

HUMAN
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WATCH

Against All Odds
Prison Conditions for Youth Offenders Serving Life
without Parole Sentences in the United States

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Summary

The penalty [of life without parole] forswears altogether the rehabilitative ideal.... For juvenile offenders, who are most in need of and receptive to rehabilitation, the absence of rehabilitative opportunities or treatment makes the disproportionality of the sentence all the more evident.

—*Graham v. Florida, United States Supreme Court, 2010 (560 U.S. _ (2010) (Slip Op., at 23))*

Approximately 2,570 youth offenders are currently sentenced to die in prison in the United States—held without the possibility of parole for crimes committed while they were children.¹ Most have been convicted of homicide offenses. Many of the crimes carried the ultimate price for victims and the perpetrators should be held accountable. The loss and suffering their victims have endured, however, does not lessen the need for society to hold youth accountable in a manner appropriate to their age and capacity for growth and change.

Youth offenders sentenced to life without parole enter prison while they are still growing up and deserve an opportunity to change. Brain science shows that youth are different from adults, their neurological systems still developing. Human rights law mandates that youth offenders be treated differently from adults and, to our knowledge, not a single youth offender is serving this sentence anywhere else in the world. Unfortunately, federal and state legislators in the United States continue to turn their backs on the science and remain out of step with practice elsewhere, forcing youth offenders serving life without parole to forfeit whatever their future might have held in store for them.

This report—drawing on in-person interviews and correspondence with more than 300 youth offenders serving life without parole sentences in 11 states—describes the conditions that define the beginning, middle, and end of the lives of such youth offenders. In the different ways detailed here, those conditions can and often do constitute serious human rights violations.

¹ In this report, the words “youth,” “teen,” “juvenile,” and “child” are used to mean someone under the age of 18. The terms “youth offender” and “youthful offender” refer to an individual who is convicted of an offense committed while they were under the age of 18.

Youth offenders—persons convicted of crimes committed while they were below the age of 18—enter adult jails and prisons while still children or, depending on how long their trials and court proceedings last, as the youngest of adults. Our research has found that youth offenders are among the inmates most susceptible to physical and sexual assault during their incarceration. Many are placed in isolated segregation to protect them or to punish them, some spending years without any but the most fleeting human contact. Because of their sentence, youth offenders serving life without parole face the additional burden of being classified in ways that deprive them of meaningful opportunities while in prison: many are denied access to educational and vocational programs available to other inmates. Finally, facing violence, stultifying conditions, and the prospect of lifelong separation from family and friends, many youth offenders experience depression and intense loneliness. Failed by prison mental health services, many contemplate and attempt suicide; some succeed.

Teens and young adults have developmental needs that must be met in order for them to fully mature into adulthood. For a youth offender in the middle of this essential developmental phase, denial of these opportunities for growth is devastating. Systematic failure to provide such opportunities and widespread violence and abuse in prison turns a life without parole sentence into a punishment of excessive cruelty. Despite this cruelty, many youth offenders serving life without parole persevere in their struggles to obtain rehabilitative opportunities and do, in fact, find ways to mature into adults capable of contributing to society if ever given the chance.

For years, Human Rights Watch has been calling for the abolition of juvenile life without parole sentences in the United States. In 2012 the US Supreme Court will consider the constitutionality of the sentence for homicide offenses. We believe that even in homicide cases the sentence is cruel and unusual, disproportionate, and violates international law. As this report shows, the many collateral consequences of prison conditions for youth offenders further stack the deck—making a life of humanity and dignity possible only *against all odds*.

Recommendations

To the President of the United States

- Submit the Convention on the Rights of the Child to the US Senate for its consent to ratification of the treaty without reservation.

To the United States Congress

- Pass legislation expanding the mandate of the Department of Justice Office of Juvenile Justice and Delinquency Prevention to include a requirement that it monitor the conditions of confinement for youth offenders, including those who are now young adults, in the adult criminal justice system.
- Require the Department of Justice Bureau of Justice Statistics to develop and publish annual statistics on youth offenders in the adult criminal justice system, including admissions numbers, conditions of confinement, and their actual access to developmentally appropriate educational, vocational, and other services.

To State and Federal Officials who Fund and Administer Corrections Programs

- Ensure that state and federal standards for the care and treatment of children in detention and correctional institutions—both state-run and private—comply with international human rights standards.
- Provide all youth offenders in state and federal detention and correctional institutions access to educational, vocational, and other rehabilitative programming that takes into account the needs and capacities of persons of their age and status.
- Provide all youth offenders in state and federal detention and correctional institutions access to all programs regardless of the severity of their crimes or the length of their sentence.
- Take all steps necessary to prevent, detect, respond to, and monitor incidents of physical assault and sexual violence against youth offenders in state and federal detention and correction institutions. Including, at a minimum: training staff; modifying facility design and management, including classification, assignment, and staffing; developing specialized protocols and guidelines regarding

investigation, internal monitoring and review, and outside reporting and oversight; and providing medical and psychological treatment for survivors. End the placement of youth offenders under the age of 21 in protective or punitive solitary confinement in state and federal detention and correctional institutions. Decisions about where to confine youth under the age of 21 should take into account children’s mental and physical maturity and should be reviewed on a regular basis.

- End prolonged solitary confinement of all youth offenders in state and federal detention and correctional institutions. Protective solitary confinement for adult inmates should be a last resort and an interim measure only. Punitive solitary confinement of adults should be for the shortest period of time possible and should not be extended due to minor rule violations.
- Provide all youth offenders in state and federal detention and correctional institutions with the care, protection, and all necessary assistance—social, psychological, medical, and physical—that they may require in view of their age, gender, and personality.
- Ensure that all youth offenders in state and federal detention and correctional institutions have a meaningful opportunity to challenge their conditions of confinement, including classification, housing, and access to programs.

To Judges and Parole Boards

- If levels of rehabilitation obtained by a youth offender previously sentenced to life without possibility of parole are being assessed (in a parole hearing, resentencing hearing, or other sentencing review mechanism), take into consideration the obstacles to obtaining rehabilitative opportunities that such youth offenders have faced and surmounted.

While this report and its recommendations are tailored to address conditions of confinement for youth offenders serving life without possibility of parole in adult prisons, we recognize that many of the harmful conditions described confront many other youth and adult offenders, regardless of their sentence, confined in such facilities.

Moreover, while this report does not address the illegality of the life without parole sentence itself under international human rights standards (a topic we have covered at

length elsewhere),² Human Rights Watch renews its longstanding recommendations that state and federal governments abolish the life without parole sentence for all youth offenders and abolish the automatic trial of youth in adult criminal courts and their mandatory incarceration in adult prisons.

² Human Rights Watch, *When I Die, They'll Send Me Home: Youth Sentenced to Life without Parole in California*, January 13, 2008, <http://www.hrw.org/reports/2008/01/13/when-i-die-they-ll-send-me-home>; Human Rights Watch and Amnesty International, *The Rest of Their Lives: Life without Parole for Child Offenders in the United States* (New York: Human Rights Watch, 2005), <http://www.hrw.org/reports/2005/10/11/rest-their-lives-o>.

Methodology

This report draws from extensive research conducted by Human Rights Watch from 2004 to 2011 on youth offenders serving life without parole sentences in the United States. This includes in-person interviews conducted in prisons and correspondence with 335 youth offenders serving life without parole sentences nationwide between 2004 and 2005, as well as interviews and correspondence with approximately 225 individuals serving life without parole for crimes committed as children in California between 2006 and 2011. This also includes responses from a 2007 survey of 145 individuals sentenced to life without parole for crimes they committed as children in California. In all, testimony is drawn from youth offenders in Arkansas, Colorado, California, Florida, Iowa, Illinois, Louisiana, Massachusetts, Michigan, New Jersey, and Pennsylvania.

In addition to in-person interviews and correspondence with prisoners, between 2004 and 2011 we interviewed parents and other close relatives and spoke with the attorneys for many of the youth offenders we interviewed. We also interviewed family members of the victims of crimes for which convicted youth offenders were serving life without parole.

Finally, Human Rights Watch interviewed judges, defense attorneys, prosecutors, social workers, psychologists, correctional authorities, and prison educational specialists in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Virginia, Washington, Wisconsin, and Wyoming.

Prisoners were variously contacted through an advertisement in the newsletter *Prison Legal News*, by mail, through contacts with social workers, defense attorneys, and family members, and through information received directly from state departments of corrections and as a result of records requests. In many cases, we were able to consult press accounts and court documents to corroborate or obtain additional details on the prisoners' stories. We recognize that some accounts may have been embellished or altered in the telling and have limited the accounts included here to those we judged to be credible and typical, but we have not been able to verify each of the specific allegations made. Nevertheless, the

survey responses, letters, and interviews are eloquent testimony to the stunting and desperation felt by youth serving life without parole sentences.

Where prisoners' letters or survey responses are quoted, we have left in place spelling and grammatical errors. As is consistent with our practice when reporting on prison conditions, we use pseudonyms for offenders to protect against the possibility of intimidation or retaliation.

I. Introduction

A young person who knows that he or she has no chance to leave prison before life's end has little incentive to become a responsible individual. In some prisons, moreover, the system itself becomes complicit in the lack of development.³

Each year the criminal justice system treats tens of thousands of children as adults for the purposes of trial and punishment.⁴ Human Rights Watch estimates that there are currently about 2,570 youth offenders (persons who were below age 18 at the time of offense) serving life without parole in the United States.⁵ Though Human Rights Watch does not have data on how old each of these youth offenders were when they entered prison, the data we have collected suggests that a significant percentage entered prison while they were still children.⁶ Indeed, children are a small but persistent population in US prisons; the most recent data released by the Department of Justice indicates that in 2009, 43 state prison systems held 2,778 inmates who were under 18.⁷ Of course, much larger numbers of youth offenders enter US prison having already passed their eighteenth birthdays, although sometimes just by months or days.

Although some statistical surveys show that many adult prisons in the United States house inmates under 18 as well as very young adults, the particular conditions they face in adult

³ *Graham v. Florida*, 560 U.S. (2010) (Slip Op. at 28).

⁴ There are no precise estimates of the number of youth under 18 who are convicted each year of criminal offenses, as opposed to delinquency offenses (offenses adjudicated in juvenile court), but estimates range above 200,000. See Patrick Griffen et al, Office of Juvenile Justice and Delinquency Prevention, US Department of Justice, "Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting," September 2011, <https://www.ncjrs.gov/pdffiles1/ojjdp/232434.pdf> (accessed December 2, 2011); Jennifer J. Woolard et al., "Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations," *International Journal of Forensic Mental Health*, vol. 4, no. 1 (2005); Campaign for Youth Justice, "To Punish a Few: Too Many Youth Caught in the Net of Adult Prosecution," October 2007, http://www.campaignforyouthjustice.org/documents/to_punish_a_few_final.pdf (accessed December 2, 2011).

⁵ Human Rights Watch, *World Report 2009* (New York: Human Rights Watch, 2009), United States chapter, <http://www.hrw.org/world-report-2009/united-states/>; Human Rights Watch, "State Distribution of Youth Offenders Serving Juvenile Life Without Parole (JLWOP)," October 2, 2009, <http://www.hrw.org/news/2009/10/02/state-distribution-juvenile-offenders-serving-juvenile-life-without-parole>.

⁶ Of the 420 youth offenders for which Human Rights Watch has such data, 29 percent entered prison while still children. See Human Rights Watch and Amnesty International, *The Rest of Their Lives*.

⁷ This data is not broken down by offense and thus includes all youth offenders. The states which did not hold any youth offenders who were still children in 2009 were: Maine, New Hampshire, North Dakota, Kentucky, West Virginia, California, and Idaho. Heather West, Bureau of Justice Statistics, Department of Justice, "Prison Inmates at Midyear – 2009," June 2010, <http://bjs.ojp.usdoj.gov/content/pub/pdf/pim09st.pdf> (accessed December 9, 2011).

prison, as well as the status of certain prisoners as youth offenders, are often hidden. No state or federal government agency is charged with the task of monitoring conditions for youth offenders in adult prisons, although agencies with specialized expertise, such as the federal Office of Juvenile Justice and Delinquency Prevention, do exist.

Prisons in the United States are tense, bleak places in which all inmates struggle to maintain their equilibrium despite violence, exploitation, lack of privacy, stringent limitations on family and community contacts, and a paucity of opportunities for meaningful education, work, or other productive activities.

But prison life is particularly challenging for youthful offenders who come to prison as children or as very young adults. They often lack the physical and mental coping mechanisms that older adult prisoners use to maintain their mental health and self-respect. Because of this and due to their unique vulnerabilities, rape, assault, and assignment to various forms of isolated segregation are common, as are depression and suicidal thoughts and attempts. Sadly, the suicide rate for inmates under 25 is many times higher than for any other age bracket in prison, a contrast that is not replicated among people out of prison.⁸

Adult prison is also a difficult place for young people to gain the life experiences and education necessary for healthy mental and physical development. This is especially true for those serving life without parole sentences as many states deny them access to the vocational training and rehabilitative services available to other inmates.

Youth offenders serving life without parole face a further daunting challenge—they must come to terms with the fact that they will live in prison for the rest of their lives. Although the US Supreme Court has declared juvenile life without parole unconstitutional for non-homicide offenses, the United States still imposes the sentence on those convicted of homicide crimes—regardless of their role in the crimes—before their eighteenth birthdays.

⁸ For prisoner data, see Bureau of Justice Statistics, US Department of Justice, “Suicide and Homicide in State Prisons and Local Jails,” August 2005, <http://www.bjs.gov/content/pub/pdf/shsplj.pdf> (accessed December 9, 2011). For persons not in prison, see Centers for Disease Control, Interactive Health Data, National Vital Statistics, “Mortality by Underlying Cause Among Children,” and “Mortality by Underlying Cause Age 18 +,” <http://www.cdc.gov/nchs/hdi.htm> (accessed December 27, 2011) (searchable tables from years 2000 to 2008 revealed 18 to 24 year olds had the lowest rate of suicide among all other categories of adults, and while 15 to 17 year olds had the highest rate of suicide among children, their rate [5.5 per 100,000 persons] remained lower than all other categories of adults).

Homicide crimes may include intentional homicide, manslaughter, and so-called “felony murder” (in which a person participates in a felony such as a robbery, during which another assailant commits homicide).

Yet as international human rights law recognizes, children are different from adults and penal sanctions should take into account their potential for development and rehabilitation. Even youth offenders convicted for the most serious offenses who are serving life without parole have the ability to grow and change. Some manage to do just that, even in the face of abusive and degrading prison conditions.

Potential for Rehabilitation

Life without parole is an especially harsh punishment for a juvenile. The US Supreme Court has noted that a youth offender “will on average serve ... a greater percentage of his life in prison than an adult offender.”⁹ For a fully formed adult, the goal of rehabilitative services is to prepare an individual to contribute to society, either inside prison or upon release. Teens and young adults, however, have developmental needs for education and other services simply in order to be able to fully mature into adulthood. For a teen or young adult in the middle of this essential developmental phase, denial of these opportunities for growth is devastating. It turns a life without parole sentence into a deprivation of human dignity.

Samantha L. came to prison at age 17 and was interviewed by Human Rights Watch 20 years later, when she was 37. She said:

You know what’s the worst part of being young and being in prison? It’s like you never get to the place where other people are at. It’s like you’re always looking for guidance, you can’t trust other people, and even as you get old, you still feel like you are 17. I mean sometimes I see myself in the mirror and I see that my body, my skin, is getting older but inside I feel like I’m still seventeen.¹⁰

No parent or teacher needs a scientist to confirm this fundamental fact about teenagers: adolescents are still developing into the adults they will become. Recent developments in

⁹ *Graham v. Florida*, 130 S. Ct. 2011, 2028 (2010).

¹⁰ Human Rights Watch interview with Samantha L. (pseudonym), Iowa, April 2004.

neuroscience have confirmed just that. Adolescent brains are less developed than adults. Youth are still changing, growing, and maturing in ways fundamental to adulthood.

There is dramatic structural growth in the brain during the teen years and early twenties. Research has shown that the most dramatic difference between the brains of teens and adults is the development of the frontal lobe.¹¹ The frontal lobe is responsible for cognitive processing, such as planning, strategizing, and organizing thoughts and actions. Researchers have determined that one area of the frontal lobe—the dorsolateral prefrontal cortex—is among the latest brain regions to mature, not reaching adult dimensions until a person is in his or her twenties.¹² This part of the brain is linked to “the ability to inhibit impulses, weigh consequences of decisions, prioritize, and strategize.”¹³

The decision-making process leading to teen criminal acts is shaped by impulsivity, immaturity, and an under-developed ability to appreciate consequences and resist environmental pressures—attributes characteristic of children and adolescents.¹⁴ These findings put into sharp focus factors contributing to adolescent criminal behavior, but they also make clear that for a youth offender, criminal behavior will not necessarily define the individual as an adult. “For most teens, these [risky or illegal] behaviors are fleeting; they cease with maturity as individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood.”¹⁵

US law has reflected the advancement in scientific knowledge. In 2005 the US Supreme Court stated in *Roper v. Simmons* that “from a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.”¹⁶ Young people have great potential to

¹¹ Laurence Steinberg et al., “The Study of Developmental Psychopathology in Adolescence: Integrating Affective Neuroscience with the Study of Context,” in Dante Cicchetti and Donald Cohen, eds., *Developmental Psychopathology* (Oxford: John Wiley & Sons, 2006), p. 710.

¹² Jay N. Giedd, “Structural Magnetic Resonance Imaging of the Adolescent Brain,” *Annals of the New York Academy of Science*, vol. 1021 (2004), p. 83.

¹³ *Ibid.*

¹⁴ *Ibid.* See also Elizabeth Cauffman and Laurence Steinberg, “(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults,” *Behavioral Sciences and the Law*, vol. 18 (2000), p. 741.

¹⁵ Laurence Steinberg and Elizabeth S. Scott, “Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty,” *American Psychologist*, vol. 58, no. 12 (December 2003), p. 1014.

¹⁶ *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

respond to education, vocational training, and other rehabilitative services. Opportunities for intellectual, emotional, and social growth are essential for young people who are incarcerated when they are still developing into the adults they will become.

International law prohibits the use of life without parole sentences for youth in part because the finality of such a sentence does not account for the unique ability of young people to change. As the US Supreme Court noted in *Graham v. Florida*, “[a] life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity.”¹⁷ Incarceration without developmentally necessary opportunities for growth and learning can deny youth offenders a chance to *achieve* growth and maturity. Human rights law requires that incarceration of young people be conducted “in a manner which takes into account the needs of persons of his or her age.”¹⁸ Teens and young adults have educational needs that are different than those of adults; they are in a developmental period that requires learning on many levels. Changes that occur during the teen and early adult years tend to be significantly more dramatic than changes during later adult years because of the marked mental, physical, psychological, and emotional growth associated with this period.¹⁹ A prison sentence depriving a youth or young adult of adequate opportunities for growth has implications far beyond the years spent in a prison cell. It can be, in essence, a sentence to be deprived of the potential to become or achieve anything more.

Despite the enormous promise of every young person to grow and change, young offenders sentenced to life without parole frequently struggle without hope and within a prison system that denies them opportunities for development. As a result, some child offenders serving life without parole remain poorly educated, even illiterate. They may be angry and violent. They may use drugs and join prison gangs. Some may be unable or unwilling to come to terms with their crimes or exhibit any signs of remorse. Nevertheless, there are many youth offenders serving life without parole who withstand these negative forces and have a strong desire to rehabilitate themselves.

¹⁷ *Graham v. Florida*, 560 U.S. ___ (2010).

¹⁸ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37(c). The US signed the CRC in 1995 but has not ratified.

¹⁹ Steinberg et al., “The Study of Developmental Psychopathology in Adolescence” pp. 725-726.

For example, Troy L., who was 15 when he murdered his abusive father, was interviewed at age 24. He wrote in a subsequent letter:

I would be ever grateful, in fact, for the chance to spend my life now for some good reason. I would go to the most dangerous parts of Afghanistan or Israel, or jump on the first manned mission to Mars.... [I]f the state were to offer me some opportunity to end my life doing some good, rather than a slow-wasting plague to the world, it would be a great mercy to me.²⁰

Other offenders we spoke with held similar hopes of redemption. Nelson H. came to prison at age 18 for murdering an elderly woman, and he was 27 when he was interviewed by Human Rights Watch. Nelson spoke constantly and in great detail about his passion to become a “search and rescue” worker. He studied books on rescue techniques, physical conditioning, and first aid. He also trained and tested himself against the standards applied in rescue workers exams. He wanted to fight forest fires or rescue people caught in other natural disasters because he believed that if he could save at least one life that would somehow compensate for the one he took.²¹

Another youth offender stated:

To mature in prison is to commit trial and error until you find who you really are in the midst of all the chaos and madness that surrounds you every day, and built on that personality.... It’s sad to say or to admit that it might have taken this time ... to find who I really am in the midst of pouring through my angry past. It’s taken years of reflection but I know who I am and what I want in life now, and although its taken this experience and this long, I’m satisfied with [the] man I’ve found within myself and thankful to all of my loved ones who’ve always stood by me and have never given up on me.²²

²⁰ Letter to Human Rights Watch from Troy L. (pseudonym), serving life without parole in Arkansas, undated (on file with Human Rights Watch).

²¹ Human Rights Watch interview with Nelson H. (pseudonym), serving life without parole in Colorado, July 28, 2004.

²² Survey response from Patrick C. (pseudonym), serving life without parole in California, to Human Rights Watch, July 25, 2007 (on file with Human Rights Watch).

II. Physical Harm and Mistreatment in Adult Prisons

Violence is endemic in US prisons. Youth offenders who enter adult prison while they are still below the age of 18 are “twice as likely to be beaten by staff and fifty percent more likely to be attacked with a weapon than minors in juvenile facilities.”²³

Statistics on sexual violence in US prisons also reveal a serious problem for youth offenders, especially since sexual violence is so severely underreported.²⁴ In a 12-month period between 2008 and 2009, an estimated 88,500 inmates age 18 and older—64,500 in prison and 24,000 in jails—reported experiencing one or more incidents of sexual victimization by another inmate or facility staff. The youngest adults (those in the age group 18 to 19) and those in the lowest weight quartile (60 to 168 pounds for men and 65 to 144 pounds for women) reported the highest rates of sexual victimization, particularly when perpetrated by facility staff.²⁵ Department of Justice data suggest that between one-third and one-half of the victims of inmate-to-inmate sexual abuse in prisons in the United States are under 25.²⁶

²³ Martin Forst et al., “Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy,” *Juvenile & Family Court*, vol. 4 (1989), p. 9. See also Jason Ziedenberg & Vincent Schiraldi, “The Risks Juveniles Face When They Are Incarcerated with Adults” Justice Policy Institute, July 1997, http://www.justicepolicy.org/images/upload/97-02_REP_RiskJuvenilesFace_JJ.pdf (accessed December 12, 2011).

²⁴ National Prison Rape Elimination Commission, “National Prison Rape Elimination Commission Report,” June 2009, <https://www.ncjrs.gov/pdffiles1/226680.pdf> (accessed December 25, 2011), Chapter 1: A Problem That Must Be Solved, p. 39. As noted elsewhere in this report, Human Rights Watch came across many cases of sexual violence against youth offenders that were never reported.

²⁵ Allen J. Beck and Paige M. Harrison, Bureau of Justice Statistics, “Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09,” August 2010, <http://bjs.ojp.usdoj.gov/content/pub/pdf/svpjrio809.pdf> (accessed December 19, 2011). There are few studies focusing specifically on sexual abuse of youth under age 18; however the recent report produced by the Prison Rape Elimination Commission cited a 2005 study: “Youth confined with adults also are at high risk of sexual abuse. In 2005, for example, individuals under the age of 18 made up less than 1 percent of all inmates in U.S. jails. Yet 21 percent of all victims of substantiated incidents of sexual abuse involving jail inmates that year were under the age of 18.” National Prison Rape Elimination Commission Report, p. 42, <https://www.ncjrs.gov/pdffiles1/226680.pdf> (citing Beck, A. J., & Harrison, P. M., Bureau of Justice Statistics, “Sexual violence reported by correctional authorities, 2005,” 2006) (internal citations omitted).

²⁶ Paul Guerino and Allen J. Beck, Bureau of Justice Statistics, “Sexual Victimization Reported by Adult Correctional Authorities, 2007-2008,” January 2011, <http://www.bjs.gov/content/pub/pdf/svrcao708.pdf> (accessed December 9, 2011); Allen J. Beck, Paige M. Harrison, and Devon B. Adams, Bureau of Justice Statistics, “Sexual Victimization Reported by Adult Correctional Authorities, 2006,” August 2007, <http://www.bjs.gov/content/pub/pdf/svrcao6.pdf> (accessed December 9, 2011). Other reports have also found that victims consistently tend to be younger than perpetrators. See Austin et. al, The JFA Institute, “Sexual Violence in the Texas Prison System,” March 2006, <https://www.ncjrs.gov/pdffiles1/nij/grants/215774.pdf> (accessed December 9, 2011); Pat Kaufman, National Institute of Justice, “Prison Rape: Research Explores Prevalence, Prevention,” March 2008, <https://www.ncjrs.gov/pdffiles1/nij/221505.pdf> (accessed December 9, 2011).

Studies also suggest that youth under 20 experience the highest rates of sexual abuse by staff of any prison age demographic.²⁷ These chilling statistics testify to the inability of correctional authorities to provide safe correctional environments for all prisoners—an inability that is itself a reflection of prison overcrowding, staff shortages, and inadequate prison programs.

Human Rights Watch has identified three specific categories of harm and mistreatment that youth offenders commonly suffer. First, youth offenders serving life without parole are victims of rape and sexual assault at alarming rates. Second, they are commonly victims of physical assault. Both of these are often inflicted by other inmates as well as corrections officers. Finally, youth offenders are frequently placed in protective and punitive isolation in prisons.

Rape and Sexual Assault

Human Rights Watch has previously documented the extensive incidence of rape in U.S. prisons.²⁸ Almost every one of the hundreds of youth offenders contacted by Human Rights Watch raised the issue of sexual assault. They reported being the victims of abuse, harassment, and rape.

Small physique and the status of being newly incarcerated heighten the risk of sexual abuse. At 17, when Billy G. was convicted, he was tiny: “At trial, I was 5’5” and 119, 120 pounds.” Upon first entering adult prison, he said, “I was scared, confused, and intimidated,” and he explained that he had been physically assaulted, although he did not elaborate as to whether the assault was sexual in nature.²⁹ For many, violence becomes a daily reality. Fifty-nine percent of youth who responded to a Human Rights Watch survey in California and who answered questions about victimization in prison reported that they had been physically or sexually assaulted.³⁰

Brian B. wrote about what happened soon after he entered prison in Pennsylvania at the age of 17 with a life without parole sentence:

²⁷ Beck and Harrison, “Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09,” <http://www.bjs.gov/content/pub/pdf/svpjrio809.pdf>. Notably, inmate-on-inmate and staff-on-inmate sexual victimization in jails is highest among youth under 20.

²⁸ Human Rights Watch, *No Escape: Male Rape in U.S. Prisons* (New York: Human Rights Watch, April 2001), <http://www.hrw.org/reports/2001/prison/>, p. 70.

²⁹ Human Rights Watch interview with Billy G. (pseudonym), serving life without parole in California, June 29, 2007.

³⁰ This percentage is based on Human Rights Watch’s survey, in which 67 out of 114 respondents reported that they had been the victim of an assault in prison.

Almost every male inmate we interviewed described having been approached by other Sheriffs took me to the Western Penitentiary. They lied to the warden telling him I were 18, which I had not yet become. I were housed in an open poorly supervised unit, and that evening a group of large adult men rushed into my cell, holding me down they began pulling my clothes off while another took a syringe over to a spoon that another inmate were holding a lighter under. He drew up whatever was in the spoon. I were then injected with whatever it were. And then raped. Once found by the officers I were taken to a holding area, cleaned up, and placed on a van to another prison at around 3:00 am.³¹

Almost every male inmate we interviewed described having been approached by other prisoners for sexual favors, or having to fight to protect themselves from rape. Warren P. wrote that when he first came to prison, at the age of 15:

I was the target of covert sexual predators. Adults would pretend to be your best friend to get close to you, then they would try you.... Officers would be hard on me more so than the adults for they believe that the younger inmates need rougher treatment.³²

Tyler Y., who came to prison at age 18 for a crime committed at age 16, wrote:

[W]hen I first when to jail / prison, when I was young, it was disorienting and scary, like a fish thrown in water not knowing how to swim. Everyone seemed big and dangerous and threatening, I was challenged and intimidated a lot. Canines [sexual predators] stalked me, and at all times I expected to be attacked.³³

Eric R., who came to prison at age 16, wrote:

³¹ Letter to Human Rights Watch from Brian B. (pseudonym), serving life without parole in Pennsylvania, August 28, 2004 (on file with Human Rights Watch).

³² Letter to Human Rights Watch from Warren P. (pseudonym), serving life without parole in Florida, March 2, 2004 (on file with Human Rights Watch).

³³ Letter to Human Rights Watch from Tyler Y. (pseudonym), serving life without parole in Colorado, March 16, 2004 (on file with Human Rights Watch).

When I first came to prison attempts were made to lure me into out of the way places so that I could be sexually assaulted, fortunately I was so scared and wary that I managed to avoid being victimized. I was very small when I came to prison.³⁴

The problem of sexual violence lessens as youth offenders grow older in prison. Addison R., who entered prison at age 16 and wrote to Human Rights Watch at age 36, explained:

I've gotten older, a little bit more mature, a little bit bigger in physical size, and the older prisoners have stopped preying on me for sex.... [Before] I've had to stab other prisoners for preying on me for sex.³⁵

As Human Rights Watch has reported elsewhere, female inmates are also particularly vulnerable to violent or otherwise coercive sexual relationships with corrections personnel. Abusing the power imbalance inherent in their positions, male corrections employees sometimes allegedly engage in abusive “sexual contact with female prisoners absent the use or threat of force or any material exchange.”³⁶ However, they also at times use force or bribery to obtain sex from inmates. The practice of assigning male staff to guard women in prisons and jails in the United States is itself contrary to international standards.³⁷

Carolyn K. entered prison with a life without parole sentence at age 17. She wrote, “[O]ne official put me in a situation to have sex with him and I did.”³⁸

³⁴ Letter to Human Rights Watch from Eric R. (pseudonym), serving life without parole in Michigan, March 18, 2004 (on file with Human Rights Watch).

³⁵ Letter to Human Rights Watch from Addison R. (pseudonym), serving life without parole in Michigan, March 20, 2004 (on file with Human Rights Watch).

³⁶ See Human Rights Watch, *Nowhere to Hide: Retaliation Against Women in Michigan State Prisons* (New York: Human Rights Watch, 1998), <http://www.hrw.org/reports/1998/09/01/nowhere-hide>; and Human Rights Watch, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (New York: Human Rights Watch, 1996), <http://www.hrw.org/reports/1996/12/01/all-too-familiar>.

³⁷ See United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, <http://www2.ohchr.org/english/law/treatmentprisoners.htm> (accessed December 12, 2011), Rule 53 (female prisoners should be attended and supervised only by female officers; male staff such as doctors and teachers may provide professional services in female facilities, but should always be accompanied by female officers).

³⁸ Letter to Human Rights Watch from Carolyn K. (pseudonym), serving life without parole in California, April 18, 2004 (on file with Human Rights Watch).

Cheryl J., who began serving her life without parole sentence at age 18, spoke about how common sexual contacts with male guards were:

A lot of them [female inmates] do favors for the guards. The ones who work at sally port [a security gate between a prison's interior and public areas]. To get tobacco, they give guards head ... it's beginning to be more male guards instead of female guards [here] and they're taking advantage of it. They think all females wanna be touched and watched by them but that's not true!³⁹

Sexual abuse and rape in prisons, when committed by or tolerated by authorities, constitute serious human rights violations. The fact that youth offenders' particular susceptibility to sexual abuse and rape is well known heightens the responsibility of adult prison authorities across the country to take actions targeting young prisoners to prevent its occurrence.⁴⁰

Violence and Assault

For many youth offenders serving life without parole in US prisons, violence becomes a daily reality. Almost all youth offenders serving life without parole interviewed or surveyed by Human Rights Watch suffered physical violence at the hands of other inmates.

Nearly every respondent to a 2007 Human Rights Watch survey in California reported witnessing violent acts.⁴¹ Their descriptions make clear that the violence they encounter in prison is not simple fistfights: nearly half reported witnessing stabbings; some described witnessing murders, rapes, strangulations, and severe beatings.⁴² "Someone tried to cut my throat with a razor knife," Gary J. told us.⁴³ "I've seen more death in here than I did

³⁹ Human Rights Watch interview with Cheryl J. (pseudonym), serving life without parole in Arkansas, June 24, 2004.

⁴⁰ See, for example, American Corrections Association, *Protective Custody* (ACA: 1982); Human Rights Watch, *No Escape*, p. 136 (cataloging a number of empirical studies documenting the incidence and nature of sexual violence in prison).

⁴¹ Ninety-one percent of respondents to the Human Rights Watch survey reported that they had witnessed violence while in prison. Respondents often provided longer, narrative answers to explain with more specificity the types of violence witnessed and the perpetrator. Several did not answer the question and wrote that they feared retaliation if they answered the question.

⁴² Without being asked directly about the type of violence witnessed, 46 percent of respondents who wrote a narrative answer describing violence they had witnessed noted that they had seen stabbings.

⁴³ Survey response from Gary J. (pseudonym), serving life without parole in California, to Human Rights Watch, July 26, 2007 (on file with Human Rights Watch).

when I was living in the inner city,” Rudy L. said.⁴⁴ Bilal R. wrote, “I have seen stabbings, rapes, robberies, and many other things. I’ve been stabbed more than once.”⁴⁵

Youth offenders rarely reported the assaults because of the harm it would do to their reputations in prison, and because they assumed correctional authorities would do little to rectify the problem. For example, Michael S. was 17 when he entered prison. He wrote:

On several occasions I have been physically assaulted. I reported the first assault, but from that point forward I deduced that it was best to remain silent as I cannot afford to be labeled [an informant] in my current circumstances.⁴⁶

Sometimes guards are allegedly to blame for assaults on young inmates. Joe L., who was 19 when he entered prison, told Human Rights Watch that “a few times” he was “slammed pretty hard by the guards here.”⁴⁷ Another young man who was 14 at the time of his offense and 18 when he entered prison said, “I was having problems from other inmates that were violent to me and the staff wouldn’t move me, they left me there on purpose to be abused by the other inmates.”⁴⁸

Nearly every youth offender described getting injured due to violence in prison. Gregory C., who entered prison at the age of 16, was a typical example. He said, “I’ve been in fights with prisoners on many occasions. Luckily, I received nothing more than a few black eyes, fat lips, chipped tooth and swollen knuckles.”⁴⁹

Others had more serious injuries, requiring hospitalization. Jackson W., who entered prison at age 17, said that he was hospitalized in prison in Arkansas because, “I got stabbed a couple times.... I got my head busted by locks. That’s a small weapon, but they

⁴⁴ Survey response from Rudy L. (pseudonym), serving life without parole in California, to Human Rights Watch, July 29, 2007 (on file with Human Rights Watch).

⁴⁵ Survey response from Bilal R. (pseudonym), serving life without parole in California, to Human Rights Watch, July 24, 2007 (on file with Human Rights Watch).

⁴⁶ Letter to Human Rights Watch from Michael S. (pseudonym), serving life without parole in Michigan, March 22, 2004 (on file with Human Rights Watch).

⁴⁷ Human Rights Watch interview with Joe L. (pseudonym), serving life without parole in Colorado, May 28, 2004.

⁴⁸ Letter to Human Rights Watch from Javier M. (pseudonym), serving life without parole in Colorado, March 8, 2004 (on file with Human Rights Watch).

⁴⁹ Letter to Human Rights Watch from Gregory C. (pseudonym), serving life without parole in Colorado, March 13, 2004 (on file with Human Rights Watch).

still hurt.”⁵⁰ Andrew H., who was 16 at the time of his crime of murder and entered prison that same year, explained that he was hospitalized after being “stabbed in the left shoulder helping a guy that I knew when others tried to rape him.”⁵¹

Patricia L. was 16 years old when she was sentenced to life without parole. She entered prison at age 20. Patricia L. wrote:

People here who are in and out prey on the young and use us for things. It’s scary to wake up every morning and not know what will happen (get beat up or tested).... I’ve gotten beaten up by women who just don’t like me for whatever their reasons.⁵²

Richard I. began serving his prison sentence at age 16. His story was typical of those inmates who had spent time in the Arkansas Department of Corrections’ Varner Unit. He told a researcher with Human Rights Watch what life there was like:

I got to Varner on a Thursday night, and they ... said “tomorrow is Friday.... That’s fight night.” Friday come around ... all these fellows ... got together with ski masks, made up ski masks, go down there and go find a white dude and jump on him. I didn’t get jumped on the first weekend, it was like the second weekend when I got into a fight. I guess it was my turn.⁵³

Richard claimed his injuries were not severe—just cuts and bruises—as a result of the fight. However, he said that:

I’ve seen people ... they’d set the edge of his blanket on fire. Or I’ve seen people get wooden locker boxes dropped on themselves. Seen people, they put locks in their socks and hit people while they’re sleeping. I’ve seen

⁵⁰ Human Rights Watch interview with Jackson W. (pseudonym), serving life without parole in Arkansas, June 21, 2004.

⁵¹ Letter to Human Rights Watch from Andrew H. (pseudonym), serving life without parole in Pennsylvania, February 17, 2004 (on file with Human Rights Watch).

⁵² Letter to Human Rights Watch from Patricia L. (pseudonym), serving life without parole in California, July 14, 2004 (on file with Human Rights Watch).

⁵³ Human Rights Watch interview with Richard I. (pseudonym), serving life without parole in Arkansas, June 21, 2004.

people get jumped on while they sleeping.... Seen stabbings. Seen a person get killed.⁵⁴

Many of the youth offenders contacted by Human Rights Watch reported being changed by what they saw or experienced:

It has affected me because I now feel I am two separate people. One being the [Joseph Thomas] everyone knows, loves, would not hurt anyone and two being the man who puts on the mask and does what he has to do to survive in one of the most violent penal systems (CDCR) in the USA.⁵⁵

None of the 560 youthful offenders contacted by Human Rights Watch had managed to avoid violence in prison. When prison officials tolerate such violence, it constitutes a serious human rights abuse.

Protective and Punitive Isolation

Youth offenders often spend significant amounts of their time in US prisons isolated from the general prison population. Such segregation can be an attempt to protect vulnerable youth offenders from the general population, to punish infractions of prison rules, or to manage particular categories of inmates, such as alleged gang members. Youth offenders frequently described their experience in segregation as a profoundly difficult ordeal.

Life in long-term isolation usually involves segregating inmates for 23 or more hours a day in their cells. Offenders contacted by Human Rights Watch described the devastating loneliness of spending their days alone, without any human contact, except for when a guard passes them a food tray through a slot in the door, or when guards touch their wrists when handcuffing them through the same slot before taking them to the exercise room or for a shower once a week. Youth had the same experience and feelings whether they had been isolated to protect or to punish them.

⁵⁴ Ibid.

⁵⁵ Survey response from Joseph Thomas N. (pseudonym), serving life without parole in California, to Human Rights Watch, July 24, 2007 (on file with Human Rights Watch).

Protection that Harms

A growing consensus views protective isolation as acceptable only as a last resort and interim measure.⁵⁶ Yet isolation is commonly used by prison officials as a quick solution to protection challenges—including the challenge of keeping a young person safe in a prison full of adults.

Youth offenders reported to Human Rights Watch that they sometimes sought out protective custody to avoid harm. Occasionally, prison authorities recognize the problems a youth offender is having and take corrective measures. Jeffrey W., who entered prison at age 17, wrote:

At the beginning, the focus was on surviving.... Naturally, I was the target of sexual predators and had to fight off a couple rape attempts.... These were hardened, streetwise convicts who had been in prison 10, 15, 20, 30 years and I was a naïve 18-year-old who knew nothing about prison life.... Because of the rape attempts on me ... state prison officials [said] I should have been classified as needing protection. I was soon sent to the state's protection unit.... I stayed there for seven years until I was returned to the general population—older, wiser, and capable of surviving general population.⁵⁷

Unfortunately, segregation can exacerbate the lack of opportunities for programs described in more detail later in this report:

Right now I'm not receiving no schooling or counseling due to being in ASU Administrative Segregation Unit. They have no schooling for me or etc. They are way out of conduct here. I been asking to receive some GED work but I haven't receive no response. I wish to receive schooling. I learn how to read and write in prison and I want to be successful. I might get out one day.⁵⁸

Prolonged periods of isolation can be devastating for anyone, but are especially devastating for young offenders.⁵⁹

⁵⁶ "National Prison Rape Elimination Commission Report," <https://www.ncjrs.gov/pdffiles1/226680.pdf>, p. 8.

⁵⁷ Letter to Human Rights Watch from Jeffrey W. (pseudonym), serving life without parole in Louisiana, April 26, 2004 (on file with Human Rights Watch).

⁵⁸ Survey response from Randy T. (pseudonym), serving life without parole in California, to Human Rights Watch, August 7, 2007 (on file with Human Rights Watch).

⁵⁹ Because of the potential impact, US courts have looked closely at placement of adults into isolation, the length of isolation time imposed, and conditions in the isolation cell. See Bureau of Justice Assistance, US Department of Justice,

Punishment with a Permanent Impact

Youth offenders are often placed in long-term isolation or super-maximum security confinement as a disciplinary sanction. Dennis Burbank, an administrative officer at Colorado State Penitentiary, offered an explanation for why youth offenders serving life without parole often end up confined in long-term isolation:

One [factor] is age—when you come in at a young age with life without, there’s not a whole lot of light at the end of the tunnel. Also, it’s kind of a guy thing: the young ones come in with a lot of fear, anxiety, paranoia, and they want to make a name for themselves—so they have a tendency to act out.... They say [to themselves] ‘I’ve got to impress everyone with what a bad-ass I am.’⁶⁰

Long-term isolation can have lasting negative effects on inmates. Troy L. came to prison at age 16 after committing first degree murder at the age of 15. He spent “something like 300 days in an isolation cell” when he was awaiting trial and had been transferred to isolation several times since for “different reasons.”⁶¹ Troy said he had spent so much time in isolation that he was unable to feel comfortable relating to and living around other people, especially now that he was housed in the general population barracks:

If you just see what these barracks are like, they got us piled in there like some cockroaches. And I’ve spent so much time over the years ... in just cells and lockdown for different reasons. And it’s hard for me to deal with just having so many people around. So much—I can’t think—you know what I mean?⁶²

Human Rights Watch has systematically documented and advocated against the human rights violations inherent in the incarceration of individuals in super-maximum security prisons

“Juveniles in Adult Prisons and Jails: A National Assessment,” October 2000, <https://www.ncjrs.gov/pdffiles1/bja/182503.pdf> (accessed December 28, 2011), p. 25 (citing *Harris v. Maloughney*, 827 F. Supp. 1488 (D. Mont. 1993); *McCray v. Burrell*, 516 F.2d 357 (4th Cir. 1975); and *Lareau v. MacDougal*, 473 F.2d 974 (2d Cir. 1972)).

⁶⁰ Human Rights Watch telephone interview with Dennis Burbank, Administrative Officer III, Colorado State Penitentiary, December 1, 2004.

⁶¹ Human Rights Watch interview with Troy L. (pseudonym), serving life without parole in Arkansas, June 23, 2004.

⁶² *Ibid.*

throughout the United States.⁶³ Segregated living also has long-term psychological implications.⁶⁴

Human Rights Standards on Physical Harm

All inmates, whatever their age, have the right to be free from threats to their physical safety. Both US constitutional law and international human rights law require authorities to provide safe and humane conditions of confinement.⁶⁵ The International Covenant on Civil and Political Rights (ICCPR) mandates that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”⁶⁶ The United Nations Human Rights Committee has further explained that states have “a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty.”⁶⁷ These obligations apply with particular force to children because of their inherent vulnerability; human rights law underscores the need for special treatment of children in the criminal justice system.⁶⁸ All inmates are also protected from mistreatment that rises to the level of torture or cruel, inhuman, or degrading treatment.⁶⁹

Prison officials have an affirmative duty to ensure that youth offenders serving life without parole are protected from violence while they are deprived of their liberty. This includes protection from physical and sexual assault, rape, and other forms of abuse inflicted by other inmates and by staff. In testimony and survey responses gathered from youth offenders

⁶³ See, for example, Human Rights Watch, *Out of Sight: Supermaximum Security Confinement in the United States*, vol. 12, no. 1(G), February 1, 2000, <http://www.hrw.org/reports/2000/02/01/out-sight-super-maximum-security-confinement-us>; Human Rights Watch, *Red Onion State Prison: Supermaximum Security Confinement in Virginia*, vol. 11, no. 1(G), May 1, 1999, <http://www.hrw.org/reports/1999/05/01/red-onion-state-prison>; Human Rights Watch, *Cold Storage: Supermaximum Security Confinement in Indiana*, October 1, 1997, <http://www.hrw.org/reports/1997/10/01/cold-storage>.

⁶⁴ Craig Haney, “Mental Health Issues in Long-Term Solitary and ‘Supermax’ confinement,” *Crime & Delinquency*, vol. 49, no. 1, pp. 124-156; Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness* (New York: Human Rights Watch, 2003), <http://www.hrw.org/reports/2003/10/21/ill-equipped-o>.

⁶⁵ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the United States on October 21, 1994, art. 7; see also CRC, art. 37.

⁶⁶ ICCPR, art. 10(1).

⁶⁷ UN Human Rights Committee, General Comment 21, Article 10 (Forty-fourth session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc.HRI/GEN/1/Rev.1 at 33 (1994), <http://www1.umn.edu/humanrts/gencomm/hrcom21.htm> (accessed December 12, 2011), para. 3.

⁶⁸ CRC, arts. 37, 40; ICCPR, arts. 10, 14. The Human Rights Committee has interpreted the ICCPR’s provisions on child offenders to apply to all persons under the age of 18. Human Rights Committee, General Comment 21, para. 13.

⁶⁹ ICCP, art. 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by the United States, arts. 11, 16(1).

servicing life without parole, it is clear that prison officials regularly fail to protect inmates from these forms of violence and sexual assault. In some cases, failure to protect youth offenders from abuse can rise to the level of cruel, inhuman, and degrading treatment.

In addition to direct assaults, long periods in isolation raise human rights concerns for all prisoners, irrespective of age. According to the UN Human Rights Committee, the international body that monitors compliance with the International Covenant on Civil and Political Rights, “prolonged solitary confinement of the detained or imprisoned person may amount to” torture or other cruel, inhuman, or degrading punishment.⁷⁰ Moreover, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, an expert prison-monitoring body elected by the Committee of Ministers of the Council of Europe, “pays particular attention to prisoners held, for whatever reason ... under conditions akin to solitary confinement.”⁷¹

As with other uses of force, Human Rights Watch has found that prolonged isolation is a particularly serious issue with youth offenders who enter facilities while children, both because they are more vulnerable to assault and disciplinary infractions and because they are commonly isolated as a form of protection. The United Nations special rapporteur on torture has recently concluded that the solitary confinement of juveniles for any duration can constitute cruel, inhuman, or degrading treatment.⁷²

⁷⁰ Human Rights Committee, General Comment 20, Article 7 (Forty-fourth session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994), <http://www1.umn.edu/humanrts/gencomm/hrcom20.htm> (accessed December 12, 2011), para. 6.

⁷¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Second General Report on the CPT’s Activities covering the period 1 January to 31 December 1991,” CPT/Inf (92) 3, Strasbourg, France, April 13, 1992, <http://cpt.coe.int/en/annual/rep-02.htm> (accessed December 12, 2011), p. 15.

⁷² Interim Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez, U.N. G.A. Doc. A/66/268, August 5, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement> (accessed December 12, 2011), para. 77.

III. Limited Access to Education and Rehabilitation

The paradigm of prison as a place for rehabilitation has steadily lost public support and political currency over the last two decades in the United States.⁷³ Most prisons pay nominal attention to improving inmates' skills and lives, regardless of their sentences. Concern about promoting successful reentry is gaining recognition as an effective means of preventing recidivism but has yet to make a meaningful impact on the nature of most prison programs.

Basic literacy programs and primary education are required under international human rights law for persons under age 18, and other forms of rehabilitative programs are important in fulfilling governments' responsibilities to promote the human development of youth offenders.⁷⁴ These programs also help government to ensure that youth offenders are incarcerated in a manner that promotes their "re-integration and [their] assuming a constructive role in society."⁷⁵

Prospects for rehabilitation are even worse for individuals serving life without parole. Few facilities provide specialized training for managing such youth let alone education and rehabilitation programs tailored to their situation.⁷⁶ The sentence itself contains an unmistakable message that is never lost on the offenders serving it. As one young woman put it, "I feel like they threw the key away on me."⁷⁷ Withstanding the odds against them, and often through self-study or with the help of parents or correctional officials willing to

⁷³ See, for example, Michele D. Buisch, "Budget Cuts Present Challenge to Many State Correctional Agencies," *Corrections Today*, December 2003; Erin M. Samolis, "Divergent Clockwork Oranges: The Juvenile Justice Systems of the United States and Great Britain," *University of Chicago Law School Roundtable*, vol. 8 (2001), p. 189; Barry C. Feld, "Juvenile and Criminal Justice Systems' Responses to Youth Violence," *Crime and Justice*, vol. 24 (1998), p. 189; Craig Haney, "Psychology and the Limits to Prison Pain," *Psychology, Public Policy, and Law*, vol. 3, no. 4 (1997), p. 499.

⁷⁴ Convention on the Rights of the Child, art. 28.1a requires states to "make primary education compulsory and available free to all." In addition, the UN Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, annex, 45 U.N. GAPR Supp. (no. 49A) at 205, U.N. Doc. A/45/49, (1990), <http://www.un.org/documents/ga/res/45/a45r113.htm> (accessed December 12, 2011), para. 12, state that "children should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society."

⁷⁵ Convention on the Rights of the Child, art. 40.1.

⁷⁶ Richard E. Redding, "The Effects of Adjudicating and Sentencing Juveniles as Adults: Research and Policy Implications," *Youth Violence and Juvenile Justice*, vol. 1, no. 2 (2003), p. 142.

⁷⁷ Letter to Human Rights Watch from Cindy J. (pseudonym), serving life without parole in Alabama, March 18, 2004 (on file with Human Rights Watch).

bend the rules, some youth offenders serving life without parole nevertheless manage to obtain educational opportunities in prison. This fact is even more astounding given the reality of the sentence they face, which tells youth they are devoid of potential.

Not only is the message of the life without parole sentence resoundingly clear to offenders, it has led correctional authorities to direct increasingly scarce rehabilitative resources to other prisoners, as evidenced by our interviews with such authorities in 22 states (see note 79 below). In those states, and possibly others we were unable to contact, educational and vocational programs ordinarily available to most inmates are frequently denied to those serving life without parole, including those sentenced as juveniles.

Categorized as the Least Deserving

There are several reasons why inmates serving life without parole are denied access to existing programs and work opportunities. Many states employ intake tools that put youth at a disadvantage. Frequently, security classifications or housing placement protocols not necessarily related to their behavior in prison make them ineligible for programs. Often times, inmates with shorter sentences have priority, in some cases making it impossible for youth offenders serving life without parole to access services.

Justifications for these policies are often grounded in the assertion that an individual must be released from prison in order to benefit from training:

We don't want to put someone [in programs] who has 60 years [remaining on their sentence] instead of someone short term. Someone with 60 years will have forgotten what they learned when they get out.⁷⁸

In the course of our research, Human Rights Watch contacted 22 state corrections departments to learn more about the programs available to youth offenders serving life without parole. Officials in all 22 states explained that space in programs is limited, with access based on release date and other factors, such as security classification, which puts

⁷⁸ Human Rights Watch telephone interview with Angela Day, Secretary of Louisiana Association of Public, Community, and Adult Education, December 6, 2011. See also Human Rights Watch telephone interview with James Wilson, Dean of Ingram State Technical College of Alabama, December 6, 2011 (stating the inmates' "skills will have gotten dusty or old if it's more than five to six years.").

those serving life without parole at a disadvantage.⁷⁹ As a result of these systems, youth offenders serving life without parole sentences are among the least likely to obtain educational and vocational programs and other services while in prison.

Intake Tools Deny Youth Access to Programs

Corrections systems seek to safely and efficiently manage large groups of people. Agencies categorize inmates as they enter the prison system, and the categorization determines where an inmate is placed within the system. Placement has far-reaching ramifications. Generally, the higher the level of security, the less access there is to programs and services. Rigid classification processes put youth offenders at a disadvantage: their lack of experience in the world counts as a risk factor in correctional analysis. For example, in California, inmates are scored on the “CDC Classification Score Sheet” which, among other things, assigns points for background factors. The more points, the higher the security placement. On the Classification Score Sheet, normal attributes of the young are reframed as detriments. Under a section titled “Stability,” every factor considered makes it more likely that a young inmate will be treated more harshly than older inmates:

⁷⁹ Human Rights Watch telephone interview with James Wilson, Dean of Ingram State Technical College of Alabama, December 6, 2011; Human Rights Watch telephone interview with Wayne Bennett, Deputy Director for Career and Educational Programs, Virginia Department of Corrections, December 7, 2011; Human Rights Watch telephone interview with Alan Overstreet, Senior Administrative Clerk for Reentry and Education, Florida Department of Corrections, December 6, 2011; Human Rights Watch telephone interview with Angela Day, Secretary of the Louisiana Association of Public, Community and Adult Education, December 6, 2011; Human Rights Watch telephone interview with Kristi Warren, Oklahoma Department of Corrections, Treatment and Rehabilitative Services, December 6, 2011; Human Rights Watch telephone interview with Bobbie Richardson, School Administrator for Educational Service Section, North Carolina Department of Corrections, December 7, 2011; Human Rights Watch telephone interview with Sam Borbely, Treatment Program Manager, Wyoming Department of Corrections, December 6, 2011; Human Rights Watch telephone interview with Michael Paris, Education Administrator, Washington Department of Corrections, December 7, 2011; Human Rights Watch telephone interview with Richard Eimerman, Arizona Department of Corrections, December 7, 2011; Human Rights Watch telephone interview with Tammy Walter, Program Assistant, Colorado Department of Corrections, December 7, 2011; Human Rights Watch telephone interview with Brian Garnett, Director of External Affairs, Connecticut Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with John Nally, Director of Education, Kentucky Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with Anne Fomal, Assistant Superintendent, Ohio Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with Mark Wentz, Lead Teacher of the Lincoln Facilities, Nebraska Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with Tammy Barstad, Business Manager of Schools, North Dakota Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with Sadique Isahaku, Education Coordinator, Wisconsin Department of Corrections, December 8, 2011; Human Rights Watch telephone interview with John Ryan, Director of Education, Delaware Department of Corrections, December 9, 2011; Human Rights Watch telephone interview with Ralph Orleck, Special Education Principal, Rhode Island Department of Corrections, December 9, 2011; Human Rights Watch telephone interview with Dinah Tyler, spokeswoman, Arkansas Department of Corrections, October 2004; Human Rights Watch interview with treatment director at Iowa Correctional Institute for Women, Mitchellville Iowa, April 5, 2004; Human Rights Watch telephone interview with Susan McNaughton, press secretary, Pennsylvania Department of Corrections, October 2004; Human Rights Watch interview with Margot Bach, public information officer, California Department of Corrections, November 3, 2004.

- Under age 18 at reception;
- Never married;
- Not having a high school graduate or GED;
- Not spending more than six months with one employer;
- Not having a primary role maintaining a household;
- No military service or not honorable discharge.⁸⁰

A similar system exists in Florida. Security classification in Florida runs from Level 1 to Level 5. The system is “based on internal and external factors. If you come in for murder, a sex offense, or other aggravated offenses, you will be a Level 5 and the only way that comes down is time and good behavior.”⁸¹ Those with sentences of life without parole can work their way down, but can never be classified below medium (Level 3); according to state officials, “very, very few” get below a Level 4.⁸²

Placement Limits Programs

Security classifications often dictate housing placement and frequently limit participation in existing programs. Typically the security level is based on several factors, including the inmate’s sentence and behavior. For those serving life without parole in California, behavior is not counted; official Ross Meier clarified that state regulations mandate placement at the maximum level of security for every person serving a life without parole sentence. Other inmates can work their way down to housing placements at lower levels of security with evidence of good behavior.⁸³ The programs available in different Florida facilities depend on security clearance. Those inmates with the “highest security [level] would have [access to] classes for special education, functional literacy, and GED,” but vocational classes require a lower level of

⁸⁰ California Department of Corrections, Classification Score Sheet, Form 839, July 1988 (on file with Human Rights Watch).

⁸¹ Human Rights Watch telephone interview with Alan Overstreet, Senior Administrative Clerk for Reentry and Education, Florida Department of Corrections, December 6, 2011.

⁸² Ibid.

⁸³ Human Rights Watch telephone interview with Ross Meier, Sacramento, California, November 14, 2007. California State prisons are divided into four levels of security, with level I being the lowest level of security and IV the highest. See California Code of Regulations, Title 15§3375.(2)(a), which states, “An inmate serving a sentence of life without possibility of parole shall not be housed in a facility with a security level lower than Level IV, except when authorized by the Departmental Review Board.” Meier told Human Rights Watch that individuals serving life without parole are allowed to petition to have their level lowered. However, for those serving life without parole, a change in security classification to a level III requires a decision by the Deputy Director after review by a classification committee. Meier refused to speculate as to how often an inmate serving life without parole has his or her classification reduced. None of the 135 individuals in California with whom Human Rights Watch communicated said they had had their classification reduced from a level IV to a level III.

security.⁸⁴ As one correctional administrator in Arizona explained, “we aren’t going to put tools in your hand so that you can kill someone.”⁸⁵

In California, as well as in other states, when inmates do get into programs, frequent “lock-downs” of facilities impede their ability to participate. Lockdowns are a method of controlling prisoners and are usually in response to violence or feared violence. The lock-downs confine inmates to cells for 23 hours a day. “I’m enrolled in education and I can attend AA/NA (Alcoholics Anonymous/Narcotics Anonymous) when it comes around but most of the time we’re [on] lockdown so it’s almost impossible to get any certificates,” said Cesar B.⁸⁶ Most California state prisons are at double or nearly double the population capacity for which they were built.⁸⁷ “See, there’s no time for program,” wrote Jose Luis C. “It’s a continuous thing, [we’re] always locked down.... I’ve been here since last March 2006 and [in those 17 months I’ve] only been [able to go outside or go to programs] for a total of maybe two-and-a-half months. You do the math [Jose Luis C. attended programs for only 14% of his time in prison].”⁸⁸

Length of Sentence Denies Youth Access to Programs

Even when programs are available, prison practice and regulations often give youth offenders sentenced to life without parole the lowest priority for accessing them. Several states employ policies that give priority to inmates within a certain number of years of release. In the state of Washington, inmates can access programs starting four years before their release for educational classes and seven years before release for certain vocational programs.⁸⁹ The classes are then opened up to the rest of the population in order of release

⁸⁴ Human Rights Watch telephone interview with Richard Eimerman, Education Programs Manager for the Arizona Department of Corrections, December 7, 2011.

⁸⁵ Ibid.

⁸⁶ Survey response from Cesar B. (pseudonym), serving life without parole in California, to Human Rights Watch, August 1, 2007 (on file with Human Rights Watch).

⁸⁷ The California Department of Corrections and Rehabilitation lists on its website the current inmate population and the design capacity of each of the state’s 33 prisons. Twenty-five prisons have near double the population (1.9 times designed capacity) or more than double the intended population. Seven prisons have almost double the population (1.5 to 1.8 times the designed population capacity). Only one, the California Medical Center, has prisoner numbers at or below designed facility capacity. California Department of Corrections and Rehabilitation, “Adult Facilities and Locations,” 2007, <http://www.cdcr.ca.gov/Visitors/Facilities/index.html> (accessed November 5, 2007). Conditions in California prisons, including those related to overcrowding, are the subject of several lawsuits and legislation.

⁸⁸ Letter from Jose Luis C. (pseudonym), serving life without parole in California, to Human Rights Watch, July 25, 2007 (on file with Human Rights Watch).

⁸⁹ Human Rights Watch telephone interview with Michael Paris, Education Administrator for the Washington Department of Corrections, December 7, 2011. See also Human Rights Watch telephone interview with Alan Overstreet, Senior Administrative Clerk for Reentry and Education for the Florida Department of Corrections, December 6, 2011 (stating that individuals must be three to four years to release date before programs are available) and Human Rights Watch telephone

date and as space permits. As a result, individuals sentenced to life without parole in such states are usually denied an opportunity to partake in these programs.⁹⁰

Until they turn 18, most youth offenders imprisoned in the US are able to take courses preparing them for the General Educational Development (GED) exam or a high school diploma. In states such as Pennsylvania and Arkansas, obtaining the GED or diploma is mandatory for prisoners under the age of 18. In other states, such as California and Colorado, inmates choose whether or not to take the test.

Once a youth offender reaches age 18, budget restraints place individuals with long sentences at the very bottom of long waiting lists. This gives youth offenders serving life without parole little hope of ever being able to benefit from these programs. For example, under Oklahoma law, officials are required to provide basic education to those under 21, “but if funding does not hold out, [inmates] are prioritized by release date.”⁹¹ A correctional official in Arizona said, “If someone is doing a life sentence, they move to the back of the bus, and sometimes I wonder why we train them because they are never going to leave. But it’s because we are training them to have a position inside.”⁹²

Many inmates we interviewed said that their sentence puts them on the lowest rung of waiting lists for GED classes and substance abuse rehabilitation groups like Alcoholics Anonymous (AA), with priority being given to inmates with a set number of years on their sentence. “Those programs are mainly for people that are going home,” one said, echoing the conclusion of many.⁹³ Darryl T.’s sentence of life without parole prevented him from accessing the college education that a court psychologist recommended during his trial because of Darryl’s “high mentality.”⁹⁴ Darryl, who came to prison in California at age 18, wrote:

interview with Tammy Walter, Program Assistant in the Colorado Department of Corrections, December 7, 2011 (stating that individuals must generally be five years away from mandatory release date to participate in programs).

⁹⁰ Human Rights Watch telephone interview with Michael Paris, Education Administrator for Washington Department of Corrections, December 7, 2011 (stating, “Life without parole would not be selected for programs because they will not be out in seven years...we don’t really have any [inmates with] life without parole in vocational programs. The only options for lifers will be work programs and even then there are limits in amount of time they can be in a particular job.”).

⁹¹ Human Rights Watch telephone interview with Kristi Warren, Oklahoma Treatment and Rehabilitative Services, December 6, 2011.

⁹² Human Rights Watch telephone interview with Richard Eimerman, Education Programs Manager for the Arizona Department of Corrections, December 7, 2011.

⁹³ Survey response from “Anonymous,” serving life without parole in California, to Human Rights Watch, 2007 (on file with Human Rights Watch).

⁹⁴ “Amenability Determination,” Southern Reception Center and Clinic, December 17, 1991 (on file with Human Rights Watch).

LWOPs cannot participate in many rehabilitative, educational, vocational training or other assignments available to other inmates with parole dates.... The supposed rationality is that LWOPs are beyond salvagability and would just be taking a spot away from someone who will actually return to society someday.⁹⁵

Darryl's explanation was confirmed by Margot Bach, Public Information Officer with the California Department of Corrections. She told a researcher with Human Rights Watch, "Those with the longer sentences are not going to get the same programming as someone who is closer to leaving prison. It's a question of resources."⁹⁶ Thirty percent of respondents surveyed in 2007 by Human Rights Watch in California said no programs were available to them at the prison where they were housed. Among those who said programs were available, 47 percent said prison-imposed barriers prevented them from attending.

Limited Access to Education

Regardless of whether they entered prison at 14 or 20, young offenders are incarcerated during the period of their lives when education and skill development are most crucial. Until they turn 18, some youth offenders imprisoned in the US are able to take courses preparing them for the General Educational Development (GED) exam or a high school diploma. In states such as Pennsylvania and Arkansas, obtaining the GED or diploma is mandatory for prisoners under the age of 18. In other states, such as California and Colorado, inmates can choose whether or not to take the test. However, even if available, educational opportunities often end with the GED.

As described above, many impediments to education stem from how prisons classify youth serving life without parole sentences. Bill C. was 22 years old when we interviewed him. He said he had been in prison five years and during that time had just one month in a GED class. "I wanted to get my diploma," he told us. "I did everything I could to get into the GED program and I was working hard in the class." But after a month, he said, he was removed from the class and told there was no room for lifers.⁹⁷

⁹⁵ Letter to Human Rights Watch from Darryl T. (pseudonym), serving life without parole in California, March 20, 2004 (on file with Human Rights Watch).

⁹⁶ Human Rights Watch telephone interview with Margot Bach, Public Information Officer, California Department of Corrections, November 3, 2004.

⁹⁷ Human Rights Watch interview with Bill C. (pseudonym), serving life without parole in California, January 26, 2006.

Unfortunately, once a youth offender has obtained his GED or its equivalency or has passed his eighteenth birthday, he faces an uphill battle to obtain additional educational opportunities in prison. Most of the youth serving life without parole sentences we contacted in the course of our research were incarcerated in prisons with further education and vocational training programs, but only a few managed to gain access to these programs.

One who was able to do so, Gerard C., came to prison at age 18. He wrote:

I have received my GED.... I completed college course hours ... through Arkansas State University. I maintained a 4.0 G.P.A. and my courses were geared toward Sociology and Psychology.... Then they said classes would be paid for [only] if you were within five years of parole. I did not fit those criteria; therefore, I had to discontinue taking classes.⁹⁸

Gerard's college studies stopped abruptly because of a cutback in the nationwide "Pell Grant" program, which once included funding for prisoners' post-secondary education.⁹⁹ Today, the federal government provides funding only for "incarcerated youth under the age of twenty-five and within five years of release to acquire functional literacy, life, and job skills through the pursuit of a postsecondary education."¹⁰⁰ By definition, youth serving life without parole will never be within five years of parole and are therefore disqualified from this program. Post-secondary education is only available to youth offenders serving life without parole if someone can pay the course fees, which tend to be beyond the means of most offenders' families.

Cleveland B. entered prison at age 17 after committing his offense at age 16. He explained:

I have received my GED. I also have graduated an eighteen-month program for behavior modification. It took twenty-eight months. I can do nothing else because the state offers nothing else for life without-ers, but I am

⁹⁸ Letter to Human Rights Watch from Gerard C. (pseudonym), serving life without parole in Arkansas, March 15, 2004 (on file with Human Rights Watch).

⁹⁹ Human Rights Watch telephone interview with Linda Shephard, Programs Officer, Arkansas Department of Corrections, July 18, 2005.

¹⁰⁰ See Higher Education Act, 20 USC 1151, title VIII, sec. D, "Grants to States for Workforce and Community Transition Training for Incarcerated Youth."

working on college courses in criminal justice through [a] correspondence course which I pay for with the help of my family.¹⁰¹

Most child offenders who have been sentenced to life without parole are denied access to further education or vocational programs for a very simple reason: the state and the federal government do not expect them ever to leave prison and so reserve the already underfunded programs for those who will.

Joe L., who was 17 at the time of his offense and 19 when he came to prison, explained to a researcher with Human Rights Watch that his prison did not “offer me anything else [other than the GED] because of the length of my time.”¹⁰² Darby B., who entered prison at age 16, wrote, “I’m not allowed to participate in counseling because of the amount of time I’m doing.... Most programs [have] been eliminated by the state. I spend most of my time doing nothing.”¹⁰³ When asked about educational opportunities in the Alabama prison he was held in, Holman C., who entered prison at age 20, wrote, “None. Can’t go to school with LWOP. I was told I had to pay for trades [vocational classes].”¹⁰⁴

Limited Vocational Training

As with educational programs, youth offenders serving life without parole have extremely limited access to vocational training. Cindy J., who was 14 at the time of her crime and 16 when she entered prison, wrote, “My institution doesn’t allow LWOP inmates to attend vocational training.”¹⁰⁵ Correctional authorities in a number of states told Human Rights Watch that inmates serving life without parole sentences were at the “bottom of the list” for getting access to vocational training.¹⁰⁶ Officials cited their state’s need “to put our resources where the inmates who are going home can access them first.”¹⁰⁷

¹⁰¹ Letter to Human Rights Watch from Cleveland B. (pseudonym), serving life without parole in Alabama, March 29, 2004 (on file with Human Rights Watch).

¹⁰² Human Rights Watch interview with Joe L. (pseudonym), serving life without parole in Colorado, May 28, 2004.

¹⁰³ Letter to Human Rights Watch from Darby B. (pseudonym), serving life without parole in Michigan, March 1, 2004 (on file with Human Rights Watch).

¹⁰⁴ Letter to Human Rights Watch from Holman C. (pseudonym), serving life without parole in Alabama, March 3, 2004 (on file with Human Rights Watch).

¹⁰⁵ Letter to Human Rights Watch from Cindy J. (pseudonym), serving life without parole in Alabama, March 17, 2004 (on file with Human Rights Watch).

¹⁰⁶ Human Rights Watch telephone interview with Dinah Tyler, spokeswoman, Arkansas Department of Corrections, October 2004; Human Rights Watch interview with treatment director at Iowa Correctional Institute for Women, Mitchellville, Iowa, April 5, 2004; Human Rights Watch telephone interview with Susan McNaughton, press secretary, Pennsylvania Department

Susan McNaughton, press secretary for the Pennsylvania Department of Corrections, told a researcher, “Those going home have a better chance of getting into a [vocational] program.”¹⁰⁸ However, she said that youth offenders with life without parole are not “sitting around doing nothing,” because the “prison industries program” is a “good one for them.”¹⁰⁹ But Pennsylvania’s own policy states “inmate employment coordinators use the inmate’s treatment level, treatment plan, custody level, and length of time remaining on his or her sentence to determine eligibility for referral to the [prison industries] program.”¹¹⁰ By definition, offenders sentenced to life without parole will have the longest amount of time remaining on their sentence.

As noted above, in some states classification systems dictate eligibility for vocational training, with those sentenced to life without parole given short shrift:

Also for a[n] inmate who is [at my] privilege level, the waiting time for a job is a minimum of 3 to 5 years at CSP. And that’s if you know someone to help get you a job. So not only do they give us a Death Sentence of LWOP, but they offer us no way to even prove that we can succeed. So with no rehabilitation, activities, and LWOP, it’s a true lose, lose situation for us in here.¹¹¹

Human Rights Standards on Access to Education and Rehabilitation Programs

Human rights law underscores the importance of the rehabilitation of children in state justice systems.¹¹² International standards further state that children in prison must be provided with basic primary and secondary education as well as vocational or college-level opportunities.¹¹³ Even those youth offenders who enter prison after reaching age 18 are

of Corrections, October 2004; Human Rights Watch telephone interview with Margot Bach, public information officer, California Department of Corrections, November 3, 2004.

¹⁰⁷ Human Rights Watch telephone interview with Dinah Tyler, Arkansas Department of Corrections Public Information, October 2004.

¹⁰⁸ Human Rights Watch telephone interview with Susan McNaughton, Pennsylvania Department of Corrections press secretary, October 2004.

¹⁰⁹ *Ibid.*

¹¹⁰ Pennsylvania Department of Corrections, “Teaching Inmates to Work,” March 2005, <http://www.cor.state.pa.us/stats/lib/stats/ci.pdf> (accessed on April 1, 2005).

¹¹¹ Letter to Human Rights Watch from Peter O. (pseudonym), serving life without parole in California, July 10, 2008 (on file with Human Rights Watch).

¹¹² CRC, arts. 37, 40; ICCPR, arts. 10, 14.

¹¹³ UN Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, annex, 45 U.N. G.A. Res. (no. 49A) at 205, U.N. Doc. A/45/49, (1990), <http://www.un.org/documents/ga/res/45/a45r113.htm> (accessed December 12, 2011), para.

entitled to further education and other activities. According to the UN Standard Minimum Rules for the Treatment of Prisoners (which applies to all prisoners):

Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration ... Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.¹¹⁴

Prison officials have an obligation to ensure that youth offenders serving life without parole receive programs. This must include educational opportunities as well as vocational and other rehabilitative opportunities. Unfortunately, testimony and survey responses gathered by Human Rights Watch show that youth offenders are often deemed ineligible for existing programs, let alone provided the opportunities called for in the UN Minimum Standard Rules described above.

¹² (stating that “children should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society”).

¹¹⁴ Standard Minimum Rules, arts. 77(1) and 78.

IV. Psychological Harm

There is a considerable incongruity between the physical or mental immaturity of young prisoners and the kinds of experiences and people prison forces them to confront. Many of those interviewed by Human Rights Watch reported suffering from, and being medicated for, depression. Youth frequently reported having had suicidal thoughts and having attempted suicide. At least two of the youth offenders with whom Human Rights Watch has been in direct contact have since committed suicide. Nearly every youth offender described isolation from friends and family as one of the most profound factors affecting mental health during incarceration.

Starting in the 1960s, sociologists and psychologists found that the negative psychological effects of imprisonment increase as incarceration continues, but begin to reverse as prisoners near the time of release.¹¹⁵ These negative psychological effects are more likely to be acute in those who enter prison at a younger age.¹¹⁶ Research also suggests that mental illness is prevalent among youth in the criminal justice system.¹¹⁷ Studies have found alarmingly high rates of suicide among children in prison. The US Department of Justice has reported that the average annual suicide mortality rate for youth under 18 in prison between 2000 and 2002 (52 per 100,000 inmates) was nearly four times that for all other age groups (14 or below per 100,000 inmates).¹¹⁸ Offenders serving life

¹¹⁵ For documentation of increased negative effects, see, for example, Stanton Wheeler, "Socialization in Correctional Communities," *American Sociological Review*, vol. 26 (1961), p. 697; Peter Garabedian, "Social Role and Processes of Socialization in the Prison Community," *Social Problems*, vol. 11 (1963), p. 140. For documentation of decreased negative effects, see, for example, Robert Johnson and Hans Toch, "The First Cut is the Deepest: Psychological Breakdown and Survival in the Detention Setting," *The Pains of Imprisonment* (Thousand Oaks: SAGE Publications, 1982); Haney, "Psychology and the Limits to Prison Pain," p. 499.

¹¹⁶ Craig Haney, "The Psychological Impact of Incarceration: Implications for Postprison Adjustment," in Jeremy Travis and Michelle Waul, eds., *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities* (Urban Institute Press, 2003). Researchers have also observed that "individuals experiencing longer incarcerations have a harder time preserving their self-identity and their self-esteem," which may be exacerbated when an individual's character is not formed to begin with. Kristy Matsuda, "The Impact of Incarceration on Young Offenders," Ph.D. dissertation, June 2009, <https://www.ncjrs.gov/pdffiles1/nij/grants/227403.pdf> (accessed December 9, 2011) (citing T.J. Flanagan, "Dealing with long-term confinement: Adaptive strategies and perspectives among long-term prisoners," *Criminal Justice and Behavior*, vol. 8, no.2 (1988), pp. 201, 222).

¹¹⁷ Daniel C. Murrie et al., "Psychiatric Symptoms Among Juveniles Incarcerated in Adult Prison," *Psychiatric Services*, vol. 60, no. 8 (2009) (stating that prevalence rates may exceed 60 percent). See, for example, Jason J. Washburn et al., "Psychiatric Disorders Among Detained Youths: A Comparison of Youths Processed in Juvenile Court and Adult Criminal Court," *Psychiatric Services*, vol. 59, no. 9 (2008), Table 2.

¹¹⁸ Christopher J. Mumola, Bureau of Justice Statistics, "Suicide and Homicide in State Prisons and Local Jails," August 2005, <http://www.bjs.gov/content/pub/pdf/shsplj.pdf> (accessed December 9, 2011) (reporting suicide rates of 14 per 100,000 prisoners age 18 to 24, 25 to 34, and 35 to 44, as well as a suicide rate of 13 per 100,000 for those prisoners age 45 to 54 and 55 or older).

without parole know that they will never leave prison, meaning that for some, the negative effects of imprisonment can be expected to increase as the years pass and, indeed, may never lessen. For others, including those interviewed for this report who struggled with mental health problems, their resilience, the passage of time, and the treatment offered in prison, helped them avoid lasting harm.

Fear, Anxiety, and Depression

Youth offenders begin serving their time in fear. The majority of individuals serving life without parole for crimes committed as youth surveyed in California in 2007 told Human Rights Watch that the fear of entering adult prison—especially given the striking physical differences between themselves and the older prisoners—was overwhelming. “I felt like, ‘What am I doing in prison with all these grown men?’” Robert C. recalls of entering prison as an 18-year-old.¹¹⁹ Anthony C. remembers riding in the prison transport van as it pulled up to the prison where he would spend the rest of his life. “I was scared. I was really young. When I first saw the outside of the prison, my stomach was hurting. My stomach started cramping. I had heard all the stories about the violence.”¹²⁰

As noted above, Human Rights Watch spoke to many youth offenders who reported feeling depressed and many who were being treated for depression. Several youth offenders, both male and female, spoke about withdrawing and not interacting with others around them as a way to protect themselves. Brandon S. said he needs to “wear a mask, twenty-four/seven” in adult prison, and that this led to isolation and loneliness.¹²¹ Psychologists have observed that some prisoners “learn to find safety in social invisibility by becoming as inconspicuous and disconnected from others as possible. These prisoners retreat deeply into themselves, trust virtually no one, and adjust to prison stress by leading isolated ‘lives of quiet desperation.’”¹²² Whether they enter prison as teenagers or young adults, child offenders serving life without parole must face the possibility that their loneliness and hopelessness may continue until they die.

¹¹⁹ Survey response from Robert C. (pseudonym), serving life without parole in California, to Human Rights Watch, July 28, 2007 (on file with Human Rights Watch).

¹²⁰ Human Rights Watch interview with Anthony C. (pseudonym), serving life without parole in California, July 17, 2007.

¹²¹ See, for example, Human Rights Watch interview with Luke J. (pseudonym), serving life without parole in Colorado, July 27, 2004; Human Rights Watch interview with Alexis V. (pseudonym), serving life without parole in Iowa, April 2004.

¹²² Haney, “Psychology and the Limits to Prison Pain,” p. 499 (citing R.J. Sapsford, “Life Sentence Prisoners: Psychological Changes During Sentence,” *British Journal of Criminology*, vol. 18, no. 128 (1978)).

Brandon S. was 17 when he was arrested and convicted of first degree murder. He entered prison at age 18. Brandon wrote, “I’m very depressed because life without parole is the reality I face every day, all day. I’m paranoid about people in general. I trust no one and I honestly believe there is no good person on the face of the earth.”¹²³

Suicide Thoughts and Attempts

The psychological impact on youth offenders in prison sometimes leads to suicidal thoughts and attempts. David C., now 29, was sent at age 18 to one of California’s highest security prisons:

[I was] scared to death. I was all of 5’6”, 130 pounds and they sent me to PBSP [Pelican Bay State Prison]. I tried to kill myself because I couldn’t stand what the voices in my head was saying.... “You’re gonna get raped.” “You won’t ever see your family again.”¹²⁴

David C. was not the only one who said he had tried to kill himself. A number of others told us they had considered or attempted suicide when they entered prison. Yekonya H. wrote, “I felt scared not knowing what would become of me, nor what to expect. I was alone, in desperate need of guidance. I thought about killing myself to escape the pain and frustration I felt, for not being a better child.”¹²⁵ Several of those interviewed described watching other inmates commit suicide. “Prison life is a lot harder than it’s made out to be. Especially when a juvenile is placed in a grown man’s prison. There are no friends in prison. It’s every man for himself in prison. Many don’t make it,” Jason E. said.¹²⁶

Perhaps it is not surprising that the psychological strain of a sentence that will only end in death causes many youth offenders to contemplate suicide. Unfortunately, some suicides are successful. Human Rights Watch is aware of at least three such suicides in the past four years. Darryl Lee James, Jr., committed suicide at age 24, on August 3, 2009, while

¹²³ Letter to Human Rights Watch from Brandon S. (pseudonym), serving life without parole in Michigan, March 22, 2004 (on file with Human Rights Watch).

¹²⁴ Survey response from David C. (pseudonym), serving life without parole in California, to Human Rights Watch, July 28, 2007 (on file with Human Rights Watch).

¹²⁵ Survey response from Yekonya H. (pseudonym), serving life without parole in California, to Human Rights Watch, July 26, 2007 (on file with Human Rights Watch).

¹²⁶ Survey response from Jason E. (pseudonym), serving life without parole in California, to Human Rights Watch, August 20, 2007 (on file with Human Rights Watch).

servicing life without parole at the United States penitentiary in Lewisburg, Pennsylvania.¹²⁷ Gary J., a youth offender serving life without parole in California, committed suicide on April 4, 2010. He was 16 at the time of his crime, and 34 years old when he killed himself.¹²⁸ On January 6, 2008, Jerome S. killed himself in a California prison cell. Less than six months earlier he wrote to us saying, “Life without parole is as bad as the death penalty. This may be a proper sentence for some, but for juveniles I believe it is unfair treatment.” Jerome was serving life without parole for a crime that occurred when he was 17.¹²⁹

Several factors associated with suicide in prison are exacerbated by an inmate’s youth and by the length of the life without parole sentence, including:

loss of outside relationships, conflicts within the facility, victimization, further legal problems, physical and emotional breakdown.... When the inmate cannot effectively cope with these stressors, the result can be varying degrees of suicidal behavior—from ideation to contemplation, attempt, or completion.¹³⁰

Richard I., who was 14 at the time of his crime and entered prison at age 16, had suicidal thoughts for many years and would cut his arms frequently. He said to a researcher for Human Rights Watch:

When I went to prison, I was around all the—up all night—all the violence. I was like, “man I gotta get out of this—how am I gonna get out of this prison?” I can’t do no life sentence here at that age. And so I thought of that [killing himself]. Gotta end it, gotta end it.... I’ve got so many cuts on me.... Razor blades. They give us disposable razors, you pop it out.¹³¹

¹²⁷ United States District Court, District of Arizona, Criminal Docket for Case # 3:03-cr-00900- MHM-1 (“Docket”), Entry No. 292, and Letter from B.A. Bledsoe, Warden, Federal Bureau of Prisons, to The Honorable Mary H. Murguia, United States District Court, District of Arizona, Aug. 4, 2009 (filed with the Clerk of the United States District Court, District of Arizona on Aug. 14, 2009).

¹²⁸ Human Rights Watch telephone interview with Tom A. Edmonds, Chief Deputy Coroner/Public Administrator, Kings County Coroner's Office, Hanford, CA, December 22, 2011.

¹²⁹ Survey response from Jerome S. (pseudonym), serving life without parole in California, to Human Rights Watch, July 25 2007 (on file with Human Rights Watch). Jerome S. committed suicide on January 6, 2008.

¹³⁰ Lindsay M. Hayes, National Center on Institutions and Alternatives, “Prison Suicide: An Overview and Guide to Prevention,” 1995, <http://static.nicic.gov/Library/012475.pdf> (accessed December 12, 2011).

¹³¹ Human Rights Watch interview with Richard I. (pseudonym), serving life without parole in Arkansas, June 21, 2004 .

Isolation from Family and Community

Those sentenced to life without parole as juveniles describe their daily prison life in terms of nightmares and loneliness. “[It’s] a terrible dream that I can’t wake up from. No matter what I say or do in my dream, I can’t wake up,” wrote William R., now 28 years old.¹³² John D., now 31, says, “I feel like I am dead. My life doesn’t even matter.”¹³³ “There’s no words to describe this experience. I’d rather be dead,” said 22-year-old Jesse A.¹³⁴ But many describe the pain of being separated from family, especially as parents and other loved ones die, as among the most difficult elements of their incarceration. Others write of trying to keep a positive attitude and make the best of their situation.

Everyone in prison experiences isolation and loneliness. It is a direct function of being cut off from family, friends, and the rest of society. One young man serving life without parole who came to prison at age 15, and who is now 20 years old, wrote, “Every day I grow inside. But I have no room to grow in here.... It’s lonely. You surrounded by 1,500 people and it’s still so lonely.”¹³⁵ Another wrote, “my heart aches, my spirit screams and my tears are never seen in its normal form.”¹³⁶

Psychologists suggest that some prisoners, “especially those serving very long sentences [use] withdrawal and self-imposed isolation ... as a defensive reaction to the anticipated loss of ... outside social support.”¹³⁷ Using isolation as a defense takes its toll on prisoners, who may experience “protracted depression, apathy and the development of a profound sense of hopelessness.”¹³⁸

¹³² Survey response from William R. (pseudonym), serving life without parole in California, to Human Rights Watch, July 26, 2007 (on file with Human Rights Watch).

¹³³ Survey response from John D. (pseudonym), serving life without parole in California, to Human Rights Watch, July 30, 2007 (on file with Human Rights Watch).

¹³⁴ Survey response from Jessie A. (pseudonym), serving life without parole in California, to Human Rights Watch, July 30, 2007 (on file with Human Rights Watch).

¹³⁵ Letter to Human Rights Watch from Warren P. (pseudonym), serving life without parole in Florida, March 2, 2004 (on file with Human Rights Watch).

¹³⁶ Survey response from Chosen T. (pseudonym), serving life without parole in California, to Human Rights Watch, July 26, 2007 (on file with Human Rights Watch).

¹³⁷ Haney, “Psychology and the Limits to Prison Pain,” p. 499 (citing Creasie Hairston, “Family Ties during Imprisonment: Important to Whom and for What?” *Journal of Sociology and Social Welfare*, vol. 18 (1991), p. 87.).

¹³⁸ *Ibid.*, p. 499 (citing Judith Herman, “Complex PTSD: A Syndrome in Survivors of Prolonged and Repeated Trauma,” *Journal of Traumatic Stress*, vol. 5 (1992), p. 377).

Most prisoners, particularly those serving long sentences, lose social support and family connections. The difference for youth offenders serving life without parole is that they are likely to be much more dependent on such relationships than older inmates and may suffer these losses at an earlier age, making the psychological harm of longer duration potentially more profound.

Addison R., convicted of attempted murder, armed robbery, and criminal sexual conduct, was sentenced to life without parole. He entered prison at age 15 and wrote at age 35, “Since being in here I’ve lost my whole family. I don’t know where they are or if they’re dead or alive. I’ve been on my own in here since I was a kid fifteen years old. Twenty years done went by.”¹³⁹

Some state prison policies aggravate the inherent isolation of imprisonment. In the state of Colorado, “a person may only be approved to visit an offender if there was an established relationship prior to the offender’s incarceration.”¹⁴⁰ Inmates must provide documentary proof of such a relationship.

One inmate serving life without parole in Colorado, Ethan W., who was 25 when he was interviewed in the course of our research and 19 when he entered prison for a crime committed at age 17, had lived in juvenile group homes for years before coming to prison. He explained that the last documentary proof he had to show he had a relationship with someone other than his family members was a grade school yearbook. He said:

So that means the only people that I can show them I knew when I was 12, from some photo when I was in school, those are the only people that I can know for the rest of my life? I mean what am I supposed to do? I don’t understand it? I mean ... what am I supposed to hope for except for dying tomorrow maybe?¹⁴¹

John E. committed second degree murder and was sentenced to life without parole in Pennsylvania when he was 17. He was 46 when he wrote:

¹³⁹ Letter to Human Rights Watch from Addison R. (pseudonym), serving life without parole in Michigan, March 20, 2004 (on file with Human Rights Watch).

¹⁴⁰ Colorado Department of Corrections, “Offender Visiting Program,” <http://www.doc.state.co.us/visitors/visitors.htm> (accessed on October 24, 2004).

¹⁴¹ Human Rights Watch interview with Ethan W. (pseudonym), serving life without parole in Colorado, July 28, 2004.

I would like to be able to live again and see all those things I miss from being lock up because the world has grown up so fast and I mess out on it. My situation for the last twenty some years has been very hard on me because I have seen most of my family members pass away on me.... just last year I lost my mother, so what is left for me and my situation but hope someday I walk out of here without being carry out in a body bag? I was seventeen then, now I'm forty-six.¹⁴²

Some youth report mixed feelings because of the emotional difficulty of visits with family whom they will never again see outside prison:

Then you're forced to sit there watching your Mom's heart breaking in front of your eyes and all you can do is hold her hand because your heart is breaking too. So, at then end of every visit, I hope and pray that they never come back. As much as it hurts not to see them, it hurts that much more when I do. It's just a reminder of what exactly I'm missing. Pure, unconditional love.¹⁴³

Human Rights Standards on Psychological Harm

Under human rights law, prison officials have an obligation to provide medical care for prisoners that is at least at the level of that available to the general public.¹⁴⁴ The International Covenant on Civil and Political Rights requires that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” and thus creates affirmative obligations in the context of mental healthcare.¹⁴⁵ The prohibition against cruel, inhuman, or degrading treatment or punishment further protects youth offenders from abusive treatment or conditions, such as prolonged solitary confinement, that can seriously harm mental health while incarcerated.¹⁴⁶ Finally, failures by prison officials to diagnose and treat mental illness or to monitor and protect those with mental illness that

¹⁴² Letter to Human Rights Watch from John E. (pseudonym), serving life without parole in Pennsylvania, March 15, 2004 (on file with Human Rights Watch).

¹⁴³ Survey response from Taylor C. (pseudonym), serving life without parole in California, to Human Rights Watch, August 17, 2007 (on file with Human Rights Watch).

¹⁴⁴ See ICCPR, arts. 6, 7, and 10(1); CAT, art. 16; Basic Principles for the Treatment of Prisoners (Basic Principles), adopted December 14, 1990, G.A. Res. 45/111, annex, 45 U.N. GAOR Supp. (no. 49A), at 200, U.N. Doc. A/45/49 (1990), principle 9.

¹⁴⁵ ICCPR, art. 10(1).

¹⁴⁶ *Ibid.*, art. 7.

leads to suicide implicate the right to life.¹⁴⁷ This is all the more serious given the frequency of suicide attempts among children deprived of their liberty.

The widely accepted Standard Minimum Rules for the Treatment of Prisoners also stipulate that incarceration facilities must administer a medical health screening as well as provide care and treatment as necessary.¹⁴⁸ Given the human rights requirement of rehabilitation in the context of imprisonment, international standards also require that facilities “seek to detect and shall treat any ... mental illnesses or defects which may hamper a prisoner’s rehabilitation. All necessary ... psychiatric service shall be provided to that end.”¹⁴⁹ These services should be tailored to meet the housing, supervision, and care needs of those with mental disorders.¹⁵⁰

Unfortunately, as the testimony and survey responses presented in this report demonstrate, youth offenders serving life without parole are frequently subjected to conditions or circumstances that damage their mental health, especially those who enter prison while still children, as chillingly reflected in the data on youth suicide. In some cases, the prison conditions youth offenders are subjected to can constitute cruel, inhuman, or degrading treatment.

¹⁴⁷ *Ibid.*, art. 6.

¹⁴⁸ Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977), principle 24.

¹⁴⁹ *Ibid.*, principle 62.

¹⁵⁰ *Ibid.*, principle 82.

V. Conclusion

Human Rights Watch has described elsewhere how the sentence of life without parole for juveniles violates human rights law and contradicts the practice of governments around the globe.¹⁵¹ Indeed, the United States' practice of sentencing youth offenders to life without parole has prompted three international human rights treaty oversight bodies in the past six years to find the United States out of compliance with its treaty obligations.¹⁵²

While imposing a sentence of life without parole on youth offenders is cruel, it is especially harsh given the conditions of confinement that youth confront during their lifetimes of incarceration. Youth offenders are especially vulnerable to physical and sexual assault by other inmates and sometimes by corrections staff and spend prolonged periods of time in isolated segregation. They are often denied access to educational and vocational programs necessary for their development and rehabilitation. Depression, thoughts of suicide, and suicide attempts are common among youth who feel profoundly isolated from friends and family with no hope of ever rejoining them, a problem which chronically overstretched prison mental health systems have proven incapable of addressing effectively. Many of the conditions violate human rights. Together, they can constitute cruel, inhuman, or degrading treatment. Most fundamentally, they interfere with youth offenders' physical and psychological maturation: when youth offenders experience prison conditions that thwart their natural human development, their punishment is cruel to the point of negating human dignity. Despite the fact that the length of their sentence and their youth upon entering adult prison make growth and rehabilitation extraordinarily

¹⁵¹ See, for example, Connie de la Vega and Michelle Leighton, "Sentencing our Children to Die in Prison: Global Law and Practice," *University of San Francisco Law Review*, vol. 42 (2008); Human Rights Watch, *When I Die, They'll Send Me Home*; Human Rights Watch and Amnesty International, *The Rest of Their Lives*.

¹⁵² The Human Rights Committee (the oversight and enforcement body for the ICCPR, ratified by the United States in 1992) has said that "[t]he Committee is of the view that sentencing children to life sentences without parole is of itself not in compliance with ... the Covenant." UN Human Rights Committee, "Concluding Observations of the Human Rights Committee: The United States of America," U.N. Doc. CCPR/C/USA/CO/3/Rev.1, Dec. 18, 2006, para. 35. Moreover, the Committee Against Torture (the oversight and enforcement body for the CAT, ratified by the United States in 1994) has stated that life without parole sentences for youth "could constitute cruel, inhuman or degrading treatment or punishment" in violation of the treaty. Committee Against Torture, "Conclusions and Recommendations of the Committee Against Torture: United States of America," U.N. Doc. CAT/USA/CO/2, July 25, 2006, para. 34. Finally, the Committee on the Elimination of Racial Discrimination (the oversight and enforcement body for the International Convention on the Elimination of All Forms of Racial Discrimination, a treaty ratified by the United States in 1994) concluded that, in light of the racial disparities in the sentencing of youth to life without parole, "the persistence of such sentencing is incompatible with ... the Convention." Committee on the Elimination of Racial Discrimination, "Concluding Observations of the United States," U.N. Doc. CERD/C/USA/CO/6, Feb. 6, 2008, para. 21.

difficult, some youth offenders sentenced to life without parole do experience emotional, intellectual, and personal transformation in prison—an extraordinary fact given the adversity they face.

Youth can and do commit terrible crimes. When they do, they should be held accountable and face appropriate consequences. But children are significantly different from adults, and the punishment imposed for their offenses should reflect their age and level of development. Both the sentences of youth offenders and their conditions of confinement must adapt to account for young people’s particular vulnerabilities, needs, and capacities to mature, to reflect upon the harm they have caused, and to change.

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