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**RE: Request for Thematic Hearing During the 187th
Period of Sessions of the Inter-American Commission on
Human Rights Addressing Solitary Confinement in the
United States.**

Dear Honorable Commissioners:

In accordance with Article 64 of the Rules of Procedure for the Inter-American Commission on Human Rights, the representatives of the undersigned organizations write to respectfully request a thematic hearing concerning the tortuous use of solitary confinement in the United States at the upcoming 187th Period of Sessions of the commission from July 10-21, 2023. The Commission last considered this abusive practice ten years ago during a Thematic Hearing on Solitary Confinement in the Americas in March 2013.¹ At the conclusion of that hearing, the Commission stated that “the OAS Member States must adopt strong, concrete measures to eliminate the use of prolonged or indefinite isolation under all circumstances. Additionally, international human rights law establishes as a standard that the use of solitary confinement should be absolutely prohibited in the following circumstances: for children under the age of 18, for persons with mental disabilities, and for death row and life-sentenced prisoners by virtue of their sentence.”² Since then, between 2009 and 2022,

¹ Press Release, Inter-American Commission on Human Rights, *Annex to the Press Release at the Close of the 147th Session* (Apr. 5, 2013), https://www.oas.org/en/iachr/media_center/PReleases/2013/023A.asp

² Press Release, Inter-American Commission on Human Rights, *IACHR Expresses Concern over Excessive Use of Solitary Confinement in the United States* (Jul. 18, 2023), https://www.oas.org/en/iachr/media_center/preleases/2013/051.asp (“Moreover, the IACHR

[at least 45 states introduced bills to restrict or end some aspects of solitary confinement](#).³ Yet only three states enacted laws limiting solitary confinement to 15 days or less, consistent with the United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the “Mandela Rules”).⁴ Instead of limiting and reducing the use of solitary confinement, over the course of the last decade, the United States has only *expanded* its reliance on this abusive practice.⁵

We seek this hearing in light of the United States’ persistence in using abusive solitary confinement practices in a variety of settings, including jails and prisons, immigration detention centers, and juvenile detention centers and care settings for foster youth. The below request details how the United States wields solitary confinement in each of these settings, drawing from examples and case studies in a variety of jurisdictions in the U.S.

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emphasizes that solitary confinement should only be used in exceptional circumstances, for the shortest period possible and only as a measure of last resort. Furthermore, its application must be subject to strict judicial oversight, take place in cells that meet the minimum conditions according to the international standards, and inmates must undergo strict medical supervision. The Commission subscribes to the opinion of the UN Rapporteur on Torture that beyond a period of 15 days, the harmful psychological effects of isolation can become irreversible.”).

³ Unlock the Box, *Banning Torture: Legislative Trends and Policy Solutions for Restricting and Ending Solitary Confinement throughout the United States* 4 (January 2023), <https://unlocktheboxcampaign.org/wp-content/uploads/2023/01/UTB-BanningTorture-TrendReport-January2023.pdf>.

⁴ See *infra* p. 3 and note 18.

⁵ See Kayla James & Elena Vanko, *The Impacts of Solitary Confinement*, Vera Institute of Justice Evidence Brief (Apr. 2021) (discussing the extensive scope of solitary confinement’s harmful impacts on incarcerated people, corrections staff, families, and the community).

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I. The United States’ Use of Solitary Confinement Violates International Human Rights Standards and Is a Form of Torture Under International Law.

“People have to see solitary for what it is, morally reprehensible. Solitary confinement is immoral.”⁶ - Albert Woodfox

The United States currently holds tens of thousands of detained people across the country in small, concrete, windowless cells in a state of near absolute solitude between 22 and 24 hours a day. The average solitary confinement cell is six by eight feet. Often the only “recreation” or social exposure individuals have is when they are escorted in handcuffs to the shower or when a guard slips a food tray through the slot in their cell door. Solitary confinement—often also known as “lockdown,” “segregation,” or “Special Housing Units” (SHU)—is inherently abusive and defies basic human dignity and international standards of human rights.

People subjected to solitary confinement face devastating mental, physical, and emotional harm. More than a third (33%) of people held in solitary confinement become psychotic and/or suicidal ~~within the first 15 days~~,⁷ and people who have been subjected to solitary confinement are ~~78% more likely to commit suicide~~ within a year of being released from prison.⁸ An overwhelming body of evidence now shows that extended use of solitary confinement produces profound and often permanent psychological,⁹

⁶ Albert Woodfox, *Solitary: My Story of Transformation and Hope* 410 (2019).

⁷ Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 *Crime and Delinquency* 124 (2003).

⁸ Lauren Brinkley-Rubinsten, Josie Sivaraman & David L. Rosen, *Association of Restrictive Housing During Incarceration with Mortality After Release*, *JAMA Network Open* (2019); Physicians for Human Rights, *Buried Alive: Solitary Confinement in the U.S. Detention System* (April 2013). Available at: https://s3.amazonaws.com/PHR_Reports/Solitary-Confinement-April-2013-full.pdf; see also *Madrid v. Gomez*, 889 F. Supp. 1146, 1230-32 (N.D. Cal. 1995) (concluding that studies in the United States have found that detainees in extended periods of segregation may suffer from long-term effects, including but not limited to, overt paranoia, dissociative tendencies, aimless violence, and delusions, and that solitary confinement precipitated the psychosis).

⁹ Craig Haney, PhD, “The Psychological Effects of Solitary Confinement: A Systematic Critique,” *Crime and Justice* 47 (2018), 365-416; and “Restricting the Use of Solitary Confinement,” *Annual Review of Criminology* 1:1 (2018), 285-310.

neurological,¹⁰ and physical¹¹ damage to segregated individuals. Symptoms commonly associated with solitary confinement include: hyperresponsivity to external stimuli; perceptual distortions, illusions, and hallucinations; panic attacks; difficulties in concentration and memory; intrusive obsessional thoughts; overt paranoia; and violence and self-harm.¹² Various studies have concluded that suicide rates are at least five times higher in solitary than in general populations.¹³ Recent research has found that these effects, including increased risks of suicide, drug overdoses, heart attacks, and stroke continue even after an individual has been released back into the community.”¹⁴

The extended use of solitary confinement is widely regarded as torture.¹⁵ Torture is defined as:

“An act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him for an act he/she or a third person has committed or is suspect of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’¹⁶

¹⁰ Dana G. Smith, “Neuroscientists Make a Case Against Solitary Confinement,” *Scientific American*, November 9, 2018.

¹¹ Brie A. Williams, “Older Prisoners and the Physical Health Effects of Solitary Confinement,” *American Journal of Public Health* 106:12 (December 2016), 2126–2127; and Brie A. Williams, et al., “The Cardiovascular Health Burdens of Solitary Confinement,” *Journal of General Internal Medicine* 34 (2019), 1977-1980.

¹² See Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 Wash.U. J. L. & Pol’y 325, 328 (2006).

¹³ Kevin Johnson, “Inmate Suicides Linked to Solitary,” *USA Today*, December 27, 2006; American Civil Liberties Union of Texas and Texas Civil Rights Project-Houston, *A Solitary Failure: The Waste, Cost and Harm of Solitary Confinement in Texas* (Houston: ACLU of TX, 2015); Bruce Way et al., “Inmate Suicide and Time Spent in Special Disciplinary Housing in New York State Prison,” *Psychiatric Services* 58, no.4 (2007): 558-560.

¹⁴ Christopher Wildeman and Lars H Andersen, “Solitary Confinement Placement and Post-release Mortality Risk Among Formerly Incarcerated Individuals: A Population-based Study,” *The Lancet Public Health* 5:2 (February 2020).

¹⁵ Two Special Rapporteurs on torture and other cruel, inhuman, or degrading treatment or punishment have issued reports stating that “the prolonged isolation of detainees, may amount to torture.” See Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan E. Mendez) (noting that “physical conditions and the prison regime of solitary confinement causes severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture.”).

¹⁶ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987).

Specifically, the United Nations Revised Standard Minimum Rules for the Treatment of Incarcerated People, known as the “[Mandela Rules](#),” identify the use of solitary confinement beyond 15 days as a form of cruel, inhumane, and degrading treatment that rises to the level of torture.¹⁷ Thus, when solitary confinement is used as a punitive measure by way of segregating and targeting particular individuals, due to their identity, their challenge of authority, or other arbitrary reason, in violation of the domestic minimum standards, then that State-sponsored conduct may rise to the level of torture.¹⁸ According to the United Nations Special Rapporteur on Torture, “Solitary confinement, when used for the purpose of punishment, cannot be justified for any reason, precisely because it imposes severe mental pain and suffering beyond any reasonable retribution for criminal behaviour.”¹⁹

Disturbingly, the use of solitary confinement in the United States is on the rise. On May 25, 2022, President Biden [issued an executive order](#) directing federal prisons to reduce solitary confinement in their facilities.²⁰ However, solitary confinement [has increased 7%](#) since Biden’s order went into effect.²¹ The United States has the [highest incarceration rate](#) in the world,²² imprisoning [close to 2 million people](#) in jails, prisons, and detention centers.²³ Nearly [80,000](#) people are currently held in solitary confinement.²⁴ Within that number at least 6,000 have been subjected to this form of torture for a year or longer—in some cases, [even for decades](#).²⁵ Some states have either opted to enact state laws that ban or limit solitary confinement

¹⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015.

¹⁸ UN General Assembly, *Universal Declaration of Human Rights*, Article 5 (1948) (“No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”); UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, Article 16 (1984) (“Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the acquiescence of a public official or other person acting in an official capacity.”).

¹⁹ U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on

Torture

and Other Cruel, Inhuman or Degrading Punishment, ¶ 81, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>.

²⁰ Shannon Pettypiece, *Biden Signs Police Reform Executive Order on Anniversary of George*

Floyd's Death, NBC News (May 25, 2022), <https://www.nbcnews.com/politics/white-house/biden-signs-police-reform-executive-order-anniversary-george-floyds-de-rcna30548>.

²¹ Erik Ortiz, *Biden Pledged to End Solitary Confinement. Federal Prisons Are Increasing Its Use*,

NBC News (Sept. 30, 2022), <https://www.nbcnews.com/politics/justice-department/biden-pledged-end-solitary-confinement-federal-prisons-are-increasing-rcna49980>.

²² *Incarceration Rates by Country 2023*, World Population Review, <https://worldpopulationreview.com/country-rankings/incarceration-rates-by-country> (last visited Feb. 22, 2023).

²³ *Growth in Mass Incarceration*, The Sentencing Project, <https://www.sentencingproject.org/research/> (last visited Feb. 22, 2023).

²⁴ The Liman Center at Yale Law School, *Time-in-Cell 2019: A Snapshot of Restrictive Housing*

(2020), <https://cl.memberclicks.net/cla-liman-rh-report> (hereinafter “The Liman Study”). The Liman Study reports up to 62,000 people in solitary confinement. However, these figures do not include people held for less than 15 days in isolation.

for groups like pregnant people and minors or to limit solitary confinement to 15 days, in accordance with the United Nation's Mandela Rules.²⁶ Despite incremental progress on the state level to ban or restrict solitary confinement, no U.S. state has fully ended solitary confinement for all people, and limits on solitary confinement remain unenforced in most jurisdictions, leaving people to anguish under tortuous conditions.

The Hidden Torture of Youth in the United States

II.

"You don't feel human. It's like being in an insane asylum. It drives you crazy."²⁷

Solitary confinement causes serious psychological damage and irreparable harm to adults. But its effects are even worse for minors because their brains are still developing. Spending time in solitary confinement as a young person can lead to ~~increased risk of suicide and overdose~~.²⁸ Kalief Browder, arrested at age sixteen for a crime he did not commit, tragically took his own life after being held in solitary confinement for two years on Rikers Island.²⁹ The effects of solitary confinement are so damaging to youth that the Federal Bureau of Prisons ~~outright banned~~ the practice for this population in 2016.³⁰ Yet throughout the United States, youth continue to be held in isolation, without access to natural light, reading materials, or any meaningful human contact.³¹ At least 30% of youth held in juvenile detention facilities report being held in solitary confinement

25 Ed Pilkington, *Nearly 50,000 People Held in Solitary Confinement in US, Report Says*, The Guardian (Aug. 24, 2022), <https://www.theguardian.com/us-news/2022/aug/24/us-solitary-confinement-prisons#:~:text=In%20a%20new%20report%20spearheaded,for%20at%20least%2015%20days>.

26 Unlock the Box, *Banning Torture: Legislative Trends and Policy Solutions for Restricting and Ending Solitary Confinement throughout the United States* (January 2023), <https://unlocktheboxcampaign.org/wp-content/uploads/2023/01/UTB-BanningTorture-TrendReport-January2023.pdf>.

27 Brandon Stahl, et al., *KARE 11 Investigates : Juvenile Lockups Routinely Order Kids into Solitary Confinement*, KARE 11 (Feb. 23, 2023), <https://www.kare11.com/article/news/investigations/kare-11-investigates-minnesota-juvenile-lockups-order-kids-into-solitary-confinement/89-3733a525-7c63-4e6a-92d8-1a1391559068>.

28 Sandra Simkins et al., *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation*, 38 Wash. U. J. L. & Pol'y 241, 259 (2012), <http://digitalcommons.law.wustl.edu/cgi/viewcontent.cgi?article=1019&context=wujlp>; Andrea Fenster, *New Data: Solitary Confinement Increases Risk of Premature Death After Release*, Prison Policy Initiative (Oct. 13, 2020), https://www.prisonpolicy.org/blog/2020/10/13/solitary_mortality_risk/.

29 Nicole Triplett, *New York May Finally Do Something to Help Prevent What Happened to Kalief Browder*, New York Civil Liberties Union (Mar. 4, 2019), <https://www.nyclu.org/en/news/new-york-may-finally-do-something-help-prevent-what-happened-kalief-browder>.

30 Press Release, the White House, *Fact Sheet: Department of Justice Review of Solitary Confinement* (Jan. 25, 2016), https://obamawhitehouse.archives.gov/the-press-office/2016/01/25/fact-sheet-department-justice-review-solitary-confinement?utm_source=youth.gov&utm_medium=federal-links&utm_campaign=reports-and-resources.

31 Ian Kysel, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* (2012), <https://www.aclu.org/files/assets/us1012webwcover.pdf>.

for some period of time.³² Of the few facilities tracking this data, 46% reported locking youth in their rooms.³³ However, most facilities that detain youth, whether for criminal or foster care purposes, do not collect data on confinement, hiding their practices behind more neutral terms. But despite these “kid-friendly” terms it is in practice identical to solitary confinement.

Minnesota shrouds the practice of solitary confinement by calling it “back-to-basics” rooms or “Disciplinary Room Time” (DRT). Youth in Minnesota are subjected to abusive solitary confinement practices in juvenile detention facilities and foster care settings. In February 2023, investigative journalists at Minnesota’s KARE 11 detailed how county-run juvenile detention centers wield solitary confinement in carceral settings. They found that within the last five years children were ordered into solitary confinement for 24 hours or longer more than 7,500 times.³⁴ Moreover, the state places no limits on how long a child may be held in solitary confinement, meaning children as young as 10 can be put into solitary confinement indefinitely.³⁵ There are no requirements that mentally disabled children in solitary confinement be provided mental health screenings.³⁶ One youth, Noah, who had been held at Hennepin Juvenile Detention Center since November of 2021 at the time of the February 2023 report, told journalists that he had been held in solitary confinement for up to two weeks at a time.³⁷ Over a third of people subjected to solitary confinement become suicidal within that time frame.³⁸ Another youth suffering from severe mental health issues told a nurse that the walls were closing in on him, exacerbating his existing suicidal ideation.³⁹

Human rights experts assert that solitary confinement cannot be used for disciplinary or punishment purposes due to the terrifyingly damaging effects it has on a person’s mental and psychological health.⁴⁰ However, in Minnesota children have been forced into solitary confinement as punishment for a wide range of activities, including being caught with an outside cell phone or cigarettes, name-calling and teasing, or even attempting to talk to other children through the vents while trapped in

³² *Id.*

³³ *Data on Solitary*, Stop Solitary for Kids, <https://stopsolitaryforkids.org/data-on-solitary/#:~:text=The%20SYRP%20found%20that%2035,no%20contact%20with%20other%20residents> (last visited Feb. 22, 2023).

³⁴ *Brandon Stahl, et al., KARE 11 Investigates : Juvenile Lockups Routinely Order Kids into Solitary Confinement*, KARE 11 (Feb. 23, 2023), <https://www.kare11.com/article/news/investigations/kare-11-investigates-minnesota-juvenile-lockups-order-kids-into-solitary-confinement/89-3733a525-7c63-4e6a-92d8-1a1391559068>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *See supra* n.7.

³⁹ *See supra* n.35.

⁴⁰ *See supra* n.20.

solitary confinement.⁴¹ While Minnesota’s own rules only allow for children to be placed into solitary for “major violations,” records show that they can and continue to be subjected to this torturous practice for even the most mundane and minor of infractions.⁴²

Abusive solitary confinement of youth happens in foster care settings in addition to juvenile detention centers. In Minnesota, Black parents are **three times** more likely to be investigated by child protective services and Black children are overrepresented as foster youth.⁴³ Once separated from their families, foster youth are institutionalized in “treatment facilities,” where they are vulnerable to being locked into solitary confinement via “back-to-basics” rooms. After one Black former foster youth was outed to foster parents as queer, she was transferred to a “treatment facility” where most of her time was spent in solitary confinement.⁴⁴ In 2016, foster youth who had survived experiences of solitary confinement banded with community organizers to **successfully stop** the construction of new youth treatment facilities in Ramsey and Hennepin County.⁴⁵ Broader recognition of the systemic problem of solitary confinement of foster youth remains elusive, however.

III. Solitary Confinement in United States Jails and Prisons

“People lose their lives behind it. You will never be the same.”⁴⁶

A. California’s Campaign for a Legislative Ban on Solitary Confinement

Human rights defenders in California are currently engaged in a legislative advocacy campaign to prohibit solitary confinement. Of all states, California holds the third-highest percentage of people held in solitary confinement for three years or more.⁴⁷ Of 1,182 people in solitary confinement in 2021, California held nearly 78% for 30 days or longer and over 100 people for a year or longer.⁴⁸ Shockingly, these figures represent

⁴¹ See *supra* n.35.

⁴² See *supra* n.35.

⁴³ Daniel Heimpel, *Minnesota Wrestles with Foster Care’s Role in Breaking Up Black Families*, the Imprint (Feb. 4, 2019), <https://imprintnews.org/race/minnesota-wrestles-with-foster-cares-role-in-breaking-up-black-families/33681>.

⁴⁴ Paula C. Neeley, *Lucina Kayee: The Stories of Foster Youth*, Minnesota Women’s Press (Nov. 30, 2021), <https://www.womenspress.com/lucina-kayee-the-stories-of-foster-youth/>

⁴⁵ *Id.*

⁴⁶ Unlock the Box (@unlocktheboxnow), TikTok (Sept. 23, 2022), https://www.tiktok.com/@unlocktheboxnow/video/7139268691732122926?is_copy_url=1&is_from_webapp=v1&lang=en&q=unlock%20the%20box&t=1666008768991 .

⁴⁷ Dan Nolan & Chris Amico, *Solitary by the Numbers*, Frontline (Apr. 18, 2017), <http://apps.frontline.org/solitary-by-the-numbers/> .

⁴⁸ Liman Study, *supra* n.25 at 11.

an improvement since 2015, when [California settled a landmark lawsuit](#) accusing it of cruel and unusual punishment over its overbroad use of prolonged solitary confinement.⁴⁹ Andrew Johnson, a Black Army veteran, spent 16 months in solitary confinement only to later be acquitted of his charges at trial in 2018.⁵⁰ Upon his arrest, he was immediately placed into solitary confinement at the Santa Clara County Jail.⁵¹ Prison staff never gave Mr. Johnson nor his attorney a justification for his solitary confinement.⁵² After his release, Mr. Johnson recalled, “When they put you in solitary confinement, you’re no longer thinking clearly . . . You’re thinking, ‘Oh, my God. Oh, my God. Oh, my God. I’m trapped.’”⁵³

The California Mandela Campaign seeks to end abusive practices like those inflicted on Mr. Johnson through passage of [Assembly Bill 280](#). The bill would limit the use of solitary confinement to 15 days and prohibit solitary confinement of anyone who is pregnant, under the age of 26 or over the age of 59, or who has a mental or physical disability.⁵⁴ In addition to banning prolonged solitary confinement in county jails, Assembly Bill 280 would also prohibit its use in California immigration detention centers, where it [is abusively employed to punish people advocating for better conditions](#).⁵⁵ In September 2021, advocates filed a [complaint](#) with the federal Department of Homeland Security’s Office of Civil Rights and Civil Liberties detailing retaliatory solitary confinement against individuals at Mesa Verde Detention Facility in Bakersfield and Golden State Annex in McFarland.⁵⁶

In 2022, California governor Gavin Newsome [vetoed a bill](#) similar to Assembly Bill 280, citing the common but erroneous belief that protections

⁴⁹ Ian Lovett, *California Agrees to Overhaul Use of Solitary Confinement*, N.Y. Times (Sept. 1, 2015), <https://www.nytimes.com/2015/09/02/us/solitary-confinement-california-prisons.html> .

⁵⁰ Sydney Trent, *A Black Army Vet spent 16 months in Solitary. Then a Jury Heard the Evidence Against Him*, The Washington Post (June 13, 2022), <https://www.washingtonpost.com/dc-md-va/2022/06/13/solitary-confinement-andrew-johnson-san-jose-jail/>.

⁵¹ Sydney Trent, *A Black Army Vet spent 16 months in Solitary. Then a Jury Heard the Evidence Against Him*, The Washington Post (June 13, 2022), <https://www.washingtonpost.com/dc-md-va/2022/06/13/solitary-confinement-andrew-johnson-san-jose-jail/>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Press Release, Disability Rights California, *The California Mandela Campaign Launches to Support AB 280* (Jan 24, 2023), <https://www.disabilityrightscalifornia.org/press-release/the-california-mandela-campaign-launches-to-support-ab-280> .

⁵⁵ See, e.g. Daniel Tse, *Gov. Newsom, Understand the Horrors of Solitary Confinement as You Consider the Mandela Act*, Orange County Register (Sept. 29, 2022), <https://www.ocregister.com/2022/09/29/gov-newsom-understand-the-horrors-of-solitary-as-you-consider-the-mandela-act/> (recounting the story of Cameroonian asylee Daniel Tse, an immigrant rights’ activist and rising attorney, in immigration detention in California).

⁵⁶ American Civil Liberties Union Northern California, *Retaliation Against Individuals in Immigration Detention at Mesa Verde Detention Facility and Golden State Annex* (Sept. 13, 2022), <https://www.aclunc.org/campaign/ending-immigration-detention-california>.

from solitary confinement “could risk the safety of both the staff and incarcerated population within these facilities.”⁵⁷ Numerous studies show that solitary confinement does not decrease prison misconduct or violence against prison staff or other incarcerated individuals.⁵⁸ If passed, California would be the fourth state in the United States to limit solitary confinement in accordance with the Mandela Rules.

B. North Carolina’s Brutality Towards Incarcerated People in Solitary Confinement

In North Carolina prisons, around 3,000 people are held in solitary confinement at any given time.⁵⁹ A 2016 assessment found that 44 out of 56 prisons in North Carolina held people in restrictive housing, defined as units where incarcerated people were held away from the general population and had “greater restrictions on out-of-cell time, congregate activity, and access to programming than in regular population.”⁶⁰ People in restrictive housing spent 23 hours a day minimum within their cells with no meaningful contact with other people, little to no opportunity for programming, and out-of-cell time entailed recreation in a small enclosed space one hour a day, five days a week.⁶¹ The assessment also found that solitary confinement was frequently used as punishment, even for minor infractions.⁶² The top three infractions cited for forcing someone into solitary confinement were “disobey an order,” “profane language,” and “unauthorized tobacco use.”⁶³ These three minor infractions accounted for 40% of all disciplinary reasons a person was sent to restrictive housing.⁶⁴ At the time of the study, there were three separate restrictive housing classifications, from least to most restrictive: Intensive Control (ICON), Maximum Control (MCON), and High Security Maximum Control (HCON).⁶⁵ On average, a person would stay in isolation for 9 months in ICON, 21 months in MCON, and 5 years in HCON.⁶⁶ Since then, a new housing classification, Rehabilitative Diversion

⁵⁷ Letter from the Office of the Governor, Sept. 29, 2022, <https://www.gov.ca.gov/wp-content/uploads/2022/09/AB-2632-VETO.pdf?emrc=cchc61>

⁵⁸ See Kayla James & Elena Vanko, *The Impacts of Solitary Confinement*, Vera Institute of Justice Evidence Brief at n.35 (Apr. 2021) (citing academic studies examining the relationship between restrictive segregation and prison violence).

⁵⁹ Disability Rights North Carolina, *Help Stop Torture in NC Prisons* (Sept. 21, 2022), <https://disabilityrightsnorthcarolina.org/current-campaigns/help-stop-torture/>.

⁶⁰ Jessa Wilcox, et al., *The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the North Carolina Department of Public Safety*. Vera Institute of Justice, Dec. 2016, at 3, 4.

⁶¹ *Id.* at 4.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

Unit (RDU), was created, ostensibly intended to help incarcerated people transition from restrictive housing back to general population housing.⁶⁷

Reform of this abusive system remains elusive. Since the 2016 study, North Carolina prisons banned restrictive housing for minors under age 18 and created Therapeutic Diversion Units as an alternative to restrictive housing for those suffering with mental disabilities.⁶⁸ Additionally, in December 2020, Governor Roy Cooper's Task Force for Racial Equity in Criminal Justice (TREC) made a list of recommendations that included a number of changes to solitary confinement. However, accounts from people still trapped within North Carolina prisons paint a more ominous picture. In May 2022, human rights advocates in North Carolina launched the EndSolitaryNC, detailing accounts of abusive solitary confinement practices within the prisons. Michael, age 42, noted that he's been in solitary for years: "I've been on lock-up going on three years. We are always on lock up. We get rec [recreational opportunities] only three times a week. We get strip searched everytime we come out of our cells. They give us 180 more days if we catch one infraction, no matter how small."⁶⁹ Thomas, age 30, recounted, "I've been placed on lock-up for over 15 months straight since April 1st, 2019. I begged to be let off lock-up and out of segregation. . . . I've tried to starve myself to death because of stress and not being able to contact my family and also being fed child-like portions on food trays. I've been called a "retarded monkey" by staff."⁷⁰ Worse yet, incarcerated people have been met with physical violence when trying to access mental health treatment as a result of the damage from solitary confinement. Bill, age 29, recalled, "I had been asking to see [the] psychologist or anyone that could help all day. I became suicidal and told the officers. I put my hand on the trap and started screaming to get some help. Officers came in my room and tazed me and put me in full restraints. . . . They tazed me multiple, multiple times. Joked at me about this and I was in full restraints for some of those stuns."⁷¹

As survivors' stories show, North Carolinian's paper reforms and symbolic recommendations are of little use in protecting human rights where a historical culture of abusive solitary confinement exists. Attention to these human rights abuses, and committed resources for oversight, are needed to bring reforms to life.

⁶⁷ *Id.*

⁶⁸ *Id.* at 3.

⁶⁹ Disability Rights North Carolina, *Voices from Solitary* YouTube (Jul. 23, 2021), https://www.youtube.com/watch?v=9FqSx_PQ8EM.

⁷⁰ *Id.*

⁷¹ Disability Rights North Carolina, *Voices from Solitary* YouTube (Jul. 23, 2021), https://www.youtube.com/watch?v=9FqSx_PQ8EM.

IV. The Systemic Abuse of Solitary Confinement in Immigrant Detention

“I never wanted to kill myself until I went to solitary confinement. In the cell, it’s you and the toilet. That’s it. Your entire life is reduced to a small, cold cell for at least 23 hours a day, sometimes 24 hours.”⁷²

The use of solitary confinement is exceedingly common in the U.S. immigration detention regime. As of this writing, the U.S. government detains 26,216 people in over 100 immigration detention centers across the country.⁷³ The government currently detains the highest number of immigrants in jails in Texas, Louisiana, and California.⁷⁴ From 2015 to 2019, the U.S. government placed individuals in immigration detention in solitary confinement 44,556 times.⁷⁵ This uptick⁷⁶ occurred after the government adopted specific standards regarding the use of solitary confinement.⁷⁷ Further, use of solitary confinement in immigration detention increased by over 200% over the course of the COVID-19 pandemic.⁷⁸

Just as in criminal confinement, in immigration detention solitary confinement is a “form of segregation in which individuals are held in total or near-total isolation.”⁷⁹ Immigrants commonly describe solitary as “el

⁷² Testimony of a man currently detained at the Central Louisiana ICE Processing Center in Jena, Louisiana, Client Interview by Robert F. Kennedy Human Rights (April 2023).

⁷³ Immigration and Customs Enforcement, Detention Management, Detention Statistics (Accessed April 16, 2023) <https://www.ice.gov/detain/detention-management>; Immigration and Customs Enforcement, COVID-19 ICE Detainee Statistics by Facility (Accessed April 16, 2023) <https://www.ice.gov/coronavirus#detStat>.

⁷⁴ TRAC Immigration Detention (Accessed April 16, 2023) <https://trac.syr.edu/immigration/quickfacts/>.

⁷⁵ Department of Homeland Security Office of the Inspector General. OIG-22-01 - ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities; 2021. <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf>

⁷⁶ See NBC News, “Number of ICE detainees in solitary confinement rises during Trump administration,” (August 14, 2019) (discussing ICE agency studies from 2012 and 2013 that show ICE put detained immigrants in isolation “at a rate significantly below the national average” for criminals in prisons.”).

⁷⁷ Immigration and Customs Enforcement (ICE) Directive No. 11065.1, Review of the Use of Segregation for ICE Detainees, (ICE 2013) [hereinafter ICE 2013 Directive], Available at: https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf. The ICE 2013 Directive requires a review process for all detainees placed in segregation for over 14 days, including those who have been identified as vulnerable due to mental health concerns. See ICE 2013 Directive at Section 5.1 (there must be reporting “whenever a detainee has been held continuously in segregation for 14 days [within a 21-day period], 30 days, and at every 30-day interval.”). A key aspect of this review mandates that if an individual’s medical or mental illness worsens, or there is a suicide risk, appropriate health care must be provided. If there is a determination that the segregation caused the deterioration of a detained individual’s medical or mental health, an alternative to segregation must be provided.

⁷⁸ Joseph Nwadiuko, et al., J. Gen. Intern. Med., “Solitary Confinement Use in Immigration Detention Before and After the Beginning of the SARS-CoV-2 Pandemic,” 2023, <https://rdcu.be/c9Sue>.

⁷⁹ See National Immigrant Justice Center & Physician For Human Rights, “Invisible In Isolation: Use Of Segregation And Solitary Confinement In Immigration Detention” (Sept. 2012), Available at: <https://immigrantjustice.org/sites/immigrantjustice.org/files/Invisible%20in%20Isolation-The%20Use>

pozo,” or “the hole.” The U.S. government uses two forms of solitary confinement in immigration detention: 1) “administrative segregation,” a supposedly “non-punitive” form of segregation for purposes including “protecting the detained individual,”⁸⁰ and 2) “disciplinary segregation,” a punitive form of segregation initiated when a person has been found to have violated jail rules of conduct.⁸¹ Under the U.S. government’s immigration detention standards, solitary confinement cells are called “Special Management Units” or “SMU,” and placement in solitary is a “serious step.”⁸² And according to government standards, “in particular, placement in administrative segregation due to a special vulnerability should be used only as a last resort and when no other viable housing options exist.”⁸³ However, the U.S. government uses solitary confinement to maintain day-to-day order or as a health management strategy in the absence of comprehensive medical and mental health services.

Systemic abuse of solitary confinement is a human rights crisis in the United States. The following uses of solitary confinement have been documented in U.S. immigration detention centers nationwide:

- Detained people with mental health conditions⁸⁴
- Detained people seeking medical treatment⁸⁵
- Detained people exposed to infectious disease outbreaks, including COVID-19⁸⁶

[%20of%20Segregation%20and%20Solitary%20Confinement%20in%20Immigration%20Detention_September%202012_7.pdf](#).

80 ICE 2013 Directive 3.1 (“Administrative segregation is a non-punitive form of separation from the general population for administrative reasons. Administrative segregation is authorized only as necessary to ensure the safety of the detainee, facility staff, and other detainees; the protection of property; or the security or good order of the facility, and therefore should be for the briefest term and under the least restrictive conditions practicable, consistent with the rationale for placement. Generally, detainees in administrative segregation shall receive the same privileges as detainees housed in the general population, consistent with safety and security concerns.”).

81 ICE 2013 Directive 3.2 (“Disciplinary segregation is a punitive form of separation from the general population for disciplinary reasons. Disciplinary segregation is authorized only pursuant to the order of a facility disciplinary panel, following a hearing in which the detainee is determined to have committed serious misconduct in violation of a facility rule, and only consistent with the Disciplinary Severity Scale from the applicable ICE detention standards, and only when alternative dispositions would inadequately regulate detainee behavior.”).

82 Immigration and Customs Enforcement Performance Based National Detention Standards

(PBNDS) 2011 Standard 2.12 (“Special Management Units”).

83 *Id.*

84 The United Nations special rapporteur on torture has asserted that people with mental illnesses

should never be subjected to solitary confinement. *See United Nations News*, “Solitary confinement

should be banned in most cases, UN expert says,” (October 18, 2011)

<https://news.un.org/en/story/2011/10/392012>.

85 Ian Urbina, *The Atlantic*, “The Capricious Use of Solitary Confinement Against Detained

Immigrants,” (September 6, 2019) <https://www.theatlantic.com/politics/archive/2019/09/ice-uses-solitary-confinement-among-detained-immigrants/597433/>.

86 Under the U.S. government’s immigration agency’s mandated Pandemic Response Requirements,

“a cohort, quarantine, and medical isolation must be operationally distinct from administrative or

- Protestors and hunger strikers,⁸⁷ including Black immigrants participating in racial justice protests and the Black Lives Matter movement⁸⁸
- Detained people who refuse to participate in voluntary labor programs⁸⁹
- LGBTQ+ individuals⁹⁰

U.S. government oversight bodies confirm the abuse of solitary confinement in immigration detention. In 2019, Ellen Gallagher, a whistleblower who held a supervisory role in the U.S. government in the Department of Homeland Security, revealed that the U.S. government “has violated policies that often require a search for less restrictive measures before people are placed in prolonged solitary confinement.”⁹¹ In October 2021, the U.S. Department of Homeland Security’s Office of Inspector General (OIG) published a report detailing the failure of ICE detention facilities and field offices to comply with standards governing the use of solitary confinement.⁹² From 2019 to 2020, 72% of administrative placements did not review less restrictive options; several placements had lasted longer than 300 days.⁹³ The U.S. government failed to consider

disciplinary segregation, or any punitive form of housing.” U.S. Immigration and Customs Enforcement, “COVID-19 Pandemic Response Requirements,” October 27, 2020,

<https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

⁸⁷ See, e.g., <https://www.ccijustice.org/laf-09-12-2022-mv-gsa>; Farida Jhabvala Romero, ICE Detainees Protested \$1-a-Day Wage. Now They’re in Solitary Confinement, KQED (July 8, 2022), <https://www.kqed.org/news/11919161/ice-detainees-protested-1-a-day-wage-now-theyre-in-solitary-confinement>; https://innovationlawlab.org/media/FIPC_DemandLetter_06.16.22.pdf; <https://innovationlawlab.org/media/Folkston-CRCL-Complaint-Retaliation-Excessive-Force.pdf>

⁸⁸ Bobbi-Jeanne Misick, WWNO, “Formerly Detained Immigrants Claim ‘Abusive, Inhumane, Criminal and Racially Discriminatory Practices’ at Two Louisiana ICE Detention Centers,” (August 6, 2021) <https://www.wwno.org/immigration/2021-08-06/formerly-detained-immigrants-claim-abusive-inhumane-criminal-and-racially-discriminatory-practices-at-two-louisiana-ice-detention-centers>.

⁸⁹ *The Intercept*, “Private Prison Continues To Send Ice Detainees To Solitary Confinement For Refusing Voluntary Labor,” (January 11, 2019) <https://theintercept.com/2018/01/11/ice-detention-solitary-confinement/>.

⁹⁰ Benji Hart, *Truthout*, “ICE Is Torturing LGBTQ Immigrants by Putting Them in Solitary,” (February 25, 2020) <https://truthout.org/articles/ice-is-torturing-lgbtq-immigrants-by-putting-them-in-solitary/>.

⁹¹ *NBC News*, “Whistleblower shares how she discovered ICE was using solitary confinement,” (21, 2019) <https://www.nbcnews.com/video/whistleblower-shares-how-she-discovered-ice-was-using-solitary-confinement-60056645689>; *The Intercept*, “A Homeland Security Whistleblower Goes Public About Ice Abuse Of Solitary Confinement:

Ellen Gallagher’s yearslong effort to draw attention to ICE’s use of solitary confinement was met with a maze of bureaucratic indirection and indifference,” (May 21, 2019)

<https://theintercept.com/2019/05/21/ice-solitary-confinement-whistleblower/>; *The Intercept*, “Solitary Voices: Thousands of immigrants suffer in solitary confinement in ICE detention,” (May 21, 2019)

<https://theintercept.com/2019/05/21/ice-solitary-confinement-immigration-detention/>; *The Intercept*, “ICE and Isolation: A Portrait of Torture in Immigration Detention,” (2020) <https://www.youtube.com/watch?v=cJpODSkQzqw>.

⁹² Department of Homeland Security Office of the Inspector General. *OIG-22-01 - ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities*; 2021. <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf> (herein “OIG Report”).

⁹³ *Id.*

alternatives to solitary in two-thirds of cases involving individuals with special vulnerabilities, like members of the LGBTQ community and people with mental health conditions. The U.S. government also failed to comply with its own segregation reporting requirements⁹⁴ and destroyed document regarding its use of solitary confinement,⁹⁵ raising deep concerns about transparency and accountability. An October 2022 report by the Governmental Accountability Office (GAO) found that between 2017 and 2021, the average solitary confinement placement for individuals with mental health conditions was 31 days, with an average of 40 days for those with “serious” (i.e., incapacitating) mental health conditions.⁹⁶

Investigations and studies by journalists and civil society organizations also document disturbing recent trends in the use of solitary confinement in immigration detention. An 2019 investigation by The Intercept and the International Consortium of Investigative Journalists reviewed over 8,400 reports describing placements of detained immigrants in solitary confinement from 2012 to 2017 and found that the U.S. government has used solitary to punish immigrants for offenses as minor as “a consensual kiss, and to segregate hunger strikers, LGBTQ detainees, and people with disabilities.”⁹⁷ In nearly one-third of these cases, detained immigrants had mental health conditions. The records described detained people in solitary mutilating their genitals, gouging their eyes, cutting their wrists, and smearing their cells with feces. Over half of the incident reports reviewed described stays in solitary confinement for over 15 days. The investigation also identified 187 cases in which an individual was held for over 6 months in solitary confinement. In 32 of those cases, the individual was held in solitary for a year or more. A recent 2023 medical journey study identified trends of increasing solitary confinement placements since March 2020, particularly in the medical and administrative categories.⁹⁸ Medical

⁹⁴ According to government policy, whenever an individual with a special vulnerability is placed in solitary confinement, and whenever any other person has been placed in solitary for over 14 days, a notification and review process is required. However, in over 1 in 10 cases the OIG examined, no report was filed with headquarters at all. As the report explains, “[d]elays in segregation reporting could impact ICE’s ability to mitigate possible misuse of segregation and prevent unnecessary, prolonged segregation placements.” See OIG Report.

⁹⁵ The OIG also uncovered ICE’s violations of document preservation rules. ICE was not able to provide OIG with nearly 10 percent of the detention files requested, because they had been unlawfully destroyed or were lost. See OIG Report.

⁹⁶ United States Government Accountability Office (GAO), “Immigration Detention: Actions Needed to Collect Consistent Information for Segregated Housing,” (October 26, 2022). <https://www.gao.gov/products/gao-23-105366>

⁹⁷ “Solitary Voices: Thousands of immigrants suffer in solitary confinement in ICE detention,” (November 21, 2019) <https://theintercept.com/2019/05/21/ice-solitary-confinement-immigration-detention/>; International Consortium of Investigative Journalists, (May 21, 2019) <https://www.icij.org/investigations/solitary-voices/how-us-immigration-authorities-use-solitary-confinement/>.

⁹⁸ Nwadiuko, J., Nishi, A., Terp, S. *et al.* Solitary Confinement Use in Immigration Detention Before and After the Beginning of the SARS-CoV-2 Pandemic. *J GEN INTERN MED* (2023). <https://doi.org/10.1007/s11606-023-08055-0>

experts with extensive experience working in the immigration detention system report that ICE regularly uses solitary confinement as a “short-term and long term approach to managing mental health and illness.”⁹⁹

The abuse of solitary confinement in immigration detention underlies record levels of death by suicide in recent years.¹⁰⁰ At least 13 individuals who died in immigration custody had been subjected to solitary confinement.¹⁰¹ In eight of those deaths, the U.S. government later determined that officials had not followed rules for putting detained individuals in isolation or procedures for caring for them.¹⁰² For example, Jean Jimenez-Joseph and Efraín De La Rosa both committed suicide in May 2017 and July 2018 at the Stewart Detention Center in Lumpkin, Georgia after the U.S. government subjected them to prolonged solitary confinement.¹⁰³ Both Jean Carlo Jimenez-Joseph and Efraín De La Rosa suffered from schizophrenia. Instead of receiving psychiatric treatment, both were placed in solitary confinement for weeks, leading them both to hang themselves in their isolation cells. In October 2019, at Richwood Correctional Center, in Monroe, Louisiana, Roylan Hernandez Diaz died by suicide in solitary confinement after participating in a hunger strike.¹⁰⁴

Solitary confinement is disproportionately used against Black people in immigration detention. Detained people from majority Black countries made up less than 6% of people in immigration custody, but 24% of all

⁹⁹ National Immigrant Justice Center, “Request for investigation into inadequate mental health services, treatment, and accommodations, including improper use of solitary confinement, in ICE detention,” June 2, 2022, https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2022-06/CRCL-complaint-mental-health-care-immigration-detention_June-2022_public.pdf.

¹⁰⁰ American Civil Liberties Union (ACLU), “Justice Free Zones: U.S. Immigration Detention Under the Trump Administration” (April 2020) at 38. Available at: https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hrwnijc_0.pdf (“A third — 13 of 38 — of in-custody deaths between January 2017 and March 2020 were suicides, raising a troubling pattern of death by suicide in ICE detention. In the nearly eight years between January 2008 and December 2016, ICE reported seven deaths by suicide in its custody. The number of deaths by suicide is growing in the context of inadequate mental health services and the inappropriate use of isolation”).

¹⁰¹ *NBC News*, “Thousands of immigrants suffer in solitary confinement in U.S. Detention Centers” (May 21, 2019) <https://www.nbcnews.com/politics/immigration/thousands-immigrants-suffer-solitary-confinement-u-s-detention-centers-n1007881>.

¹⁰² *Id.* “An NBC News analysis of ICE death reports shows that the agency acknowledged missteps for at least eight of them. Seven of those committed suicide while in solitary. The eighth died after he wasn’t given his anti-seizure medication.”

¹⁰³ José Olivares, *The Intercept*, “How Solitary Confinement Kills: Torture and Stunning Neglect End in Suicide at Privately Run ICE Prison,” (August 29, 2019) <https://theintercept.com/2019/08/29/ice-solitary-mental-health-corecivic/> ;

<https://www.youtube.com/watch?v=scTljf67slw> ; <https://capitalandmain.com/deadly-detention-hell-middle-pine-forest-0314> ; <https://capitalandmain.com/deadly-detention-self-portrait-of-a-tragedy-0314>

¹⁰⁴ Hamed Aleaziz & Adolfo Florez, A Cuban Asylum-Seeker Died of An Apparent Suicide After Spending Months in ICE Detention, (October 16, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/cuban-asylum-ice-death-suicide-louisiana-detention>; Teo Armus, A Cuban immigrant asked for asylum. After months of detention, he killed himself, ICE says, (October 17, 2019), <https://www.washingtonpost.com/nation/2019/10/17/cuban-immigrant-asked-asylum-detention-killed-himself-ice/>

people in solitary confinement.¹⁰⁵ Solitary confinement cases involving immigrants from Africa and the Caribbean are vastly overrepresented in comparison to the share of these groups in the overall detained population and African immigrants are more likely to be confined for disciplinary reasons, compared to the average.¹⁰⁶

The following case studies include regional and facility-specific instances of documented abuse and client testimonies that serve as examples of systemic solitary confinement abuse in immigration detention centers in the United States.

A. Louisiana –

Since the late 2010s, Louisiana has become an epicenter of immigration detention in the United States, now the state holding the second-largest number of people in detention.¹⁰⁷ Abusive solitary confinement is commonplace throughout the state, including at Pine Prairie ICE Processing Center and in the Central Louisiana ICE Processing Center.

Pine Prairie ICE Processing Center (PPIPC) is an immigrant detention center in Pine Prairie, Louisiana managed by a private prison company, Geo Group. PPIPC uses solitary confinement to suppress the exercise of free speech and protest rights, to isolate individuals in need of mental health care, and as a medical care protocol for infectious diseases in the absence of comprehensive medical care.¹⁰⁸ PPIPC also uses prolonged solitary confinement to punish individuals for minor infractions. One detained individual at PPIPC reported that an immigrant from his pod was in solitary confinement for over 30 days due to the minor disciplinary infraction of fighting over a TV remote. “The hole did things to him. He ended up castrating himself.”¹⁰⁹

¹⁰⁵Black Alliance for Just Immigration (BAJI) and the American Immigration Council, “Scrutinizing the Treatment and Conditions Black Immigrants Face in Detention,” (May 18, 2021), Individual FOIA requests were filed on different dates.

<https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/6358c4c94b39565ec808f049/1666761932698/Uncovering+the+Truth.pdf>

¹⁰⁶McCoy, K., Patler, C., & Reiter, K. (2022). Punishing status and the punishment status quo: Solitary confinement in U.S. Immigration prisons, 2013–2017. *Punishment & Society*, 24(2), 170–195. <https://doi.org/10.1177/1462474520967804>

¹⁰⁷The Associate Press, “Louisiana becomes epicenter in immigrant detention under Trump administration,” (October 9, 2019) (“The surge in migrant detention has occurred against the backdrop of a criminal justice overhaul in Louisiana that has reduced the state’s prison population and threatened the economies of the small towns that rely on the jails.”).

¹⁰⁸Bert F. Kennedy Human Rights, *et al*, DHS Civil Rights and Civil Liberties (CRCL) Complaint, Re: Re: Call for Immediate Investigation into Immigration and Customs Enforcement Officers’ Use of Punitive Solitary Confinement as a Response to the COVID-19 Pandemic and Other Public Health Crises (June 21, 2021) <https://rfkhumanrights.org/assets/documents/RFK-Human-Rights-Pine-Prairie-DHS-Complaint.pdf>.

¹⁰⁹*Id.*

At PPIPC, the U.S. government uses solitary as retaliation to punish immigrants who speak out against the conditions of their confinement, exercising their fundamental rights to peaceful dissent and free speech.¹¹⁰ On August 3, 2019, officers at Pine Prairie shot tear gas canisters and rubber bullets at approximately 115 hunger strikers peacefully gathering in the facility's recreation yard.¹¹¹ Some hunger strikers and protestors were also beaten. At least one protestor required CPR resuscitation after being shot with tear gas. After the attack, detention officials locked the majority of the hunger strikers in solitary confinement and punitively denied them communication with their legal counsel, friends, and families. Two protestors describe their experience in solitary at PPIPC:

"They [PPIPC personnel] gave me 30 days of punishment, without going out for four days, without bathing, like pigs, with pepper spray on our bodies. They took us out in the sun only once a week."

"I lost 10 pounds. I thought I would hurt myself because of so much confinement. I did not sleep at night. The guards made noise. They brought our meals randomly so we couldn't keep track of time. I was taking medicine until the day I left because of that trauma from the bullets and the screaming of the people because of the gasses in our throats. And to this day I feel depressed at times for just coming to this country."

In August of 2020, a group of 45 Black detained immigrants, the

majority from Cameroon, participated in another peaceful hunger strike.¹¹² In response, PPIPC officers retaliated with tear gas canisters, a tear gas

¹¹⁰ "More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility," BuzzFeed News, August 6, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-pepper-sprayed-louisiana-pineprairie>; "Detained Asylum Seekers Turning to Hunger Strikes, Protests as Their Cases Linger," NBC News, Dec. 17, 2019, <https://www.nbc.com/news/national-international/detained-asylum-seekers-turning-to-hunger-strikes-protests-as-their-cases-linger/2050041/>

¹¹¹ Letter to DHS OIG re Abuse of Hunger Strikers (August 29, 2019). Available at: https://www.splcenter.org/sites/default/files/letter_to_dhs_oig_re_abuse_of_hunger_strikers.pdf; Dozens of ICE Detainees Were Pepper-Sprayed by Guards for Protesting at a Louisiana Jail, Mother Jones, August 2, 2019, <https://www.motherjones.com/politics/2019/08/immigrant-detention-ice-bossier-louisiana-pepperspray/>; Deputies at La. jail pepper spray, strike ICE detainees, Washington Blade, August 3, 2019, <https://www.washingtonblade.com/2019/08/03/deputies-at-la-jail-pepper-spray-strike-ice-detainees/>; More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility, BuzzFeed News, August 6, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-pepper-sprayed-louisiana-pine-prairie>; More Than 100 Immigrants on Hunger Strike at ICE Facility Allegedly Pepper-sprayed, Shot at with Rubber Bullets and Blocked from Contacting Families, Newsweek, August 7, 2019. Available at: <https://www.newsweek.com/ice-detainees-hunger-strike-pepper-sprayed-excessive-force-1452953>

¹¹² *In These Times*, "Someone Needs to Listen to Us": Why African Asylum Seekers Went On Hunger Strike, (October 7, 2020) Available at: <https://inthesetimes.com/article/african-migrants-hunger-strike-ice-cameroon-racism>; Joe Penney, "Inside an ICE facility in Louisiana, detainees say ICE is depriving them of masks, under testing for COVID-19, and moving migrants around the country," Business Insider (May 1, 2020), Available at: <https://www.businessinsider.com/detainees-say-ice-under-testing-for-covid19-not-giving-them-supplies-2020-5>

gun, pepper spray, and handcuffs. One hunger striker described how an immigration officer broke a fellow protestor's arm while wrestling him to the ground, sharing a vivid memory of hearing the "snap" of the bone. Officers in full riot gear then rounded up all 45 hunger strikers and took them to the solitary confinement unit, "Écho," where they were deprived of recreational time, and full access to tablets, TV, recreational reading materials, showers and hygiene materials, potable drinking water, the law library, and legal calls. PPIC also used solitary confinement to threaten detained people into submitting to their own deportation, in violation of their due process rights.¹¹³

One Cameroonian man described his experience:

"The physical and emotional toll of being locked up in this dark hole called solitary confinement was severe. The experience was dehumanizing, and I soon developed high blood pressure due to the stress of my situation. The lack of access to medical attention or treatment only exacerbated my condition, and I felt completely abandoned by ICE without any explanation as to why I was being subjected to such inhumane treatment."¹¹⁴

PPIC also relies on solitary confinement as a form of "medical treatment" for a variety of medical conditions, including behavioral and mental health symptoms, infectious disease outbreaks,¹¹⁵ and the COVID-19 pandemic.¹¹⁶ For example, one man with severe asthma reported that after he contracted COVID-19, he received oxygen in the medical infirmary for 17 days before transfer to solitary confinement for an additional 15 days.¹¹⁷ The

¹¹³ Human Rights First, "I'm a Prisoner Here: Biden Administration Policies Lock Up Asylum Seekers," (April 2022) <https://humanrightsfirst.org/wp-content/uploads/2022/09/ImaPrisonerHere.pdf> ("In July 2021, ICE illegally deported a 20-year-old Honduran asylum seeker without conducting a fear screening even though he told ICE officers that he feared return to Honduras. While he was detained at the Pine Prairie ICE Processing Center, ICE officers threatened to deport his father who lives in Tennessee, if the young man did not agree to be deported despite his assertions that he feared return to Honduras. ICE placed him in solitary confinement for over four days immediately before his removal in an apparent attempt to prevent him from fighting the deportation or obtaining legal assistance and then deported him without ever conducting a CFI, according to his attorney at the Southeast Immigrant Freedom Initiative. The young man had fled Honduras because the local government stole grant money for his NGO-funded work and sent people to threaten his life when he threatened to expose the government's corruption.")

¹¹⁴ Cameroon Advocacy Network Interview with formerly detained client (April 2023). ¹¹⁵ The Associated Press, 2,200 quarantined over mumps outbreak at ICE immigration centers in

Aurora and Louisiana, The Denver Post (Mar. 12, 2019), <https://www.denverpost.com/2019/03/12/mumps-outbreak-quarantine-aurora-ice-immigration-center/>.

¹¹⁶ Under ICE's mandated PRR "a cohort, quarantine, and medical isolation must be operationally

distinct from administrative or disciplinary segregation, or any punitive form of housing." See U.S.

Immigration and Customs Enforcement, "COVID-19 Pandemic Response Requirements," October 27, 2020, <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

¹¹⁷ Robert F. Kennedy Human Rights, *et al*, DHS Civil Rights and Civil Liberties (CRCL) Complaint,

Re: Re: Call for Immediate Investigation into Immigration and Customs Enforcement Officers' Use of Punitive Solitary Confinement as a Response to the COVID-19 Pandemic and Other Public Health Crises (June 21, 2021) <https://rfkhumanrights.org/assets/documents/RFK-Human-Rights-Pine-Prairie->

cell was “virtually identical” to the cells used for disciplinary segregation.¹¹⁸ While in solitary, he experienced chills, chest pain, burning eyes, fatigue, and headaches and was denied access to medication or even over-the-counter ibuprofen. Every day, a Pine Prairie officer walked past his cell at around 2:00 am, but no one entered to check him for a fever or possible breathing problems. He believes that if he had fainted from lack of oxygen, no one would have discovered that he was in medical distress until he was “dead the next day.” This potentially deadly isolation is commonplace at PPIPC solitary confinement, where facilities lack any means for sick residents to call for help. Medical and mental health checks are conducted through “food slots” in the solid metal door, making confidential consultations impossible. One man described how when someone in solitary had a mental health crisis and attempted to castrate himself, “no one found him until he was bleeding out for two hours.”¹¹⁹

The Central Louisiana ICE Processing Center (CLIPC, formerly known as the LaSalle ICE Processing Center) is an immigrant detention center in Jena, Louisiana, also managed by the Geo Group. In March 2023, 300 people went on hunger strike at CLIPC to protest inhumane conditions.¹²⁰ We have documented CLIPC’s egregious abuse of solitary confinement including against LGBTQ+ individuals, those with medical and mental health needs, hunger strikers, and as a form of retaliation against those exercising their First Amendment rights. According to a formerly detained transwoman, at CLIPC, “solitary is used as the only option for LGBTQ+ folks to get to a safe place when they are threatened.”¹²¹

One hunger striker at CLIPC, Daniel Cortes De La Valle, was recently subjected to solitary confinement as retaliation for self-advocacy after severe medical neglect and physical abuse related to his seizure condition.¹²² In February 2023, an immigration officer threatened Mr. [DHS-Complaint.pdf](#).

¹¹⁸ Robert F. Kennedy Human Rights, *et al*, DHS Civil Rights and Civil Liberties (CRCL) Complaint, Re: ~~Re: Call for Immediate Investigation into Immigration and Customs Enforcement Officers’ Use of Punitive Solitary Confinement as a Response to the COVID-19 Pandemic and Other Public Health Crises (June 21, 2021)~~ <https://rfkhumanrights.org/assets/documents/RFK-Human-Rights-Pine-Prairie-DHS-Complaint.pdf>.

¹¹⁹ Robert F. Kennedy Human Rights, *et al*, DHS Civil Rights and Civil Liberties (CRCL) Complaint, Re: ~~Re: Call for Immediate Investigation into Immigration and Customs Enforcement Officers’ Use of Punitive Solitary Confinement as a Response to the COVID-19 Pandemic and Other Public Health Crises (June 21, 2021)~~ <https://rfkhumanrights.org/assets/documents/RFK-Human-Rights-Pine-Prairie-DHS-Complaint.pdf>.

¹²⁰ Bobbi Jeanne-Misick, WWNO, “Spurred by slow deportation wait times, Louisiana ICE detainees attempted a hunger strike” (March 16, 2023) <https://www.wwno.org/immigration/2023-03-16/spurred-by-slow-deportation-wait-times-louisiana-ice-detainees-attempted-a-hunger-strike>.

¹²¹ ~~Client Interview by Immigration Services and Legal Advocacy (April 2023).~~

¹²² Robert F. Kennedy Human Rights, Freedom for Immigrants, *et al*, DHS Civil Rights and Civil Liberties (CRCL) Complaint, Re: Sexual Abuse, Medical Abuse Amounting to Torture, Use of Force, Life-threatening Medical Neglect, Verbal Abuse, Retaliation, and Violations of First Amendment

Cortes De La Valle for making grievances and repeatedly told him “You could get deported.” Mr. Cortes De La Valle was then placed in solitary confinement. Later that month, Mr. Cortes De La Valle was approached by another officer: “You got any complaints? I hear you like to complain a lot. Keep your mouth shut and stop complaining.”¹²³

In early April 2023, Mr. Cortes De La Valle was again placed in solitary confinement due to insufficient bed space in the medical unit.¹²⁴ After having multiple seizures that required emergency medical treatment, he woke up in the medical unit at CLIPC on a urine-soaked mattress. After two days in the medical ward, Mr. Cortes De La Valle was approached by medical and facility staff who told him that they “needed the bed for other sick people” and that they “did not have room for him in the medical ward.” They then transferred Mr. Cortes De La Valle to a solitary confinement cell. In solitary confinement, Mr. Cortes De La Valle was denied access to the recreational yard for 11 days, held alone in a cell for 22 to 24 hours a day. Mr. Cortes De La Valle experienced suicidal ideation due to the lack of outside sunlight and isolation:

“I was in the cell 24 hours a day with no sunshine. It’s freezing cold. I had to beg the officers to use the phone. I had to beg the officers to take a shower. There are these crazy bright, fluorescent lights on 24 hours a day. Loud noises all night long. Eventually, I just wanted it all to end. I started thinking about hanging myself using my uniform. I started screaming. I lost it.”¹²⁵

CLIPC also punishes immigrants with solitary confinement for minor disciplinary infractions. For example, one Pakistani man received 80 days in solitary confinement after a verbal disagreement with a CLIPC staff person. His prolonged confinement resulted in suicidal ideation:

“I never wanted to kill myself until I went to solitary confinement. In the cell, it’s you and the toilet. That’s it. Your entire life is reduced to a small, cold cell for at least 23 hours a day, sometimes 24 hours.”¹²⁶ CLIPC also uses solitary to manage disputes among detained people and to maintain day-to-day order. In August 2022, a woman detained at Rights against Daniel Alfredo Cortes De La Valle (A# Central Louisiana ICE Processing Center in Jena, Louisiana (March 29, 2023) https://rfkhr.imgix.net/asset/Final-CRCL_Daniel-Alfredo-Cortes-De-La-Valle_Redacted.pdf).

¹²³ *Id.*, see also Bobbi-Jeanne Misick, WWNO, “New complaint alleges sex assault, medical neglect, abuse of detainee at Louisiana ICE facility,” (April 10, 2023) <https://www.wwno.org/immigration/2023-04-10/new-complaint-alleges-sex-assault-medical-neglect-abuse-of-detainee-at-louisiana-ice-facility>.

¹²⁴ Client Interview by Robert F. Kennedy Human Rights (April 2023).

¹²⁵ Client Interview by Robert F. Kennedy Human Rights (April 2023).

¹²⁶ *Id.*

CLIPC was told she was being placed in solitary confinement for her own protection for approximately two months after experiencing aggression from another detained person in her cell. While in solitary, she experienced severe medical neglect and malnutrition, losing 13 pounds; severe anxiety and suicidal ideations; and lack of access to sufficient sanitary products during her menstrual cycle, bleeding into her clothing for two days.¹²⁷

Conditions in the CLIPC solitary confinement cells are abhorrent. Cell walls are lined with black mold; mattresses are stained with feces, urine, and bodily fluids; toilets are covered in feces; showers have black mold and are stained with bodily fluids; and temperatures are freezing.¹²⁸ One immigrant reported that in April 2023, on three separate occasions, the toilets and drains in the solitary confinement unit at CLIPC flooded, resulting in human waste and sewage spilling into solitary confinement cells and the hallway.¹²⁹ CLIPC staff forced detained people to clean the sewage with towels, which they wrung out with their bare hands into trash cans. One man described:

“The smell was unbearable. It burned my eyes and made it almost impossible to breathe.

The sewage sat there for hours until we were given towels to clean it ourselves. They didn’t even give us gloves.”¹³⁰ PPIPC and CLIPC are among the top 15 immigrant detention centers reporting the use of solitary confinement in the United States.¹³¹ Both are part of a network of immigrant detention centers under the jurisdiction of the New Orleans Immigration and Customs Enforcement (ICE) Field Office, which manages detention across a number of states in the southern United States and has a history of oversight of notoriously abusive conditions, including the systemic abuse of solitary confinement.¹³² For example, in December 2020, immigrants who requested COVID-19 testing at Etowah

¹²⁷ Client Interview by Southern Poverty Law Center Southeast Immigrant Freedom Initiative (August 2022).

¹²⁸ Client Interviews by Robert F. Kennedy Human Rights (January- April 2023).

¹²⁹ Client Interview by Robert F. Kennedy Human Rights (April 2023).

¹³⁰ *Id.*

¹³¹ Project on Government Oversight (POGO), “ISOLATED: ICE Confines Some Detainees with Mental Illness in Solitary for Months,” (August 14, 2019) <https://www.pogo.org/investigation/2019/08/isolated-ice-confines-some-detainees-with-mental-illness-in-solitary-for-months> (165 and 244 unique placements respectively from January 1, 2016 through May 4, 2018).

¹³² Immigration Services and Legal Advocacy (ISLA), Robert F. Kennedy Human Rights, Freedom for Immigrants, *et al.*, DHS Civil Rights and Civil Liberties (CRCL) Letter, “Re: Unchecked Human Rights and Civil Rights Abuses Systemic within the New Orleans ICE Field Office Area of Responsibility,” (December 20, 2021) <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/61c0b47c15319f67d4045ca3/1640019069450/12%3A20%3A21+DHS+NOLA+ICE+Investigation+Folow-Up+Letter+%282%29.pdf>.

County Detention Center were put in solitary for weeks as a form of retaliation and punishment to discourage further self-advocacy and requests for testing.¹³³ After years of advocacy by detained people and civil society, in March 2022 the U.S. government closed Etowah County Detention Center.¹³⁴ The improper use of solitary confinement as a proxy for medical isolation has been recorded at other facilities within the New Orleans ICE Area of Responsibility, including the Adams County Detention Center.¹³⁵

B. New Mexico

Torrance County Detention Facility (TCDF) is an immigrant detention center in Estancia, New Mexico managed by a private prison company, CoreCivic. In August 2022, the dire conditions of confinement at TCDF and lack of mental health care led to the fatal suicide attempt of Kesley Vial, a twenty-three-year-old Brazilian man. Since the death of Mr. Vial, advocates are aware of at least six individuals who have attempted suicide while detained at TCDF. Despite repeatedly failing government inspections due to conditions including squalid accommodations, inedible food, dangerous understaffing, and inadequate medical care,¹³⁶ TCDF is currently detaining hundreds of individuals subjected to expedited removal proceedings there.

In over 100 interviews, individuals detained at TCDF have consistently told advocates that CoreCivic responds to reports of suicidal ideation or thoughts of self-harm by forcibly placing individuals in solitary confinement.¹³⁷ The men detained at TCDF call these rooms “los cuartos de tortura” or “los cuartos frios”: in English, “the torture rooms” or “the cold rooms.” They describe being locked in these small, windowless rooms for 24 hours a day, with the lights on and the vents blasting cold air, given no blankets and nearly naked after having been forced to remove their clothing and wear a hospital smock. There are no windows to help them understand how much time has passed.¹³⁸ Even men who have not been subjected to

¹³³ *The Intercept*, “Immigrants Detained by ICE Say They Were Punished for Requesting COVID-19 Tests,” Clarissa Donnelly-DeRoven, December 3, 2020, <https://theintercept.com/2020/12/03/etowah-ice-detention-covid-outrage/>.

¹³⁴ Immigration and Customs Enforcement, Press Release: ICE to close Etowah Detention Center, (March 25, 2022) <https://www.ice.gov/news/releases/ice-close-etowah-detention-center>.

¹³⁵ See *Morales v. Gillis*, Case No. 5:20-CV-00181-DCB-MTP at *P. 111 (S.D. Miss. September 16, 2020). Available at: <https://ccrjustice.org/sites/default/files/attach/2020/09/Morales%20-%20Complaint%20REDACTED.pdf>.

¹³⁶ See María Inés Taracena, “The Dark Truth of Biden’s Immigration Policy,” *The New Republic* (April 12, 2023), available at <https://newrepublic.com/article/171665/biden-immigration-policy-dark-truth>.

¹³⁷ See Innovation Law Lab, New Mexico Immigrant Law Center, Santa Fe Dreamers Project, & Las Americas Immigrant Advocacy Center, *Sleep Deprivation, Torture Rooms, a Rigged Deportation Process, and Attempted Suicide at the Torrance County Detention Facility in Estancia, New Mexico* (February 15, 2023), available at <https://innovationlawlab.org/media/2023.02.15-Torrance-Report.pdf>.

¹³⁸ See Innovation Law Lab, New Mexico Immigrant Law Center, Santa Fe Dreamers Project, & Las Americas Immigrant Advocacy Center, *Sleep Deprivation, Torture Rooms, a Rigged Deportation Process, and Attempted Suicide at the Torrance County Detention Facility in Estancia, New Mexico*

solitary confinement have witnessed its impacts, reporting individuals returning from segregation as “broken men, dirty, smelling terribly, malnourished, despondent, and unable to make eye contact.”¹³⁹ As one man explained, “If you are feeling depressed or have thoughts about hurting yourself, CoreCivic doesn’t do anything to help you. They only make it worse.”¹⁴⁰

“W,” another man detained at TCDF, explained that he was subjected to solitary confinement after he had sought medical help for thoughts of self-harm:

“They put me in a cold room, they took all my clothes, they only gave me a little robe and I lasted Friday, Saturday, Sunday and Monday. Four, five days there. Then they took me out of there, put me for a week in a room, in a tank by myself stuck there. I would send letters [asking] them to let me out of there to transfer me with more people, but they didn’t want to . . . I didn’t have anything to do but to cry and read the word of God and so on. And it was all very, very sad.”¹⁴¹

Because of CoreCivic’s punitive response, many men detained at TCDF report that they are terrified to share suicidal thoughts with CoreCivic. Rather than receiving appropriate support, including “preventive supervision, treatment and therapeutic follow-up,” individuals who express mental health struggles or suicidal ideation are instead subjected to punitive isolation that exacerbates their mental state.¹⁴² This practice has been repeatedly condemned by mental health practitioners. In a November 2022 report by Humanitarian Outreach for Migrant Emotional Health, mental health practitioners concluded that “TCDF practices stand in stark contradiction to evidence-based recommendations by mental health experts while contributing to the emotional suffering and deteriorating mental health of detainees in their custody.”¹⁴³

(February 15, 2023) at 7, available at <https://innovationlawlab.org/media/2023.02.15-Torrance-Report.pdf>.

¹³⁹ *Id.* at 8.

¹⁴⁰ *See id.*

¹⁴¹ *See* Rafael Bernal, “Suicide attempts highlight mental health concerns in immigrant detention,” *The Hill* (March 3, 2023), available at <https://thehill.com/latino/3881755-suicide-attempts-highlight-mental-health-concerns-in-immigrant-detention>.

¹⁴² *See* Letter to DHS from Innovation Law Lab, New Mexico Immigrant Law Center, Las Americas Immigrant Advocacy Center, & Santa Fe Dreamers Project, “Re: Relief from Torturous Conditions and Rights Violations at Torrance County Detention Facility” (February 24, 2023), available at https://innovationlawlab.org/media/TCDF_Letter-and-Report_02.24.23.pdf.

¹⁴³ *See* Jenifer Wolf-Williams & Judy Iwens Eidelson, “Mental Health Practices in Torrance County Detention Facility as Reported by Detainees to Humanitarian Outreach for Migrant Emotional Health” (November 22, 2022) at 5, available at https://innovationlawlab.org/media/TCDF_Second-Letter-and-Reports_03.20.23.pdf; *see also* Letter to DHS from Innovation Law Lab, New Mexico Immigrant Law Center, Las Americas Immigrant Advocacy Center, & Santa Fe Dreamers Project, “Re: Re: Relief from Torturous Conditions and Rights Violations at Torrance County Detention Facility” (March 20, 2023), available at https://innovationlawlab.org/media/TCDF_Second-Letter-and-Reports_03.20.23.pdf.

TCDF is one of three immigrant detention centers in the state of New Mexico, all of which are notorious for egregious conditions, including the pervasive use of prolonged solitary confinement. At Cibola County Correctional Facility, also operated by CoreCivic, the abuse of solitary confinement for both punitive and administrative reasons is well documented, including a July 2018 incident in which masked Cibola staff sprayed a cell in the solitary unit with an unidentified chemical through a hose.¹⁴⁴ Also at Cibola, Dulce Rivera was placed in solitary confinement after unfounded allegations were made against her as a transgender woman. After four weeks in isolation, she attempted suicide. After being returned from the hospital, she was placed back in solitary as a “suicide threat”; she would spend a total of nearly 11 months in segregation.¹⁴⁵

Use of solitary confinement is similarly widespread at the Otero County Processing Center (OCPC) in Chaparral, New Mexico, operated by the Management and Training Corporation. According to the 2019 ICE inspection of OCPC, 770 individuals were held in solitary at the facility that year, 563 for disciplinary reasons and 207 for administrative reasons.¹⁴⁶ Four individuals were held in administrative segregation for more than 60 days.¹⁴⁷ Recently a man detained at OCPC was taken to solitary to pressure him to end his hunger strike, which he had begun in resistance to the egregious conditions at the facility.¹⁴⁸ Another asylum seeker at the Otero facility was placed in solitary confinement for 15 days after accepting a note from another kitchen staff member. He described his experience in solitary as “not human” and something that “damages your mind.”¹⁴⁹

C. Georgia

The Stewart Detention Center in Lumpkin, Georgia, owned and operated by the private prison company CoreCivic, is one of the largest

¹⁴⁴ ACLU of New Mexico et al, DHS CRCL Complaint, Re: Detention Conditions Impacting the Safety and Well-Being of Immigrants in the Cibola County Correctional Center in Milan, New Mexico,” (April 16, 2019)

https://www.aclu-nm.org/sites/default/files/field_documents/2019_04_15_nm_stakeholders_letter_to_crl_re_cibola_county_correctional_center.pdf.

¹⁴⁵ *NBC News*, “Thousands of immigrants suffer in solitary confinement in U.S. Detention Centers,” (May 21, 2019) <https://www.nbcnews.com/politics/immigration/thousands-immigrants-suffer-solitary-confinement-u-s-detention-centers-n1007881>.

¹⁴⁶ See Craig, Nathan, Ortiz Varela, AnaKaren, Núñez, Marissa C., Brown Vega, Margaret, Philabaum, Ian, and Podesta, PJ. *Process by Torment: Immigration Experiences of Persons Detained at the Otero County Processing Center*. El Paso, TX. Innovation Law Lab and Advocate Visitors with Immigrants in Detention, 2020, available at

https://avid.chihuahuan.org/wp-content/uploads/2021/01/Process_by_Torment.pdf.

¹⁴⁷ *Id.*

¹⁴⁸ María Inés Taracena, *The New Republic*, “The Dark Truth of Biden’s Immigration Policy. The administration once promised to close privately run immigrant detention centers. Instead, it’s packing them full,” (April 12, 2023) <https://newrepublic.com/article/171665/biden-immigration-policy-dark-truth>.

¹⁴⁹ *Id.*

immigration detention facilities in the United States. It is also one of the most deadly: on April 6, 2023, ICE announced the death of 61-year-old Salvador Vargas, the ninth individual to die in ICE custody at Stewart since 2017.¹⁵⁰ The abuse of solitary confinement and severe medical neglect at Stewart is well documented.¹⁵¹ As one former Stewart officer explained in 2018, guards are “always putting them in the hole—in segregation They think they can take care of their problems like that.”¹⁵² Both Jean Jimenez-Joseph and Efrain De La Rosa died by suicide while detained at Stewart after they were held in solitary confinement for prolonged periods, despite immigration officials’ knowledge of their histories of schizophrenia and psychosis.¹⁵³ Before Mr. Romero de la Rosa’s death, officers repeatedly subjected him to solitary confinement and failed to provide basic standards of care for his mental health conditions.¹⁵⁴ Mr. Jimenez-Joseph was also refused appropriate medication and psychiatric care for long periods of time before his death.¹⁵⁵

Solitary confinement is also abused and used as a retaliatory tactic at the Folkston ICE Processing Center (FIPC), a facility privately run by the GEO Group. The DHS Office of the Inspector General has documented numerous violations that “compromised the health, safety, and rights” of detained individuals at FIPC.¹⁵⁶ Officers at FIPC use solitary confinement as a regular tactic to respond to individual health concerns. Neal, a man formerly detained at FIPC for 17 months, watched detained individuals sent to lockdown two or three times a week, including a man who was placed in solitary after attempting suicide.¹⁵⁷ In 2022, three men were placed in disciplinary segregation without explanation after they engaged in a peaceful protest of undue restriction of their regular recreation time.¹⁵⁸ Two days after the protest, one of the men, Garsumo Dorley, was tackled by a

¹⁵⁰ Rebekah Wolf, Immigration Impact, “A Closer Look at Deaths in ICE Detention Facilities,” (April 13, 2023)

<https://immigrationimpact.com/2023/04/13/a-closer-look-at-deaths-in-ice-detention-facilities/> .

¹⁵¹ Robin Urevich, “Deadly Detention: Self-Portrait of a Tragedy,” Capital & Main (March 14, 2018), available at <https://capitalandmain.com/deadly-detention-self-portrait-of-a-tragedy-0314>.

¹⁵² Robin Urevich, “Deadly Detention: Hell in the Middle of a Pine Forest,” Capital & Main (March 14, 2018), available at <https://capitalandmain.com/deadly-detention-hell-middle-pine-forest-0314>.

¹⁵³ See José Olivares, “How Solitary Confinement Kills: Torture and Stunning Neglect End in Suicide at Privately Run ICE Prison,” *The Intercept* (August 29, 2019), available at <https://theintercept.com/2019/08/29/ice-solitary-mental-health-corecivic/>.

¹⁵⁴ José Olivares, *The Intercept*, “Ice Review Of Immigrant’s Suicide Finds Falsified Documents, Neglect, And Improper Confinement” (October 23, 2021) <https://theintercept.com/2021/10/23/ice-review-neglect-stewart-suicide-corecivic/>; *The Intercept*, “ICE and Isolation: A Portrait of Torture in Immigration Detention,” (August 29, 2019), <https://youtu.be/cJpODSkQzqw>.

¹⁵⁵ VICE News, “This Is How a Person Dies in ICE Custody,” (July 23, 2021) <https://www.youtube.com/watch?v=scTljf67slw> .

¹⁵⁶ Office of the Inspector General (OIG), OIG-22-47, “Violations of ICE Detention Standards at Folkston ICE Processing Center and Folkston Annex” (June 30, 2022) <https://www.oig.dhs.gov/sites/default/files/assets/2022-07/OIG-22-47-July22.pdf>.

¹⁵⁷ Meredyth L. Yoon and Azadeh Shahshahani, Prism Reports, “ICE prison in South Georgia should be shut down, not expanded,” (August 10, 2022) <https://prismreports.org/2022/08/10/ice-prison-south-georgia-should-be-shut-down/>.

five-person extraction team while brushing his teeth and placed in solitary confinement pending a disciplinary hearing.¹⁵⁹ This attack left him with severe pain in his jaw as the result of a damaged ligament.¹⁶⁰ Mr. Dorley was held in segregation for 54 days. During that time, he was neither allowed to attend nor to submit evidence to his disciplinary hearing. He was also physically assaulted in his cell by a GEO Group staff member.¹⁶¹

D. California

Solitary confinement is regularly used as punishment at the Imperial Regional Detention Facility (IRDF) in Calexico, California, operated by the Management and Training Corporation. Individuals detained at IRDF have been consistently placed in segregation after speaking out against conditions in the facility, including severe environmental concerns such as noxious air pollution, pervasive mold, and contaminated water.¹⁶² Ramon Dominguez Gonzalez, detained at IRDF for over four years starting in January 2019, repeatedly advocated for himself and others detained at Imperial by filing official complaints and engaging in other forms of protected activity to expose the toxic, unsanitary, and punitive conditions at the facility. In retaliation, he was repeatedly placed in solitary for extended periods.¹⁶³ Following his time in segregation, Mr. Dominguez Gonzalez suffers from post-traumatic stress disorder, difficulty sleeping, loss of appetite, difficulty concentrating, and hyper awareness. Another individual, Alvaro Galindo, was placed in solitary as retaliation for speaking out against mistreatment at IRDF.¹⁶⁴ Between January and September 2022, he was subjected to more than 130 days of segregation.¹⁶⁵ Despite having no diagnosed mental health issues before being detained at IRDF, following repeated placements in solitary, Mr. Galindo experienced severe depression and anxiety, at times requiring heightened doses of psychiatric

¹⁵⁸ Innovation Law Lab, et al, DHS CRCL Complaint, Re: Physical and Verbal Abuse, Excessive Use of Force at Folkston Detention Facility (July 27, 2022) <https://innovationlawlab.org/media/Folkston-CRCL-Complaint-Retaliation-Excessive-Force.pdf>.

¹⁵⁹ Innovation Law Lab, et al, DHS CRCL Complaint, Re: Immediate redress of abusive and retaliatory tactics at Folkston ICE Processing Center (July 16, 2022) https://innovationlawlab.org/media/FIPC_DemandLetter_06.16.22.pdf.

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¹⁶² Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

¹⁶³ Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

¹⁶⁴ *Id.*

¹⁶⁵ *The San Diego Union-Tribune*, “Complaint alleges Calexico immigration detention officials use solitary confinement as retaliation” (September 14, 2022) <https://www.sandiegouniontribune.com/news/immigration/story/2022-09-14/complaint-calexico-immigration-detention>.

medication.¹⁶⁶ As Mr. Galindo explained, “I was in a tough spot within myself, and the way they use solitary confinement here just helped to make that worse. No one in this facility for whatever reason they’re here should be subjected to that.”¹⁶⁷

Abuse of solitary confinement is also well documented in the Mesa Verde and Golden State Annex detention facilities in central California, operated by the GEO Group.¹⁶⁸ Abhorrent conditions of confinement have been consistently reported at both facilities. In April 2022, individuals detained at the Mesa Verde Detention Facility in Bakersfield, California, announced a labor strike and demanded improvements in their conditions of confinement.¹⁶⁹ In response, officials moved individuals to solitary confinement in retaliation for “engaging or inciting a group demonstration.”¹⁷⁰ One of these individuals, Mohamed S. Mousa, was held in solitary confinement for nearly two months after offering to speak with GEO staff about concerns from other individuals in his dorm. While in solitary confinement, he tested positive for COVID-19. He filed grievances to request liquid hand soap, Tylenol, and cough drops, all of which were ignored. Mr. Mousa reported that he thought he “was going to die” during this time.¹⁷¹ Another advocate for better labor and living conditions, Isaac Cardona Hernandez, was placed in solitary confinement for 28 days after the start of the labor strike. During this time, his mental health deteriorated and he began to have thoughts of suicide. He was never provided an incident report that explained the official justification for his segregation.¹⁷² Individuals detained at Mesa Verde and Golden State Annex continue to

¹⁶⁶ Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

¹⁶⁷ *The San Diego Union-Tribune*, “Complaint alleges Calexico immigration detention officials use solitary confinement as retaliation” (September 14, 2022) <https://www.sandiegouniontribune.com/news/immigration/story/2022-09-14/complaint-calexico-immigration-detention>.

¹⁶⁸ See, e.g., *Los Angeles Times*, “California fines detention center operator \$100,000 over immigrants’ working conditions,” (January 30, 2023) <https://www.latimes.com/politics/story/2023-01-30/detained-immigrants-alleged-unsafe-working-conditions-at-california-facility-fine>; ACLU of Northern California, Press Release: After Hours of Violent Abuse, ICE and GEO Group Abruptly Transfer Four Mesa Verde Hunger Strikers to Texas (March 8, 2023) <https://www.aclunc.org/news/after-hours-violent-abuse-ice-and-geo-group-abruptly-transfer-four-mesa-verde-hunger-strikers>.

¹⁶⁹ Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

¹⁷⁰ Farida Jhabvala Romero, ICE Detainees Protested \$1-a-Day Wage. Now They’re in Solitary Confinement, KQED (July 8, 2022), <https://www.kqed.org/news/11919161/ice-detainees-protested-1-a-day-wage-now-theyre-in-solitary-confinement>.

¹⁷¹ Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

¹⁷² Innovation Law Lab, et al, DHS CRCL Complaint, Re: First Amendment Retaliation, Medical Negligence, Violations of Civil Rights, and Other Abuses Against Individuals in Immigration Detention at the Imperial Regional Detention Facility (September 12, 2022) <https://www.ccijustice.org/laf-09-13>.

report that attempts to advocate for improved conditions of detention result in retaliation through “sexually motivated pat-downs” and being held in solitary confinement.¹⁷³

E. County Jails

Of the 120 total immigration detention facilities in use as of April 2023, 31 are local and county jails operating under an Intergovernmental Service Agreement (IGSA) with ICE.¹⁷⁴ These facilities generally hold people in ICE custody as well as people in pre-trial custody after an arrest by local law enforcement.¹⁷⁵ ICE’s use of county and local jails for civil immigration detention is inherently problematic. Every aspect of these facilities, from the infrastructure to the training provided to the staff, is based on a carceral model. County or local jails that engage in abusive practices involving solitary confinement are almost certain to impose these same practices on those in its custody under ICE contract.

The U.S. government has little practical ability to control the conditions and treatment of people detained in IGSA facilities, and is driven by financial incentives to turn a blind eye to abuses. As with all ICE facilities, county and local jails are not held to formal or enforceable regulations providing the minimal standards of care for those in custody. Instead, ICE generally incorporates into its contracts with the jails one of several sets of standards the agency itself has developed, primarily based on correctional standards despite the civil nature of immigration proceedings.¹⁷⁶ A “waiver” process regularly allows local and county jails to get away with persistent violations of even these standards. A 2019 report by DHS’s Inspector General found the waiver process to be essentially designed to promote loopholes: “ICE has no formal policies and procedures to govern the waiver process and has allowed ERO officials without clear authority to grant waivers.”¹⁷⁷ There are 92 waivers currently operational in 2022, many of which implicate issues central to the health and safety of

¹⁷³ Ishani Desai, “Nearly 100 Mesa Verde, Golden State Annex detainees launch hunger strike,” (February 17, 2023) https://www.bakersfield.com/news/nearly-100-mesa-verde-golden-state-annex-detainees-launch-hunger-strike/article_03ae529a-af3b-11ed-a4cb-f3a341464227.html.

¹⁷⁴ ICE posts monthly facilities spreadsheets along with detention data; the full facilities list as of April 2023 is downloadable from the ICE website at: <https://www.ice.gov/detain/detention-management>.

¹⁷⁵ A detailed discussion of the types of facilities and demographic break down jailed at each, see DHS Office of Inspector General, OIG-19-18: ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards (Jan. 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>, at p. 3.

¹⁷⁶ Dora Schriro, DHS, Immigration and Customs Enforcement, Immigration Detention Overview and Recommendations (Oct. 2009), <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.

¹⁷⁷ Department of Homeland Security, Office of Inspector General, OIG-19-18: ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards (Jan. 29, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>, at p. 9

immigrants in detention, including four relevant to the operation of Special Management Units.¹⁷⁸

Solitary confinement is routinely utilized in abusive manners through county and local jails operated under IGSA's with ICE.¹⁷⁹ For example, while detained in two county jails in Minnesota, the Sherburne County Jail and the Kandiyohi County Jail, one individual experienced the common practice of county jail staff responding to mental illness with punitive actions. While in ICE custody from 2021 through 2023, jail staff denied this individual the accommodations and services he needed for previously diagnosed mental health disabilities, and instead placed him in solitary confinement in a heavy Kevlar suit for up to 23 hours a day, without mental health care. This abusive treatment and persistent isolation resulted in his mental health deteriorating to the point of suicidality. Another individual also detained at these two Minnesota county jails over the same time period endured similar treatment; after reporting to medical staff that he was experiencing repetitive negative thoughts and hallucinations, rather than refer him to mental health assistance, the staff placed him on suicide watch in solitary confinement. At the Kandiyohi County Jail, when he reported to staff that he was not experiencing suicidal ideation but had in the past, the facility's mental health provider placed him in solitary confinement and subjected him to a strip search.

These examples are illustrations of the widespread use and abuse of solitary confinement endured by people held in ICE custody by county and local jails, especially as a management tool for individuals with serious mental illnesses.¹⁸⁰

Conclusion and Recommendations

Despite decades of documentation and research indicating that solitary confinement is inhumane and abusive, including an intervention by this Commission ten years ago, the United States continues to use solitary in jails and prisons, juvenile detention centers and care settings for foster youth, immigration detention centers. We therefore respectfully request a thematic hearing to expose the ways in which the United States' persistent use of solitary confinement is inherently a violation of international human

¹⁷⁸ A master spreadsheet of waivers granted in 2022 and a corresponding file with facility-specific waiver descriptions is downloadable from the ICE website at <https://www.ice.gov/facility-inspections>.

¹⁷⁹ The examples described here are anonymized summaries of complaints filed by the National Immigrant Justice Center on behalf of clients with the DHS Office of Civil Rights and Civil Liberties. These complaints are not publicly available but are on file with the National Immigrant Justice Center.

¹⁸⁰ See, e.g., National Immigrant Justice Center, Complaint to DHS Office of Civil Rights and Civil Liberties, re "Request for investigation into mental health services, treatment, and accommodations, including improper use of solitary confinement, in ICE detention," June 2, 2022, https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2022-06/CRCI-complaint-mental-health-care-immigration-detention_June-2022_public.pdf.

rights law and directly results in compounding human rights violations including, the right to life, the right to health and safety, the right to liberty, the right to due process, the right to equality and non-discrimination, the right to respect for family life, and the fundamental right to have one's dignity recognized and respected. The United States' obligations under international human rights instruments, including the American Declaration, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture, demand that the U.S. government seriously re-examine the use of solitary confinement, and bring our practices in line with standards and norms recognized by the international community.¹⁸¹ Specifically, we seek this opportunity to engage in dialogue with the Commission and the United States considering the following recommendations:

(1) We request that the Commission support enactment of U.S. federal and state bans on all uses of solitary confinement, except for periods measured in minutes or hours for emergency de-escalation, and including use of solitary confinement 1) as a punishment, 2) indefinitely or for a prolonged period, and 3) for pregnant people, people with mental disabilities, or juveniles.

(2) We request that the Commission call for U.S. legislation mandating public data reporting for all local, state, and federal prisons, jails, youth treatment centers, and immigration detention centers. At a minimum, data should be disaggregated by race, gender, age, reason for placement in solitary, and length of time in solitary. Legislation should include a right of action to sue for enforcement of public data requirements.

(3) We request that the Commission initiate site visits to the immigration detention centers and issue findings in the jurisdictions described above, including: (1) the Central Louisiana ICE Processing Center in Jena, Louisiana; (2) the Torrance County Detention Facility in Estancia, New Mexico; (3) the Folkston ICE Processing Center in Folkston, Georgia; and (4) the Imperial Regional Detention Facility in Calexico, California. We request that during these site visits, the Commission be accompanied by attorneys and advocates from civil society who can ensure that the Commission is given the opportunity to interview detained people who have directly experienced solitary confinement and tour the solitary

¹⁸¹ The UDHR, ICCPR, and CAT all prohibit torture, inhuman or degrading treatment or punishment. UDHR, art. 5; ICCPR, art. 7; Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987); *see also* American Convention on Human Rights art. 5, Nov. 22, 1969, 1144 U.N.T.S. 123.

confinement units in the detention centers. We further request that in addition to touring the detention centers, the Commission meet with formerly detained people who were subjected to solitary confinement, attorneys who represented those individuals, and advocates from civil society.

Respectfully submitted,

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Unlock the Box

