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Honorable Jerry Brown
Governor of the State of California
State Capitol
Sacramento, California 95814

Sent via facsimile to: (916) 558-3160

Re: AB 1276 (Bloom) Young Adults in Prison

Dear Governor Brown:

Human Rights Watch is honored to sponsor AB 1276, a bill recognizing both the vulnerability and potential of young adults entering California state prisons. It passed out of both legislative houses this week and awaits your consideration. We join with two co-sponsors, the Los Angeles County District Attorney and the Anti-Recidivism Coalition in respectfully urging you to sign this important piece of legislation into law.

If passed into law, AB 1276 would ensure that people under the age of 22 at the time they enter prison are less likely to be housed on the most dangerous prison yards and more likely to have access to rehabilitative programs and services. We believe this will result in more young prisoners being able to choose a path of self-improvement in prison. This bill represents a needed change to California law.

California excludes some children from the juvenile justice system, trying them as adults in the criminal system, and sentencing them to adult prison terms. Youth as young as 14 years old can be tried as adults. If convicted, these individuals are held in juvenile facilities until at least age 18. Some are held by the Department of Juvenile Justice up to age 22. As a result, many people who enter state prison under the age of 22 were juveniles at the time of their crimes. When they enter state prison they are legally adults but are still developing, both socially and neurologically.

Whether they are housed in a college dorm or prison cell, young adults between the ages of 18 and 22 are making important decisions about their identity and path in life. Young people are more susceptible than older

adults to influences around them—both good and bad. It is a time of great change, and an opportunity to positively shape the direction of a young person's life. Yet under current law and practice, the California Department of Corrections is more likely to place people under the age of 22 in its most maximum security prison yards, among the most dangerous inmates. There, young inmates are cultivated and preyed upon by gang members and others. In addition, maximum security (level IV) yards offer fewer rehabilitative services.

People who entered California prisons under age 22 and were sent straight to maximum security yards communicated with Human Rights Watch about their experiences of being very young on a level IV yard. They describe the dual impact of increased exposure to violence and decreased access to self-improvement opportunities. Some reflections include:

I was surrounded by hardened men and all I learnt [was] how to...survive by fighting and acting out....If I had started at a [lower level] I most likely would have a GED by now and a lot of good things [to support the possibility of going] home.

B. M., who was 16 at the time of his crime.¹

I came to prison at 19 years old. I started at a level IV. There was no programming opportunities. I believe it would be very beneficial for youngsters to start off at lower levels, then they will be exposed to more rehabilitative opportunities and less violence and negative influences.

P. K., age 14 at the time of his crime.²

I really think my life would have been different if I would have been placed [at a lower level yard when I entered prison.] ...I wouldn't have been exposed to so much violence and hatred like [there is on] a level IV yard. [On a lower level] I would have been acquiring...[things like education and vocational skills.] Instead I had to focus on surviving and staying alive. There were nights I silently cried myself to sleep because of the fear I felt.

E. T., age 17 at the time of his crime.³

I came to prison at the age of 20 and it was very hard for me as a younger person being around older men who was crazy...I had to listen to them tell me what to do, wrong or right. I had to listen to them or be hurt. It messed with my mind 24/7.”

J. M., age 15 at the time of his crime.⁴

Current Law and Practice Increases the Likelihood of Negative Influences and Violence for Young Inmates

Small physique and the status of being newly incarcerated heighten the risk of physical and sexual assault. At 17, when B.G. was convicted, he was small: “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.⁵ US 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 25.⁶

For many, violence becomes a daily reality. Fifty-nine percent of youth offenders 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.⁷ Nearly every respondent reported witnessing violent acts.⁸ 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. “Someone tried to cut my throat with a razor knife,” G. J. told us.⁹ B. R. wrote, “I have seen stabbings, rapes, robberies, and many other things. I’ve been stabbed more than once.”¹⁰

Young Inmates Placed on High Level Yards Have Reduced Access to Rehabilitative Services

These maximum-security yards typically have the lowest access to rehabilitative programming, and additionally, the yards are often on lockdown, interrupting programming that does exist. As a result, young adults who are sent to level IV yards have less access to education, treatment, and vocational opportunities. This is a missed opportunity for the state to turn young adults around: Young adults have great potential to respond to education, vocational training, and other rehabilitative services.

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.”¹¹ 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.¹² 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.

But it is not just the lack of programming that is problematic for young inmates, it is the influence of older inmates at level IV housing. The Department of Corrections and Rehabilitation noted in its report, *Expert Panel Study of the Inmate Classification Score System*, that particularly for inmates with classification scores just above that which sends them to a level IV, there is evidence of a criminogenic effect of being housed at level IV.¹³

The Time is Right for this Change in Law: Newly Enacted SB 260 Creates Added Incentive for Young Adults Entering California Prisons to Focus on Self-Improvement

Recent changes in California law make it all the more important to change how young people entering prison are treated. In 2013 the California legislature passed SB 260 in recognition that young people are different from adults and deserve special consideration in the parole process. Senate Bill 260, now codified at California Penal Code §3051, provides the possibility of early parole for many people who were under the age of 18 at the time of their crime. It also creates an increased likelihood of parole. Because the new law creates a meaningful chance at parole, it is generating a high degree of motivation for people who were under the age of 18 at the time of their crime to focus on rehabilitative efforts and good behavior. “Upon hearing of this new law [SB 260] my whole outlook and hope for the future

changed...” A. F. told us. He was 17 at the time of his crime. “I am very motivated to do everything within my power to not only become suitable for parole but to become suitable for a successful and lawful life on the outside. Everything that I do now is geared toward getting out of here and staying out. Other juvenile offenders who are eligible feel the same way.”¹⁴ His letter is one among approximately 700 we have received and the majority speak of new hope and the motivation to focus on rehabilitation.

If passed, AB 1276 will ensure that California protects a population vulnerable to assault and negative influences. The state will also maximize the likelihood of rehabilitation by increasing positive influences and opportunities for a population that is developmentally primed to take advantage of reform opportunities.

Please sign this important bill.

Sincerely,



Elizabeth Calvin
Senior Advocate
Children’s Rights Division

¹ Letter to Human Rights Watch May 14, 2014 (on file with Human Rights Watch).

² Letter to human rights watch May 27, 2014 (on file with Human Rights Watch).

³ Letter to Human Rights Watch May 20, 2014 (on file with Human Rights Watch).

⁴ Letter to Human Rights Watch May 28, 2014 (on file with Human Rights Watch).

⁵ Human Rights Watch interview with B. G., June 29, 2007. “B.G.” is a pseudonym.

⁶ 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/svracao708.pdf> (accessed May 30, 2014). 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 May 30, 2014). 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 May 30, 2014); Pat Kaufman, National Institute of Justice, “Prison Rape: Research Explores Prevalence, Prevention,” March 2008, <https://www.ncjrs.gov/pdffiles1/nij/221505.pdf> (accessed May 30, 2014).

⁷ This percentage is based on Human Rights Watch’s 2007 survey of individuals who were under the age of 18 at the time of their crime and sentenced to life without parole. Sixty-seven out of 114 respondents reported that they had been the victim of an assault in prison.

⁸ 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.

⁹ Letter to Human Rights Watch, July 26, 2007 (on file with Human Rights Watch). “G. J.” is a pseudonym.

¹⁰ Letter to Human Rights Watch, July 24, 2007 (on file with Human Rights Watch). “B. R.” is a pseudonym.

¹¹ 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.

¹² 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), pp. 725-726.

¹³ California Department of Corrections and Rehabilitation, Office of Research and Evaluation Branch, *Expert Panel Study of the Inmate Classification Score System*, December 2011, p. 2.

¹⁴ Letter to Human Rights Watch May 22, 2014 (on file with Human Rights Watch).