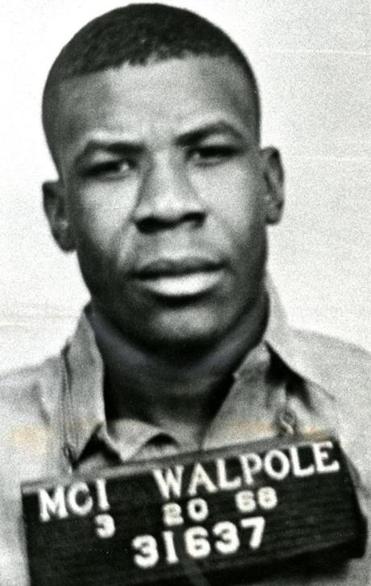
**No program for inmates at life’s end**

**By** [***Milton J. Valencia***](http://www.bostonglobe.com/staff/valencia)

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James Flowers was convicted of murdering James A. Bryce in a 1967 Springfield liquor store holdup.

James Flowers has spent nearly 50 years in prison for murdering a Springfield liquor store clerk. But these days, he spends most of his time in a hospital bed, immobile, mute, and suffering from end-stage dementia. At least one doctor has said the 72-year-old has only months to live.

“He’s no threat to society at all,” said his sister, Mary A. Smith, who lives in Illinois and asked the Massachusetts prison system to release Flowers to his family. “He needs someone by his side.”

Flowers and more than 30 other inmates diagnosed as terminally ill or permanently incapacitated present what has become an increasingly common predicament for the corrections system: As health care costs skyrocket, what do you do with an inmate who is so ill he is no longer a danger, but is instead a burden?

Massachusetts is one of just five states without a medical placement program, often called a compassionate release program, a mechanism to transfer a terminally ill inmate out of state prison custody.

In spite of the increasing popularity of such programs nationwide, attempts to create similar programs in Massachusetts have repeatedly failed.

Inmate rights advocates filed a last-ditch petition with Governor Deval Patrick last month seeking a commutation for Flowers — his supervised release from prison — but hopes are restrained.

The governor has not granted a commutation or pardon in his nearly eight years in office. A spokeswoman said that the governor and the Parole Board will review the petition according to state clemency guidelines, “as are all such petitions that come before us.”

Prison advocates say the real solution is for the state to initiate medical placements.

“There are a lot of other states taking advantage of it,” said Elizabeth Matos, a staff attorney with Massachusetts Prisoners’ Legal Services, an inmate rights group that prepared Flowers’s petition for commutation. “It’s very costly for an institution like the DOC or for county facilities to address all the medical needs of this population.”

“Mr. Flowers is probably the most severe case, and the clearest example you have,” she added.

The state has considered the idea of an emergency medical placement program since at least 2011. A state consultant’s report that year warned of skyrocketing health care costs, and an aging inmate population.

From 2002 to 2011, the state saw a 63 percent jump in the number of inmates aged 50 or older. The number of inmates older than 60 grew by 80 percent.

State health care spending per inmate increased by 12 percent from 2007 to 2011, according to a separate report by the PEW Charitable Trust and the MacArthur Foundation that was released earlier this summer.

Massachusetts spends $100 million a year in health care for inmates, according to Department of Correction figures.

Patrick in 2011 proposed compassionate release legislation for inmates who were expected to die while in custody, though the bill excluded inmates serving life without parole and inmates deemed sexually dangerous. The bill was never passed.

State Senator Patricia D. Jehlen, a Democrat from Somerville, filed similar bills that went nowhere.

“I think . . . some people hear the idea of ‘compassion’ and they don’t feel that way toward people who did bad things,” Jehlen said. “But people are realizing it’s not serving public safety, and the public budget, and it’s certainly not rehabilitating criminally ill people. It’s extremely expensive.”

She said state legislators seem to be increasingly open to the idea of a placement program, and last year the Legislature created a commission to study the possibilities.

County sheriffs have also endorsed the idea of a medical placement program, pointing out that inmates who arrive at county jails often receive medical care for the first time. In some rare cases, they have been diagnosed with debilitating diseases, according to some of the sheriffs.

“We can’t treat someone with a terminal illness, or an incapacitating disease. They have to be treated at a hospital,” said Middlesex Sheriff Peter Koutoujian, a former legislator who headed the Joint Committee on Healthcare.

“This population is aging significantly, so health needs are becoming significantly more complex and expensive.”

Under the proposed legislation, supported by the sheriffs, an inmate, a family member, lawyer, or the head of the jail system could recommend that an inmate be released. A judge would have to approve the request.

A physician would have to determine that the inmate has an irreversible condition that is terminal, debilitating, or incapacitating. The inmate would then remain under the supervision of the court system, but could be released to family, a hospital, or nursing home, and the placement “will not be incompatible with public safety,” Koutoujian said.

The law would also have provisions so that, if an inmate miraculously recovers, he or she would be placed back in prison.

Koutoujian said he would support such a law, but paused at whether convicted murderers should also be included in the program. He would not comment on Flowers’s petition.

“I just think there’s got to be some boundaries,” he said. “This is not a political winner. But to me, it’s the right thing to do. It saves taxpayer dollars, saves the drain on our resources, and as long as public safety can be protected, it’s a good thing to do.”

James C. Orenstein, the interim district attorney in Hampden County whose office prosecuted Flowers for the 1967 murder, said he received the commutation petition only recently, and had not made a recommendation.

Orenstein said he understood the concept of a medical release program, and might approve of an inmate’s release if the inmate was terminally ill and his release would not pose a public safety threat.

But he said he wanted to review Flowers’s case, noting he had been “involved in a very serious and a terribly brutal crime . . . involving death to what appears to be a totally innocent victim.”

The Globe could not locate a family member for the murder victim, James A. Bryce, who was 67 at the time of the shooting.

Flowers was being held at the medium-security prison in Shirley, and had been disciplined for minor offenses decades ago, but had positive reports on his prison record since.

He has worked in the prison system as a barber and a janitor.

In 2006, he was diagnosed with dementia, and now suffers from what is clinically known as senile dementia of the Alzheimer’s type. He cannot communicate, and is bedridden and immobile, his muscles atrophied.

Smith, one of Flowers’s six younger siblings, would visit him when she could, recalling their days growing up in Mississippi.

She last saw him a year ago, but said she plans to return soon. Doctors told her his condition has worsened.

“As far as they’re concerned, it’s just better if he just dies,” Smith said. “He’s at the hospital more than he’s at the prison . . . they check and see if he’s still breathing every morning, and that’s about it,” she said.

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