



Written Statement of
Human Rights Watch

to

The United States Senate Committee on the Judiciary,
Subcommittee on the Constitution, Civil Rights
and Human Rights

**“Reassessing Solitary Confinement:
The Human Rights, Fiscal, and Public Safety
Consequences”**

June 19, 2012

Human Rights Watch is grateful for this opportunity to submit a statement for the Committee's hearing on "Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences." Based on years of research and analysis, we are convinced the unnecessary, counter-productive, and devastating use of this harsh form of confinement in many US prisons cannot be squared with respect for human rights.

Human Rights Watch is an independent organization dedicated to promoting and protecting human rights around the globe. Since 1980, we have reported on prison conditions within the United States from a human rights perspective, with a special emphasis on the use of solitary confinement. Over the past 15 years, we have conducted investigations in numerous prisons, including super-maximum security prisons; spoken with officials and inmates about solitary confinement; published many reports and commentaries on the issue; and advocated against its misuse.¹ Most recently, we sent a letter to Governor Pat Quinn of Illinois raising our concerns about the conditions of prolonged solitary confinement at the Tamms Correctional Center.² We have also addressed solitary confinement in other nations, such as Tunisia and Japan.³ This fall, we will be releasing a joint report with the American Civil Liberties Union documenting the prolonged solitary confinement of youth under age 18 in jails and prisons across the United States.

Solitary confinement in US prisons is imposed for different reasons, but most commonly it is used as punishment for breaches of discipline ("disciplinary segregation") or to manage prisoners considered to be particularly difficult or dangerous ("administrative segregation").⁴ The increase in solitary confinement in the United States has occurred primarily through administrative segregation, particularly the segregation of prisoners in special super-maximum security facilities built solely for this purpose. Indeed, in our judgment, the proliferation of super-maximum security facilities is the most troubling development in US corrections in recent decades.

¹ See, for example: Human Rights Watch, *Cold Storage: Super-Maximum Security Confinement in Indiana*, October 1, 1997, <http://www.hrw.org/reports/1997/10/01/cold-storage>; Human Rights Watch, *Red Onion State Prison: Super-Maximum Security Confinement in Virginia*, May 1, 1999, <http://www.hrw.org/reports/1999/05/01/red-onion-state-prison>; Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000, <http://www.hrw.org/reports/2000/02/01/out-sight-super-maximum-security-confinement-us>; Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003, <http://www.hrw.org/reports/2003/10/21/ill-equipped-o>; Jamie Fellner, "A Corrections Quandary: Mental Illness and Prison Rules," *Harvard Civil Rights-Civil Liberties Law Review*, vol. 41, 2006, <http://www.hrw.org/news/2006/07/01/corrections-quandary>; "Mental Illness, Human Rights, and US Prisons," Human Rights Watch written statement to the Senate Judiciary Committee Subcommittee on Human Rights and the Law, September 22, 2009, <http://www.hrw.org/news/2009/09/22/mental-illness-human-rights-and-us-prisons>; Human Rights Watch, *Against All Odds: Prison Conditions for Youth Offenders Serving Life without Parole Sentences in the United States*, January 4, 2012, <http://www.hrw.org/reports/2012/01/03/against-all-odds-o>.

² Letter from HRW to Governor Pat Quinn, March 8, 2012, <http://www.hrw.org/news/2012/03/08/illinois-proposed-closure-tamms-supermax-step-right-direction>; See also Letter from HRW to Governor Pat Quinn, September 8, 2009; and Letter from HRW to Governor Pat Quinn, May 4, 2009.

³ See, for example: Human Rights Watch, *Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia*, March 25, 2008; Human Rights Watch, *Tunisia – Long-Term Solitary Confinement of Political Prisoners*, July 7, 2004; Human Rights Watch, *Prison Conditions in Japan*, March 1, 1995.

⁴ Corrections officials prefer to use terms such as "segregation" rather than solitary confinement. We consider the terms interchangeable, since both refer to 22- to 24-hour-a-day in-cell confinement, as described below.

Although there are differences between the specific conditions of solitary regimes in different prisons, they share a basic model. Prisoners in solitary typically spend 22 to 24 hours a day locked in small, sometimes windowless, cells sealed with solid steel doors. They lack opportunities for meaningful social interaction with other prisoners; most contact with staff is perfunctory and may be wordless (such as when meals are delivered through a slot in the cell door). Phone calls and visits by family and loved ones are severely restricted or prohibited. A few times a week, prisoners are let out for showers and solitary exercise in a small, enclosed space, sometimes indoors. They often have extremely limited or no access to educational and recreational activities or other sources of mental stimulation, and they are usually handcuffed, shackled, and escorted by correctional officers every time they leave their cells. Assignment to super-maximum security facilities devoted solely to solitary confinement—e.g., Colorado State Penitentiary, Pelican Bay State Prison in California, or Tamms in Illinois—is usually for an indefinite period that often lasts for years.

In some prisons, prisoners in solitary can purchase radios or televisions; participate in educational and skills-enhancing in-cell programs; and access books, newspapers, magazines, and the like. In others, prisoners are denied access to anything more than the basic necessities of survival. The restrictions can exceed the fathomable. In Pennsylvania's most restrictive units, for example, prisoners have all the usual supermax deprivations plus some that seem gratuitously cruel: they are not permitted to have photographs of family members or newspapers and magazines (unless they are religious).⁵ In some prison systems, prisoners who follow the rules and who engage in prescribed programs can earn their way out of solitary; in others, prisoners can languish in segregation for years, even decades, with little idea of what—if anything—they can do to be re-assigned to a less harsh form of imprisonment.

Corrections authorities must be able to exercise discretion and professional judgment in choosing where and how to confine inmates, but the exercise of such discretion carries the inherent risk of arbitrariness or error. Because of the extreme nature of solitary confinement, particular precautions are needed to minimize those risks and to ensure that no inmate is unnecessarily sent to or kept in such harsh conditions of confinement.

Unfortunately, in most jurisdictions, the criteria for determining entry to and exit from administrative segregation, particularly in super-maximum security facilities, are so vague that arbitrariness and unfairness are inevitable. Few jurisdictions have careful internal review systems to provide an effective check on unnecessary or unduly prolonged solitary confinement, particularly when imposed as administrative segregation. Moreover, few states have an impartial and independent authority, such as an ombudsman or inspector general, who can monitor supermax conditions and provide inmates with an effective recourse against unnecessary or unduly lengthy solitary confinement.

There is no way, of course, to measure the misery and suffering produced by prolonged solitary confinement. Inmates have described such confinement as akin to living in a tomb. Their days are marked by idleness, tedium, and tension. For many, the absence of normal social interaction, of reasonable mental stimulus, of exposure to the natural world, of almost everything that makes life human and bearable, is emotionally, physically, and psychologically destructive. People suffer grievously in prolonged solitary confinement because human beings are social animals whose

⁵ Fred Cohen, "Penal Isolation: Beyond the Seriously Mentally Ill," *Criminal Justice and Behavior*, vol. 35, no. 8, August 2008, <http://cjb.sagepub.com/content/35/8/1017.abstract> (accessed June 13, 2012).

well-being requires interaction and connection with others as well as mental, physical, and environmental stimulation. As one federal judge noted, prolonged super-maximum security confinement “may press the outer bounds of what most humans can psychologically tolerate.”⁶

Prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and/or an impaired ability to think, concentrate, or remember. Some inmates subjected to solitary confinement develop clinical symptoms usually associated with psychosis or severe affective disorders.⁷ Solitary confinement is not only extremely painful for many, it can be literally unendurable, as is evident from the high number of suicides that take place in segregation.⁸

For mentally ill prisoners, prolonged solitary confinement can be a living horror; the social isolation and restricted activities can aggravate their illness and immeasurably increase their pain and suffering. Our research indicates that anywhere from one-fifth to two-thirds of prisoners held in solitary confinement have a serious mental illness which was diagnosed or manifested *before* isolation.⁹ Persons with mental illness are often unable to handle the stresses of incarceration and to conform to a highly regimented routine. They may exhibit bizarre, annoying, or dangerous behavior and have higher rates of disciplinary infractions than other prisoners. When lesser sanctions do not curb the behavior, officials isolate these prisoners in segregation units, despite the likely negative mental health impact. Once in segregation, continued misconduct, often connected to mental illness, can keep the inmates there indefinitely.¹⁰ While in segregation, inmates with mental illness rarely receive the mental health services that might ameliorate the symptoms of their illness or improve their ability to cope with incarceration.

Youth are also especially vulnerable to the destructive impact of solitary confinement. Unfortunately, youth in some juvenile and adult facilities throughout the country are regularly subjected to prolonged solitary confinement. For our upcoming report on the isolation of youth in jails and prisons in the US, we interviewed scores of youth, including a 19-year-old in New York who spent two periods of time in solitary confinement when he was under 18, once for two months and once for nine months. He would receive one hour of outdoor recreation in a small fenced-in cage, but not every day. He was allowed one six-minute phone call each day and was eligible for only

⁶ *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995).

⁷ Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

⁸ Dr. Jeffrey L. Metzner and Jamie Fellner “Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics,” *The Journal of the American Academy of Psychiatry and the Law*, vol. 38, no. 1, 2010, <http://www.hrw.org/news/2010/03/22/solitary-confinement-and-mental-illness-us-prisons>.

⁹ Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003, Chapter XII. Although designed and operated as places of punishment, prisons have nonetheless become *de facto* psychiatric facilities, despite often lacking the needed mental health services. Studies and clinical experience consistently indicate that 8 to 19 percent of prisoners have psychiatric disorders that result in significant functional disabilities, and another 15 to 20 percent require some form of psychiatric intervention during their incarceration. Sixty percent of state correctional systems responding to a survey on inmate mental health reported that 15 percent or more of their inmate population had a diagnosed mental illness. Metzner and Fellner “Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics,” *The Journal of the American Academy of Psychiatry and the Law*.

¹⁰ Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003; Fellner, “A Corrections Quandary,” *Harvard Civil Rights-Civil Liberties Law Review*.

three short visits from loved ones each week. The only educational programming he received while in solitary confinement was an in-cell study packet that was delivered to him by a corrections officer.

He told us, “The cell was hell.... Can’t talk to nobody. At that time I didn’t have books or anything. I counted the bricks. There was a bed, a desk, a toilet, a sink and a window.... [The] first thing I thought was, damn, I’m going to be here for 60 days.... I felt like shit. Damn! No contact with anybody for 60 days? I started bugging out in my cell. Started going crazy. [Some]times I wanted to talk to people.... I was talking to myself, ‘Why did you do this?’ Sometimes I scream really loud. It feels good after a while.”¹¹

Why Solitary Confinement?

Prisons in the United States have long contained harsh solitary punishment cells where prisoners are sent for breaking prison rules. But what distinguishes the current and expanded use of solitary, particularly in super-maximum security facilities, are the increasingly long terms that prisoners spend in isolation, its use as an inmate population management tool rather than just for disciplinary purposes, and the high-technology methods used to enforce social isolation. No longer a matter of spending a week in “the hole”—prisoners classified as dangerous or disruptive can spend years and even decades in solitary confinement.

The proliferation of super-maximum security prisons is a symptom of profound problems in the nation’s prison systems. Beginning in the 1980s, exploding prison populations caused by increasingly lengthy sentences and diminished opportunities for early release, constrained budgets, inappropriately low staff-to-inmate ratios, and punitive correctional philosophies limited the ability of officials to operate safe and humane facilities. Many turned to prolonged solitary confinement in an effort to increase their control over prisoners. A significant impetus for super-maximum security facilities also came from politicians, who found that advocating harsh policies for criminal offenders was politically popular. Reluctant to be accused of “coddling inmates” or being “soft on crime,” few politicians have been willing to publicly challenge the expanded use of solitary confinement on human rights grounds.

Some thoughtful corrections professionals have always recognized that the proliferation of solitary confinement was unwise. While they may believe that there will always be a few extremely dangerous or disruptive inmates in a prison population who need to be segregated for extended periods of time, they are also convinced that placing thousands of prisoners in prolonged isolation was neither necessary nor good corrections practice. Reducing the size of prisons, providing increased prison services and programs, and adopting strategies to encourage responsible choice, personal development, and, ultimately, successful re-entry into the community would help address the very problems prolonged solitary confinement was supposed to remedy. Indeed, there is little evidence that the massive imposition of prolonged solitary confinement in expensive super-maximum facilities has improved prison safety, much less improved the skills and competencies of prisoners. To the contrary, prolonged solitary may decrease the ability of prisoners to successfully re-enter their communities upon release from prison.

¹¹ Human Rights Watch interview with Jacob L. (pseudonym), New York, April 2012.

There has been scant public debate until recently about the justification for prolonged solitary confinement, its high price in terms of the misery and suffering it inflicts, and the likelihood that it reduces an inmate's ability to make a successful transition to society upon release. Judicial scrutiny has been limited by both the courts' tradition of deference to the judgments of prison officials and by jurisprudence that sets an extraordinarily high threshold for finding prison conditions to be unconstitutionally cruel.

This Committee's hearing marks the end of an era of uncritical acceptance of or indifference to the use of solitary confinement in US prisons. It is particularly welcome because of the Committee's recognition that solitary confinement raises serious human rights concerns.

A Human Rights Analysis

All US prisons are subject to human rights standards contained in treaties ratified by the United States and binding on state and federal officials.¹² For example, the United States is a party to the International Covenant on Civil and Political Rights (ICCPR),¹³ which requires corrections authorities to respect the inherent dignity of each inmate;¹⁴ prohibits treatment of prisoners that constitutes torture or that is cruel, inhuman, or degrading;¹⁵ and establishes rehabilitation as the primary purpose of imprisonment.¹⁶

While human rights law does not prohibit solitary confinement in any and all circumstances, prolonged solitary of the type and for the lengths of time imposed in US prisons is inconsistent with respect for inmates' humanity. It can also violate the prohibition on cruel, inhuman, or degrading treatment and, depending on the specific circumstances, may even amount to torture.¹⁷ The

¹² Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

¹³ 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 June 8, 1992.

¹⁴ ICCPR, art. 10 requires officials to treat prisoners "with humanity and with respect for the inherent dignity of the human person."

¹⁵ ICCPR, art. 7. No one "shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment." The Convention against Torture, to which the United States is a party, contains a similar prohibition. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), 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 on October 21, 1994.

¹⁶ ICCPR, art. 10. The "essential aim" of the treatment of prisoners "shall be their reformation and social rehabilitation."

¹⁷ See, for example: UN Human Rights Committee, General Comment 20, Article 7, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994), para. 6.; UN Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee, United States of America, UN Doc. CCPR/C/USA/CO/3 (2006); UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, UN Doc. CAT/C/USA/CO/2, 2006; UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc. A/63/175, July 28, 2008, p. 18-21.

conditions of confinement in solitary are unduly severe and disproportionate to legitimate security and inmate management objectives, impose pointless suffering and humiliation, and disregard the fact that all prisoners—even those who may be deemed the “worst of the worst”—are members of the human community.

International treaty bodies and human rights experts—including the Human Rights Committee,¹⁸ the Committee against Torture,¹⁹ and both the current and former UN Special Rapporteurs on Torture²⁰—have concluded that depending on the specific conditions, the duration, and the prisoners on whom it is imposed, solitary confinement may amount to cruel, inhuman, or degrading treatment that violates human rights. They have specifically criticized super-maximum security confinement in the United States because of the mental suffering it inflicts.²¹ Human rights authorities are unanimous that it should be an exceptional measure imposed only when necessary, only for so long as necessary, and entailing no more deprivation than is necessary.²² If legitimate considerations of prison safety and security do necessitate extended periods of separation from other prisoners, the conditions of confinement must be modified to ameliorate the isolation and to recognize the humanity of the person so confined.

Using a human rights framework to assess solitary confinement therefore requires consideration of the length of time it is imposed, the actual conditions, and the reasons for placing the prisoner in them.²³ Each factor must be considered in relation to the others. For example, extreme restrictions and controls that might be considered reasonable in dealing with incorrigibly violent inmates become excessive for inmates who have shown no propensity for violence. Deprivation of sources of stimulation, human contact, and activity that may not be unbearably cruel for some inmates can become torturous when imposed on youth under age 18 or mentally ill inmates. Harsh conditions that might not be unacceptable for a few weeks can become inhuman and degrading when imposed for months or years. A fixed period of solitary may be more tolerable than an indefinite period that in fact lasts the same length of time, because uncertainty regarding the duration of solitary confinement can exacerbate the pain and suffering of those subjected to it.

¹⁸ UN Human Rights Committee, General Comment 20, Article 7, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994),

¹⁹ UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, U.N. Doc. CAT/C/USA/CO/2 (2006).

²⁰ UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc. A/63/175, July 28, 2008, p. 18-21.

²¹ UN Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, concluding observations of the Human Rights Committee, United States of America, UN Doc. CCPR/C/USA/CO/3, (2006); UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, UN Doc. CAT/C/USA/CO/2, (2006).

²² In addition to the international authorities cited above, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has reached similar conclusions regarding solitary confinement. See CPT Standards, para. 56, <http://www.cpt.coe.int/en/documents/eng-standards.pdf> (accessed June 14, 2012). The CPT was created under the European Convention of the same name to monitor the treatment of prisoners in Council of Europe nations and to recommend measures to strengthen protections from torture or other inhuman or degrading treatment.

²³ Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

The most recent analysis of solitary confinement by an international human rights expert is that of Juan Mendez, the current UN Special Rapporteur on Torture. Based on a comprehensive and exacting review, Mendez concluded that prolonged isolation is contrary to article 10, paragraph 3 of the ICCPR, which states that, “The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”²⁴ Moreover, “where the physical conditions of solitary confinement are so poor and the regime so strict that they lead to severe mental and physical pain or suffering of individuals who are subjected to the confinement, the use of solitary confinement itself can amount to acts prohibited by article 7 of the International Covenant on Civil and Political Rights, torture as defined in article 1 of the Convention against Torture, or cruel, inhuman or degrading punishment as defined in article 16 of the Convention.”²⁵

Mendez insists that the use of solitary confinement “can be accepted only in exceptional circumstances where its duration must be as short as possible and for a definite term that is properly announced and communicated.”²⁶ He emphasizes that when “solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed. These safeguards reduce the chances that the use of solitary confinement will be arbitrary or excessive, as in the case of prolonged or indefinite confinement.”²⁷ As have other human rights authorities and experts, he calls for a prohibition on the imposition of solitary on youth and persons with serious mental illness because of the especially harmful impact it has on such vulnerable populations.²⁸

Recommendations

We commend the Committee for recognizing the importance of human rights scrutiny of the use of solitary confinement in US prisons. We hope this hearing and the testimony delivered to the Committee will convince Congress of the imperative of using its authority to reduce the use of

²⁴ ICCPR, art. 10, para. 3.

²⁵ UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc. A/66/268, August 5, 2011, para. 74.

²⁶ *Ibid.*, para. 75.

²⁷ *Ibid.*, para. 89.

²⁸ UN Committee on the Rights of the Child, General Comment No. 10, Children’s rights in juvenile justice, U.N. Doc. CRC/C/GC/10 (April 25, 2007); UN General Assembly, Rules for the Protection of Juveniles Deprived of their Liberty, U.N. Doc. A/RES/45/113 (December 14, 1990); The Istanbul Statement on the Use and Effects of Solitary Confinement, adopted at the International Psychological Trauma Symposium, December 9, 2007, http://www.univie.ac.at/bimtor/dateien/topic8_istanbul_statement_effects_solconfinement.pdf (accessed June 14, 2012). The US has also signed the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). **The CRC recognizes that youth have special rights and, when they come in conflict with the law, should be treated in a manner that promotes their reintegration in and contribution to society.** 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. The United States signed the CRC in 1995 but has not ratified. **The CRPD recognizes that persons with intellectual and psychosocial disabilities must be ensured reasonable accommodation and respect for their difference, including in their treatment when deprived of their liberty.** Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008. The United States signed the CRPD in 2009 but has not ratified.

solitary in the United States, to improve the conditions of confinement when solitary is imposed, to curtail the indefinite imposition of solitary, and to end its use on persons who have mental illness and on youth under 18.

More specifically, we make the following recommendations:

1. Congress should enact legislation that will require the Bureau of Prisons and all federal agencies that operate or contract for confinement facilities to prohibit:

- Prolonged solitary confinement;
- Indefinite solitary confinement; and
- The imposition of solitary confinement on youth or persons with serious mental illness.

2. Because the history of the use of solitary in the US reveals that procedures for evaluating the necessity of its imposition on particular individuals and the duration of its imposition have been lacking, we think it crucial that Congress require the Bureau of Prisons and all federal agencies that operate or contract for confinement facilities to institute meaningful procedures of review and scrutiny—including with the participation of experts external to the agencies—governing the decision to impose and to continue conditions of solitary confinement for more than a two-week period.

3. Congress should enact legislation that will press states to impose similar requirements to bring their use of solitary confinement into conformity with international human rights standards. Congress should condition federal funding for prisons or law enforcement on the states' adoption of the prohibitions and rules noted in recommendation 1, above.

4. Congress should use its oversight and funding authority to insist that the Department of Justice use its powers under the Civil Rights of Institutionalized Persons Act to ensure that states and local jurisdictions do not impose solitary confinement on youth or on persons with mental illness because such confinement is a violation of the Eighth Amendment of the US Constitution as well as of human rights law.

5. In the interest of protecting youth from practices like solitary confinement, the Senate should give its advice and consent to the ratification of the Convention on the Rights of the Child, signed by the US in 1995, and the Convention on the Rights of Persons with Disabilities, signed by the US in 2009. The US government should also withdraw its reservation to articles 10 and 14 of the ICCPR, which allows the treatment of youth as adults in the US criminal justice system.

6. Congress should take steps to improve transparency and accountability in the use of solitary confinement in the United States. Congress should require the Department of Justice to collect data on the use of solitary in federal and state prisons: the characteristics of who was placed in isolation, for what reasons, for how long, and in what conditions. Also, the Department of Justice should report to Congress on the isolation of youth under federal jurisdiction but held by contract in state facilities.

7. Congress should create a national commission of independent experts to undertake a detailed review of solitary confinement in the United States and to propose specific standards governing its use.