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March 6, 2014

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

#### Via USPS

Dear Governor Cuomo:

Human Rights Watch writes to commend the agreement between the New York State Department of Corrections and Community Supervision and the New York Civil Liberties Union restricting the use of solitary confinement for youth, persons with intellectual disabilities, and pregnant women and setting the stage for further, more comprehensive reforms. It is an important first step to much needed overhaul to the use of solitary in New York. We also commend your administration's willingness to pursue that reform through cooperation between the parties.

Over the past 15 years, Human Rights Watch has conducted investigations in numerous US prisons and has published several reports on the use of disciplinary and administrative segregation, also known as solitary confinement. In 2012 we released 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.

We recognize that there may be instances in which prisoners have shown themselves to be so dangerous or disruptive that they must be temporarily separated from the general population to protect prison safety and security. But our research has shown that all too frequently, lengthy periods of isolation are imposed for minor misconduct, that the periods of such confinement extend far beyond what might be reasonable to secure changes in prisoners' conduct, that alternatives to solitary might be equally likely to secure those changes, and that the conditions of confinement are needlessly harsh, counterproductive, and inconsistent with recognition of each prisoner's basic humanity and dignity. In short, in many cases,

prolonged solitary confinement violates the international prohibition against cruel, inhuman, and degrading treatment and may even amount to torture.

While we have not conducted our own investigation of the use of solitary in New York prisons, our review of existing material, including the report by the New York Civil Liberties Union, leaves little doubt that reform is necessary to bring the state's practices into line with human rights norms.

We strongly support the language of the agreement that guarantees a minimum of five hours of out-of-cell time for youth daily, plus the guarantee of out-of-cell programming and outdoor exercise five days a week. We also support the creation of alternatives to solitary confinement for people with intellectual disabilities and the presumption against placement of pregnant inmates in solitary for disciplinary purposes. We further support the commitments in the agreement to better monitoring, data collection, performance tracking, and training materials related to the appropriate use of disciplinary segregation. We have little doubt that the experts who will be hired under the terms of the agreement to assess solitary in New York's prisons will find many aspects that can and should be reformed without harming prison safety and security.

We urge the state to provide the funding to the Department necessary to follow through on the commitments established in the agreement. We also urge the Department to read the exceptions to the above restrictions on the use of solitary narrowly. Finally, we urge the Department to work towards a final agreement that ends permanently the use of prolonged solitary confinement and that ensures that even short periods of solitary confinement are imposed only as an exceptional measure and with no more deprivation than necessary.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Fellner".

Jamie Fellner  
Senior Advisor, US Program

Cc: Anthony Annucci, Acting Commissioner, New York State Department of  
Corrections and Community Supervision