

North Country Public Radio

[Dying inmates in NY struggle to get home](#)

by [Natasha Haverty](#), in Coxsackie, NY

Nov 07, 2013 — This year, North Country Public Radio has been looking in-depth at the growth of the prison industry here in our region, across New York and around the country.

Over the last four decades, we've seen the number of men and women behind bars soar--many serving long mandatory sentences for low-level crimes.

And one side-effect of those tough-on-crime policies today is that the number of elderly inmates is surging--growing by almost eighty percent from 2000 through 2009.

Prison officials across the US are struggling to sort out what that means, how we think about and care for inmates who grow old and die in our prisons.

In part one of our investigative report, Natasha Haverty found that despite recent reforms to the system, many terminally ill inmates are forced to remain behind bars even when they no longer appear to be a threat to society. Even some prison officials think the process for allowing inmates to die at home needs fixing.

When I met Daryl Bidding in his room, the first thing I noticed was how small he looked, lying there in his bed.

"I'm a pretty strong willed person. You know, I don't want to believe I'm going to die. I don't want to believe I'm going to pass away. I want to be strong."

Earlier this year, Daryl was sent to Coxsackie, one of New York's maximum-security prisons, on a drug possession charge.

Eleven days after he arrived, he was diagnosed with terminal cancer.

"I feel like my insides are going to burst," he said. "I feel like this thing's gonna bust. It feels like the size of a grapefruit or something. It's hot. It gets hot. And it's agonizing because it's not going away."

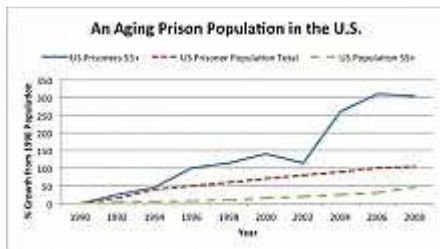
From the moment doctors told Daryl there was nothing they could do for the tumor on his liver, his family starting working to get him out of prison and back home.

Era Habersham is Daryl's big sister. "Well we didn't want him to die in there, he didn't want to die in there. Regardless to anything he's still our brother. And we all loved and cared about him."

Era and Daryl began working with a social worker, requesting the state of New York grant him compassionate release.

"And that was like, the worst, Era says. "I wrote letters, letters, letters. Everybody that was in Albany I wrote letters." Era had done her research. She knew the fight to get to Daryl home wouldn't be easy.

Who goes home?



The U.S. criminal justice population is aging at a significantly more rapid rate than the overall U.S. population. Source: Bureau of Justice Statistics and the U.S. Census Bureau.

Every year as many as several hundred inmates apply for compassionate release, but only an average of twelve actually make it home. For someone like Daryl to qualify for compassionate release, the prison administration asks two questions: First, is he sick enough? A doctor has to find his condition either permanently debilitating or fatal. The second question, does the inmate pose any risk to society?

Carl Koenigsmann is the person in New York State charged with answering both those questions for every inmate asking for compassionate release. "And that's the golden standard that I apply," says Koenigsmann. "Do I feel that his patient if released would be a risk to re-offend on the outside."

Koenigsmann is the correction department's chief medical officer. "I look at these cases extremely carefully, and consider them on their merits and only send what I feel are good cases on to the commissioner."

So basically what they did was, they watched him progressively die.

Koenigsmann is really the gatekeeper to a long process – even when he does say yes, Koenigsmann's boss, the prison commissioner, has to agree with his evaluation. And then the application goes on to the state parole board. They make the final decision.

In Daryl's case, that decision came after three weeks. According to Era, "All they say is 'we don't think he's a candidate for medical parole at this time.'"

The [answer](#) was no. His sister Era says he was rejected without any reason. "That was it. They're telling this man he has a few months to live but 'oh, we don't think he's a candidate for medical parole at this time.'"

Lost in the system

Era says she understands that the job of a prison is to keep people safe—but she says it was obvious to everyone—doctors, nurses, all the family members who made the trip up to see him—that her brother was dying. She says he wasn't a danger to anyone.

"You're sitting here watching him; you know he's not going to come out and do the same thing. You're looking at him on oxygen! So basically what they did was, they watched him progressively die."

Critics of the compassionate release program say the process of getting someone out of prison to die at home just has too many steps, too many layers of bureaucracy.

[Doctor Brie Williams](#) at UC San Francisco works in the field of end-of-life care, and is an expert on compassionate release. She says the system has a number of problems. "First, medical eligibility criteria are not uniform, a lot of people don't even know what they are, either the prisoners or the staff? Many current guidelines don't reflect the way that people actually experience serious illness or actually die? And programs can be very hard for potentially eligible prisoners to access."

Daryl's sister Era says she felt lost in that system. She appealed the parole board's decision but for all of those letters she wrote, she got form letters in response. "I mean, I reached out, and it's like, nobody tried to help me. I don't think that there's any empathy at all. There's none. You know and the bottom line is we have control over you, and when we feel like it we're gonna do it. And until we feel like it? That's what it is. That's it."

The afternoon I met Daryl; the weather was beautiful; but Daryl hadn't been outside, even out in the prison yard, in weeks.

"It's too much, too stressful for me to go outside," Daryl told me. "Then I gotta get in that wheelchair and have someone push me out in that wheelchair."

His fingers curled when he shifted his weight to sit up.

By that point Daryl's bid for compassionate release had been rejected two times already. On that day, he was waiting on a third decision from the parole board.

"Hopefully—they resubmitted the papers for me, so hopefully, I'll be granted that step to go home, you know, god willing. I think they're gonna grant me medical parole."

A month later, the parole board finally approved Daryl's request. But even then, the corrections department didn't send him home, telling his sister Era they were still working on the final details of his release.

"They still held him!" Era says. "And it was always a reason. Every single day something different. But hold on? All this time, we fightin' this? If ya'll even had an inclination that you guys were going to eventually give it to him? How come those things weren't addressed then?"

Compassion in the process

There are signs that prison officials around the country are trying to make it simpler for some dying inmates to get home. A few months ago, Attorney General Eric Holder [gave a speech](#) announcing reforms to the federal compassionate release program, "including revised criteria for elderly inmates who did not commit violent crimes and who had served significant portions of their sentences."

And in the past two years, New York has also amended [its compassionate release law](#). In theory those changes make it possible for more people like Daryl to apply. But so far they haven't worked.

Last year, one hundred and one people applied for compassionate release. Just eleven of them went home.

Carl Koenningsman, the Department of Corrections' chief medical officer, actually agrees there are too many steps, too many people like Daryl getting bottled up in the system.

"If I had my way of building this I would like to see that we had the discretion to not go from there onto another parole board hearing. When I see something that is grossly obvious, *this person needs to go*, I don't see why it needs to go to the parole board."

Dr. Brie Williams, the expert on end of life care and medical parole, says more families with loved ones behind bars are grappling with this bureaucracy. "The number of older prisoners continues to skyrocket. And absent a major shift in policies related to long sentences and mandatory minimum sentences, we're going to continue to see the percentage of prisoners that are older rise."

Nine days after his approval came, Daryl finally left prison. He was sent to a nursing home in Far Rockaway, Brooklyn.

Era and her family—Daryl's kids, grandchildren, all came to be with him. But she says she's not sure her brother even knew where he was by then, if he even knew he'd made it out.

"By the time he got out of there he was in a condition that was horrible. So they waited at that point. They waited it out. They didn't care about him. He was just a number. That was it. The way they did him? He didn't deserve that. Not at all."

On the 28th of June, 2013, at around two in the morning, Daryl passed away. After two days of freedom, two days with his family, Daryl was gone.