



Physicians for
Human Rights



“Endless Nightmare”

Torture and Inhuman Treatment
in Solitary Confinement in U.S.
Immigration Detention

February 2024



Executive Summary

The United States maintains the world's largest immigration detention system, detaining tens of thousands of people in a network of facilities, including those managed by private prison corporations, county jails, U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and the Office of Refugee Resettlement (ORR). At the time of writing, ICE is detaining over 35,000 people, including long-term residents of the United States, people seeking asylum, and survivors of trafficking or torture. **Instead of finding refuge, these people are held in ICE custody for extended periods, enduring inhuman conditions such as solitary confinement (dubbed “segregation” by ICE), where they are isolated in small cells with minimal contact with others for days, weeks, or even years. In many instances, such conditions would meet the definition of torture, or cruel, inhuman, or degrading treatment under international human rights law.**

Solitary confinement causes a range of adverse health effects, including post-traumatic stress disorder (PTSD), self-harm, and suicide risks. **Prolonged confinement can lead to lasting brain damage, hallucinations, confusion, disrupted sleep, and reduced cognitive function.** These effects persist beyond the confinement period, often resulting in enduring psychological and physical disabilities, especially for people with preexisting medical and mental health conditions or other vulnerabilities.

In recognition of this well-documented harm, ICE issued a directive in 2013 to limit the use of solitary confinement in its facilities, especially for people with vulnerabilities. A 2015 memorandum further protected transgender people, emphasizing solitary confinement as a last resort. In 2022, ICE reinforced reporting requirements for people with mental health conditions in solitary confinement, highlighting the need for strict oversight. Despite these directives, however, government audits and whistleblowers alike have repeatedly revealed stark failures in oversight.

This report – a joint effort by Physicians for Human Rights (PHR), Harvard Law School's Immigration and Refugee Clinical Program (HIRCP), and researchers at Harvard Medical School (HMS) – provides a detailed overview of how solitary confinement is being used by ICE across detention facilities in the United States, and its failure to adhere to its own policies, guidance, and directives. It is based on a comprehensive examination of data gathered from ICE and other agencies, including through Freedom of Information Act (FOIA) requests, first filed in 2017, and partly acquired after subsequent litigation. It is further enriched by interviews with 26 people who were formerly held in immigration facilities and experienced solitary confinement over the last 10 years.

The study reveals that immigration detention facilities fail to comply with ICE guidelines and directives regarding solitary confinement. Despite significant documented issues, including whistleblower alarms and supposed monitoring and oversight measures, there has been negligible progress. The report highlights a significant discrepancy between the 2020 campaign promise of U.S. President Joseph Biden to end solitary confinement and the ongoing practices observed in ICE detention. Over the last decade, the use of solitary confinement has persisted, and worse, the recent trend under the current administration reflects an increase in frequency and duration. Data from solitary confinement use in 2023 – though likely an underestimation as this report explains – demonstrates a marked increase in the instances of solitary confinement.

This report exposes a continuing trend of ICE using solitary confinement for punitive purposes rather than as a last resort – in violation of its own directives. **Many of the people interviewed were placed in solitary confinement for minor disciplinary infractions or as a form of retaliation for participating in hunger strikes or for submitting complaints. Many reported inadequate access to medical care, including mental health care, during their solitary confinement, which they said led to the exacerbation of existing conditions or the development of new ones, including symptoms consistent with depression, anxiety, and PTSD.** The conditions in solitary confinement were described as dehumanizing, with people experiencing harsh living conditions, limited access to communication and recreation, and verbal abuse or harassment from facility staff.

Analysis of FOIA data revealed persistent and prolonged use of solitary confinement and demonstrated significant inadequacies of current oversight and accountability mechanisms. **In the last five years alone, ICE has placed people in solitary confinement over 14,000 times, with an average duration of 27 days, well exceeding the 15-day threshold that United Nations (UN) human rights experts have found constitutes torture. Many of the longest solitary confinement placements involved people with mental health conditions, indicating a failure to provide appropriate care for vulnerable populations more broadly.**

Some solitary confinement placements lasted significantly longer, with 682 lasting at least 90 days and 42 lasting over one year. Many of these instances involved people with mental health conditions and other vulnerabilities, with 10 placements lasting over a year in solitary confinement. **Data provided by ICE also demonstrated a disproportionately harmful impact on people with vulnerabilities, particularly transgender people and those with mental health and medical conditions.**

The treatment of people in immigration detention facilities and the excessive, punitive use of solitary confinement is not only contrary to ICE’s own policies and guidance but also violates U.S. constitutional law and international human rights law. The Fifth Amendment prohibits the deprivation of life, liberty, or property without due process of law, protection that extends to all persons within the United States, including people in immigration detention. The government has a duty to ensure the health and safety of people in immigration detention facilities by providing for their basic needs such as food and medical care. Persons in detention also have First Amendment rights, including the freedom to protest conditions or report issues without fear of retaliation.

International human rights law has also made clear that the detention of immigrants, especially in solitary confinement, should be a last resort, for the shortest time possible, and used only for limited purposes. The United States has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), which prohibits arbitrary and unlawful detention. The use of prolonged solitary confinement, especially for people with mental health conditions, is prohibited under the UN Standard

Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The United States has also signed and ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The UN Special Rapporteur on Torture has highlighted the severe psychological and physical harm caused by prolonged solitary confinement, especially for people with mental health conditions.

ICE’s failure to adhere to domestic and international law and its own guidelines has created dangerous conditions in detention centers, particularly for people with mental and medical health conditions or other vulnerabilities. The persistent use of solitary confinement over the last decade underscores the need for radical changes in ICE policy and practice. **The evidence of profound physical and mental health deterioration caused by solitary confinement, in combination with ICE’s inability to implement policies around its use that adhere to its own guidelines as well as constitutional and international law, necessitates an immediate commitment by ICE to end the practice entirely.**

Prior to publication, the authors of this report had the opportunity to present the findings to key personnel in DHS and ICE.

Number of Immigrants Held in Solitary Confinement out of Total Population in Detention



Recommendations

The report makes the following recommendations to the Secretary of the U.S. Department of Homeland Security (DHS) and to the Director of ICE, which serve as a road map to completely phase out the use of solitary confinement in immigration detention. Full recommendations to other engaged actors can be found [here](#).

1. Publicly commit to ending the use of solitary confinement in all immigration detention facilities.

As it abandons solitary confinement, DHS and ICE must express this commitment in the form of a binding directive. The directive should:

- a. Require a presumption of release from ICE detention for people who have reported existing vulnerabilities,** including, but not limited to, people with serious medical conditions, mental health conditions, disabilities, LGBTQIA+ people, and survivors of torture and/or sexual violence. These people should be released into the safety of their community with post-release care plans in place, per the 2022 ICE directive, in addition to providing resources and referrals for social, legal, and/or medical services as appropriate.
- b. Mandate that any person in detention be afforded 24-hour access to qualified mental and medical health care professionals** who respond in a timely manner and in compliance with the Health Insurance Portability and Accountability Act (HIPAA).
- c. Require increased transparency from ICE's Detention Monitoring Council** by making properly redacted or deidentified reports and reviews related to solitary confinement publicly available on the agency's website within 72 hours of the order. to place someone in solitary confinement.

2. Amend the 2013 "Segregation Directive" to ensure that every immigration detention facility, public or privately contracted, is required to report concurrently to ICE Field Office Directors and ICE headquarters within 24 hours of placing someone in solitary confinement.

- ICE headquarters, in turn, must share this consolidated "segregation"/solitary confinement data with the DHS Office of the Secretary within 72 hours. This requirement must apply to every confined person, regardless of the duration of their confinement or whether they have a vulnerability. Additionally:
- a. For those who are currently in solitary confinement, require a prompt and meaningful psychosocial and medical evaluation, undertaken by qualified medical professionals, who can assess the prevalence and extent of existing vulnerabilities.
 - b. For those scheduled for placement in solitary confinement, require a meaningful psychosocial and medical evaluation by qualified medical professionals who can assess the prevalence and extent of existing vulnerabilities prior to such a placement.
 - c. Mandate the reporting of race and ethnicity of each person in solitary confinement.
 - d. Mandate reporting of the justification provided for initial confinement; justification for continued confinement; duration of the confinement; any vulnerabilities identified; and a detailed description of the alternatives to solitary confinement that were considered and/or applied, as listed in 5.3.(2) of the 2013 "Segregation Directive."
 - e. Require daily checks and regular monitoring and documentation by qualified and licensed health care professionals against a detailed checklist created in partnership with independent medical professionals, that includes reviewing vital signs, checking for signs of self-harm, and any other indicators of deteriorating mental and physical health.
 - f. Require the routine sharing by ICE of deidentified data acquired from the above reporting mechanisms on its website every two weeks as part of its release of Detention Statistics, until it has ended the use of solitary confinement.

"ICE oversaw more than 14,000 placements in solitary confinement between 2018 and 2023. Many people who are detained in solitary confinement have preexisting mental health conditions and other vulnerabilities. The average duration of solitary confinement is approximately one month, and some immigrants spend over two years in solitary confinement."

3. Revise current contracts and agreements with immigration detention facility providers and contractors to include stringent performance standards and clear metrics for compliance regarding the use of solitary confinement. Compliance should be assessed through regular and comprehensive inspections by the Contracting Officer. Additionally, to increase adherence to detention standards, ICE must:

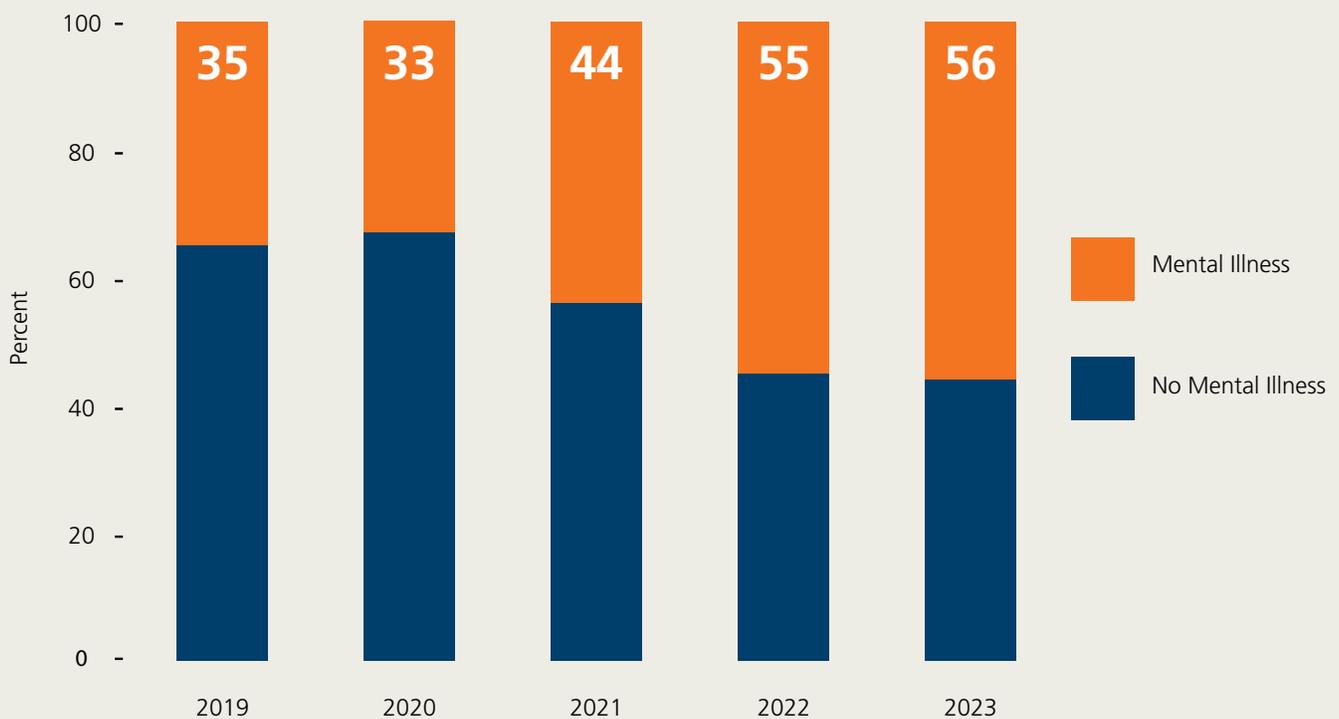
- a. Introduce a performance-based contracting model, where a portion of payment is contingent upon meeting certain performance and reporting indicators, including those listed in recommendations 1 and 2 herein; and
- b. Impose immediate financial penalties for any violation of performance and reporting indicators, and contract termination for repeated or persistent violation.

4. Establish a task force led by the Office of the Secretary of DHS to develop a comprehensive plan including specific recommendations for phasing out the use of solitary confinement. The task force must include:

- a. Members with knowledge of, or expertise regarding, the mental and physical health consequences of the use of solitary confinement;
- b. Independent medical experts;
- c. Independent subject matter experts from civil society (including those with expertise in the use of solitary confinement in criminal and civil custodial settings and human rights);
- d. Formerly detained immigrants who have experienced solitary confinement in ICE custody; and
- e. Employees of the following offices:
 - I. Civil Rights and Civil Liberties (CRCL);
 - II. ICE Health Services Corps (IHSC);
 - III. Immigration Detention Ombudsman (OIDO);
 - IV. Enforcement and Removal Operations (ERO); and
 - V. Office of Professional Responsibility (OPR).

The plan must be presented to Congress and publicly accessible on ICE’s website upon completion, which shall be no later than one year after formation of the task force. Finally, recommendations included in the plan should ensure the end of ICE’s use of solitary confinement in immigration detention within one year of presentation of the plan to Congress and the public.

Percent in Solitary Confinement With Mental Illness





**Physicians for
Human Rights**

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Through evidence,
change is possible.



Shared in the 1997
Nobel Peace Prize