

United States Senate

June 26, 2019

The Honorable Lindsey O. Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing to you to request that the Senate Judiciary Committee hold an oversight hearing on U.S. Immigration and Customs Enforcement (ICE) to provide Committee members an opportunity to question the agency about egregious and appalling abuses detailed in recent news reports.¹ Among many abuses, these reports outlined the agency's widespread use of solitary confinement² for immigrants in the civil immigration detention system (a form of torture),³ as well as the grossly unsanitary conditions at detention facilities.⁴

An ICE oversight hearing would also allow Committee members to gather more information about the immigration raids that the President flippantly alluded to in a tweet last week.⁵ The administration has already once tried to separate children from their parents; in order to prevent such a policy from being implemented again, it's imperative that members of the Senate Judiciary Committee be allowed to exercise their oversight authority of ICE.

On May 21, 2019, *NBC News* and *The Intercept* reported that between 2012 and 2017, ICE placed thousands of immigrants in its custody in solitary confinement.⁶ For many of these individuals they were placed in confinement even though they did not violate any rules.⁷ And, alarmingly, nearly one in three immigrants who were placed in solitary confinement had a mental illness.⁸ In one instance, ICE placed a Ukrainian man who suffered from a mental illness

¹ Ben Hallman, *Solitary Voices, About the Solitary Voices Investigation*, INTERNATIONAL CONSORTIUM OF INVESTIGATIVE JOURNALISTS, May 21, 2019, <https://www.icij.org/investigations/solitary-voices/about-the-solitary-voices-investigation/>.

² In this letter the term "solitary confinement" is meant to include "segregated housing" and "administrative segregation."

³ *Solitary confinement should be banned in most cases, UN expert says*, UN NEWS, Oct. 18, 2011, <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>.

⁴ Caitlin Dickerson, *Hundreds of Migrant Children Are Moved Out of an Overcrowded Border Station*, N.Y. TIMES, June 24, 2019, <https://www.nytimes.com/2019/06/24/us/border-migrant-children-detention-soap.html>.

⁵ Twitter, Account of Donald J. Trump, <https://twitter.com/realDonaldTrump/status/1140791400658870274> (last visited on June 25, 2019).

⁶ Hannah Rappleye et al., *Thousands of immigrants suffer in solitary confinement in U.S. detention centers*, NBC NEWS, May 21, 2019, <https://www.nbcnews.com/politics/immigration/thousands-immigrants-suffer-solitary-confinement-u-s-detention-centers-n1007881>; Maryam Saleh & Spencer Woodman, *A Homeland Security Whistleblower Goes Public About ICE Abuse of Solitary Confinement*, May 21, 2019, <https://theintercept.com/2019/05/21/ice-solitary-confinement-whistleblower/>.

⁷ *Id.*

⁸ *Id.*

in solitary confinement for 15 days for putting half a green pepper in his sock.⁹ In another instance, a Guatemalan man who had a prosthetic leg spent two months in solitary confinement.¹⁰ The news stories detail numerous examples of individuals placed in confinement without justification, which prompted a whistleblower to come forward to shine a light on these abuses.¹¹

The scientific research and data on the practice is clear: solitary confinement has serious, adverse, and dangerous health consequences. The world community recognizes this harm as a form of torture. In 2011, the United Nations Special Rapporteur on torture said, “Considering the severe mental pain or suffering solitary confinement may cause, it can amount to torture or cruel, inhuman or degrading treatment or punishment when used as a punishment”¹² He went on to say that the practice should only be used in extraordinary circumstances, and only for a short period of time.¹³

ICE’s own policy seems to recognize the dangers of solitary confinement. The policy states that the “[p]lacement of detainees in segregated housing is a serious step that requires careful consideration of alternatives. . . . In particular, placement in administrative segregation due to a special vulnerability should be used only as a last resort and when no other viable housing options exist.”¹⁴ It appears ICE has been consistently violating its own policy on the use of solitary confinement.

We are also alarmed that ICE was planning raids aimed at arresting thousands of immigrants living in our communities.¹⁵ On June 17, 2019, President Trump tweeted, “Next week ICE will begin the process of removing the millions of illegal aliens who have illicitly found their way into the United States.”¹⁶ These raids would undoubtedly result in the separation of children from their parents. Additionally, the reported targets of these raids were not dangerous criminals, but immigrants who escaped extreme violence and poverty in their home countries and who are seeking asylum in the United States. These raids have been rejected by then-Secretary of the Department of Homeland Security (DHS), Kirstjen Nielsen, and then-Acting Director of ICE, Ronald Vitiello.¹⁷ At a time when the Trump Administration is claiming it does not have enough money to deal with the humanitarian crisis at the Southwest border, it is puzzling how DHS has enough resources to conduct large-scale raids all across the United States.

We are grateful that you scheduled hearings on oversight of Customs and Border Patrol and the humanitarian crisis at the Southwest border, but in order to fully address the scope of ICE’s

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Solitary confinement*, *supra* note 3.

¹³ *Id.*

¹⁴ U.S. Immigration and Customs Enforcement, Review of the Use of Segregation for ICE Detainees (Sept. 4, 2013), available at https://www.dhs.gov/sites/default/files/publications/segregation_directive.pdf.

¹⁵ Zolan Kanno-Youngs and Michael D. Shear, *ICE Signals Mass Immigration Arrests, but Not the ‘Millions’ Trump Promised*, N.Y. TIMES, June 18, 2019, <https://www.nytimes.com/2019/06/18/us/politics/trump-immigration-deportations.html>.

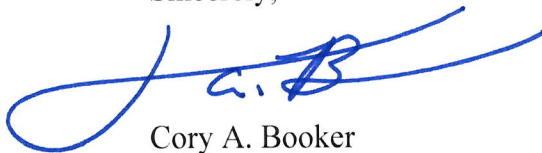
¹⁶ Twitter, *supra* note 5.

¹⁷ Letter from Senator Dianne Feinstein to Acting Secretary of the Dep’t of Homeland Security, Kevin McAleenan, May 23, 2019 (on file with the author and the Dep’t of Homeland Security).

serious and egregious violations, the Committee must convene an oversight hearing. It's becoming increasingly clear that ICE has become nothing more than a lethal weapon in the Trump Administration's war on immigrants and communities of color, and we cannot be silent.

We appreciate your attention to this critical matter and look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. A. B.', with a large, sweeping flourish extending to the left.

Cory A. Booker
United States Senator