. See: http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf
[4] Ibid, p. 80.
[5] Chris Megerian, "Federal oversight of state prison healthcare to end," *Los Angeles Times*, January 18, 2012.
[6] Don Thompson, "Analysis says Calif. prison medical costs too high," *Associated Press*, April 19, 2012.