



Transgender Law Center

Submission to the United Nations Independent Expert on Sexual Orientation and Gender Identity

Black Diaspora Liberty Initiative, Black LGBTQIA+ Migrant Project, Immigration Equality, Robert F. Kennedy Human Rights, Rocky Mountain Immigrant Advocacy Network, Sanctuary New Orleans Abolition Project, Transgender Law Center

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Introduction

We write the Independent Expert on the protection against violence and discrimination based on sexual orientation and gender identity to respond to his question: What forms of violence, discrimination, prejudicial treatment or other human rights violations do LGBTQ+ forcibly displaced persons experience during transit or upon arrival in host countries? With this submission, we explain how the United States violates the human rights of forcibly displaced LGBTQ+ people in immigration detention centers.

Violations of human rights in U.S. immigration detention centers are systemic, targeting up to [40,000](#) people a day held in the legal custody of the U.S. federal agency, Immigration and Customs Enforcement (“ICE”).¹ These violations are also driven in part by a money-seeking motive: [over 90%](#) of people in ICE detention centers are held in for-profit, private prisons that are incentivized to cut costs through substandard conditions of confinement in order to maximize profit from over \$3 billion in government contracts to detain non-citizens pending civil immigration proceedings.²

Inside these detention centers, forcibly displaced LGBTQ+ people endure horrific

¹ National Immigrant Justice Center, *Snapshot: ICE Detention—Inhumane Conditions and Alarming Expansion*, (Sept. 2023) (documenting systemic human rights violations in U.S. immigration detention, including inadequate medical care, punitive solitary confinement, and Congress-approved funding for ICE to detain an average daily population of 41,500 people in fiscal year 2024, an increase of \$150 million from the prior year).

² Eunice Hyunhye Cho, *Unchecked Growth: Private Prison Corporations and Immigration Detention, Three Years Into the Biden Administration* (Aug. 7, 2023) (analyzing the increasing reliance on private prison companies for immigration detention under the Biden administration).

mistreatment—sometimes with [deadly consequences](#).³ [Retaliation](#) from prison officials for speaking out against abuse is common.⁴ Harm is [compounded](#) for LGBTQ+ people with other marginalized identities, including racial, ethnic, and religious minorities and those with disabilities, that make them targets for abuse.⁵ These abuses exacerbate trauma from experiences of anti-LGBTQ+ persecution in countries of origin and transit, subjecting forcibly displaced people to the same harm they sought to escape.

Below we describe in detail how the U.S. government wields solitary confinement, sexual abuse and harassment, and denial of medical care against forcibly displaced LGBTQ+ people in immigration detention centers.

Solitary Confinement

Forcibly displaced LGBTQ+ people are [routinely subjected](#) to the torture of solitary confinement in U.S. immigration detention, causing severe physical, mental, and emotional harm.⁶ Officials justify the use of solitary confinement against LGBTQ+ people as a perverse form of “protection” from discrimination and violence that they are unable or unwilling to control in general population settings.⁷ In particular, transgender people are disproportionately locked in solitary confinement, often as punishment for requesting medical and mental health treatment.⁸

Official U.S. policy states that solitary confinement is to be used as a measure of last resort only. A 2013 ICE [directive](#) on the use of segregation⁹ and a 2015 ICE policy [memorandum](#) on care for transgender people¹⁰ purport to restrict solitary confinement, especially for those [vulnerable](#) to

³ Letter to Dep’t of Homeland Security from Center for Victims of Torture et al., *Re: The Abuse of Transgender and HIV-Positive People in Detention* (June 16, 2021) (documenting medically preventable deaths from HIV-related complications of LGBTQ+ people in U.S. immigration detention).

⁴ ACLU of New Mexico, Las Americas Immigrant Advocacy Center, and Santa Fe Dreamers Project, *Detention Conditions Impacting the Safety and Well-Being of LGBTQ Immigrants in the Otero County Processing Center*, at 2 (Mar. 25, 2019) [“ACLU of New Mexico”] (documenting retaliation against LGBTQ+ detained people in Otero County Processing Center in New Mexico, including more solitary confinement, threats from guards, and housing reassignments that heighten the risk of sexual abuse of transgender women and gay men).

⁵ Ari Shaw & Namrata Verghese, *LGBTQI+ Refugees and Asylum Seekers: A Review of Research and Data Needs*, at 26 (showing that Black lesbians are less likely than white lesbians to obtain asylum often because they do not fit the “white woman” victim archetype and their suffering is downplayed due to stereotypes about their countries of origin).

⁶ PHR et al., “*Endless Nightmare*”: *Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention*, at 6-8 (Feb. 2024) [“PHR”] (documenting the routine and punitive use of solitary confinement in ICE detention and its harmful effects, including post-traumatic stress disorder, increased risks of self-harm and suicide, lasting brain damage, hallucinations, confusion, heart palpitations, disrupted sleep, and reduced cognitive function).

⁷ *Id.* at 16.

⁸ *Id.* at 16.

⁹ U.S. Immigration and Customs Enforcement, *Review of the Use of Segregation for ICE Detainees*, at 2 (Sep. 2013) (establishing ICE policy on the use of segregation in immigration detention, outlining procedural safeguards and emphasizing that administrative placement in segregation should be a last resort).

¹⁰ ICE, Mem. from Thomas Homan, *Further Guidance Regarding the Care of Transgender Detainees*, at 4 (June 19, 2015) (providing policy directives for the treatment of transgender people in ICE detention, including housing placements, access to hormone therapy, and protection against discrimination and abuse).

serious abuse in immigration detention, like transgender and HIV-positive people.¹¹ Yet ample testimony and data make it clear that these protections are not enforced.¹²

A 2024 [report](#) on human rights abuses in detention centers in Louisiana, the U.S. state with the second-largest population of detained immigrants, shows how solitary confinement is misused under the pretense of protecting forcibly displaced LGBTQ+ people from violence and discrimination in the general detained population.¹³ This so-called protection puts LGBTQ+ people at even greater risk of physical and psychological harm. Examples include:

- A transgender woman at the Central Louisiana ICE Processing Center reported that solitary confinement is often the only option offered to LGBTQ+ detainees who seek protection from threats.¹⁴
- A Russian LGBTQ+ man at the Winn Correctional Center in Louisiana was locked in solitary confinement for three weeks, supposedly for his safety. Yet during that time, he was punished with denial of access to the law library and only permitted to call his family twice~~[[OBJ]]~~.¹⁵

U.S. officials target transgender people for particularly harsh applications of solitary confinement. Data from the third quarter of 2023 shows a [114% increase](#) nationally in placements of transgender people in solitary confinement relative to the previous quarter.¹⁶ On average, transgender people spent [57 days in isolation](#), with some held for as long as 286 days, far surpassing the UN Special Rapporteur on Torture’s 15-day threshold for defining solitary confinement as torture~~[[OBJ]]~~.¹⁷ Examples include:

- At the [Aurora Contract Detention Facility](#) in Colorado, transgender and nonbinary people, particularly those with disabilities, are placed in solitary confinement in lieu of medical and psychological support, worsening their mental and physical health.¹⁸ One person recounted how officers “told me solitary kept me safe and helped me, but it was only ever a punishment I have tried to kill myself three times already because of this endless nightmare and the consistent torture of solitary confinement.”¹⁹

¹¹ U.S. Immigration and Customs Enforcement, *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* (Apr. 5, 2022) (outlining procedures for providing care for detainees with serious mental health conditions and establishing safe release planning).

¹² See, e.g. PHR, *supra* note 6 (providing testimony from detained people highlighting how ICE routinely ignores its own policy and directives, which leads to prolonged solitary confinement and mistreatment of vulnerable detainees).

¹³ Robert F. Kennedy Human Rights et al., *Inside the Black Hole: Systemic Human Rights Abuses Against Immigrants Detained* (Aug. 2024) [*“Inside the Black Hole”*] (recounting firsthand accounts of abuse in Louisiana ICE detention facilities, including prolonged solitary confinement, denial of medical care, and physical and psychological mistreatment of LGBTQ+ detainees).

¹⁴ *Id.* at 58.

¹⁵ *Id.* at 58.

¹⁶ PHR, *supra* note 6, at 16.

¹⁷ *Id.* at 16.

¹⁸ RMIAN, National Immigration Project, American Immigration Council, *Complaint Underscoring Why People Who are Transgender and Nonbinary Should Not Be Detained in Civil Immigration Detention*, at 4 (Apr. 9, 2024) [*“RMIAN”*] (documenting violations of the Rehabilitation Act of 1973 and systemic abuses faced by transgender and nonbinary people).

¹⁹ PHR., *supra* note 6, at 17.

- In the [Houston Contract Detention Facility](#) in Texas, transgender people are “disproportionately subjected to security measures typically used for . . . aggressive behavior, such as ‘lock-down in their cells[,] use of cuffs for movement within the facility [and] inability to attend groups available to general population inmates.’”²⁰

Solitary confinement is also used as a weapon of control and punishment against transgender people for seeking medical and mental health care. Examples include:

- [Karina](#), a transgender woman housed in a male unit in a Nevada detention center, was sexually assaulted while showering. After the assault, she was taken to a hospital “to see if she was really raped,” where the male immigration officer “who brought her to the hospital remained present during the medical examination and she was forced to undress in front of him.” Subsequently, she experienced a mental health crisis and was punished with solitary confinement.²¹
- [Elsa](#) was threatened with solitary confinement by ICE medical staff at the Aurora Contract Detention Facility in Colorado during a mental health episode in which she attempted to calm herself by making a bracelet. Overwhelmed by her mistreatment, she self-harmed.²²
- [Omar](#), a nonbinary and transgender person, felt compelled to refuse gender affirming medical care at the Aurora Contract Detention Facility in Colorado because asking for it meant risking placement in solitary confinement under the pretense of “protective custody.” When Omar first arrived at the facility, they sought housing with other transgender people; however, officers “told them that they had to have a ‘boy part’ . . . to be assigned to that housing unit.”²³

Sexual Violence and Harassment

Forcibly displaced LGBTQ+ people face alarming rates of sexual violence and harassment in immigration detention, much of it perpetrated from guards and staff. Sexual and physical assault, threats of violence, and derogatory language are well documented throughout the country, indicating a systemic failure to uphold legal protections for LGBTQ+ people.

According to a [June 2024 report](#), 18 out of 41 surveyed LGBTQ+ people were sexually abused, assaulted, or harassed in immigration detention.²⁴ In many assaults, authorities failed to step in—or worse, punished victims instead of holding perpetrators accountable. For example:

- [Leona](#), a transgender woman detained in a Florida ICE facility’s male unit, was locked into a cell with a man who sexually harassed and abused her repeatedly and

²⁰ PHR, *supra* note 6, at 16.

²¹ Immigration Equality, National Immigrant Justice Center, and Human Rights First, “*No Human Being Should Be Held There*”: *The Mistreatment of LGBTQ and HIV-Positive People in U.S. Federal Immigration Jails*, at 19 (June 2024) [“*No Human Being Should Be Held There*”] (recounting firsthand stories of LGBTQ and HIV-positive individuals in U.S. immigration detention, detailing their experiences with sexual violence, prolonged solitary confinement, and medical neglect).

²² RMIAN, *supra* note 18, at 10.

²³ *Id.* at 10.

²⁴ *No Human Being Should Be Held There*, *supra* note 21, at 8.

attempted to rape her.²⁵ Later, she was diagnosed with depression and experienced frequent emotional breakdowns, left untreated by the facility’s psychologist.²⁶

Harassment is a near-universal experience for LGBTQ+ people in detention, with [35 out of 41 survey participants](#) reporting verbal or non-verbal abuse and 29 out of 41 reporting staff as the source of abuse.²⁷ Abuses included derogatory slurs directed at people’s gender, sexual orientation, race, and nationality and threats of sexual violence.²⁸

Transgender people, in particular, face harassment and unsafe housing assignments. Examples include:

- [Elisa](#), a transgender woman detained in a male unit in a detention center in Arizona, reported that while she showered men watched her and threatened to sexually assault her, with comments like, “I want to suck your breasts.”²⁹ At another Arizona facility, Elisa reported harassment in the shower. Officers locked her in solitary confinement rather than disciplining the men who had threatened her.³⁰
- [Kiana](#), a transgender woman, described how men leered at her in communal showers and made degrading comments about her body: “The showers were a huge issue because the men shower all together and the dividers between the shower stalls [only] go up to the waist, so everyone can see each other’s chests. But I have breasts, and I couldn’t take my bra off. I was so uncomfortable and men were standing everywhere and staring at me and making comments about me having breasts.”³¹
- [Isabel](#), a transgender woman detained in the men’s dorm at the Aurora Contract Detention Facility in Colorado, has been repeatedly groped and harassed by both male detainees and guards. Despite reporting the abuse, ICE and GEO Group, Inc. (“GEO”)—the largest private prison company in the U.S. that owns and operates the Aurora Facility—have failed to effectively respond to her complaints. Guards even removed a privacy sheet meant to shield her while using the bathroom, exposing her to the male dorm. As Isabel explains, “People at Aurora Facility—both male detainees and guards—sometimes think it is their right to harass and grope me. I think it is easy for them to target me because I am a transgender woman and they know I will not be able to defend myself.”³²

²⁵ *Id.* at 18.

²⁶ *Id.* at 24.

²⁷ *Id.* at 19.

²⁸ *Id.* at 19.

²⁹ *Id.* at 20.

³⁰ *Id.* at 20.

³¹ *Id.* at 21.

³² American Immigration Council & American Immigration Lawyers Association, *Supplement—Failure to Provide Adequate Medical and Mental Health Care to Individuals Detained in the Denver Contract Detention Facility*, at 7 (June 11, 2019) (supplementing a complaint to the Department of Homeland Security, documenting systemic medical neglect and mistreatment, including the denial of hormone therapy to transgender women, inadequate mental health treatment, and ICE’s failure to respond to reports of abuse and harassment).

Even those detained in a designated “trans pod” (a segregated housing unit for transgender people) at the Aurora Contract Detention Facility in Colorado experience continued harassment from guards.³³ For example:

- [Charlotte](#), a transgender woman, has been mocked by a female guard at Aurora who confiscated her toothbrush and toothpaste and replaced them with menstrual pads and tampons, saying, “If you were real women, you would need these.”³⁴

Systemic failure to prevent or respond to these abuses makes it clear that the mistreatment of LGBTQ+ people in U.S. immigration detention is not just ignored; it is permitted.

Denial of Medical Care

Forcibly displaced LGBTQ+ people are [routinely denied](#) adequate medical care in U.S. immigration detention, leading to serious mental health and medical conditions and medically preventable deaths.³⁵ For example:

- [Roxsana Hernández](#), a transgender woman, died at the Cibola County Correctional Center in New Mexico, under ICE custody.³⁶ A government autopsy found that she had suffered from severe [dehydration from increased vomiting and diarrhea, septic shock, anemia, and HIV-related complications](#) that were left unattended.³⁷ An [independent autopsy](#) revealed deep bruising, indicating physical abuse prior to her death, and concluded that her death was entirely preventable.³⁸
- [Johana Medina León](#), a transgender woman and former nurse, died of pneumonia after officers at the Otero County Processing Center in Texas denied her repeated requests for IV fluids and for water, sugar, and salt so she could make her own IV.³⁹

Denial of medical care for LGBTQ+ people, including HIV treatment, commonly occurs in U.S. immigration detention. Out of 41 detained LGBTQ+ people surveyed, 28 reported denial of requested medical care, while 13 out of 17 people living with HIV reported outright denial of HIV treatment or weeks-long delays in medication and treatment.⁴⁰ Other examples of delays and denials of treatment for serious medical concerns include:

³³ RMIAN, *supra* note 18, at 16.

³⁴ *Id.* at 17.

³⁵ Center for Victims of Torture et. al, *The Abuse of Transgender and HIV-Positive People in Detention* (June 16, 2021) (urging immediate release of transgender and HIV-positive detained people due to medical neglect, prolonged solitary confinement, and sexual violence against them).

³⁶ Xoai Pham, *Death of trans woman in ICE detention highlights need for action* (May 29, 2018) (reporting on the death of Roxsana Hernández who died in ICE custody due to medical neglect).

³⁷ *Id.*; U.S. Immigration and Customs Enforcement (ICE), *Detainee Death Report: HERNANDEZ, Jeffrey (aka HERNANDEZ, Roxana)* (providing a detailed account of Roxsana Hernández’s medical history, treatment, and circumstances leading to her death in ICE custody).

³⁸ Xoai Pham, *Justice for Roxsana: Announcing Legal Action To Hold Government Accountable for Transgender Asylum-Seeker’s Death* (Nov. 26, 2018) (announcing the filing of a wrongful death tort claim on behalf of Roxsana Hernández).

³⁹ Sam Levin, *Trans woman who died after illness in US custody had asked to be deported, family says* (June 12, 2019) (reporting on the death of Johana Medina León, a transgender asylum seeker who fell critically ill after being detained by ICE).

⁴⁰ *No Human Being Should Be Held There*, *supra* note 21, at 8, 22-24.

- [Zora](#), a transgender woman held in a Georgia immigration detention center, suffered persistent pain, mobility difficulties, severe swelling, fingernail discoloration, and loss of sensation from a burst breast implant. Only when she developed a high fever that caused sweating and shaking was she brought to medical staff, who “didn’t even want to touch me because they didn’t know my symptoms.”⁴¹
- [Fidel](#), a gay man, experienced rectal bleeding for two weeks and filed multiple requests for care that were ignored.⁴²

Detained transgender people also face inconsistent and inadequate access to treatment for gender dysphoria, increasing risk of [suicide](#).⁴³ Examples include:

- A transgender person suffering physical and psychological distress at the [South Louisiana Ice Processing Center](#) after being cut off from access to gender-affirming medical care.⁴⁴
- Chronic denials of medical care at the transgender housing unit in Cibola County Correctional Center in New Mexico, where scheduled leave of the sole [physician](#) trained in transgender-specific healthcare created a dangerous gap in medical access.⁴⁵

Conclusion & Recommendations

Given the systemic abuse of solitary confinement, violence and harassment, and denial of medical care that LGBTQ+ people suffer in U.S. immigration detention, immediate release and a moratorium on new detentions is the only viable solution to ensure their safety, dignity, and fundamental human rights.

Though abuse of LGBTQ+ people in immigration detention is a longstanding issue, a January 2025 executive order by U.S. President Donald Trump could increase danger in immigration detention for transgender people specifically. Bad faith interpretation of the [order](#) could lead to such sweeping results as prohibiting federal agencies from adopting policies and regulations related to gender identity, banning the use of federal funds for gender-affirming medical care, and eliminating anti-discrimination protections based on gender identity across all federal systems, encouraging impunity for systemic discrimination and mistreatment of LGBTQ+ detained people.⁴⁶ If adopted, these policies could increase the risk of [suicidality](#) and other serious mental and physical harm to transgender detained people.⁴⁷

The U.S. government’s systemic abuse of LGBTQ+ people in immigration detention

⁴¹ *Id.* at 23.

⁴² *Id.* at 23.

⁴³ ACLU of New Mexico, *supra* note 4, at 3; *No Human Being Should Be Held There*, *supra* note 21, at 25.

⁴⁴ *Inside the Black Hole*, *supra* note 13, at 78.

⁴⁵ Deputy Officer for Programs and Compliance, CRCL, *Memorandum to: Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement*, at 5 (Mar. 5, 2020) (investigating civil rights violations at Cibola County Correctional Center, including medical neglect, unsafe conditions, systemic mistreatment of transgender detainees, and providing recommendations for reform).

⁴⁶ White House Executive Order, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* (Jan. 20, 2025).

⁴⁷ *No Human Being Should Be Held There*, *supra* note 21, at 25.

violates both domestic and international legal standards. Domestically, these abuses contravene the Prison Rape Elimination Act,⁴⁸ the [Performance-Based National Detention Standards](#),⁴⁹ and the equal protection, due process, and freedom of expression rights enshrined in the U.S. Constitution.⁵⁰ Internationally, these actions violate Article 14 of the [Universal Declaration of Human Rights](#),⁵¹ the [1951 Refugee Convention](#) and its [1967 Protocol](#),⁵² and the [UNHCR Guidelines on International Protection No. 9](#).⁵³ Additionally, ICE's use of prolonged solitary confinement of LGBTQ+ people in detention violates a *jus cogens norm* of prohibition against torture⁵⁴ and Articles 9 and 10 of the [International Covenant on Civil and Political Rights](#).⁵⁵

We therefore respectfully request that the Independent Expert take the following actions::

1. In his forthcoming thematic report to the 59th session of the United Nations Human Rights Council, identify and condemn human rights abuses perpetrated against forcibly displaced LGBTQ+ people in United States immigration detention.
2. Release a public statement and press release calling for:
 - a. the immediate release of LGBTQ+ people from immigration detention and a moratorium on further detention of LGTQ+ people pending immigration proceedings
 - b. the passage of local and state legislation that would protect forcibly displaced LGBTQ+ people from abuses in immigration detention, including pending legislative proposals in New York state such as:
 - i. New York for All Act (S987/A5686), which would prohibit state resources from being used for federal immigration enforcement, restrict sharing sensitive information with federal immigration agencies and require judicial warrants for immigration police access to non-public areas
 - ii. Dignity Not Detention Act (S316/A4354), which would end and ban immigration detention contracts with local jails
 - iii. Access to Representation Act (S141/A270), which would establish the first state right to legal counsel for immigrants, and
 - iv. Clemency Justice Act (S394/A403), which would introduce transparency in the gubernatorial pardon and clemency process
3. Send a communication to raise concerns about human rights abuses of forcibly displaced LGBTQ+ people to the governor of Colorado, location of transgender-specific housing pods at the Aurora Detention Center, and to the five U.S. states

⁴⁸ Prison Rape Elimination Act of 2003, 34 U.S.C. §§ 30301–30309 (2018).

⁴⁹ U.S. Immigration and Custom Enforcement, *Performance-Based National Detention Standards* (2016) (establishing guidelines to ensure safe, secure, and humane conditions for detainees).

⁵⁰ U.S. CONST. amend. I, V, and XIV, §1.

⁵¹ Universal Declaration of Human Rights, art. 14 (Dec. 10, 1948).

⁵² Convention Relating to the Status of Refugees (July 28, 1951); Protocol Relating to the Status of Refugees (Dec. 16, 1966).

⁵³ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (Oct. 23, 2012).

⁵⁴ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 10, 1984).

⁵⁵ International Covenant on Civil and Political Rights, art. 9 and 10 (Dec. 16, 1966).

with the largest immigration detention populations: Texas, Louisiana, California, Georgia, and Arizona.

Thank you for your attention to this important matter.

Sincerely,

Black Diaspora Liberty Initiative (BDLI)

Black LGBTQIA+ Migrant Project (BLMP)

Immigration Equality

Robert F. Kennedy Human Rights

Rocky Mountain Immigrant Advocacy Network (RMIAN)

Sanctuary New Orleans Abolition Project

Transgender Law Center