



Written Statement for the Record

by

Dana L. Gold, Esq
Government Accountability Project

for the April 16, 2024

Senate Committee on the Judiciary
Hearing On
Legacy of Harm: Eliminating the Abuse of Solitary Confinement

Submitted April 22, 2024

Dear Committee Members:

Thank you for the opportunity to submit written comments in support of your hearing, “Legacy of Harm: Eliminating the Abuse of Solitary Confinement.”

I serve as Senior Counsel for Government Accountability Project, a national non-profit whistleblower protection and advocacy organization. My organization currently represents numerous Department of Homeland Security (DHS) whistleblowers who have raised serious concerns about a range of issues plaguing the Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) detention systems, including the harmful impact of detention on children, the spread of COVID-19 in immigration detention facilities, the medical mistreatment of immigrant women in detention, and oversight failures regarding the provision of medical services at the southern border. One of the most important whistleblowers we represent is Ms. Ellen Gallagher, who began blowing the whistle in 2014 about ICE’s widespread use of solitary confinement on medically vulnerable and mentally ill noncitizens in civil detention in violation of ICE’s own policies as well as U.S. and international law.

This Committee’s hearing was prompted in part by its own long-time awareness of the abusive and deleterious impact of ICE’s protracted use of solitary confinement on detained immigrants to a degree deemed by the United Nations and other reputable human rights bodies to rise to the level of torture.¹ Dr. Katherine Peeler, one of the witnesses who testified at this hearing, shared with the

¹ The practice of holding individuals in isolation for extended periods of time is called many names, including, “solitary confinement,” “segregation,” “administrative segregation,” and “disciplinary segregation.” We generally refer to the

Committee the findings in the February 4, 2024, report for which she was the lead author, titled, “‘Endless Nightmare’: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention” (*Endless Nightmare*). This collaborative effort, involving experts from Physicians for Human Rights, the Harvard Immigration and Refugee Clinical Program, Harvard Law School, and the Peeler Immigration Lab at Harvard Medical School exposes ICE’s frequently arbitrary and sadistically cruel use of solitary confinement, including over 14,000 placements between 2018 and 2023.

Based on an analysis of data gathered after seven years of FOIA litigation and interviews with dozens of individuals held in isolation, the report finds the average duration of solitary confinement in ICE custody is approximately one month, with some immigrants spending far more time – even years - in solitary confinement. *Endless Nightmare* further notes, “Solitary confinement causes a range of adverse health effects, including post-traumatic stress disorder (PTSD), self-harm, and suicide risks. Prolonged confinement can lead to lasting brain damage, hallucinations, confusion, disrupted sleep, and reduced cognitive function. These effects persist beyond the confinement period, often resulting in enduring psychological and physical disabilities, especially for people with preexisting medical and mental health conditions or other vulnerabilities.”²

This report, and now this hearing, comes more than ten years after Ms. Gallagher³ first identified ICE’s concerning use of solitary confinement in 2014, just months after she started as a Senior Advisor within the Department’s Office for Civil Rights and Civil Liberties (CRCL), a DHS oversight entity tasked with monitoring of, among other functions of DHS, the ICE detention system to identify civil rights and liberty abuses. Ms. Gallagher raised her concerns about solitary confinement numerous times internally after reviewing hundreds of ICE reports on solitary confinement, which evidenced

practice throughout as “solitary confinement,” as it more closely captures the grave essence of the practice, which the United Nation’s Special Rapporteur on torture has stated can amount to torture, warning that prolonged solitary confinement more than 15 days should be prohibited in light of the lasting mental damage caused. See United Nations, “Solitary Confinement should be banned in most cases, UN expert says,” UN News Global perspective Human stories (October 18, 2011), available at <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>.

² Lee CH, Sadlak N, Benitez B, Chukka A, Caten-Raines F, Kim J, Medina E, Ardalan S, Torrey P, Avedian A, Wilson T, Peeler KR. “Endless Nightmare”: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention. New York, NY: Physicians for Human Rights; 2024 Feb 6. Available at: <https://phr.org/our-work/resources/endless-nightmare-solitary-confinement-in-us-immigration-detention/>; hereinafter *Endless Nightmare*.

³ Ellen Gallagher has worked for the federal government since 1995, originally as a trial attorney for the former Immigration and Naturalization Service in New York City and in San Antonio, Texas, and later as Special Counsel in the U.S. Citizenship and Immigration Services Office of the Chief Counsel (2003-2012). In 2007, she served as a Congressional Fellow for the Senate Judiciary Committee, where her assignments included helping draft Comprehensive Immigration Reform legislation. From 2012-2013, Ms. Gallagher served as Senior Ombudsman within the DHS Office of the Citizenship and Immigration Services Ombudsman. She left that position to become a Policy Advisor in the DHS Office for Civil Rights and Civil Liberties. Ms. Gallagher now works as a Senior Advisor in the DHS Office of Inspector General. She also serves as an Adjunct Professor at Stonehill College in Easton, Massachusetts, where she teaches a course entitled, Immigration and the American Ideal. Ellen earned her B.A. from Harvard College in 1984 and her J.D. from Northeastern University School of Law in 1991.

prolonged isolation in many instances over multiple days, months, and in some cases years, across dozens of facilities, in direct violation of federal regulations and statutory mandates.

Endless Nightmare's findings, emphasized by Dr. Peeler at this hearing, tragically confirm ICE's systemic and abusive use of solitary confinement is not only ongoing, but expanding. First identified by Ms. Gallagher in 2014, the **Department of Homeland Security has been on notice for over a decade that the agency's systematically implemented practice of segregating noncitizens in civil custody amounts to torture.** This knowing infliction of pervasive harm must end.

Below is a timeline that outlines the Department's and Congress's ongoing awareness of, and repeated failure to abate, ICE's systemic, widespread use of solitary confinement in a manner that violates the Department's own policies as well as legal protections afforded to noncitizens. The Department and ICE are knowingly engaging in torture at the expense of countless lives.

February 13-July 22, 2014

Ms. Gallagher Makes Internal Complaints about ICE's Widespread Use of Solitary Confinement to DHS Office for Civil Rights and Civil Liberties

Ms. Gallagher made numerous attempts to express and elevate beyond CRCL concern regarding the use of administrative and disciplinary segregation, particularly for mentally ill detainees. In meetings with CRCL managers, based on case records, weekly segregation reports, and developments including the DOJ's "Investigation of the State Correctional Institution at Cresson and Notice of Expanded Investigation" (May 31, 2013), and open (OIG-11-62) report on "*Management of Mental Health Cases in Immigration Detention*," Ms. Gallagher recommended the CRCL Officer brief Secretary Jeh Johnson and the DHS OIG regarding the nature and extent of administrative and disciplinary segregation of noncitizens in immigration custody. The Officer refused such briefings, insisting that ICE's use of segregation, even as applied to a severely mentally ill individual with suicidal ideation who was sentenced to 60 days of solitary confinement for verbal threats was "within the standards," albeit "at the furthest end" of what is permitted.

July 23, 2014 - 2016

Ms. Gallagher Raises Concerns About Solitary Confinement Abuses to DHS Deputy Secretary Alejandro Mayorkas

After CRCL's inaction and with their knowledge, Ms. Gallagher emailed a Memorandum to Deputy Secretary Mayorkas,⁴ copying his Senior Counsel, Mr. Robert Silvers, expressing strong concern regarding the use of segregation in immigration

⁴ Ellen Gallagher, "The Use of Administrative and Disciplinary Segregation for Immigration Detainees," e-mail message with attachments to Deputy Secretary Mayorkas and Robert Silvers, July 23, 2014, <https://www.documentcloud.org/documents/5998113-Mayorkas-Memo-07232014.html>.

detention. In addition to describing ongoing violations of DHS policies and procedures that require the use of less restrictive alternatives prior to imposing administrative or disciplinary segregation, Ms. Gallagher included in her memorandum 5 specific cases of seriously mentally ill, suicidal, and other vulnerable detainees “sentenced” to between 14 to 60 days in solitary confinement for reasons such as, “refusing staff orders,” “creating a disturbance,” and being found to have consensually kissed another detainee.

Over the next two years, Ms. Gallagher continued to send to the then Deputy Secretary, his Senior Counsel, and his Chief of Staff a steady stream of information seeking their intervention to prevent harm to persons in custody, including weekly segregation reports, segregation disciplinary panel notes (showing, e.g., two detained persons, each sentenced to 60 days in solitary confinement for possessing a cell phone), a Master Segregation Report for FY 2015 (featuring 8,127 entries of detained individuals placed in solitary confinement), and other documents illustrating the practice of “stacking” charges for a single incident or alleged violation to impose extended periods of solitary confinement.

September 20, 2014-May 2019

Ms. Gallagher Files a Whistleblower Disclosure About ICE’s Misuse of Solitary Confinement with the Office of Special Counsel (OSC)

On September 20, 2014, Ms. Gallagher filed a whistleblower disclosure regarding the unsafe and inappropriate use of solitary confinement and lack of appropriate oversight action by CRCL with the U.S. Office of Special Counsel.⁵ For over four years, Ms. Gallagher continued to send the U.S. OSC attorneys hundreds of documents including monthly and fiscal year segregation reports, medical reports, disciplinary panel hearing notes, data on “stacking charges” for imposition of maximum punishment, and other graphic details regarding the use of administrative and disciplinary segregation for immigration detainees. OSC repeatedly declined to investigate, deferring to DHS’s own investigations despite two appeals for reconsideration by Ms. Gallagher.⁶

⁵ Ellen Gallagher, Disclosure of Information to U.S. Office of Special Counsel, September 20, 2014, <https://www.documentcloud.org/documents/5998114-EG-OSC-Disclosure-09202014.html>.

⁶ The basis for Ms. Gallagher’s appeals to the OSC for reconsideration was because of the limited scope of the DHS OIG’s investigations, which were based on spot checks rather than systemic reviews, to which the OSC repeatedly deferred. See Ellen Gallagher, Request for Reconsideration to OSC, August 28, 2015, <https://www.documentcloud.org/documents/5998109-August-2015-OSC-Request.html>; Ellen Gallagher, Request for Reconsideration to OSC, June 6, 2016, <https://www.documentcloud.org/documents/5998115-June-2016-OSC-Request.html>. She reiterated her plea for intervention by U.S. OSC in dozens of follow-up email requests including one challenging the diminished scope of a December 2017 DHS OIG audit titled, “Concerns About ICE Detainee Treatment and Care at Detention Facilities.” <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

March 2015-May 2019

Ms. Gallagher Shares Concerns About ICE's Misuse of Solitary with DHS Office of Inspector General

In early 2015, Ms. Gallagher filed a complaint with the DHS Office of Inspector General regarding ongoing violations of ICE segregation policies as well as legal protections afforded to noncitizens, and lack of appropriate oversight action by CRCL. Ms. Gallagher subsequently met with DHS OIG staff regarding her whistleblower disclosures, and thereafter continued to send the DHS OIG staff copious follow-up documentation. Ms. Gallagher's communication with the DHS OIG led to a call between DHS OIG and the OSC, after which the OSC informed Ms. Gallagher they would close her case, deferring to the DHS OIG's representation that the OIG would "open a case concerning the systemic use of administrative and disciplinary segregation in immigration detention," and also conduct an audit of CRCL. The former review did not occur until October 2021 (see *infra*). The latter audit was abandoned for no clear reason.

April 23-June 29, 2015

Ms. Gallagher Raises Concerns to the Senate Committee on the Judiciary

Ms. Gallagher briefed staff of the Senate Committee on the Judiciary regarding ICE's misuse of solitary confinement, sharing hundreds of pages of emails, segregation reports, medical reports, disciplinary panel hearing notes, data on "stacking charges" for imposition of maximum punishment, and other graphic details regarding the use of administrative and disciplinary segregation for noncitizens in immigration custody. On June 29, 2015, Senators Grassley and Franken sent a letter to DHS concerning allegations of misconduct, referencing a whistleblower, and quoting verbatim language from Ms. Gallagher's July 23, 2014, Memorandum to the Deputy Secretary.

May 2016

Ms. Gallagher Raises Concerns About ICE's Misuse of Solitary Confinement to the House Committee on Oversight and Accountability

Ms. Gallagher filed an online complaint with House Committee on Oversight and Accountability, citing in general the events and disclosures described above and emphasizing the high number of civil immigration detainees, including detainees with mental illness, "sentenced" to solitary confinement during FYs 2015 and 2016. In doing so, she highlighted the various sentences imposed and reasons why, noting that average periods in isolation (at least 30 days) was beyond what has been deemed torture. She subsequently met with Committee staff and forwarded extensive information supporting her complaint.

May 21, 2019

Ms. Gallagher Raises Concerns to the Press

After four years of persistent pleas for oversight and intervention both internally to DHS and from nearly every government oversight entity, Ms. Gallagher blew the whistle publicly to the press, with the International Consortium of Journalists publicizing on May 21, 2019, a detailed exposé of ICE’s systemic use of solitary confinement and Ms. Gallagher’s exhaustive and to-date futile efforts to prompt accountability.⁷

September 26, 2019

House Committee on the Judiciary Subcommittee on Immigration and Citizenship Hearing on the Expansion and Troubling Use of ICE Detention

Government Accountability Project submitted a written statement to the record documenting warnings raised by DHS whistleblowers, including its client Ms. Gallagher, about harmful ICE detention practices which have been exacerbated by expanded detention, including the misuse of solitary confinement.⁸ The statement put Congress and DHS again on notice that current ICE detention practices not only violate federal detention standards, but threaten the health and safety of migrant detainees, and asked for investigation and reform.

September 26, 2019

House Committee on Homeland Security Oversight, Management & Accountability Subcommittee Hearing on Oversight of ICE Detention Facilities: Is DHS Doing Enough?

Government Accountability Project submitted a written statement to the record outlining how despite DHS’s own experts having warned about harmful detention practices—including Ellen Gallagher’s warnings about ICE’s widespread misuse of solitary confinement—and even with increasing escalation of their concerns, the detention practices they have warned as being harmful to migrant detainees have not only continued but increased in the surge of detention under the Trump administration’s “zero-tolerance” immigration policy. The statement warned that the

⁷ See Maryam Saleh and Spencer Woodman, “A Homeland Security Whistleblower Goes Public About ICE Abuse of Solitary Confinement,” *The Intercept* (May 21, 2019), available at <https://theintercept.com/2019/05/21/ice-solitary-confinement-whistleblower/>; Hannah Rappleye et al., “Thousands of Immigrants Suffer in Solitary Confinement in U.S. Detention Centers,” *NBC News* (May 21, 2019), available at <https://www.nbcnews.com/politics/immigration/thousands-immigrants-suffer-solitary-confinement-u-s-detention-centers-n1007881>; Ellen Gallagher, “The Other Problem With ICE Detention: Solitary Confinement,” *The Washington Post* (August 28, 2019), available at <https://www.washingtonpost.com/outlook/2019/08/28/other-problem-with-ice-detention-solitary-confinement/>.

⁸ The Expansion and Troubling Use of ICE Detention: Hearing Before Subcommittee on Immigration and Citizenship of the Committee on the Judiciary, House of Representatives, One Hundred Sixteenth Congress, first session, September 26, 2019 (Hearing Date: September 26, 2019), written statement of Dana Gold, Government Accountability Project, <https://docs.house.gov/meetings/JU/JU01/20190926/110017/HHRG-116-JU01>.

“oversight mechanisms within DHS are so limited in investigative scope, capacity, legitimacy, and authority that, rather than serve as checks on abuses and preventers of harm, their ineffectualness enables the very abuses and harms they are meant to check.”⁹

November 14, 2019

Senate Judiciary Members Introduce Legislation to Limit the Use of Segregation in ICE Detention

Publication of Ms. Gallagher’s whistleblower disclosures contributed to legislation introduced in 2019 by Chairman Durbin, Senator Booker, and former Senator Kamala Harris to curtail ICE’s widespread misuse of solitary confinement on individuals in immigration detention.¹⁰

October 13, 2021

DHS OIG Publishes a Report on its Systemic Audit of ICE’s Use of Solitary Confinement

On October 13, 2021, the DHS OIG issued a report, [*ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities*](#), culminating a multi-year audit of ICE’s use of solitary confinement at 156 ICE detention facilities across the country and, importantly, ICE’s reporting deficiencies and failures to comply with applicable detention standards, ultimately validating Ms. Gallagher’s disclosures.¹¹ This was the OIG’s first systemic review on the oversight of detained people placed in solitary confinement, occurring *seven years* after the Department – and Secretary Mayorkas himself – were aware of ICE’s ongoing and systematic violation of segregation policies.

The OIG acknowledged in the report’s conclusion that “[n]umerous studies have found that any time spent in segregation can be detrimental to a person’s health and that individuals in solitary confinement may experience negative psychological and physical effects even after being released.”¹² The report, however, largely focused on ICE’s weak data collection, retention and reporting practices rather than meaningful

⁹ *Oversight of ICE Detention Facilities: Is DHS Doing Enough: Hearing Before Subcommittee on Oversight, Management, and Accountability of the Committee on Homeland Security*, House of Representatives, One Hundred Sixteenth Congress, first session, September 26, 2019, written statement of Dana Gold, Government Accountability Project, <https://whistleblower.org/wp-content/uploads/2019/09/092419-written-comments-for-HHS-hearing-on-DHS-Oversight-of-ICE-Detention-Facilities-Government-Accountability-Project-FINAL.pdf> and <https://www.congress.gov/event/116th-congress/house-event/LC65207/text?s=1&r=2>.

¹⁰ “Booker, Durbin, Harris Introduce New Legislation to Combat Overuse of Solitary Confinement in Immigration Detention,” (November 14, 2019), available at <https://www.booker.senate.gov/news/press/booker-durbin-harris-introduce-new-legislation-to-combat-overuse-of-solitary-confinement-in-immigration-detention>.

¹¹ DHS Office of Inspector General (OIG), “ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities,” (October 13, 2021), available at <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf> (hereinafter “OIG Report”).

¹² See OIG Report, page 11.

investigation and information on ICE’s widespread and inappropriate use of the practice and the attendant psychological and safety risks, effectively sanitizing and obfuscating the extent of harm and suffering exacted on countless detained immigrants. The recommendations focused on ICE’s need to improve its data collection, retention and reporting of its use of segregation.

November 26, 2021

Senate Committee on the Judiciary Hearing on Oversight of the Department of Homeland Security

Government Accountability Project submitted another statement for the record, lauding the OIG’s conducting a systemic review of solitary confinement in ICE detention, validating its widespread use more than seven years after Ms. Gallagher began raising the alarm with DHS, but condemning the limitations of the OIG’s findings focused not on the ongoing practice of torture but ICE’s data collection, retention and reporting weaknesses.¹³

September 22, 2022

Briefing Hosted by Congressman Joaquin Castro on ICE’s Excessive Use of Solitary on Mentally Ill Detainees

This briefing, hosted by National Immigration Justice Center (NIJC), featured a neurologist, victims of solitary confinement in ICE detention, and whistleblower Ellen Gallagher.¹⁴ The briefing was prompted by a civil rights complaint filed in June 2022 by NIJC to DHS CRCL requesting a systemic investigation into mental health services and the improper uses of solitary confinement in ICE detention.

February 4, 2024

“Endless Nightmare:” Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention Published Using ICE’s Recent, and Underreported, Data

“Endless Nightmare,” published by the Immigration and Refugee Clinical Program at Harvard Law School, members of the Peeler Immigration Lab at Harvard Medical School, and Physicians for Human Rights, uses ICE’s own data along with interviews to establish that ICE continues to use solitary confinement in ICE detention without restraint and in violation of legal and regulatory standards.

¹³ *Oversight of the Department of Homeland Security: Hearing of the Committee on the Judiciary*, U.S. Senate, November 16, 2021, written statement of Dana Gold, Government Accountability Project, https://whistleblower.org/wp-content/uploads/2021/11/110921-dhs-oversight-hrg-Statement-for-Record_Fin.pdf.

¹⁴ National Immigrant Justice Center, “Immigrants, Doctors & Whistleblower report to Congress failed mental health care and abuse in ICE detention,” Press Release, September 23, 2022, <https://immigrantjustice.org/press-releases/immigrants-doctors-whistleblower-report-congress-failed-mental-health-care-and-abuse>.

March 7, 2024

Charles Leo Daniel Dies at ICE’s Northwest Detention Center (NWDC)

Charles Leo Daniel, a citizen of Trinidad and Tobago with documented mental illness, died in solitary confinement after nearly **four years** of being held in solitary confinement in ICE detention. Daniels served shockingly long stints in solitary with only two days in between confinements, with one stint lasting at least 811 days despite his segregation records indicating he had “significant mental illness.”¹⁵

April 10, 2024

Senate Appropriations Homeland Security Subcommittee Hearing with DHS Secretary Mayorkas

At an April 10, 2024, Senate Appropriations Homeland Security subcommittee hearing on the fiscal year 2025 DHS budget request,¹⁶ the following exchange occurred when Chair Patty Murray asked Secretary Mayorkas about the use of segregation in ICE detention:

Chair Murray: *I have been very frustrated by recent reports on the overuse of isolation from the general population at ICE facilities—including at the Northwest ICE Processing Center in Tacoma. University of Washington researchers found that over the last five years, half of the ten longest placements in administrative segregation across ICE’s national population were at that facility.*

And I want to stress how concerning it is that ICE continues to use this practice so frequently for so many individuals and reportedly does so without consistent, accurate documentation of its use.

What steps has ICE taken to make sure its contractors are following ICE policy on the use of administrative segregation?”

Secretary Mayorkas: *Chair Murray, this is an issue that I am underway in reviewing with Immigration and Customs Enforcement—with ICE. The use of segregation, sometimes, is at the request of the individual detainee, him or herself, by reason of circumstances in a facility. Sometimes it is for the safety and security of our personnel or other detainees. It’s a very case-specific issue, but I am meeting with members of the*

¹⁵ University of Washington Center for Human Rights, “NWDC Conditions Research Update: Charles Leo Daniel’s Death at NWDC in Context,” Jackson School of International Studies, March 15, 2024,

<https://jsis.washington.edu/humanrights/2024/03/15/nwdc-conditions-research-update-daniel-death-in-context/>

¹⁶ A Review of the President’s Fiscal Year 2025 Budget Request for the Department of Homeland Security: Hearing before Subcommittee on Homeland Security of the Committee on Appropriations, U.S. Senate, April 10, 2024,

<https://www.appropriations.senate.gov/hearings/a-review-of-the-presidents-fiscal-year-2025-budget-request-for-the-department-of-homeland-security> (1:04:47 to 1:07:19).

community as well as the workforce, and I just need about three weeks to circle back with you and give you a full report on the path ahead, because I know it is an issue of concern to you and to others as well.

As outlined above, DHS, and Secretary Mayorkas himself, have been fully aware **for over a decade** that persons held in civil immigration detention are systematically subjected to administrative and disciplinary segregation, regularly rising to the level of torture. The suggestion by Secretary Mayorkas when questioned by Senator Murry about the overuse of solitary confinement at ICE Facilities that individuals in detention “request” such isolation, that it promotes “the safety and security” of DHS personnel or other detainees, and that the Secretary needs “about three weeks to circle back... to give [Senator Murray] a full report on the path ahead” is pathetically disingenuous.

The Department has known since at least 2014, when Ms. Gallagher first blew the whistle to every available DHS oversight entity, that detained immigrants -- including those suffering from mental illness or other vulnerabilities – were subject to solitary confinement across the entire ICE civil detention system. This condition is considered torture when exacted over 15 days, as it causes irreparable damage.¹⁷ That both the DHS and the U.S. OSC failed to require affirmative action to halt ongoing harm from 2014, when Ms. Gallagher first raised the alarm, speaks volumes about the willingness of these oversight authorities to protect those they are statutorily entrusted serve.

The human cost of solitary confinement is equal parts tragic and multifarious, with individual and community harms including: the long-term psychological and medical damage inflicted, the literal and mental health barriers to a fair day in court created by the practice, the tragic consequences for the loved ones and communities longing for the release of family members from solitary confinement, and the moral and mental health implications of the practice on detention facility staff and other detainees.¹⁸

Decades of research affirms the detrimental effects of solitary confinement. Secretary Mayorkas, his Senior Counsel, Chief of Staff, and ICE officials have long been in possession of data evidencing the improper and excessive use of solitary confinement across ICE facilities that is finally being more broadly exposed through this hearing. *Endless Nightmare*, a report validating Ms. Gallagher’s disclosures, exposes the Department’s knowingly allowing the practice of torturing immigrants without regard to legal protections and obligations.

¹⁷ See United Nations, “Solitary confinement should be banned in most cases, UN expert says,” *UN News Global perspective Human stories* (October 18, 2011), available at <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>.

¹⁸ See *Endless Nightmare*, supra. See also, Kayla James and Elena Vanko, “The Impacts of Solitary Confinement,” *VERA Institute of Justice* (April 2021), <https://www.vera.org/publications/the-impacts-of-solitary-confinement>; see also Nick Schwellenbach et al, “Isolated: ICE Confines Some Detainees With Mental Illness In Solitary For Months,” *Project on Government Oversight* (August 14, 2019), <https://www.pogo.org/investigation/2019/08/isolated-ice-confines-some-detainees-with-mental-illness-in-solitary-for-months/>.

DHS's continued use of solitary confinement in ICE detention is unconscionable; it should be disallowed from use except in extremely rare and highly regulated circumstances, and only after full consideration of all available alternatives.

What is needed at this moment is accountability for over ten years of failed oversight and willful disregard that has permitted torture in unverifiable numbers. Accountability must start with immediately ending the practice of solitary confinement in ICE detention. Given DHS's utter refusal in the face of a decade of awareness to stop this abuse, Congress must step in to act.

Thank you for the opportunity to contribute written testimony in support of this hearing.

A handwritten signature in cursive script, appearing to read "Dana L. Gold".

Dana L. Gold, Esq