Virtual Life Sentences: An Exploratory Study

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Article

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Jessica S. Henry[1], Christopher Salvatore[1], and Bai-Eyse Pugh[1]

Abstract

Virtual life sentences are sentences with a term of years that exceed an individual's natural life expectancy. This exploratory study is one of the first to collect data that establish the existence, prevalence, and scope of virtual life sentences in state prisons in the United States. Initial data reveal that more than 31,000 people in 26 states are serving virtual life sentences for violent and nonviolent offenses, and suggest racial disparities in the distribution of these sentences. This study also presents potential policy implications and suggestions for future research.

Keywords

life sentences, life without parole, death penalty, punishment, death-in-prison sentences

Introduction

Virtual life sentences are sentences with a term of years that exceed an individual's natural life expectancy. A person sentenced to a prison term of 200 years, for instance, will die in prison before ever completing his or her sentence. Virtual life sentences are a subset of death-in-prison (DIP) sentences, which refer to those severe sentences that terminate only upon the death of

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the inmate in prison (Henry, 2012). There are three primary types of DIP sentences: life without parole (LWOP) sentences, life sentences in certain jurisdictions with highly restrictive parole practices, and virtual life sentences. Scholarship about DIP sentences is limited and tends to focus on LWOP or life sentences (Nellis, 2013; Nellis & King, 2009; Henry, 2012). Nearly 160,000 inmates from across the United States are serving some form of a life sentence, from which an inmate may—or may not—secure release, depending on the jurisdiction and its particular release policies. Approximately 50,000 inmates are serving LWOP sentences, from which there is no possibility of release (Henry, 2015; Nellis, 2013).

At the time we collected out data, there had been no published studies examining the number of people serving virtual life sentences. As the Sentencing Project, a research and policy advocacy organization, then noted,

> Lengthy sentences other than those identified as lifelong sentences are also a common feature of the American criminal justice system. An example would be a sentence of 120 years. Data on the extensive use of these "virtual life" sentences has not yet been systematically collected but would likely show that sentences spanning many decades, easily exceeding an average lifespan, are increasingly common. (Nellis, 2013, p. 5, n. 10).

The exploratory study presented here is one of the first known attempts to systematically collect data about virtual life sentences, and to address this gap in the empirical literature. Since the time of our data collection and analysis, the Sentencing Project has issued a report that includes data about virtual life sentences (Nellis, 2017).

As the current exploratory study demonstrates, thousands of people are serving virtual life sentences. At the most extreme end of the virtual life continuum are men such as Mark P. O'Leary, who at the age of 33, was sentenced to a prison term of more than 327 years after pleading guilty to three rapes and one attempted rape in Colorado. Ruben Vela, Jr., age 22, was sentenced to 300 years in Texas for child sexual assault; he is eligible for parole in 200 years. Darron Bennalford Anderson was sentenced to 11,250 years for larceny, robbery, kidnapping, and rape and was given a parole date of 12,744 A.D. Yet not all prisoners serving virtual life sentences were convicted of violent crimes. Sholam Weiss, guilty of nonviolent financial crimes, was sentenced to 845 years in 2000, while Norman Schmidt, also guilty of nonviolent financial crimes, was sentenced to 330 years. These extreme sentences offer powerful anecdotal illustrations of virtual life sentences that can clearly never be fully served. But even people sentenced to severe but less extreme

sentences, such as 50 years, will likely die in prison before they are able to complete their terms of incarceration.

This study has two primary goals. The first is to further integrate the concept of a virtual life sentence into mainstream criminology, specifically, the area of penology. Scholarship dealing with virtual life sentences is relatively new, and there has yet to be a conceptual or empirical discussion of this topic in the literature. The second goal is to provide an empirical examination of virtual life sentences, in an effort to develop this area of inquiry and to lay a foundation for future scholarship.

This study is the first known effort to examine virtual life empirically. Specifically, this study is a preliminary attempt to systematically collect data about the prevalence and scope of virtual life sentences, and the related characteristics of the people serving those sentences. As prison populations continue to age, and as state and federal governments begin to consider policies to reduce prison populations, it is important to develop an understanding of an often overlooked population: the people who will die in prison due to lengthy sentences that simply cannot be completed in their natural life span. This exploratory investigation introduces the concept of virtual life sentences into the criminological discourse. Furthermore, it takes on several basic and as yet unanswered empirical questions: How many prisoners are serving virtual life sentences in state prisons? What are their demographic characteristics? What were the triggering offenses? These questions will help provide support for virtual life sentences and provide a preliminary overview of their prevalence.

Virtual Life Sentences in Context

Virtual life sentences have proliferated throughout the 20th century, as have other whole life sentences such as LWOP. The increased use of whole life sentences can be traced to 1972 when the U.S. Supreme Court in *Furman v. Georgia* declared the death penalty to be unconstitutional (*Furman v. Georgia*, 1972). Prior to *Furman*, only seven states had LWOP statutes, and LWOP was rarely used as a punishment. In the wake of the *Furman* decision, however, more states began to embrace the use of life sentences, particularly LWOP sentences. Some states, such as Illinois, Alabama, and Louisiana, passed LWOP statutes in direct response to the *Furman* ruling (Nellis, 2013). Ironically, even after capital punishment was reinstated in 1976, whole life sentences continued to expand. As noted by the coauthor,

> As death sentences declined, LWOP sentences increased, but not in perfect substitution. LWOP sentences were not simply meted out in what would

formerly have been death cases. Rather, LWOP also became a legitimate form of punishment for a host of offenses that were never death eligible in the first place. (Henry, 2012, p. 66)

Of course, the unprecedented expansion of whole life sentences cannot be solely explained by the temporary abolition of capital punishment. However, the brief absence of capital punishment created an opportunity for state lawmakers to expand the scope of whole life statutes. The 1970s also saw a shift in the U.S. criminal justice system's goals—from rehabilitation—to retribution and incapacitation. Severe sentences became the normative expression of outrage against criminal behavior. Political rhetoric, too, embraced severe sentences as a way to respond to public fear. The "tough on crime" era, demarcated by truth-in-sentencing laws, habitual offender laws, and three-strikes legislation, further legitimated longer and more severe sentences. Similarly, parole release came to be viewed as a risky proposition for state policymakers and correctional officials, and some jurisdictions abolished parole entirely. For instance, Arizona, Florida, Illinois, Iowa, Louisiana, Maine, Pennsylvania, South Dakota, Virginia, and Wisconsin abolished parole all together or for those sentenced to life; the federal system has no parole system (Nellis, 2017). This means that inmates sentenced in those jurisdictions cannot be released through traditional parole processes.

Method

Survey

Between January 2014 and April 2014, an electronic survey was sent to 50 state prison systems, seeking information about inmates serving virtual life sentences. A letter accompanying the survey instrument explained that this was "a research project about virtual lifers, or inmates with a sentence that requires a minimum time served of 50 years in prison." We received official data from 28 state correctional agencies. Two survey responses had fewer than four questions completed and were not included in our descriptive analysis. Of the remaining 26 state respondents, many provided partially complete data, while several data sets were coded in such a manner that we were not able to include them in our study.

Data were requested relating to the following categories of inmates:

A. Total number of inmates who were sentenced to a term of 50+ years imprisonment

B. Total number of inmates whose actual expected date of release is 50+ years

C. Total number of inmates eligible for parole release prior to the completion of their 50+ term

D. Total number of inmates serving 50+ sentence subject to "truth in sentencing" laws (where applicable)

To further clarify, we requested

> data both about the number of inmates who are sentenced and will serve a 50+ year term for a single offense, and also the number of inmates who are sentenced and will serve a 50+ year term because of consecutive sentences for multiple offenses.

Finally, we specifically asked that inmates serving life sentences be excluded from the data to avoid duplication of previous research studies that measured the number of inmates serving life (Appendix A, Letter; Appendix B, Survey). We sought to differentiate between those inmates who were serving a sentence of 50+ years who were eligible for parole and those with an earliest expected release date that exceeded 50 years. We also tried to determine which inmates were sentenced under a "truth in sentencing" scheme, which would require them to complete a minimum term before they would be eligible for release. In this way, we attempted to distinguish between inmates who would in fact serve a minimum of 50 years in prison with no possibility of release from those who would not be eligible for release.[1]

50+ Years as a Proxy for Virtual Life Sentences

The survey was limited to inmates serving 50+ years in prison. This 50+ year number is a conservative estimate intended to capture the inmate population who will almost certainly die in prison before completion of their sentence. We utilized 50 years as an estimate based on data relating to average life expectancy and age of admission to prison. According to data from the Centers for Disease Control and Prevention, the average life expectancy in the United States is 78.7 years (Xu, Kochanek, Murphy, & Arias, 2014). The average age of admission to prison varies by state, but several states, such as Florida, report that the 20 to 25 years of age is the largest age group admitted to prison (Florida Department of Corrections), whereas Texas reports a slightly larger age range, with 20 to 29 years of age being the largest age group admitted (Texas Department of Corrections). Although we did not find specific data relating to the average life expectancy of an

incarcerated person, studies suggest that the average prisoner life span is reduced relative to the general population due to harsh conditions of incarceration, which includes an increased likelihood of contracting a blood borne illness such as HIV, prison-based victimization, liver disease, accidental (or intentional) drug overdoses, and suicide (Binswanger et al., 2007; Hogg, Druyts, Burris, Drucker, & Strathdee, 2008; Rosen, Schoenbach, & Wohl, 2008; Spaulding et al., 2011). These findings reflect the reality that incarcerated persons live in challenging conditions, with substandard nutrition, inadequate physical activity, limited access to quality medical and mental health care, and poor environmental conditions (Dolovich, 2012; Henry, 2015). Based on a conservative estimate of 25 years as the average age of admission and the presumed lower life expectancy of inmates, we assumed that most inmates sentenced to a minimum term of 50 years would either reach or exceed their average life expectancy before reaching any possibility of release. We used the 50-year prison term, then, as a rough benchmark or proxy for the minimum length of sentence that a person would need to receive before it could be considered a virtual life sentence, with the caveat that people sentenced at 18 years of age may survive a 50-year minimum term.

Results

This preliminary study had several research goals. First, this study sought to quantify the number and percentage of inmates serving virtual life sentences in state prison systems. Second, it identified demographic data for those inmates serving virtual life sentences, including race, ethnicity, and gender. Finally, it sought to identify the types of offenses for which offenders were serving virtual life sentences.

Population of Inmates Serving Virtual Life Sentences

As anticipated, virtual life sentences exist in every state that responded to our survey. A total of 26 states reported more than 31,043 people serving virtual life sentences. This is most likely a significant undercount, as numerous states with larger prison populations did not respond to our survey. Vermont reported the fewest inmates sentenced to 50+ years with a total of nine, whereas Texas reported the largest number of inmates sentenced to 50+ years with a total of 8,245.

To clarify between sentences and actual time to be served, we also asked states to report data regarding the number of inmates who were given an expected release date of 50 or more years. This focus reflects the reality that,

in many states, inmates are sentenced to a term of years, but because of good time credits or other release policies, are not expected to serve the entirety of their terms. Any person with an expected release date of 50 or more years would be required to serve, at minimum, 50 years. Minnesota had the fewest inmates with expected release dates of 50+ years with six, and Alabama had the highest with 5,752. The average number of inmates with an expected release date of 50+ years was 414 (*SD* = 1,127).

We also sought to distinguish between states without parole and those with parole. We requested data regarding the number of inmates eligible for parole in 50+ years. Georgia and Vermont both had zero inmates eligible for parole in 50+ years, and Alabama had the highest with 4,292. Finally, we endeavored to collect data regarding inmates subjected to truth in sentencing laws. These laws require inmates to serve all, or a significant percentage of their sentences, before they are eligible for release. Massachusetts reported the fewest inmates under this category with 15, and Florida reported the largest number, with 779 sentenced under truth in sentencing laws serving 50+ years (see Table 1).

From these data, we were able to identify the percentage of virtual lifers within the context of each total state prison population. Results of the survey revealed that inmates serving virtual life sentences, relative to the total state prison population, ranged from a low of 0.23% for the state of Minnesota, to a high of 18.72% for the state of Indiana. As will be discussed later, this finding has significant policy implications. It should be noted that several states (e.g., South Carolina, Iowa) did not provide data on their total prison population; therefore, these results should be interpreted as descriptive only (see Table 1).

Inmate Characteristics

This study also sought to capture the demographic characteristics of the people serving virtual life sentences. We examined the distribution of race and ethnicity in each of the abovementioned categories.[2] To begin, we examined the race and ethnicity of inmates serving 50+ years. Nearly 50% (49.5%) of inmates serving a virtual life sentence were Black (*n* = 14,969), while 39% were White (*n* = 11,854), 9.5% were Hispanic (*n* = 2,851), and 1.75% (*n* = 534) were "Other" (see Table 2).[3] Next, we examined the race and ethnic distribution of inmates with expected release dates of 50+ years. As with those serving virtual life sentences, Blacks made up the largest percentage of those with expected release dates of 50+ years with 55% (*n* = 5,295), followed by Whites at 38% (*n* = 3,669), Other at 3.5% (*n* = 325), and Hispanics at 2.5% (*n* = 256). We then examined the race and ethnic distribution of

Table 1. Distribution of Total State Prison Population, Inmates Serving 50+ Year Sentences, Inmates Expected Date of Release of 50+ Years, Inmates Eligible Parole Release Prior to 50+ Year Sentence Completion, and Inmates Serving 50+ Truth in Sentencing by State.

State	Total prison population	Serving 50+ years	Percentage of prison population "virtual" lifers	Expected release 50+ years	Eligible parole release prior 50+ years	Truth in sentencing 50+ years
Alabama	32,684	5,925	18.13	5,752	4,292	a
Alaska	5,193	372	7.16	189	b	a
Arkansas	17,440	870	4.99	144	778	750
Arizona	41,270	577	1.4	404	106	363
Delaware	3,866	119	3.08	82	16	102
Florida	b	1,504	b	307	377	779
Georgia	54,148	461	0.85	58	0	192
Indiana	29,544	5,530	18.72	576	b	a
Iowa	b	530	b	17	513	243
Kansas	9,591	293	3.05	259	34	a
Maryland	21,149	1,374	6.5	b	b	b
Massachusetts	9,853	26	0.26	23	3	15
Michigan	43,482	480	1.1	265	215	208
Minnesota	9,119	21	0.23	6	21	a
Mississippi	b	321	b	212	37	240
Missouri	31,499	521	1.65	10	511	189
Montana	2,644	195	7.38	12	183	b
New Mexico	6,703	528	7.88	458	528	308
North Carolina	37,459	822	2.19	404	357	465
Oklahoma	27,774	949	3.42	647	b	151
Oregon	14,560	107	0.73	71	b	36
South Carolina	b	329	b	97	b	b
Texas	136,581	8,245	6.04	b	b	b
Vermont	2,100	9	0.43	9	0	a
Washington	17,783	388	2.18	238	165	328
West Virginia	6,769	547	8.08	116	537	a

[a]Denotes state that does not have truth in sentencing laws.
[b]Data not provided.

inmates eligible for parole release prior to 50+ year sentence completion. Whites were the largest racial and ethnic group with 66% ($n = 3,192$) of those

Table 2. Race/Ethnicity Distribution by of Inmates Serving 50+ Year/Virtual Life Sentences.

State	Serving 50+ years	White	African American	Hispanic/ Latino	Other
Alabama	5,925	2,018	3,896	a	11
Alaska	372	200	38	10	134
Arkansas	870	353	491	13	a
Arizona	577	283	102	165	a
Delaware	119	52	66	a	1
Florida	1,504	579	868	142	57
Georgia	461	221	208	32	a
Indiana	5,530	2,596	2,669	224	41
Iowa	530	a	a	a	a
Kansas	293	166	123	20	4
Maryland	1,374	385	976	a	13
Massachusetts	26	13	9	6	4
Michigan	480	162	314	9	4
Minnesota	21	8	11	0	2
Mississippi	321	70	250	0	1
Missouri	521	259	259	10	3
Montana	195	160	7	a	28
New Mexico	528	a	a	a	a
North Carolina	822	295	495	19	32
Oklahoma	949	476	352	32	89
Oregon	107	80	13	9	5
South Carolina	329	102	221	5	6
Texas	8,245	2,630	3,455	2,111	49
Vermont	9	9	0	0	0
Washington	388	252	96	41	40
West Virginia	547	485	50	3	9

[a]Data not provided.

eligible for parole release prior to 50+ year sentence completion, followed by Blacks 30% (*n* = 1,470), Other 2.5% (*n* = 127), and Hispanics 2% (*n* = 90). The final distribution examined the race and ethnicity of inmates serving 50+ years who were subjected to truth in sentencing laws. Blacks were the largest group with 45% (*n* = 1,852), followed by Whites 40% (*n* = 1,638), Hispanics 8% (*n* = 317), and Other 7% (*n* = 295).

In addition, we examined the gender distribution of people serving virtual life sentences of 50+ years. As is consistent with prison data at large, the overwhelming majority of people serving virtual life sentences were male. Of the sample total, 29,121 males or 97%, and 874 females or 3% are serving virtual life sentences. This gendered pattern was repeated in each category of sentence that we studied.

Crime of Conviction

The final area of focus was the identification of types of offenses for which inmates were serving virtual life sentences (see Table 3). Due to a lack of standardization from each state correctional agency regarding offense type, data were recoded into three core categories: (a) violent offenses that included first-, second-, and third-degree murder, manslaughter, sexual assault, rape, kidnapping, aggravated assault, and robbery; (b) nonviolent offenses that included drug and property crimes; and (c) other offenses.

We began with an examination of offense type by inmates serving 50+ year sentences. The average number of people serving virtual life sentences for violent offenses was 886 (SD =1,640.67), with a low of eight in New Hampshire, to a high of 6,167 in Texas. We then examined the number of inmates serving nonviolent offenses (M = 170.46, SD = 322.23). Alaska and Vermont both reported zero inmates serving 50+ years for nonviolent offenses, whereas Texas noted 1,058 nonviolent offenses. Finally, the "other" offense category had a mean score of 132.27 years (SD = 262.55). Vermont reported zero "other" offenses, and Texas reported the highest number with 1,009.

We next examined offense type by inmates with expected release dates of 50+ years. For violent crimes, the mean score was 411.66 (SD = 1,122.42). Minnesota has the fewest number of inmates with sentences of 50+ years for violent offenses with four, and Alabama had the highest with 4,867 inmates. For nonviolent offenses (M = 88.23, SD = 235.58), Kansas and Washington both reporting zero inmates serving 50+ year, while Alabama had the highest number of inmates with 821. Finally, Alaska and Georgia both reported zero inmates serving time for "other" offenses with an expected actual release date of 50+ years, while Arizona reported the highest number of inmates with expected actual release date of 50+ years at 197.

We then examined offense type by inmates who are eligible for parole release prior to the completion of a 50+ year sentence. The mean years of inmates serving violent sentences who were eligible for parole prior to 50+ year sentences were 474.30 (SD = 1,063.19). The state with the fewest

Table 3. Offense Type by Inmates Serving 50+ Year/Virtual Life Sentences.

State	Violent (percent of total)	Nonviolent (percent of total)	Other (percent of total)
Alabama	84.71	14.14	1.15
Alaska	99.73	0	0.27
Arizona	41.6	1.63	56.76
Arkansas	43.88	12.4	43.72
Delaware	90.76	2.52	6.72
Florida	85.04	14.83	0.13
Georgia	88.29	9.33	2.39
Indiana	82.33	17.6	a
Iowa	a	a	a
Kansas	98.98	a	1.02
Kentucky	96.3	3.7	
Maryland	78.08	9.51	12.41
Massachusetts	100	a	a
Michigan	95.89	1.03	3.08
Minnesota	95.24	a	4.76
Mississippi	63.3	30.89	5.81
Missouri	91.19	2.68	6.13
Montana	95.09	1.03	3.08
New Hampshire	100	a	a
New Mexico	a	a	a
North Carolina	85.65	6.88	7.47
Oklahoma	83.16	12.53	4.32
Oregon	a	a	a
Pennsylvania	a	a	a
South Carolina	96	1	a
Texas	74.9	12.85	12.25
Vermont	100	0	0
Washington	94.96	a	5.04
West Virginia	86.65	8.42	4.93

[a]Data not provided.

number of inmates serving nonviolent offenses who were eligible for parole prior to 50+ year sentence completion was Georgia with zero, while Alabama had the highest number of inmates with 3,974. Next, we looked at nonviolent offenses. Georgia, Kansas, and Washington each reported zero inmates, while Alabama had the highest number of inmates at 744. For the "other" offenses, Georgia reported zero inmates serving nonviolent offenses who were eligible

for parole prior to 50+ year sentence completion and Arkansas had the highest with 247 inmates serving "other" offenses.

Finally, we examined offense type by inmates serving 50+ years under state truth in sentencing laws. The mean number of inmates serving violent offenses with 50+ years under truth in sentencing laws was 221.7 (*SD* = 122.37). North Carolina had the highest number of inmates for violent offenses with 50+ years due to truth in sentencing laws with 438, while Massachusetts had the fewest with 15. Next, we looked at the number of inmates serving 50+ years under truth in sentencing laws. Georgia and Washington both reported zero. Conversely, Arkansas reported the highest number with 146. We examined the number of inmates serving 50+ years due to truth in sentencing laws. Georgia again reported zero and Arkansas reported the highest with 242 inmates sentenced for "other" offenses.

Discussion and Policy Implications

The survey revealed several key findings. First, and perhaps most importantly, our initial survey data demonstrate that more than 31,000 inmates in 26 states are serving virtual life sentences. This is a finding of importance. Although data quantifying LWOP and life sentences are available, at the time of our survey, no data had ever been collected about virtual life sentences. Yet, as shown even by the initial data collected in our pilot study, literally thousands of men and women sentenced to virtual life sentences will die in prison while attempting to serve a prison term that can never be completed within their natural life span. And the data here is conservative, as they only reflect the reported prison populations of 26 states. The number is likely significantly larger given the absence of data from states with larger prison populations such as California, Louisiana, and New York.

Of particular importance is the finding that in some states within our survey, virtual lifers comprise a significant—and perhaps surprising—percentage of the overall prison populations. Alabama and Indiana, for instance, each have a fairly large percentage of their prison populations serving virtual life sentences at 18.13% and 18.72%, respectively. With recent state policy trends aimed at reducing incarcerated populations, states with significant percentages of inmates serving virtual life sentences may want to examine their sentencing practices and the associated costs of incarcerating until death such significant portions of their prison populations.

Another important preliminary finding is the racial disparity among those inmates serving virtual life sentences. Blacks make up 12% of the general population, 28% of total arrests, and 38% of those convicted of a felony in state court and in state prison. (Nellis, 2013). Yet almost 50% of persons

serving virtual life sentences in our survey were Black. Blacks appear to be significantly overrepresented in the population of persons sentenced to virtual life sentences. This finding is consistent with the overrepresentation of Blacks throughout the criminal justice system. Moreover, Whites constituted 66% of the inmates sentenced to a 50+ term who were eligible for parole release. Although it is not clear that any inmate eligible for release will be released, it may be significant that the opportunity for release is provided far more to Whites than to any other racial group in our study. The racially disparate impact of virtual life sentences may well reflect the institutional and *de facto* discrimination found in other severe sentences (Tonry, 1995; Walker, Spohn, & DeLone, 2007). Notably, unlike in the case of capital punishment or more traditional life sentences, virtual life sentences have received no scrutiny (Henry, 2012). Because of this, they are likely to have been overlooked by the public, advocacy groups, and scholars.

Equally important is our initial finding that a large portion of those serving virtual life sentences are doing so for nonviolent offenses. For example, in Mississippi, almost 31% of offenders who will die in prison due to virtual life sentences are doing so for nonviolent offenses. Although it may perhaps be possible to explain the use of virtual life sentences by punitive crime control policies, the ongoing war on drugs, and the prevalence of habitual offender laws, the finding that many nonviolent offenders will nonetheless die in prison for their crimes warrants significant scrutiny. Furthermore, because we standardized the data by coding offense types into violent and nonviolent offenses, it is probable that some inmates who were classified as having committed a violent offense did not commit a crime that resulted in death or serious bodily injury. Yet, for each of these offenses, the inmate sentenced to virtual life will die in prison while serving out their sentence. For those who have committed a nonviolent offense, it must be asked whether a virtual life sentence is an appropriate use of scarce correctional resources.

The policy implications of virtual life sentences are significant. There are enormous financial and social costs from imposing sentences that encompass an inmate's entire life span. The "graying" of the U.S. correctional system brings with it concomitant financial costs in the form of health care and inmate safety. While harsh sentences are often popular with the public and politicians, they are also costly, as correctional institutions need to provide long-term medical assistance for aging and often ailing inmates. Furthermore, costs related to inmate safety increase as institutions may be forced to segregate older inmates from younger ones to prevent exploitations or victimization. This, too, is an expensive endeavor that involves expanding or building new

facilities, retraining or hiring new staff, and amending existing programs and services for an elderly population within the facility.

Beyond financial costs are the social, human, and moral concerns that arise from virtual life sentences. Although there are certain offenders who perhaps should remain behind bars to fulfill public safety goals through incapacitation, there are likely many offenders who, if given the opportunity, could safely return to society. Thus far, virtual life sentences do not provide even the most transformed and remorseful offender the opportunity to demonstrate that they no longer pose a threat to public safety. In addition, virtual life sentences are meted out in ways that affect racial and ethnic minorities. These sentences must be carefully examined to ensure that it is the crime committed—and not the race of the offender—that causes the imposition of such severe sentences.

Limitations

As noted above, a core challenge in collecting any national-level criminal justice data is the lack of standardization. As an exploratory study, this article provides not only cursory data and findings but also identifies key challenges in collecting these types of data. While these challenges limit the generalizability of our findings, the exploratory approach taken here was utilized to provide the abovementioned benefits and also will help guide future studies by the authors, as well as other researchers working in this area.

Although we sought data from all 50 states regarding the population of their state prisons, we received official data from 28 state correctional agencies. Because two survey responses were incomplete, they were omitted from our analysis. Of the remaining 26 state respondents, many provided partially complete data and several data sets were coded in such a manner that we were not able to include them in our study.

In addition, these data do not include inmates who are serving life sentences. Thus, an inmate who is sentenced to 1,000 years *plus* life may have appeared in the state correctional database as a life sentence and may have been excluded from our study. This means that the data provide a conservative picture of the number of people serving virtual life sentences. Finally, there were challenges with the data that were coded and included for our study. For instance, there was a lack of standardization between states in terms of the crimes of commitment. This reflects, in part, the disparate criminal law, sentencing and correctional policies that exist in each individual state with crime of commitment. There also was a lack of standardization between states for data relating to race and ethnicity. For example, some states coded race and ethnicity separately, others coded race and ethnicity as one variable,

while still others did not include these data at all. We were able to recode and standardize data relating to race and ethnicity, but it should be noted that some of the data were missing and incomplete and therefore do not fully represent the racial and ethnic distribution of virtual lifers.

Conclusion and Areas for Future Research

Literally thousands of people are serving sentences of 50+ years in state prisons. The 26 states that responded to our survey report a total of 31,043 inmates serving 50+ years. This preliminary finding is significant in three main respects.

First, in some states, the virtual life population makes up a significant percentage of the overall prison population, which has major fiscal and policy implications. For some states, such as Alabama and Indiana, this represents more than 18% of their total prison population. These two states alone report more than 11,000 inmates serving a sentence of 50+ years. Future studies could seek to obtain data from states not included here to more accurately capture the actual size of the virtual life population. However, this study has established empirically that the number of inmates serving a virtual life sentence is significant. And when the over 30,000 inmates serving a virtual life sentence are combined with the approximately 160,000 number of inmates serving a life sentence, we see that the number of inmates serving DIP sentences, conservatively, is almost 200,000 inmates. This constitutes nearly 10% of the 2.2 million people in prison, many of whom are people of color.

Second, a considerable number of people are serving virtual life sentences for nonviolent offenses. Although most people serving 50+ years are doing so for a violent offense, several states have a noteworthy percentage of people who are have an expected date of release greater than 50 years for nonviolent offenses. For instance, Mississippi reports 71 people who are ineligible for release before 50 years for nonviolent offenses, while Alabama reports 821 people serving virtual life sentences for nonviolent offenses. A virtual life sentence for these nonviolent offenders may well be disproportionate relative to the harm caused by their crimes. Such severe sentencing serves neither rehabilitative nor retributive goals, and costs the taxpayers millions of dollars in associated costs.

Third, racial and ethnic minorities are disproportionately represented in the virtual lifers population. While this finding is consistent with the presence of racial disparities throughout all aspects of sentencing, the disparate racial impact of virtual life sentences is ripe for further exploration.

Future examinations of virtual life sentences—and their implications for sentencing and correctional policies—are warranted. Findings from this

study can be used to help conceptually frame future studies and provide guidance regarding the challenges faced when collecting national data. Such studies could focus on a single state or region, or utilize a sample of facilities that have standardized measure for collecting data.

The identification and exploration of virtual life sentences in this investigation provides a valuable first "look" at an important, but entirely overlooked, subset of DIP sentences. This research is an important accounting of inmates serving sentences that exceed their natural life span, and highlights the significance of this previously unexplored population.

Appendix A

Letter

Dear _____:

I am a professor o------------------ University. I am engaged in a research project about "virtual lifers," or inmates with a sentence that requires a minimum time served of 50 years in prison. I am writing to request information relating to the following categories of inmates:

A. Total number of inmates who were sentenced to a term of 50+ years imprisonment
B. Total number of inmates whose actual expected date of release is 50+ years
C. Total number of inmates eligible for parole release prior to the completion of their 50+ term
D. Total number of inmates serving 50+ sentence subject to "truth in sentencing" laws (where applicable)

Please note that I am interested in data both about the number of inmates who are sentenced and will serve a 50+ year term for a single offense, and also the number of inmates who are sentenced and will serve a 50+ year term because of consecutive sentences for multiple offenses. This should not include inmates who are sentenced to life terms. I have attached to this email a two-page survey relating to this request. If you have any questions about this research project or about the survey itself, please do not hesitate to contact me at ---------------or ------------.

Your completed form can be scanned and emailed to me at the above email address, faxed to me at --------------- or mailed to me at: Professor, University,

I thank you in advance for your assistance.

Sincerely,

Appendix B

Survey Instrument

Thank you in advance for providing the following information about your state's population of inmates who are serving a minimum term of 50 years in prison. Please note that I am requesting the same data (i.e., race, gender, ethnicity, and crime) in the below categories, identified A-D.

Current Total State Prison Population = _____.

The following information relates to the Number of Persons, Age 18 or Older on Date of the Offense, Who Are Serving a Sentence of 50+ Years in Prison

A. Total number of inmates who were sentenced to term of 50+ years imprisonment____
   a. Gender
      i. Male _____ ii. Female _____.
   b. Race
      i. White _____ ii. African American _____ iii. Other _____.
   c. Ethnicity
      i. Hispanic/Latino _____ ii. Other
   d. Crime of Commitment
      i. 1st Deg. Murder = _____
      ii. 2nd Deg. Murder = _____.
      iii. Other Death (not 1st or 2nd Deg. Murder) = _____.
      iv. Sexual Assault/Rape = _____.
      v. Agg. Assault/Robbery/Kidnapping = _____.
      vi. Drug Offense = _____.
      vii. Property Offense= _____.
      viii. Other = _____.

B. Total number of inmates whose actual expected date of release is 50+ years___
   a. Gender
      i. Male _____ ii. Female _____.
   b. Race
      i. White _____ ii. African American _____ iii. Other _____.

      c. Ethnicity
        i. Hispanic/Latino _____ ii. Other
      d. Crime of Commitment
        i. 1st Deg. Murder = _____
        ii. 2nd Deg. Murder = _____.
        iii. Other Death (not 1st or 2nd Deg. Murder) = _____.
        iv. Sexual Assault/Rape = _____.
        v. Agg. Assault/Robbery/Kidnapping = _____.
        vi. Drug Offense = _____.
        vii. Property Offense= _____.
        viii. Other = _____.

C. Total number of inmates eligible for parole release prior to the completion of their 50+ term _____
      a. Gender
        i. Male _____ ii. Female _____.
      b. Race
        i. White _____ ii. African American _____ iii. Other _____.
      c. Ethnicity
        i. Hispanic/Latino _____ ii. Other
      d. Crime of Commitment
        i. 1st Deg. Murder = _____.
        ii. 2nd Deg. Murder = _____.
        iii. Other Death (not 1st or 2nd Deg. Murder) = _____.
        iv. Sexual Assault/Rape = _____.
        v. Agg. Assault/Robbery/Kidnapping = _____.
        vi. Drug Offense = _____.
        vii. Property Offense = _____.
        viii. Other = _____.

D. Total number of inmates serving 50+ sentence subject to "truth in sentencing" laws (where applicable) _____
      a. Gender
        i. Male _____ ii. Female _____.
      b. Race
        i. White _____ ii. African American _____ iii. Other _____.
      c. Ethnicity
        i. Hispanic/Latino _____ ii. Other
      d. Crime of Commitment
        i. 1st Deg. Murder = _____
        ii. 2nd Deg. Murder = _____.

      iii. Other Death (not 1st or 2nd Deg. Murder) = _____.
      iv. Sexual Assault/Rape = _____.
      v. Agg. Assault/Robbery/Kidnapping = _____.
      vi. Drug Offense = _____.
      vii. Property Offense= _____.
      viii. Other = _____.

Declaration of Conflicting Interests

Funding

Notes

1. It should be noted that executive clemency is theoretically available to any inmate, and could provide an avenue for release to an inmate serving a virtual life sentence. But because clemency is so rarely granted, it is not factored into this study.
2. These numbers should be interpreted with caution due to a lack of standardization in race and ethnicity categories across states. For example, some states had a standardized scheme in which an inmate was included in only one category, other states allowed inmates to be included within multiple race categories, while still other states included ethnicity as a category separate from race.
3. Additional tables detailing the racial/ethnic and gender distribution of the remaining survey data are available upon request.

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