

Testimony of Dr. Katherine R. Peeler, MD, MA, FAAP  
Hearing before the  
Senate Committee on the Judiciary  
“Legacy of Harm: Eliminating the Abuse of Solitary Confinement”  
April 16, 2024

Chair Durbin, Ranking Member Graham, and members of the Committee:

Thank you for the opportunity to testify today. It is an honor to appear before you.

- I am here to testify about the health impacts of solitary confinement. In brief: solitary confinement, for any amount of time, causes severe and long-lasting mental and physical health harms.
- I am a lead investigator of a research team that studies solitary confinement’s use and effects in U.S. Immigration and Customs Enforcement (ICE) detention facilities. We have found widespread use, and misuse, of solitary confinement in ICE detention, high percentages of persons with pre-existing mental health conditions in solitary confinement, lack of appropriate medical care while in solitary confinement, acute and long-lasting negative health effects in those who were in ICE solitary confinement, and poor record-keeping of solitary confinement use.
- Overall, I will make the following points:
  - Solitary Confinement Beyond 15 Days Has Been Deemed Torture
  - Solitary Confinement Use is Widespread
  - Solitary Confinement is Detrimental to Health
  - Solitary Confinement is Used Indiscriminately, is Under-Reported, and thus Harms Many More than We Know
  - Alternatives to Solitary Confinement Exist
- The extreme negative health effects for solitary confinement have been known for hundreds of years, and we must urgently eliminate this practice completely in the United States.

## **About Me**

I am on the faculty of Harvard Medical School as an assistant professor of pediatrics, and am additionally a member of the HMS faculty of bioethics and faculty of global health and social medicine. For the last two years, I have been a fellow at the Edmond and Lily Center for Ethics at Harvard University. I am also a practicing board-certified pediatric critical care physician based in Boston.

For more than 20 years, I have volunteered with the non-profit organization, Physicians for Human Rights (PHR). I lead the Peeler Immigration Lab at Harvard Medical School. Our group studies immigration detention conditions in the U.S. as they pertain to the health of those detained. My testimony today is drawn from my medical training and expertise, research, and interviews with dozens of individuals who have endured solitary confinement. Specifically, two of my recent studies, along with background research on solitary confinement, have informed my views presented here: *Praying for Hand Soap and Masks: Health and Human Rights Violations in U.S. Immigration Detention During the COVID-19 Pandemic* (January 2021)<sup>1</sup> and “*Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention*” (February 2024).<sup>2</sup> Both studies included interviews of persons in ICE detention. Both studies found widespread use, and misuse, of solitary confinement.

## **Solitary Confinement Beyond 15 Days Has Been Deemed Torture**

Solitary confinement – frequently referred to as segregation, restricted housing, special management units, and other terms – is placement of an individual in an isolation cell roughly the size of a parking space for 22 hours or more a day with virtually no access to the outside world with limited natural light and minimal environmental stimulation or social interaction.<sup>3</sup>

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<sup>1</sup> Peeler KR, Uppal P, Lee C, Uppal N, Hampton K, Mishori R, Raker E. *Praying for Hand Soap and Masks: Health and Human Rights Violations in U.S. Immigration Detention During the COVID-19 Pandemic*. New York, NY: Physicians for Human Rights; 2021 Jan 12. Available at: <https://phr.org/our-work/resources/praying-for-hand-soap-and-masks/>; hereinafter *Praying for Hand Soap and Masks*

<sup>2</sup> Lee CH, Sadlak N, Benitez B, Chukka A, Caten-Raines F, Kim J, Medina E, Ardalan S, Torrey P, Avedian A, Wilson T, Peeler KR. “Endless Nightmare”: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention. New York, NY: Physicians for Human Rights; 2024 Feb 6. Available at: <https://phr.org/our-work/resources/endless-nightmare-solitary-confinement-in-us-immigration-detention/>; hereinafter *Endless Nightmare*

<sup>3</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 44 (2015); available at [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf)

Solitary confinement is widely misused and may lead to irreversible harm. Even the term “misused” is misleading. “Misused” implies that there *is* a proper use for solitary confinement. There is not. Rather, solitary confinement, for any amount of time, is dangerous to an individual’s health and well-being although longer durations are associated with worse outcomes.<sup>4</sup>

Prolonged solitary confinement, as defined by the United Nations, is a period of solitary confinement in excess of 15 days.<sup>5</sup> As noted in a National Commission on Correctional Health Care position statement, the UN Special Rapporteur “recommends a complete ban on prolonged or indefinite solitary confinement, citing 15 days as the starting point of prolonged solitary confinement because, after that, “some of the harmful psychological effects of isolation can become irreversible.”<sup>6</sup> The United Nations is clear about what this duration of solitary confinement constitutes: torture.<sup>7</sup>

### **Solitary Confinement Use is Widespread**

Our study, “*Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention*,” was a mixed-methods study combining data from litigated FOIA requests about solitary confinement in ICE and interviews with 26 persons previously detained by ICE who had experienced solitary confinement. We found that from 2018-2023, ICE placed people in solitary confinement more than 14,000 times with an average duration of 27 days.<sup>8</sup> As of March 24, 2024, U.S. Immigrations and Customs Enforcement (ICE) held 36,931 people in detention. Approximately 65% have no criminal record.<sup>9</sup> It is important to note that immigration detention, as part of a civil procedure, should be non-punitive.<sup>10</sup> Yet

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<sup>4</sup> Smith PS. The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature. *Crime and Justice*, Vol. 34, No. 1 (2006), pp. 441-528.

<sup>5</sup> “Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General,” United Nations General Assembly. 5 August 2011. Available at: <https://digitallibrary.un.org/record/710177?ln=en&v=pdf>

<sup>6</sup> <https://www.nchc.org/wp-content/uploads/Solitary-Confinement-Isolation.pdf>

<sup>7</sup> “Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General,” United Nations General Assembly. 5 August 2011. Available at: <https://digitallibrary.un.org/record/710177?ln=en&v=pdf>

<sup>8</sup> *Endless Nightmare*

<sup>9</sup> Transactional Records Access Clearinghouse. Immigration Detention Quick Facts. Available at : <https://trac.syr.edu/immigration/quickfacts/>

<sup>10</sup> See *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010) (“*We have long recognized that deportation is a particularly severe ‘penalty,’ but it is not, in a strict sense, a criminal sanction*”) and *Harisiades v. Shaughnessy*, 342 U.S. 580, 594 (1952) (“*Deportation, however severe its consequences, has been consistently a civil rather than a criminal procedure.*”).

ICE routinely places thousands of people in solitary confinement as a form of punishment and for a wide range of arbitrary and capricious reasons described below and in other reports.<sup>11</sup>

Studies in other settings have also found widespread use of solitary confinement: a 2023 study showed that 122,000 people were in solitary confinement in U.S. prisons and jails on a given day in 2019;<sup>12</sup> a separate survey of U.S. prisons showed that 41,000 people were in solitary confinement for 22 hours or more per day for at least 15 days or more in July 2021;<sup>13</sup> and most recently, a 2024 study showed that 8% of the Bureau of Prisons inmates are in solitary confinement.<sup>14</sup>

Combined, across the many U.S. carceral and immigration detention settings, **solitary confinement is clearly widespread. And we are committing torture at the durations that we are using it.**

### **Solitary Confinement is Detrimental to Health**

Our interview study subjects in *Endless Nightmare* described anxiety, depression, hallucinations, and paranoia while in solitary confinement<sup>15</sup> consistent with “solitary confinement syndrome” as described in other carceral settings.<sup>16,17</sup> Several of the key features of mental health disturbances created by solitary confinement include generalized hyperresponsivity to external stimuli, perceptual distortions, hallucinations, and derealization experiences, anxiety, panic attacks, difficulties with concentration and memory, paranoia, and impulsivity. Perhaps, most importantly, many of the acute features of this syndrome rapidly

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<sup>11</sup> Nick Schwellenbach, Mia Stienle et. al, “ISOLATED: ICE Confines Some Detainees with Mental Illness in Solitary for Months,” Project on Government Oversight, August 2019, <https://www.pogo.org/investigation/2019/08/isolated-ice-confines-some-detainees-with-mental-illness-in-solitary-for-months> ; Ian Urbina, “The Capricious Use of Solitary Confinement Against Detained Immigrants,” The Atlantic, Sep 6, 2019, <https://www.theatlantic.com/politics/archive/2019/09/ice-uses-solitary-confinement-among-detained-immigrants/597433/>

<sup>12</sup> CALCULATING TORTURE Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails, Solitary Watch and Unlock the Box Campaign, May 2023, available at: <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Report-May-2023-R2.pdf>

<sup>13</sup> Seeing Solitary, Liman Center at Yale Law School, 2023, available at: <https://seeingsolitary.limancenter.yale.edu/>

<sup>14</sup> United States Government Accountability Office. Report to Congressional Requesters: BUREAU OF PRISONS, Additional Actions Needed to Improve Restrictive Housing Practices. Feb 2024. Report No. GAO-24-105737. Available at: <https://www.gao.gov/products/gao-24-105737>

<sup>15</sup> *Endless Nightmare*

<sup>16</sup> Grassian S. Psychiatric Effects of Solitary Confinement, 22 WASH. U. J. L. & POL’Y 325 (2006), [https://openscholarship.wustl.edu/law\\_journal\\_law\\_policy/vol22/iss1/24](https://openscholarship.wustl.edu/law_journal_law_policy/vol22/iss1/24)

<sup>17</sup> Grassian S. Psychopathological effects of solitary confinement. Am J Psychiatry. 1983 Nov;140(11):1450-4. doi: 10.1176/ajp.140.11.1450. PMID: 6624990.

improve once the person is no longer confined, suggesting that **it is the confinement itself that causes the pathology**.<sup>18</sup>

Notably, more than 50% of those we interviewed required mental health care while in solitary confinement, and one third of that group had pre-existing mental health conditions prior to being placed in solitary confinement. One individual described a dissociative episode whereby he experienced a sense of detachment from his everyday experiences and actions. Another person described profound loneliness: “wanting to ‘scream and cry’ from not having visitors and not having anyone” with whom to speak.<sup>19</sup> The following additional quotes from our study participants are representative of emotions and symptoms experienced by many of our interviewees:

- “I ended up losing my mind for two weeks, even talking to myself. I thought about suicide. I still have those thoughts in Senegal.”
- “Anytime I heard the door, my heart would start beating faster, like I was having a panic attack.”
- “I still don’t like to be in confined spaces like a room or bathroom.”
- “Sometimes I feel like someone’s following me and I’m afraid they’ll take me to solitary confinement. Sometimes I’ll wake up and think that I’m in solitary confinement. I’ll have to look out of the window to remind myself I’m not there.”

These findings are all in line with decades of previously documented rigorous research in prisons, jails, and other settings about the negative health effects of solitary confinement including increased rates of self-harm, and suicidality.<sup>20,21,22</sup> The recent death while in ICE solitary confinement of Charles Leo Daniel, a severely mentally ill man who had spent almost

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<sup>18</sup> Grassian S. Psychiatric Effects of Solitary Confinement, 22 WASH. U. J. L. & POL’Y 325 (2006), [https://openscholarship.wustl.edu/law\\_journal\\_law\\_policy/vol22/iss1/24](https://openscholarship.wustl.edu/law_journal_law_policy/vol22/iss1/24)

<sup>19</sup> *Endless Nightmare*, p. 29

<sup>20</sup> Kaba F, Lewis A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, Venters H. Solitary confinement and risk of self-harm among jail inmates. *Am J Public Health*. 2014 Mar;104(3):442-7. doi: 10.2105/AJPH.2013.301742. PMID: 24521238; PMCID: PMC3953781.

<sup>21</sup> Wildeman C, Andersen LH. Solitary confinement placement and post-release mortality risk among formerly incarcerated individuals: a population-based study. *Lancet Public Health*. 2020 Feb;5(2):e107-e113. doi: 10.1016/S2468-2667(19)30271-3. Erratum in: *Lancet Public Health*. 2020 Jul;5(7):e374. PMID: 32032555.

<sup>22</sup> Haney C. Restricting the Use of Solitary Confinement. *Ann Rev Crim*. 2018 Jan;1:285-310.

four years in solitary confinement, is therefore both devastating and not surprising.<sup>23</sup> In the wake of Mr. Daniel's death, researchers in Washington showed that there have been at least six suicide attempts in the first few months of 2024 at the same ICE detention facility where Mr. Daniel died.<sup>24</sup> In line with this finding, the Department of Justice (DOJ) Office of the Inspector General (OIG) report just published in February 2024 revealed that 39% of inmates who died by homicide and **almost half of all deaths by suicide in federal Bureau of Prison custody (46%) take place in solitary confinement.**<sup>25</sup>

While many of the acute features listed above abate when the individual is no longer in solitary confinement, many other mental health disturbances continue long after the experience. Literature shows that persons who have experienced solitary confinement, in many different carceral settings, suffer from post-traumatic stress disorder, depression, and personality changes including increased general anger, fear, and difficulty with social interaction.<sup>26,27</sup>

Solitary confinement is also detrimental to one's physical health. Individuals in *Endless Nightmare* described frequent back pain both from the sleeping conditions (often a solid metal bed with a thin mattress) and inability to exercise and move around meaningfully. One person who spent an extended time with his hands in zip-ties has residual neuropathy with continued numbness and tingling in his wrists and hands. Other studies of the physical effects of those in solitary confinement in other settings have shown increased risks of hypertension, musculoskeletal pain, and headaches.<sup>28,29</sup>

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<sup>23</sup> Maurizio Guerrero, Death of a mentally ill migrant in solitary confinement lays bare ICE's cruelty and lack of accountability, April 1, 2024, available at: <https://prismreports.org/2024/04/01/ice-cruelty-kills-another-migrant-solitary-confinement/>

<sup>24</sup> Nina Shapiro, At least 6 suicide attempts at Tacoma ICE facility, 911 calls show, Seattle Times, April 10, 2024. Available at <https://www.seattletimes.com/seattle-news/law-justice/at-least-6-suicide-attempts-at-tacoma-ice-facility-911-calls-show/>

<sup>25</sup> U.S. Department of Justice Office of the Inspector General. "Evaluation of Issues Surrounding Inmate Deaths in Federal Bureau of Prisons Institutions." 15 Feb 2024. Report No. 24-041. Accessible at:

<https://oig.justice.gov/reports/evaluation-issues-surrounding-inmate-deaths-federal-bureau-prisons-institutions>

<sup>26</sup> Hinkle Le Jr, Wolff HG. The methods of interrogation and indoctrination used by the Communist state police. Bull N Y Acad Med. 1957 Sep;33(9):600-15. PMID: 13460563; PMCID: PMC1806200.

<sup>27</sup> Smith PS. The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature. Crime and Justice, Vol. 34, No. 1 (2006), pp. 441-528.

<sup>28</sup> Williams, B.A., Li, A., Ahalt, C. *et al.* The Cardiovascular Health Burdens of Solitary Confinement. *J GEN INTERN MED* **34**, 1977–1980 (2019). <https://doi.org/10.1007/s11606-019-05103-6>

<sup>29</sup> Gamman T. Uheldige helsemessige effekter av isolasjon. En klinisk studie av to grupper av varetektsinnsatte [Hazardous health effect of isolation. A clinical study of 2 groups of persons in custody]. Tidsskr Nor Laegeforen. 1995 Aug 10;115(18):2243-6. Norwegian. PMID: 7652720.

In addition to suffering negative health effects from being in solitary confinement, interview participants in *Endless Nightmare* described limited access to medical care. People who experienced chest pain, new onset leg swelling, high blood pressure, and head trauma waited up to a week before being seen by a medical professional. And while 57% of interviewees required mental health evaluation and/or treatment while in solitary confinement, 23% had to wait more than a month to be seen by a mental health provider, and another 23% reported *never* being seen by a mental health provider.<sup>30</sup>

### **Solitary Confinement is Used Indiscriminately, is Under-Reported, and thus Harms Many More than We Know**

Solitary confinement is used punitively, administratively, for protective reasons, as medical isolation, and as a form of retaliation. ICE’s 2013 Segregation Directive delineates two forms of “segregation:” administrative (i.e. non-punitive; typically for medical isolation or protective custody) and disciplinary and states that both are supposed to be used for the shortest durations possible and when no other alternatives exist.<sup>31</sup> A 2015 Memorandum stressed the additional protections needed for transgender persons in detention, echoing language in the 2013 Directive that transgender individuals should be placed in solitary confinement only “as a last resort and when no other temporary housing option exists” (p. 4).<sup>32</sup> In 2022, ICE issued yet another directive regarding the care and tracking of persons with serious mental health conditions in detention.<sup>33</sup>

So while it is clear that ICE has published strict guidelines for use of solitary confinement, this is incongruent with the actual numbers of who is being placed in solitary confinement, for what reasons, and through what processes. In *Endless Nightmare*, our FOIA data analysis showed that “in almost 30% of solitary confinement placements lasting over 90

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<sup>30</sup> *Endless Nightmare*

<sup>31</sup> U.S. Immigration and Customs Enforcement, 11065.1, “Review of the Use of Segregation for ICE detainees,” 2013, [https://www.dhs.gov/sites/default/files/publications/segregation\\_directive.pdf](https://www.dhs.gov/sites/default/files/publications/segregation_directive.pdf); hereinafter 2013 ICE Segregation Directive.

<sup>32</sup> ICE, Mem. from Thomas Homan, “Further Guidance Regarding the Care of Transgender Detainees” at 4, June 19, 2015, <https://www.ice.gov/sites/default/files/documents/Document/2015/TransgenderCareMemorandum.pdf>

<sup>33</sup> U.S. ICE, ICE Directive 11063.2, “Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who are Determined to Be Incompetent by an Immigration Judge,” April 5, 2022, <https://www.ice.gov/doclib/news/releases/2022/11063-2.pdf>

days and 25% of placements lasting over 365 days, the people placed in solitary confinement suffered from a mental health condition.”<sup>34</sup> Even more alarming, from 2019 to 2023, the percentage of persons placed in solitary confinement with mental health disorders grew from 35% to 56% despite the ICE Directives noted above.<sup>35</sup> Importantly, however, ICE only reported mental health status for 62 percent of the placements in the FOIA data we received, meaning we had *no information* on more than 5000 of the placements.<sup>36</sup>

On October 13, 2021, the Department of Homeland Security Office of Inspector General issued a report, *ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities*, the culmination of a multi-year audit of ICE’s use of solitary confinement at 156 ICE detention facilities across the country and, importantly, ICE’s reporting deficiencies and failures to comply with applicable detention standards.<sup>37</sup> The report identified numerous violations of ICE detention standards for segregation, including detained individuals held in solitary confinement for prolonged periods without appropriate documentation, improper and premature use of solitary confinement, and instances in which detained individuals were permitted little or no time outside their cells. Of the statistical sample of detention files the OIG reviewed, in 72% of the segregation cases there was *no evidence* in the file that ICE considered alternatives to solitary confinement as required by ICE policy.<sup>38</sup>

A recent report by GAO also revealed significant problems and undercounting with Segregation Review Management System (SRMS) data compared to data they obtained directly from the detention facilities. Specifically, GAO “found that ICE’s segregated housing data within ...SRMS did not identify all detained noncitizens from vulnerable populations, such as individuals with mental health conditions or who identify as Lesbian, Gay, Bisexual, Transgender, or Intersex.”<sup>39</sup>

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<sup>34</sup> *Endless Nightmare*, p. 14

<sup>35</sup> *Endless Nightmare*

<sup>36</sup> *Endless Nightmare*; Ardalan, Sabi; Avedian, Arevik; Torrey, Phil, 2024, "Replication data and analysis for “Endless Nightmare” Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention”, <https://doi.org/10.7910/DVN/AT7YFA>, Harvard Dataverse, V2.

<sup>37</sup> DHS Office of Inspector General (OIG), “ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities,” (October 13, 2021), available at <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf> (hereinafter “OIG Report”).

<sup>38</sup> OIG Report, page 5.

<sup>39</sup> Immigration Detention: Actions Needed to Collect Consistent Information for Segregated Housing Oversight, GAO-23-105366, Published: Oct 26, 2022. Publicly Released: Oct 26, 2022.



### *The Threshold to Use Disciplinary Segregation in ICE is Incredibly Low*

Despite ICE’s own guidance of using disciplinary solitary confinement for “serious misconduct in violation of a facility rule,”<sup>40</sup> both the FOIA data and our interviews with formerly detained persons exposed that this is not how solitary confinement is being used. Our review of the FOIA data showed that “an immigrant was placed in solitary confinement for 29 days for ‘using profanity,’ two immigrants were placed in solitary confinement for 30 days because of a ‘consensual kiss,’ [and] an immigrant was placed in solitary confinement for 38 days because they ‘refused to get out of bunk during count.’”<sup>41</sup>

Notably, of the 26 individuals we interviewed, only 44% of those placed into disciplinary segregation received a hearing, despite ICE’s policies stating that it is a detained person’s right to have one.<sup>42</sup> In fact, one study participant told us that he was intimidated into forgoing hearings and plead guilty to the charges. Specifically, he was told that if he chose to have a hearing, “they would often double the punishment or the time. So instead of 10 days, suddenly you would get 20–30 days.”<sup>43</sup>

### *Retaliatory Use of Solitary Confinement is Common*

Retaliatory use of solitary confinement is commonly reported. In our study of ICE detention conditions during the pandemic, almost 15% of people reported being placed in solitary confinement after reporting or protesting about issues related to COVID-19.<sup>44</sup> As one individual recalled: “One person who was Mexican and transgender helped me and they punished her and put her in ‘the hole’ ... for like two weeks for helping me write to the news. I was very scared that the same thing was going to happen to me.”<sup>45</sup> We heard numerous similar stories in *Endless Nightmare* as well.

### *LGBTQ Persons are Disproportionately Represented in ICE Solitary Confinement*

Protective custody is also frequently invoked as a reason to place an individual into solitary confinement. Of the 62 individuals identified as in “Protective Custody: Lesbian, Gay,

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<sup>40</sup> 2013 ICE Segregation Directive

<sup>41</sup> *Endless Nightmare*, p. 16

<sup>42</sup> *Endless Nightmare*

<sup>43</sup> *Endless Nightmare*, p. 20

<sup>44</sup> *Praying for Hand Soap and Masks*

<sup>45</sup> *Praying for Hand Soap and Masks*, p. 31

Bisexual, Transgender (LGBT)” from our FOIA data of our *Endless Nightmare* study, the average time in solitary confinement was 57 days (median 34 days, maximum 286 days) – *double* the average length of solitary confinement for all-comers.<sup>46</sup>

### *Medical Isolation and Solitary Confinement Are Not Interchangeable*

Finally, in both of our studies of persons detained by ICE, study participants described being placed in solitary confinement as a means of medical isolation (ex. for COVID or other infectious diseases or when experiencing an exacerbation of a mental health condition). While one of the uses of administrative solitary confinement, as defined by ICE, is for medical isolation, this is only supposed to be if no other options exist to safely isolate the person.<sup>47</sup> Many of my patients in the intensive care unit are on “infectious precautions,” functionally isolated from the rest of the unit to not spread infection to other patients or hospital staff. However, this does not look like solitary confinement. The room is a standard hospital room, perhaps with a specialized ventilation system depending on the infection, with windows both to the outside world and the rest of the unit. Staff routinely come in and out of the room, with gowns, masks, and gloves on as appropriate, interacting meaningfully with the patient. The patient has access to normal selection and amount of food, access to telephones, TV, and other materials to communicate and pass one’s time. The furniture is normal hospital furniture. As much as possible, we try to normalize the environment of the isolated patient, in attempts to minimize the negative mental health effects that we know occur from isolating someone. Conflating medical isolation and solitary confinement is inappropriate, dangerous, and inhumane.<sup>48,49</sup>

### **Alternatives to Solitary Confinement Exist**

Several carceral settings have undertaken programs to implement and study alternatives to solitary confinement, used both administratively and for disciplinary reasons. The North Dakota Department of Corrections and Rehabilitation, in collaboration with clinicians at UCSF

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<sup>46</sup> *Endless Nightmare*, p. 16

<sup>47</sup> 2013 ICE Segregation Directive

<sup>48</sup> Cloud DH, Ahalt C, Augustine D, Sears D, Williams B. Medical Isolation and Solitary Confinement: Balancing Health and Humanity in US Jails and Prisons During COVID-19. *J Gen Intern Med.* 2020 Sep;35(9):2738-2742. doi: 10.1007/s11606-020-05968-y. Epub 2020 Jul 6. PMID: 32632787; PMCID: PMC7338113.

<sup>49</sup> Samara Fox, Ellen Gallagher, and J. Wesley Boyd. When the treatment is torture: ICE must stop using solitary confinement for Covid-19 quarantine. *STAT*, Aug 7, 2020. Available at: <https://www.statnews.com/2020/08/07/ice-must-stop-using-solitary-confinement-for-covid-19-quarantine/>

and UC Santa Cruz, immersed correctional officials in a rigorous training program as guided by the Norwegian Correctional Service.<sup>50</sup> Combined better discretion about who *might* need solitary confinement with specific techniques to assist someone who might need de-escalation or protection, this program resulted in an almost 75% decrease in the use of solitary confinement between 2016-2020. Additionally, “in the two prisons that had solitary confinement units, rule infractions involving violence decreased at one prison overall and it decreased within the units at both prisons that were previously used for solitary confinement... [and] both incarcerated persons and staff members reported improvements in their health and well-being, enhanced interactions with one another, and less exposure to violence following the reforms.”<sup>51</sup> This program has been expanded to Oregon and other areas are additionally considering following suit given the promising results.<sup>52,53</sup>

Clinical alternative programs to solitary confinement have been implemented with great success in New York City,<sup>54</sup> New York State,<sup>55</sup> and San Francisco.<sup>56</sup>

## **Recommendations**

- Pass legislation to completely end solitary confinement in all settings.
- While working to phase out solitary confinement completely, legislation should immediately end all forms of solitary confinement greater than 4 hours (concurrently recognizing that solitary confinement starts at minute 1, not hour 22).

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<sup>50</sup> Cloud DH, Augustine D, Ahalt C, Haney C, Peterson L, Braun C, Williams B. "We just needed to open the door": a case study of the quest to end solitary confinement in North Dakota. *Health Justice*. 2021 Oct 18;9(1):28. doi: 10.1186/s40352-021-00155-5. Erratum in: *Health Justice*. 2021 Nov 9;9(1):29. PMID: 34664150; PMCID: PMC8522549.

<sup>51</sup> Cloud, et al, page 1

<sup>52</sup> Cloud DH, Haney C, Augustine D, Ahalt C, Williams B. The resource team: A case study of a solitary confinement reform in Oregon. *PLoS One*. 2023 Jul 26;18(7):e0288187. doi: 10.1371/journal.pone.0288187. PMID: 37494407; PMCID: PMC10370690.

<sup>53</sup> Amend: Changing Correctional Culture: <https://amend.us/>

<sup>54</sup> Glowa-Kollisch S, Kaba F, Waters A, Leung YJ, Ford E, Venters H. From Punishment to Treatment: The "Clinical Alternative to Punitive Segregation" (CAPS) Program in New York City Jails. *Int J Environ Res Public Health*. 2016 Feb 2;13(2):182. doi: 10.3390/ijerph13020182. PMID: 26848667; PMCID: PMC4772202.

<sup>55</sup> Wright, J. These programs work better than solitary confinement. *Times Union*, Jan 20, 2020. Available at: <https://www.timesunion.com/opinion/article/Commentary-These-programs-work-better-than-14990190.php>

<sup>56</sup> James Gilligan, Bandy Lee, The Resolve to Stop the Violence Project: transforming an in-house culture of violence through a jail-based programme, *Journal of Public Health*, Volume 27, Issue 2, June 2005, Pages 149–155, <https://doi.org/10.1093/pubmed/fdi018>

- Re-allocate funding within carceral and detention systems to proven alternatives to solitary confinement to allow persons to be appropriately separated from the general population if needed but with a focus on assisting the underlying issue necessitating separation in a humane and productive manner.
- Legislation must also address drastically improved tracking and record-keeping systems regarding solitary confinement use in all carceral settings.

## **Conclusion**

This is not new information. There is robust medical literature and previous testimonies before Congressional committees about the severely detrimental effects that solitary confinement has on health.<sup>57,58</sup> In fact, the United States Supreme Court recognized the mental health effects of solitary confinement in its ruling for *In re Medley* 134 years ago (which was citing information from 1703 and 1787, i.e. more than *two centuries* ago):

This matter of solitary confinement is not . . . a mere unimportant regulation as to the safe-keeping of the prisoner . . . . . [E]xperience [with the penitentiary system of solitary confinement] demonstrated that there were serious objections to it. A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.<sup>59</sup>

Solitary confinement unquestionably leads to severely detrimental health effects. What's more, sensible alternatives exist. I urge you to pass legislation eliminating solitary confinement

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<sup>57</sup> Press Release: Durbin Chairs First-Ever Congressional Hearing On Solitary Confinement, Jun 19, 2012, <https://www.durbin.senate.gov/newsroom/press-releases/durbin-chairs-first-ever-congressional-hearing-on-solitary-confinement>

<sup>58</sup> Testimony of Piper Kerman Hearing before the Senate Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights “Reassessing Solitary Confinement II: The Human Rights, Fiscal, and Public Safety Consequences” Tuesday, February 25, 2014, available at: <https://www.judiciary.senate.gov/imo/media/doc/02-25-14KermanTestimony.pdf>

<sup>59</sup> Library of Congress. U.S. Reports: Medley, Petitioner, 134 U.S. 160 (1890). Available at: <https://tile.loc.gov/storage-services/service/ll/usrep/usrep134/usrep134160/usrep134160.pdf>

completely, and until then, limiting the total use and duration of solitary confinement in all carceral and detention settings in the United States.

You have the power to do something about this. It is the right thing to do.

Thank you.