

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2012/09/28/new-report-calls-for-end-to-use-of-solitary-confinement-on-immigration-detainees/>

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by [Beth Broyles](#) | September 28, 2012

Are you broken yet? Each day Rashed spent in solitary confinement at the Tri-County Detention Center in Illinois, the warden asked him this question.

An observant Muslim, Rashed had tried to advocate on behalf of another Muslim who could not speak English well. That was the offense that earned him his second stint in solitary, where he remained for 30 days. The first time, Rashed had asked the guards at the Dodge County Detention Facility in Wisconsin to excuse him from meals so that he could fast for Ramadan. Instead, they placed him in solitary for the remainder of the month-long observance.

U.S. Immigration and Customs Enforcement (ICE) had placed Rashed in detention when he arrived in the United States from his native Yemen, seeking asylum. For three years he remained in detention, transferred among several ICE-contracted facilities, as he awaited resolution of his asylum claim.

Both times Rashed was sent to solitary, it was without any formal charges being filed, any hearing, or any opportunity for review from a higher authority. It was crazy, he said in a press teleconference on Tuesday. He had fled Yemen to escape persecution, only to arrive in the United States and face more persecution.

This is but one of the instances of abusive and discriminatory use of solitary confinement described in a new report produced in partnership by the Heartland Alliance National Immigrant Justice Center (NIJC) and Physicians for Human Rights (PHR). [\*Invisible in Isolation: The Use of Segregation and Solitary Confinement in Immigration Detention\*](#) asserts that the use of solitary confinement for ICE detainees is unnecessary, costly and harmful to detainees physical and psychological health. It calls for an end to the practice of solitary confinement for immigration detainees.

In preparing the report, investigators interviewed detainees in segregation and solitary confinement at 14 of the 250 detention facilities, state and federal prisons, and county jails where the Immigrant and Customs Enforcement branch of the U.S. Department of Homeland Security detains more than 400,000 individuals per year. Many ICE detainees are actually lawful permanent residents and asylum-seekers awaiting adjudication of their cases. Their numbers include survivors of human trafficking, LGBT individuals, the elderly, and people with mental health conditions. Many do not speak English.

Despite the fact that they have not been convicted of any crime, most detainees held in facilities that were built, and operate, as jails and prisons to confine pretrial and sentenced felons, according to a former Homeland Security official quoted in the report. ICE relies primarily on correctional incarceration standards and on correctional principles of care, custody, and control. These standards impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained [immigrant] population. Lacking adequate guidance from ICE, the report found, the guards in these facilities tend to apply their own local correctional practices by default. In a country where 80,000 people are in solitary confinement in prisons and jails on any given day, these practices include a liberal use of solitary.

The report does not attempt to estimate how many detainees may be in isolation in total in all ICE facilities. (ICE does not maintain such figures, and after investigators submitted requests for information to all 250 facilities in the country, just seven of those facilities provided information about ICE detainees who were held in solitary confinement.) Based on their sample of facilities, however, researchers found that ICE's failure to enforce consistent standards regarding solitary confinement has led to the arbitrary and excessive use of the practice. There is no oversight, nor is there any due process for detainees, leaving them without any recourse to seek review of facilities decisions to place them in solitary.

According to the report, ICE detainees are particularly prone to solitary confinement. Facilities often deem segregation of certain ICE detainees necessary for safety purposes, in particular those who are LGBT individuals or mentally ill. However, the investigators found that segregated detainees faced the same conditions as those in disciplinary solitary confinement. Many of the ICE LGBT detainees had left their homelands because they faced persecution and discrimination because of their identities, only to face more discrimination in detention. According to the report, when one individual asked a corrections officer at the Theo Lacy Facility in California why he reduced the recreation time for LGBT detainees from two hours to 45 minutes, the officer told him, Because you need to learn not to be

faggots.

Discrimination against immigrant populations is another cause the investigators identified as a reason for the excessive use of solitary confinement. According to the Nobles County Jail (Minnesota) Facility's inmate rules, Failure to speak English when able, watching Spanish channel on the TV are violations that are punishable by a sentence of solitary confinement. Other disciplinary infractions that led to time in isolation at various facilities included trying to translate for another detainee, complaining about the quality of the drinking water, having an extra blanket, and playing cards instead of attending church services.

According to the report, ICE oversight of solitary confinement and segregation practice is deeply inadequate. Facilities are required to notify ICE when a detainee is held in solitary for more than 30 days. However, investigators found many instances where detainees were held in solitary for a period just under 30 days, released for a few days and then put back in solitary, thus avoiding the notification requirement.

There is no due process policy in place for ICE detainees to seek review of their solitary confinement, the report claims. Therefore, even if ICE were notified of a decision to hold a detainee in solitary confinement, it is doubtful that they would review the decision. At the Oakdale Federal Detention Center in Louisiana, for example, investigators spoke to a detainee who had been held in solitary for eight months. He had not been found guilty of violating any facility rule, nor had he been given any reason why or for how long he would be held in solitary. There were no charges, no hearing and no opportunity to have the decision to have him held in solitary reviewed by any higher authority either at the facility or by ICE officials.

When the detainee asked guards questions about his confinement, they told him, [We] can hold you as long as [we] want [to]. He told investigators that he had filed several written complaints to both the facility's leadership and to ICE to no avail. When an ICE officer visited the facility, she told him, she would like to help, but she was told that her job was not to question policy. The report did not say if she was referring to the facility's policy or to ICE's.

Ultimately, according to the report, Some people give up and stop fighting their immigration cases so they will not have to spend another day in the hole. These individuals are then deported to countries they may not remember, or worse, to countries where they have been persecuted or tortured.

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October 25, 2022

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September 29, 2022

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