

August 1, 2022

Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street SW
Washington, D.C. 20536

Dear Acting Director Johnson:

We write regarding your March 21 response to our February 11 letter expressing concerns with the use of solitary confinement at U.S. Immigration and Customs Enforcement (ICE) facilities. We asked several questions related to a 2021 Department of Homeland Security Office of Inspector General (OIG) report that identified widespread deficiencies in ICE’s oversight of the use of solitary confinement in its detention facilities.¹ Your response raises additional questions about ICE’s adherence to internal policies and apparent overuse of solitary confinement.

One of the most troubling aspects of OIG’s report was its inability to confirm—for a majority of cases—whether ICE considered alternatives to solitary confinement, even though ICE’s own policies make clear that placing detainees in solitary confinement “requires careful consideration of alternatives” and “should occur only when necessary.”² Your letter described how ICE uses a record-keeping system to track the usage of solitary confinement for a subset of detainees once they are placed in solitary confinement but does not explain what, if anything, ICE does to consider alternatives ahead of time. You also promised a policy update that will better ensure that ICE’s record-keeping system tracks all detainees placed in solitary confinement, but you have not explained how ICE plans to ensure that alternatives to solitary confinement are in fact considered or what those alternatives are.

In response to our questions, your answers largely restate ICE’s pre-existing processes and reference the forthcoming policy update, which, to our knowledge, has still not been issued. Nor have you provided an adequate explanation of what steps ICE has taken or plans to take in order to address OIG’s findings. To address our continued concerns with ICE’s overuse of solitary confinement, please provide a staff-level briefing on this issue and written responses to

¹ U.S. Dep’t of Homeland Security, Office of Inspector General, OIG-22-01, “ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities” (October 13, 2021), <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf>.

² ICE Directive 11065.1 § 2.

each of the following questions by August 22, 2022:

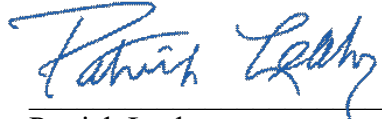
1. Your letter described ICE's use of the Segregation Review Management System (SRMS) to track the subset of detainees placed in solitary confinement who have been confined for 14 or more days.
 - a. Is it ICE's position that alternatives to segregation do not need to be considered except for the subset of cases currently tracked in SRMS? Does ICE consider alternatives to segregation in cases not currently tracked in SRMS?
 - b. When a case is entered into SRMS, what is the process that Enforcement and Removal Operations Headquarters (ERO HQ) follows during its "daily reviews" to ensure that alternatives to segregation have been considered? Please also include an explanation as to why OIG was unable to determine if alternatives had been considered in most cases.
 - c. The review of cases after placement in SRMS suggests that this is solely an after-the-fact analysis. What processes or policies, if any, are in place to ensure that alternatives are considered before a detainee is placed into segregation?
2. If ICE ERO or the ICE Health Services Corp (IHSC) determine that segregation is not warranted or would be damaging to a detainee's health, what are the available alternatives? Please provide a comprehensive list of alternatives to segregation that are currently available.
3. In addition to distributing translated handbooks on rules and regulations to detainees, what other steps has ICE taken to explore possible methods for limiting the use of segregation?
4.
 - a. What trainings and/or guidance has ICE provided on its existing standards following the issuance of OIG's report, and what trainings and/or guidance will it provide on the updated policy to ensure compliance?
 - b. How will ICE leadership determine whether any such trainings and/or guidance have addressed the issues identified by OIG?
 - c. Please provide any and all training materials or guidance documents relevant to this question.

Thank you for your prompt attention to this important request.

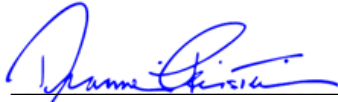
Sincerely,



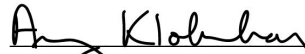
Richard J. Durbin
Chair




Patrick Leahy
United States Senator



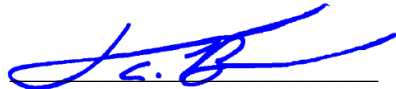
Dianne Feinstein
United States Senator



Amy Klobuchar
United States Senator



Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



Alex Padilla
United States Senator

cc: The Honorable Alejandro Mayorkas
Secretary of the Department of Homeland Security