

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2019/07/30/solitary-confinement-in-immigration-detention-is-a-grim-reality-and-only-likely-to-get-worse/>

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by [Abram Wolfe](#) | July 30, 2019

Last month, the International Consortium of Investigative Journalists (ICIJ), in conjunction with The Intercept, NBC News, and Univision, [published the results of an extensive investigation](#) into the use of solitary confinement in American immigration detention facilities. The report, which reviewed 8,488 recorded stays in solitary confinement between 2012 and early 2017, found that solitary was used to punish immigrants for offenses as minor as consensual kissing and to segregate hunger strikers, LGBTQ detainees and people with disabilities. More than half of all solitary stays covered in the report lasted longer than 15 days.

Nearly one-third of the stints in solitary involved someone with a mental illness, and 373 involved someone on suicide watch, resulting in a revolving door between solitary confinement and medical isolation cells for people deemed at high risk of trying to hurt themselves. This revolving door is reminiscent of the [cycle of solitary confinement](#) for people with mental illness that exists within prisons and jails throughout the United States.

At a time when Trump's brutal policies have drawn attention to conditions in immigration detention, these alarming findings help confirm what advocates have long suspected, and amplify what incarcerated immigrants have long experienced: Solitary confinement is overused and abused by immigration authorities, and the unique position of migrants in detention can render them especially powerless to resist or endure their torturous conditions.

Growth of Immigrant Incarceration

The solitary confinement of immigrants, of course, would not exist without their incarceration. And although immigration laws and deportation have always been a reality in the United States, the arrest and detention of immigrants during deportation proceedings is a contemporary phenomenon. From America's founding through the 1880s, the fledgling nation operated with an open borders doctrine. Even after the United States began to set limits on the swell of newcomers, including the strict (and racist) quotas established by the Immigration Act of 1924, the detention of migrants was never a significant or even active component of immigration enforcement, [writes immigrant rights attorney](#) and legal scholar Anita Sinha.

But in 2002, as a response to the attacks on September 11, 2001, Congress passed legislation consolidating previously disparate immigration functions into one agency, the Department of Homeland Security (DHS). At the urging of both private prison companies and the new Immigration Customs and Enforcement (ICE) unit of the DHS, Congress quietly began [adding immigration detention bed quotas](#) into its annual budgets, guaranteeing that a minimum mandatory number of beds would be maintained exclusively for those undergoing immigration proceedings. Meanwhile, just as the federal government began preparing a vast infrastructure for immigration detention, [the criminal prosecution of immigration offenses ballooned](#), creating a robust pipeline meant to shuttle individuals through a process of arrest, possible deportation, and, in the meantime, indefinite incarceration.

While statistics on immigration detention before 9/11 are scarce, [one government report](#) stated that in 1995, the U.S. immigration system incarcerated an average of fewer than 7,500 people. Immigration detention nearly quadrupled over the following two decades: According to [DHS's annual budget](#), ICE facilities held, on average, 28,449 individuals by 2015. This far outpaced the rate of growth of non-immigration-related incarceration, which [went up 37 percent](#) over the same period. And while U.S. prison and jail populations have leveled out and declined since about 2008, immigration-related incarceration only continues to rise: According to the same DHS budget report, by the end of 2018, ICE held a daily average of 42,188 people in detention facilities spread across all 50 states, throughout local jails, and in holding facilities on the border. DHS projects that by the end of 2020, that average will swell to 54,000. Those estimations are likely to be met, if not exceeded, given Trump's [recent call to deport millions](#) from within immigrant communities.

Every one of these tens of thousands in ICE custody is [civilly, not criminally, detained](#). According to its own policies, ICE's detention network exists solely to hold individuals for custodial supervision, meaning ICE's carceral practices serve a strictly logistical role. In no manner does the law instruct ICE or DHS to carry out punishment against people for any crimes. In practice, however, the detention of American immigrants increasingly resembles the punitive incarceration of America's convicted prison population, including [forced work practices](#), [heavily restrictive living environments](#), and of course, solitary confinement.

Like most prison systems, ICE does not officially recognize its own use of solitary confinement, [nor do the private companies like CoreCivic](#) that run many of its detention facilities. Instead, official [ICE detention practices](#) make use of what it calls Special Management Units (SMUs), in which individuals can be placed under one of two pretexts. The first, Administrative Segregation, is purportedly nonpunitive, and is required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility. The second, Disciplinary Segregation, which in theory requires a review and hearings by the Institutional Disciplinary Panel is imposed for rule violations ranging from homicide and inciting a riot, to horseplay, engaging in sexual acts, refusing to work, or displaying insolence towards staff. Despite these purported differences, the two types of segregation often involve identical cells and living conditions.

Navigating the world of solitary confinement in ICE facilities is made further complicated by the fact that different facilities operate under different detention standards, as demonstrated by [ICE data from 2015](#). This can mean that what is treated as benign in one facility might land, or keep, an individual in solitary in another.

The lack of the uniformity in the standards is a real serious problem in ensuring that people are treated humanely, that there are clear standards, that conditions are adequately monitored, and that the standards are enforced in an appropriate way, Victoria Lpez, a senior staff attorney at the ACLU's National Prison Project who specializes in immigration detention, told Solitary Watch. In the last ten to fifteen years, with this massive growth of the immigration detention system, what we've seen is that ICE has been able to patch together different kinds of contracts with local governments and private prison companies, utilizing varying sets of standards depending on, frankly, what seems most convenient to the jail or the prison operation and not really consistent with how people should be treated.

In 2013, a time when scrutiny and criticism of solitary confinement was growing in the United States, ICE attempted to modernize its solitary practices through a [wide-reaching directive](#). Intended to improve the safety, health, and welfare of detainees in segregated housing, the directive required lengthy, meticulous documentation before anyone could be placed in restrictive housing. However, Lpez explained that the reforms set up only very basic limitations that raise their own red flags. [A scathing internal report](#) released late last year showed that these reforms were aspirational at best, with many ICE facilities in violation of them. Among other violations, the report alleged that one man was put in extended solitary confinement for sharing coffee with another detainee.

Suffering and Dying in Solitary

Other than that internal report, there exist almost no publicly available government reports regarding the solitary confinement of people in ICE custody. It has largely been left to advocacy organizations and investigative news outlets like ICIJ to uncover the reality of life inside American immigration detention facilities. This task is made difficult by the scarcity of reliable information, and the thick regulations surrounding any sort of data gathering. The recent ICIJ report recognizes that its dataset was limited by ICE restrictions, allowing for analysis of only the portion of all isolation stays in ICE facilities that ICE chose to make public.

What has resulted, [says the National Immigrant Justice Center](#) (NIJC), which was the first to produce a report on the subject in 2012, is a climate in which advocates have very little information regarding the use of segregation in detention facilities. Most of what is known about segregation in these facilities comes from anecdotal reports from current and former detainees and the attorneys and advocates who work in detention centers. Those anecdotal reports are critical, growing in number, and paint a dire picture of the state of solitary confinement in American immigration detention facilities.

Tiombe Kimana Carlos was 34 when she committed suicide after spending two and a half years in York County Prison (YCP) in Pennsylvania, which holds both pre-trial detained immigrants and American citizens convicted of criminal offenses. According to a 2017 [report from Human Rights Watch](#), Carlos spent a cumulative nine months of that time in solitary, including the last 78 days of her life. She was [described by her lawyer](#) as sweet and gentle, but also gregarious and fun to be around, and had persistent mental health issues present from an early age. [Her death report](#) explains that disruptive behavior on the bus that transported her to YCP led officers to place her immediately into a behavior-based Administrative Segregation unit, despite the fact that an administrative segregation order was not completed for or issued to Carlos. For the following two and a half years, she filed grievances that went unacknowledged, attempted suicide five times, and received little mental health treatment. Before her final stretch in solitary, her lawyer said, She was telling her fellow inmates that she couldn't take it anymore. Then, at one point, she gave away her stuff and she says, I'm going to go.

The small number of internal ICE death reports that are publicly available through FOIA (34 in all, [found here](#) under the tab Reports) show a high prevalence of both prolonged solitary confinement and suicide, often in combination. Similar patterns can be found in [recent reporting](#) by [journalists and advocates](#) on deaths in immigration detention.

At Stewart Detention Center, for example, JeanCarlo Jimenez Joseph [hanged himself](#) in 2017 after being placed in solitary confinement, reportedly as punishment for an earlier suicide attempt. The Georgia Bureau of Investigation [found that](#) Jimenez Joseph, who had a history of schizophrenia, had repeatedly displayed suicidal behavior, but never got the mental health care he needed. He was also placed in an isolation cell that contained a known suicide hazard, a ceiling sprinkler head, upon which he affixed his makeshift noose. CoreCivic seems to have learned little from his death in its custody: Just a year later, Efran Romero de la Rosa, who had been diagnosed with schizophrenia and bipolar disorder, [killed himself](#) after three weeks in solitary confinement at Stewart.

At least one suicide in solitary can be directly linked to Donald Trump's family separation policy: In May of 2018, Marco Antonio Muoz lost his shit, as one Border Patrol Agent [described it](#), when agents forcibly took his three-year-old son from his arms. When the distraught Muoz yelled and kicked while in custody, he was taken to a local jail and placed in a padded isolation cell, where he was found dead the next morning with a piece of clothing twisted around his neck.

Those who survive solitary confinement in detention recall confusion, horror, and a sense of existential helplessness. It was like somebody was choking me, 50-year-old Ayo Oyakhire recounted to [Splinter](#). Oyakhire described the apathy of facility staff in response to his distress during his 45-day stay in solitary: Take your medicine, go back to sleep, they reportedly told him.

Even immigrant children who arrive in the United States as unaccompanied minors are sometimes subjected to solitary confinement. A [recent lawsuit](#) filed on behalf of immigrant teens with mental health and behavioral issues who were held at Shenandoah Valley Juvenile Center in Virginia relays stories of children held in prolonged isolation in small cells, and strapped to restraint chairs in their underwear

with bags over their heads. In response, the Virginia Department of Juvenile Justice [reviewed the practices](#) at Shenandoah Valley, ultimately finding that no abuse or neglect had taken place. Governor Ralph Northam [praised the report](#) as quick and comprehensive. The lawsuit is [still pending](#).

Invisible Spaces and Invisible Lives

Solitary confinement in the criminal justice system is a hidden world. In the system that incarcerates immigrants, it is more opaque still, due in part to a high level of privatization. In 2015, [62 percent of all immigration detention beds](#) were operated by private companies under contract with ICE, compared with [8 percent of the beds in criminal prisons and jails](#), according to the Bureau of Justice Statistics.

This arrangement places a staggering proportion of detained immigrants in an especially dangerous climate. When it comes to conditions of confinement, including the use of solitary confinement, private facilities are permitted to bypass many of the already meager standards for documentation, transparency, and accountability required of public facilities.

For example, because courts have found that documents created and maintained by a private entity are not agency records subject to FOIAs disclosure requirements Prison documents related to confinement conditions can be kept from the public simply by not handing them over to DHS officials, [writes law professor Csar Chuauhtemoc Garca Hernandez](#). These loopholes create what he has called invisible spaces and invisible lives in immigration detention. The bureaucratic confusion and chaos created by having some detained immigrants housed in local jails and state and federal prisons only adds to the invisibility.

ICEs inability to adequately oversee detention operations in county jails and private prisons can result in the grave overuse of solitary confinement, Victoria Lopez explained to Solitary Watch. As non-citizens, and often non-English-speakers, living under constant threat of deportation to countries where their lives may be at risk, detained immigrants are unentitled or unable to legally challenge their conditions, including their placement in isolation. As [the NIJC report explains](#), guards have unfettered power over immigrants, who have no legal recourse for unfair custody decisions, and who have little ability to make their cases known to the outside world.

Not even twenty years ago, the situation our country finds itself in today would have been unthinkable. The incarceration of detained immigrant populations was relatively rare, and the solitary confinement of those populations even more so. Today, however, members of the public, reporters, and [even legislators](#) wanting to exert oversight are often denied access to ICE facilities. ICEs increasing secrecy coincides with [dangerous overcrowding](#) in detention facilities. Such overcrowding, as we know from the American prison system, will invariably lead to deteriorating prison conditions, internal disorder and, of course, an increased dependence on solitary confinement. And yet ICE [continues to evade any meaningful oversight](#), drawing a tight curtain around internal conditions of inhumane confinement.

The dizzying rush to lock up more and more immigrants of all ages and circumstances in increasingly punitive conditions has been further fueled by the hateful anti-immigrant rhetoric and policies of the Trump era, leaving tens of thousands of vulnerable men, women, and [especially children](#) in increasingly dire positions. Using solitary confinement as a tool for coercion and intimidation only inflames these traumas, turning an inherently administrative process into a punitive, dangerous environment where people are locked alone in cells in a strange country, devoid of information, help, or hope.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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horrificing, agreed. but lets talk about the thousands of men and women who are citizens of our own country.. Its like they are skipped over in the rush for compassion on immigrants.. both need our attention and our commitment to bring to light the horrors of this barbaric treatment of humans.

All of this started under Obama, but it is now all Trumps fault and it isnt even clear you care about solitary, only yet another attack on Trump. If we closed the borders, they wouldnt be here, so they wouldnt be in solitary. You havent explained what to do when a million illegal immigrants storm our borders with trafficked children, often not their own, then say magic words about asylum. There was loud screeching when Trump suggested sending them all to sanctuary cities.

Solitary Watch used to really be concerned about Solitary Confinement they used to be consistent during the Obama administration.

Now with Trump, the abuses are being used to complain about every other unrelated policy and this site is just turning into another

Orange Man Bad! mantra site. The victims no longer really matter. There are no solutions presented except dumping people who you admit might be mentally ill or violent onto my streets while you virtue signal from your Segre-Gated Community that you let the illegally here maids, nannies, and groundskeepers because you are too cheap to hire even innercity American teenagers that really need a job, but might ask for the minimum wage.

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