

April 15, 2024

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528

Dear Secretary Mayorkas:

We write to express deep concern over recently published reports regarding the treatment of individuals held in immigration detention facilities. The reports document serious problems related to the performance of unnecessary medical procedures and the misuse of solitary confinement. Immigration detention is civil by definition and therefore should never be used in a punitive manner. Immigration and Customs Enforcement (ICE) must exercise proper oversight over in-custody medical care. Further, ICE's misuse of solitary confinement must end.

The Department of Homeland Security (DHS or the Department) Office of Inspector General (OIG) published a report in January 2024, entitled "ICE Major Surgeries Were Not Always Properly Reviewed and Approved for Medical Necessity."¹ The report indicates that at least 25 percent of the surgeries performed on individuals in immigration detention between 2019 and 2021 were not properly approved.² Without such approvals, Immigration and Customs Enforcement (ICE) cannot verify if the surgeries were actually medically necessary.³ These revelations are deeply disturbing following reports in 2020 that women detained at the now shuttered Irwin County Detention Center were subjected to forced unnecessary medical procedures, including hysterectomies.

Similarly, in February 2024, Physicians for Human Rights (PHR) and students and faculty at Harvard Law and Medical Schools published a report entitled "'Endless Nightmare': Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention."⁴ This report documents how ICE and private prison companies severely overuse solitary confinement on individuals in immigration detention facilities. The urgency of this issue was further highlighted by the death of an individual who had been held in solitary confinement at the Northwest Detention Center for over three years.⁵

¹ Joseph V. Cuffari, *ICE Major Surgeries Were Not Always Properly Reviewed and Approved for Medical Necessity*, Office of Inspector General, DEP'T OF HOMELAND SECURITY (Jan. 23, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-01/OIG-24-16-Jan24.pdf>.

² *Id.*

³ *Id.*

⁴ Katherine Peeler, MD, *et. al.*, "'Endless Nightmare': Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention", PHYSICIANS FOR HUMAN RIGHTS (Feb. 6, 2024), <https://phr.org/our-work/resources/endless-nightmare-solitary-confinement-in-us-immigration-detention/> (unless otherwise cited, statistics and data cited in this letter are sourced from this report.)

⁵ Nina Shapiro, *Man Who Died at WA Detention Site was in Solitary for Years, Researchers Say*, THE SEATTLE TIMES (Mar. 15, 2024), <https://www.seattletimes.com/seattle-news/law-justice/man-who-died-at-wa-detention-site-was-in-solitary-for-years-researchers-say/>.

The United Nations has determined that solitary confinement lasting over 15 days constitutes torture. Through DHS data, obtained through Freedom of Information Act (FOIA) requests and documentation from ICE's Office for Civil Rights and Civil Liberties (CRCL), PHR and the teams at Harvard determined that ICE and its subcontractors routinely place individuals in solitary confinement for far longer than this threshold. Further, the report states that between 2018 and 2023, more than 14,000 detained immigrants were placed in solitary confinement for an average of 27 days and 682 people were placed in solitary confinement for at least three months, and 42 people were confined for over a year.

The report details how ICE failed to document the mental health status of 38 percent of the individuals placed in solitary confinement, but of those whose status was documented, over 40 percent had mental health conditions. The authors interviewed individuals previously held in immigration detention and learned that placement in solitary confinement led to new mental health conditions in some and exacerbated existing conditions in others. Many individuals also reported they were unable to have private correspondence with the outside world during their confinement, including with legal counsel.

The OIG's findings were equally disturbing. The OIG found in both these cases that immigration detention facilities regularly failed to follow its own procedures.⁶ Such failures have caused irreparable harm to individuals held in ICE custody, through medically unnecessary surgery that left some women sterilized, or through the overuse of solitary confinement that left those subjected to it permanently scarred.

The OIG report and the PHR/Harvard report shed light on the shocking conditions and lack of accountability that is sadly all too common within immigration detention facilities, both those operated by ICE and those operated by private prison companies. DHS continues to be funded at the levels set in the Fiscal Year 2023 omnibus appropriations bill, which funds a maximum of 34,000 civil immigration detention beds.⁷ In spite of this, DHS is currently detaining over 38,000 individuals.⁸ As the administration relies more and more on immigration detention, it is imperative that appropriate oversight is exercised over these facilities, and that, at the bare minimum, they are following ICE's own policies.

As such, we ask that you provide responses to the following questions, no later than May 1, 2024:

1. ICE concurred with the results of the OIG report regarding major surgeries and indicated that ICE Health Service Corps are now following the policies that the OIG found had been ignored. What specifically is ICE doing to ensure ongoing compliance with its policies in every immigration detention facility?
2. Likewise, the Harvard/PHR report listed five recommendations for DHS and ICE to improve conditions and phase out the use of solitary confinement in

⁶ Cuffari, *supra* note 1; Joseph V. Cuffari, *ICE Needs to Improve its Oversight of Segregation Use in Detention Facilities*, Office of Inspector General, DEP'T OF HOMELAND SECURITY (Oct. 13, 2021), <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf>.

⁷ Consolidated Appropriations Act, 2023, Public Law 117-328.

⁸ *On file with the House Committee on the Judiciary.*

immigration detention facilities. Do DHS and ICE plan to implement these five recommendations? If not, why not? If so, please provide the status of implementing each recommendation. We are particularly interested in the recommendations related to ICE's plan to issue a directive regarding vulnerable populations and the timeline for amending the 2013 "Segregation Directive."

3. The PHR/Harvard report further has two recommendations for President Biden. Does ICE plan to advise the President to implement either of these recommendations?

It has become increasingly clear that under its current composition, this Congress will be unable to pass any sort of meaningful immigration reform. As such, the power to make changes in the immigration system currently solely rests in the Executive Branch. We have a responsibility to treat all human beings with dignity and fairness. All facilities operated by or in connection with the United States government, funded by taxpayers should reflect that. These recent reports indicate that we are falling far short of our obligations. We urge the administration to take these reports and their recommendations seriously, and we look forward to hearing the Department's reaction to them.

Thank you for your attention to this important matter.

Sincerely,



Pramila Jayapal
Member of Congress



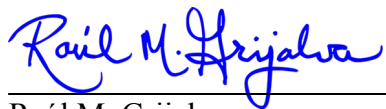
Jason Crow
Member of Congress



Cori Bush
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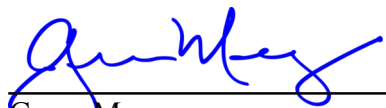
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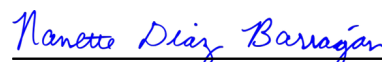
Grace Meng
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Ro Khanna
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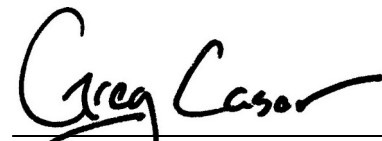
Jared Huffman
Member of Congress



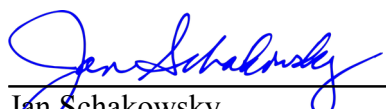
Nanette Diaz Barragán
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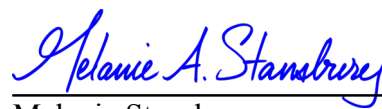
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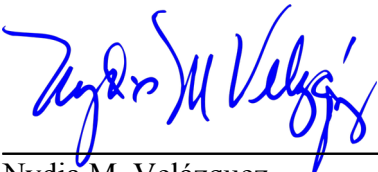
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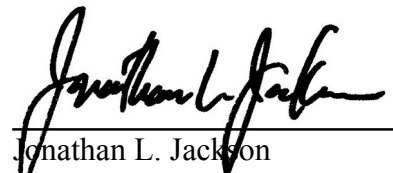
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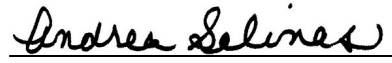
Ilhan Omar
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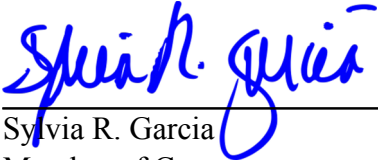
Nikema Williams
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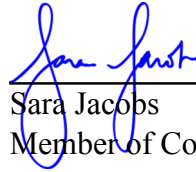
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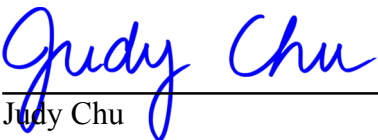
Robert Garcia
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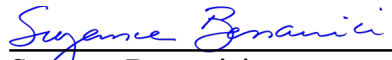
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Member of Congress



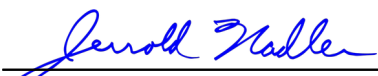
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