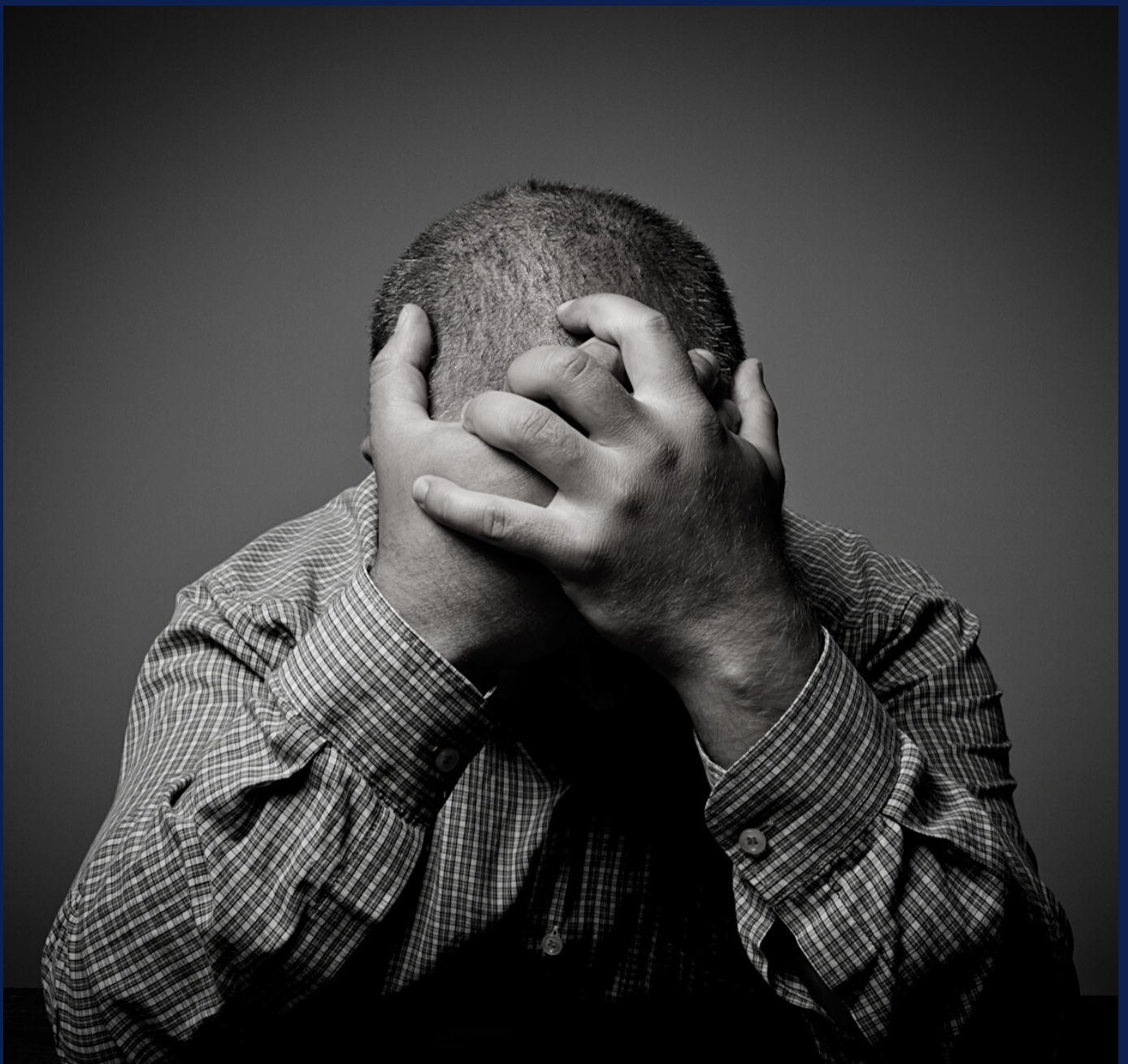

"Every day is like torture": Solitary confinement & Immigration detention

July 2021



About Bail for Immigration Detainees (BID)

BID is an independent national charity established in 1999 to challenge immigration detention. We assist those held under immigration powers in removal centres and prisons to secure their release from detention through the provision of free legal advice, information and representation. Alongside our legal casework, we engage in research, policy advocacy and strategic litigation to secure change in detention policy and practice.

Contact details

For further information please visit our website www.biduk.org or contact enquiries@biduk.org. Or write to BID, 1b Finsbury Park Road, London, N4 2LA or call 020 7456 9762.

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Most of all we would like to thank the people who agreed to share their experiences of immigration detention. We hope this report does justice to the honesty and generosity of the testimonies you gave us.

About Medical Justice

Medical Justice is the only charity in the UK to send independent volunteer clinicians in to all the Immigration Removal Centres across the UK. The doctors document scars of torture and challenge instances of medical mistreatment. Evidence from our casework guides our research, policy work and strategic litigation to secure lasting change.

Contact details

For further information please visit our website www.medicaljustice.org.uk, contact info@medicaljustice.org.uk, or call 0207 561 7498.

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Foreword by Baroness Shami Chakrabarti

*"There were no stars, no earth, no time,
No check, no change, no good, no crime
But silence, and a stirless breath
Which neither was of life nor death.."*

Lord Byron (George Gordon) from "The Prisoner of Chillon", 1816

*"Dear Christ! the very prison walls
Suddenly seemed to reel,
And the sky above my head became
Like a casque of scorching steel;
And, though I was a soul in pain,
My pain I could not feel."*

Oscar Wilde from "The Ballad of Reading Gaol", 1898

"Public opinion, which send you to prison, and your gaolers, who have to keep you there, are mostly concerned with your failings. Every hour of prison existence will remind you of these afresh. Unless you are able to keep alight within yourself the remembrance of acts and thoughts which were good, a belief in your own power to exist freely when you are once more out of prison how can any other human being help you? If not the inward power, how can any external power avail?"

Constance Lytton, from the Dedication to "Prisons and Prisoners", 1914

"Since March 2020, I have been held in my cell for over 22 hours due to the pandemic – this means that I've spent over a year in either solitary or segregated confinement¹⁹. Since being held in immigration detention, I've remained locked in my cell for over 22 hours a day (often it's around 23.5 hours a day). Sometimes, I had a cellmate and at other times, I was alone. The cells are very small and crowded. When I had a cell-mate, there wasn't enough space to exercise in the cell and it would get extremely hot."

Richard, from testimony to BID, 2021

The testimony of prisoners throughout the ages demonstrates the inherent punishment of incarceration of any kind. Through our enlightened twenty-first century lenses, we now consider concepts such as debtors' prison or criminalisation for being gay or a human rights campaigner, to be features of more barbarous times. Yet we still imprison foreign nationals for political and administrative convenience.

We do this without due process or proper limit of time. We detained many of these people, including some who have been in the United Kingdom since childhood, in the ordinary penal estate. We subject them to solitary and close confinement, even during the worst periods of the Covid-19 pandemic.

We do this even during and after our own harsh experiences of lockdown, which however oppressive, don't quite touch the prisoner's experience.

It is hard to square the evidence in this Report with the Mandela principles, protection from inhuman and degrading treatment and broader norms of common decency. I will leave this important work from Bail for Immigration Detainees and Medical Justice to persuade those in authority that seventy years on from the Refugee Convention, the UK Government needs to test its humanitarian pulse.

As for the rest of you readers, I hope that the prisoners cited here may speak for themselves

Shami Chakrabarti, 2021

Executive Summary

Profound and avoidable harm is being caused to immigration detainees' health by holding them beyond their release date in prolonged and indefinite cell confinement in prison.

Since the start of the Covid-19 pandemic in March 2020, confinement is a practice that has become widespread in prisons, with people being held in their cells for 22 to 24 hours a day to contain the spread of Covid-19. We are concerned that the conditions and lengths of isolation amount to prolonged solitary confinement, which is prohibited by the UN Standard Minimum Rules for the Treatment of Prisoners (the 'Mandela Rules') and may breach individuals' Article 3 right not to be subject to cruel, inhuman and/or degrading treatment.

This report seeks to document the immense harm caused by this practice. All prisoners are being subjected to these extremely severe lockdown conditions and we are opposed to the confinement anyone in prisons. For the purposes of this report, we draw on the experiences of clients of Bail for Immigration Detainees (BID) and Medical Justice and the evidence documented in their casework, and therefore focus on the experiences of immigration detainees. Examining witness statements from five BID clients who were held in solitary or shared confinement and evidence from six medico-legal reports from Medical Justice, this report demonstrates the detrimental impact of solitary and shared confinement on individual health and well-being.

We found that prolonged cell confinement causes profound harm to individual's health and well-being. Clients have described confinement as *"psychological torture"*, feeling *"trapped"*, *"hopeless"* and *"suffocated"*. Symptoms were incredibly severe, including involuntary shaking, memory loss, physical pain and insomnia. Detainees with high risk mental health conditions, including diagnoses of post-traumatic stress disorder (PTSD), severe depression, and a history of self-harm and suicidal thoughts have experienced serious deterioration in confinement. The experiences of our clients reflect the overwhelming medical evidence of the harm that prolonged solitary confinement causes; it is well established that by depriving people of meaningful social interaction and any sense of control, confinement causes damage to individuals' mental health, which can last beyond release. It can cause deterioration in those with pre-existing mental health conditions and precipitate the onset of new conditions. We also found a concerning lack of medical support available to people confined in prisons.

The report further analyses the approach of the Home Office and Tribunal to the issue of solitary confinement, based on evidence from bail casework, Immigration Removal Centre (IRC) transfer requests, and correspondence with the Director General of Immigration Enforcement. We reviewed 30 bail cases where we argued in the grounds for bail that the conditions of detention were disproportionate and argued in favour of release on those grounds, including evidence of the harm being caused and generic evidence relating to the impact of prolonged solitary confinement. Despite the fact that the majority of cases related

to people with pre-existing vulnerabilities, there were only two cases where the Home Office engaged with the arguments BID made (in both cases agreeing to transfer the individual to an IRC). Correspondence between BID and the Home Office further indicates that the harm caused by such conditions is not being considered when assessing the proportionality of continued detention.

The report concludes with key recommendations. We submit that such treatment cannot be justified as a public health measure, not least because immigration detainees are held indefinitely, for administrative convenience, having already completed any criminal sentence. The most effective way to reduce Covid-19 amongst immigration detainees in prison is to release them as they need not be there. The indefinite nature of detention exacerbates the harm caused by confinement, and being confined to their cell for almost the entire day adds a further barrier to their ability able to take proactive steps to challenge detention.

Introduction

Since March 2020, almost all prisoners have been placed in lockdown and locked in a small prison cell for almost the entire day. That includes people serving custodial sentences, those held on remand awaiting trial¹, and immigration detainees. Many of BID and Medical Justice's clients detained under immigration powers in prisons report being held in their cells, either in isolation or with one cellmate, for between 22 and 24 hours per day since the beginning of the pandemic, with people sometimes being held in their cells for days at a time. This reflects the findings of Her Majesty's Inspector of Prisons², who reported, after having visited more than 50 prisons since the beginning of the pandemic, that prisoners spending 23 hours a day in their cells was "normal".³ The Prison Reform Trust reported in August 2020 that while almost all prisoners were locked in their cells for 23 hours per day or more, two thirds were held in conditions that amounted to solitary confinement, while the other third were held with a cell-mate⁴. Although this practice pre-dates the pandemic⁵ and we were aware of people being held in their cells for 23 hours per day or more prior to the pandemic, this type of treatment has since become far more widespread.

Prison cells are tiny (typically 2m by 3m in size), sparsely furnished, often too hot, with little view of the outside world, limited access to fresh air and natural light and few opportunities to occupy oneself. Conditions are unhygienic and people are required to eat and defecate in the same cramped space⁶.

We are concerned that these conditions amount to prolonged solitary confinement. Rule 44 of the UN Standard Minimum Rules for the Treatment of Prisoners (the 'Mandela Rules', adopted unanimously by the UN General Assembly in 2015) defines solitary confinement as the confinement of prisoners for 22 hours or more a day without meaningful human contact. The Istanbul Statement on the Use and Effects of Solitary Confinement adopts an equivalent definition and finds that solitary confinement is prolonged where it exceeds 15 consecutive days. Prolonged and/or indefinite solitary confinement is prohibited by the Mandela Rules.

¹ Fair trials, ['Locked up in Lockdown: Life on Remand During the Pandemic'](#), 2021.

² HM Inspectorate of Prisons, ['What Happens to Prisoners in a Pandemic? A Thematic Review'](#), February 2021, 4.

³ BBC News, ['Prisoners Locked up for 23 Hours Due to Covid Rules Is "Dangerous"'](#), 20 October 2020.

⁴ For example, see Prison Reform Trust, ['Prisoners' Mental Health Suffering under Conditions of "Prolonged Solitary Confinement"'](#), 11 February 2021.

⁵ The Subcommittee on the Prevention of Torture (SPT), following their visit to the UK in September 2019, express their serious concern regarding the "numerous reports of the prolonged use of segregation in prisons in the United Kingdom". See Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ['Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Visit to the United Kingdom of Great Britain and Northern Ireland Undertaken from 9 to 18 September 2019. Report of the Subcommittee'](#), 25 May 2021, para. 86.

⁶ Prison Reform Trust Covid-19 Action Prisons Project: Tracking Innovation, Valuing Experience http://www.prisonreformtrust.org.uk/Portals/0/Documents/CAPPTIVE_families_webfinal.pdf

Current conditions may breach individuals' Article 3 right not to be subject to cruel, inhuman and/or degrading treatment. The UN Special Rapporteur on Torture has stated that prolonged solitary confinement can amount to torture or cruel, inhuman or degrading treatment.⁷ This view was echoed by the parliamentary Joint Committee on Human Rights:

*"In our view the restrictive lockdown regimes in prisons, YOIs and STCs have left prisoners in solitary confinement for long periods in conditions likely to engage the right to freedom from inhuman and degrading treatment (Article 3 ECHR)."*⁸

Such conditions cannot be justified as a public health measure. Whilst we recognise the legitimacy of short-term protective isolation for those who may be infectious, this should not permit such severe levels of confinement. The Scientific Advisory Group for Emergencies (SAGE) have argued that:

*"Although the restrictions have saved lives[,] qualitative surveys have indicated that spending up to 23 hours a day in a cell, stopping of visits from spouses, children and partners and cancellation of rehabilitative activities has had a substantial negative impact on mental health. Whilst this parallels mental health problems associated with pandemic restrictions in the wider community the extent of the restrictions has been greater in prison and the prison population is also already highly vulnerable to mental health problems".*⁹

There is overwhelming medical evidence of the harm caused by prolonged solitary confinement. According to the Istanbul Statement *"Solitary confinement harms prisoners who are not previously mentally ill and tends to worsen the mental health of those who are"*.¹⁰ The effects of solitary confinement are likely to endure beyond the termination of the confinement and the damage inflicted may be permanent.¹¹ Those with pre-existing mental health conditions or torture survivors are at an increased risk of deterioration and the Istanbul Statement states that solitary confinement should be absolutely prohibited for mentally ill prisoners.¹²

Individuals held under prolonged or solitary confinement are reporting deterioration in their mental health as a result of the current oppressive regime in prisons. HMIP stated in a report published in February 2021 that the *"most disturbing effect of the restrictions was the decline in prisoners' emotional, psychological and physical well-being"*.¹³ Prisoners described being *"chronically bored and exhausted"*; *"drained, depleted, lacking in purpose"*

⁷ UN News, ['Solitary Confinement Should Be Banned in Most Cases, UN Expert Says'](#), 18 October 2011.

⁸ ['The Government's Response to COVID-19: Human Rights Implications'](#), 21 September 2020, para. 103.

⁹ Scientific Advisory Group for Emergencies Environmental Modelling Group (EMG) Transmission Group, ['COVID-19 Transmission in Prison Settings: March 2021'](#), 23 April 2021, 6.

¹⁰ ['The Istanbul Statement on the Use and Effects of Solitary Confinement'](#) (The International Psychological Trauma Symposium, Istanbul, 9 December 2007).

¹¹ Stuart Grassian, ['Psychiatric Effects of Solitary Confinement'](#), *Washington University Journal of Law & Policy* 22 (January 2006), 332.

¹² ['The Istanbul Statement on the Use and Effects of Solitary Confinement'](#) (The International Psychological Trauma Symposium, Istanbul, 9 December 2007).

¹³ HM Inspectorate of Prisons, ['What Happens to Prisoners in a Pandemic? A Thematic Review'](#), February 2021, 4.

and *"frequently compared themselves to caged animals"*.¹⁴ A survey of 180 prisoners by the Prison Reform Trust, entitled *Prisoners' mental health suffering under conditions of "prolonged solitary confinement"* reached similar findings.¹⁵ Dame Anne Owers, Chair of the Independent Monitoring Boards, has further highlighted that *"there are a lot of undiagnosed mental health issues [...] because prisoners have been behind doors for 22 or 23 hours a day" and because of the reduced capacity of mental health services*.¹⁶ The negative health impacts are specifically found to be a result of factors such as reduced social contact, stimulation and control, as well as the duration of confinement,¹⁷ all of which are highly relevant to the current situation faced by immigration detainees currently held in prisons.

Everybody in prisons is being subjected to extremely severe lockdown conditions that are inhumane regardless of the legal powers that the individual is being held under. For immigration detainees, the harm caused by prolonged solitary or other cell confinement is aggravated by the indefinite nature of their detention. Solitary confinement which is indefinite or without a known end date has been demonstrated to be particularly damaging. Studies have evidenced that *"an important element in the level of endurance of solitary confinement is prior knowledge of its duration"*.¹⁸ Confinement of immigration detainees is further exacerbated by the fact that the individual may be required to take proactive steps to secure their release on bail; the very limited access to legal advice in prisons is further restricted by confinement.¹⁹

Further, the legal purpose of immigration detention cannot be reconciled with the conditions in which it is currently taking place. Immigration detention is an administrative process that exists for the purpose of removal and it is therefore not a punishment. Rule 3(1) of the Detention Centre Rules 2001 lays out the purpose of Detention Centres as to *"provide for the secure but humane accommodation of detained persons in a relaxed regime with as much freedom of movement and association as possible"*.²⁰ By contrast immigration detention in prisons, which is governed by Prison Rules and which in normal times imposes greater restrictions on liberty, is currently taking place under the most restrictive conditions imaginable.

¹⁴ HM Inspectorate of Prisons, ['What Happens to Prisoners in a Pandemic? A Thematic Review'](#), February 2021, 4.

¹⁵ Prison Reform Trust, ['Prisoners' Mental Health Suffering under Conditions of "Prolonged Solitary Confinement"'](#), 11 February 2021.

¹⁶ Dame Anne Owers, ['Justice Committee Oral Evidence: Mental Health in Prisons, HC 72'](#), 22 June 2021, Q93.

¹⁷ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008.

¹⁸ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008, 21.

¹⁹ See the recent case of *SM v The Lord Chancellor's Department* [2021] EWHC 418 (Admin), in which the High Court found the lack of legal advice for immigration detainees held in prisons to be unlawful.

²⁰ As Mr Justice Kay also explained in the case of *Fouad Idira v SSHD* [2014] EWHC 4299 (Admin) *"[...] Ordinarily an illegal entrant, or a person refused leave to enter, or an overstayer subject to a deportation order will not be detained under immigration powers at all (save possibly as an immediate prelude to removal). However, owing to the risk of absconding, a limited number must be, but – in the ordinary course – IRCs are designed to cater for them.[...]"*.

We are opposed to all forms of immigration detention and the confinement of anyone in prisons. For immigration detainees, the risks that being locked in a prison cell for 23 hours per day pose to individuals are disproportionate to the need to exercise the Secretary of State's power to detain for administrative convenience.

The latest published statistics from the Home Office (end of March 2021) showed that there were 577 immigration detainees held in prisons²¹ - a 70% increase from March 2019. The routine use of prisons for immigration detainees goes against recommendations from international human rights bodies such as the CPT²² and the UNHCR²³.

Many have language or mental health barriers – Immigration detainees are more likely to have pre-existing mental health conditions and to have experienced torture or trauma²⁴. The use of prolonged solitary confinement in this context is particularly harmful and dangerous and likely to amount to a breach of Article 3 of the European Convention on Human Rights.

There are a number of safeguards where removal from association or temporary confinement is used in immigration removal centres, in recognition of the severity of the practice and the harm it may cause. There are strict time limits on its use; healthcare staff and Independent Monitors are required to carry out daily visits; and its use is strictly limited where the individual has serious psychiatric illness. Although current prison regimes are similar to the removal from association / temporary confinement regimes used in IRCs, none of the same safeguards are being applied.

Will restrictions be eased in line with the rest of society?

Prisons remain subject to strict lockdown conditions and we are concerned that prisons will maintain a more restrictive regime even after pandemic restrictions have ended in the rest of society. The Prison Officers' Association said that the practice of locking prisoners in their cells for 23 hours a day had *"reduced violence and self-harm"* and *"led to a more stable environment"*. It argued that limits on association should be made permanent.²⁵ A recent article by Mark Fairhurst, national chair of the Prison Officers' Association, in the Spring

²¹ ['National Statistics: How Many People Are Detained or Returned?'](#), 18 June 2021.

²² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) *"[c]onsiders the detention of irregular migrants in a prison environment to be fundamentally flawed"*. See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), ['Safeguards for Irregular Migrants Deprived of Their Liberty: Extract from the 19th General Report of the CPT'](#), Published in 2009, para. 79.

²³ The United Nations High Commissioner for Refugees (UNHCR) has stated that *"The use of prisons, jails, and facilities designed or operated as prisons or jails, should be avoided"*. See UNHCR, ['Detention Guidelines Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention'](#), 2012, 29.

²⁴ This is well documented. For example, see M. von Werthern, K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason and C. Katona, ['The Impact of Immigration Detention on Mental Health: A Systematic Review'](#), *BMC Psychiatry* 18, no. 1 (December 2018).

²⁵ Prisoners' Advice, ['Prison Officers' Association calls for long-term changes to prison regime'](#), undated.

2021 edition of its magazine *Gatelodge* stated that "[t]he future of prison life will inevitably involve more time locked up if we are to promote safety".²⁶

Our evidence suggests overwhelmingly that prolonged cell confinement does not promote safety. The immense harm caused by the restrictive regime in prisons means that this type of treatment cannot be justified once the risks posed by Covid-19 have reduced. SAGE have said that *"Whilst lockdown restrictions remain in prison this is likely to continue to affect mental health and reduce activities that support rehabilitation"*.²⁷ In addition to the severe impact on people's emotional, physical and psychological wellbeing, restricted access to association, visits, education and rehabilitation courses, and reduced support to address offending behaviour will make people less well prepared for life after prison. The Chief Inspector of Prisons Peter Clarke said:

*"We cannot surely have a position where we say that the only way to run a safe and decent prison is to lock prisoners up in conditions that amount to solitary confinement... That cannot be right. We as a nation surely cannot say that that is acceptable."*²⁸

Report structure

This report is based on three separate sources of evidence; witness statements, medico-legal reports and bail applications and prison transfer requests. The next section details witness statements from five BID clients who were held in solitary or shared confinement. The following section details the detrimental health impacts of solitary and shared confinement, drawing on evidence from medico-legal reports from Medical Justice. The final section examines the approach of the Home Office and Tribunal to the issue of solitary confinement, based on evidence from bail applications and prison transfer requests made by BID and official correspondence with the Home Office. The report concludes with our key recommendations.

It is important to acknowledge that this report is based solely on the testimonies of men and that other genders are not represented. While this was not our intention, in the last year an average of 97.3% of those detained under immigration powers were men; our caseload and therefore this report reflects this (we calculated this figure snapshot data of people in detention on the final day of the quarter, for each of the last four quarters). Though we were not able to source testimonies from women and non-binary people detained in prison, it is vital that it is recognised that they too have been subjected to the inhumane conditions that this report exposes.

²⁶ Mark Fairhurst, ['We Can Make Our Prisons Safe'](#), *Gatelodge*, Spring 2021, 6.

²⁷ Scientific Advisory Group for Emergencies Environmental Modelling Group (EMG) Transmission Group, ['COVID-19 Transmission in Prison Settings: March 2021'](#), 23 April 2021, 12.

²⁸ BBC News, ['Prisoners Locked up for 23 Hours Due to Covid Rules Is "Dangerous"'](#), 20 October 2020.

Solitary confinement vs shared confinement

We use the terms solitary and shared confinement to distinguish cell confinement alone from cell confinement with a cell-mate. Many immigration detainees are held in a cell with a cell-mate. We have termed this 'shared confinement'. Although the Mandela Rules refer specifically to 'solitary confinement' it is clear that prolonged shared confinement in a single cell is also a very harmful and dangerous practice and in some instances, may be more damaging. Studies of individuals confined in small groups have identified dramatically increased levels of hostility, interpersonal conflict, and paranoia. It is thought that these risks are most likely to increase for groups of just two people confined together.²⁹ We have therefore included cases of prolonged shared confinement for the purpose of this report.

~~Women detained in prisons~~

~~It is important to acknowledge that this report is based solely on the testimonies of men and that other genders are not represented. While this was not our intention, in the last year an average of 97.3% of those detained under immigration powers were men; our caseload and therefore this report reflects this (we calculated this figure snapshot data of people in detention on the final day of the quarter, for each of the last four quarters). Though we were not able to source testimonies from women and non-binary people detained in prison, it is vital that it is recognised that they too have been subjected to the inhumane conditions that this report exposes.~~

²⁹ Stuart Grassian, '[Psychiatric Effects of Solitary Confinement](#)', *Washington University Journal of Law & Policy* 22 (January 2006), 332.

Witness statements from BID clients

We took statements from 5 clients who were being held in solitary or shared confinement. In two cases the statements were transcribed by BID staff with the client giving instructions by telephone from prison. In two other cases the individual had recently been released and another had recently been transferred to an IRC. Most stated that they were held for around 23.5 hours per day and in some cases they spent days or weeks held in their cell for 24 hours, in hot cells and cramped, unhygienic conditions. We have included extracts from their statements below which describe the distress in stark detail.

Three of the people that provided statements had pre-existing vulnerabilities that were exacerbated by the experience of prolonged cell confinement. However another client told us that *"I didn't enter prison with mental health problems but I'm not the same person I was. My mind is not the same"*.

The impact upon mental health that people described included memory loss, insomnia, paranoia, hearing voices, nightmares, panic attacks, flashbacks of past trauma, low mood, fatigue, self-harm and suicidal ideation. Two described it as torture and another stated *"I feel like a caged animal"*. Two felt that it had made a permanent impact on their mental health and expressed doubt about whether they could ever recover from the experience, feeling that they had lost their identity or personality.

People also described the impact upon their physical health including vomiting and body pains, and a number of the people we spoke to had difficulties accessing the healthcare they needed. Everyone we spoke to felt that their treatment was unfair and some expressed that they could not believe that such mistreatment had been allowed to take place.

Three of the five spent extended periods in prolonged cell confinement while detained under immigration powers and after a grant of bail in principle (also known as 'conditional bail'). This is where a judge agrees that the individual should be released with a residence address set as one of the bail conditions, but there is no suitable accommodation available. Usually this requires the Home Office or the Probation Service to find a suitable bail address, and if they do not, the individual remains in detention, sometimes for months. This was an additional source of frustration. The people we spoke to were also frustrated by the fact that they were being detained, supposedly for the purpose of removal from the UK, even though such removal was clearly not possible, often due to COVID-19 related travel restrictions.

What follows are powerful first-hand accounts from five of BID's cases. All of the people BID spoke to wanted to assist to compile evidence of the practice of solitary or shared confinement and the harm caused, and all agreed to provide statements. Their testimonies are a vivid and often disturbing description of the various extreme ways that prolonged solitary or prolonged shared cell confinement affects people. Despite being pushed to the limit of what a human being can be expected to endure, they describe the experience with remarkable clarity.

Richard³⁰

Richard entered the UK as a young child. At the end of his sentence he remained in prison under immigration powers despite having a right of appeal that meant he could not be removed and the fact that flights to his country of origin had been suspended for a long time due to the pandemic. He was detained under immigration powers in February 2021 and granted bail in principle a month later, but when we spoke to him in May 2021 he was still detained. During some periods he has had a cellmate. Richard provides a particularly vivid account of the psychological effects of what he has described as 'psychological torture'.

"Since March 2020, I have been held in my cell for over 22 hours due to the pandemic – this means that I've spent over a year in either solitary or segregated confinement"³¹. Since being held in immigration detention, I've remained locked in my cell for over 22 hours a day (often it's around 23.5 hours a day). Sometimes, I had a cellmate and at other times, I was alone. The cells are very small and crowded. When I had a cell-mate, there wasn't enough space to exercise in the cell and it would get extremely hot.

I want to speak about the impact that solitary and segregated confinement has had on my mental wellbeing as I think more people should know about the difficulties that prisoners and detainees are experiencing. I would describe solitary/segregated confinement as psychological torture. I feel like I'm being stripped of my identity, that my personality is being broken down and as though I'm incapable of returning to the community.

Prior to entering solitary/segregated confinement, I already suffered from anxiety, depression and PTSD. The PTSD stemmed from a past experience of torture which I'm not ready to speak about in detail. I suffer from nightmares and flashbacks and have difficulty sleeping. I am also taking medication.

Initially, solitary/segregated confinement was difficult but the scary thing is that as time went on, I started to feel anxious about leaving my cell at all. I think it was because I experienced so little human interaction that it became a shock to the system when I did speak to people. When I was allowed out and spoke to a prison officer, I'd return to my cell and over-analyse the exchange; the conversation would replay in my head over and over again and I'd obsess over all the things I felt I said wrong. It's like my brain was tormenting me.

Now, when I am allowed out, I feel very uncomfortable being around other people and it's as though I've lost my social skills. I feel reluctant to be a part of anything and just want to withdraw into myself.

The days and nights blur together during confinement. I can barely sleep at night but when I do, I experience nightmares. I'm afraid to sleep because I'll go back into the nightmare but being awake is also horrible. I began to lose any kind of structure in my day, my appetite,

³⁰ Clients' consent has been obtained for their experiences to be printed. Names have been changed to protect their identities.

³¹ Segregated confinement is a term that was previously used by BID staff to describe people being held in their cells for 22 or more hours with a cellmate.

sleeping pattern and weight. There were lots of things that I wanted to do with my life when I was younger, including being a chef like my grandad. Now, I cook canned food in a kettle in my room because the prison food is so bad.

There are certain things that are happening that I can't explain. I can't control the volume of my speech; it's like I can't speak loudly enough. When I do try and raise my voice to speak to prison staff, I feel like I'm shouting. I also vomit almost every morning and I don't know why. I experience body pains; my shoulder and back have been hurting for a while now and I think this might be because there's nothing to do all day except lie down. I always put in applications to Healthcare for a physiotherapist to come and see me but they never seem to be in. I'm only in my early twenties but I feel double my age.

I used to enjoy spending time with my friends and relatives but now I feel guilty for calling them. My mind goes blank. I've got nothing to talk about other than how bad I feel and I feel like I'm burdening them with my problems as I've been reduced to feeling nothing other than pain or numbness. I'm afraid of speaking to my family because I can't give them a date for when I'll get out. I know that this disappoints them and it makes me upset.

I feel that foreign nationals are treated like they don't matter and that the Home Office wants us to be forgotten about. At the previous prison in which I was detained, my Offender Manager told me that I couldn't access a course as I was "there for deportation." I think this is discriminatory. It's as though they think that foreign nationals are incapable of rehabilitation.

I don't have a good understanding of the law, but I find it hard to believe that solitary/segregated confinement for so long could be legal. It just feels illegal because of what it's doing to my mind and body. If this isn't breaching my rights, then what will? It's as though I've fallen into a crack that the Home Office opened and I can't get out. The conditions I'm being held in make me feel trapped and bullied. I get the impression that the Home Office are trying to make me give in but I'm trying my best to hold on. I'm trying to focus on all the things I want to do when I get out like eating my grandmother's cake, laughing with my friends and learning new things. I know that if I leave, I will need their support because as I said, I feel like I'm losing myself."

Omar

Although his prison sentence didn't end until October 2020, Omar told the Home Office as early as January 2020 that he is happy to return to his country of origin. Despite this he was still detained at the end of his sentence. He was granted bail in principle (pending the provision of a Home Office bail address) in February 2021, but as at the beginning of June he remains in detention. He has suffered greatly as a result of being held for around 23-24 hours per day and although he entered prison without any mental health problems he now does not know if the damage done can be repaired.

"Since October 2020, I've been held in solitary confinement. This means that for around 7 months, I've been locked alone in my cell for around 23-24 hours a day. Sometimes, I'm not allowed to leave for a few days; during this time, I can't shower or exercise. Sometimes,

we're allowed out to walk in the yard for around 30 minutes. If it is raining at that time and I don't want to go out, the exercise time can't be rescheduled.

Both lunchtime and evening meals are delivered to my door at 11am. The evening meals are meant to be eaten hot but by the time dinner-time comes, the food gets cold and greasy so it essentially become inedible. I just buy bread for myself and eat that instead. However, I've lost my appetite and don't eat much anyway.

I have a window in my cell which has a flap. Only a limited amount of air comes in. There is no cover for the toilet so sometimes you just have to sit there until any bad odours go away. The cell is quite small so there limited space to move around.

It is hard not to feel hopeless when I think about my situation. The fact that I have no idea when I'll ever get out messes with my mind. I find myself believing that this is my life now and that I'll never actually get out. I didn't go into prison with any mental health problems but now I experience anxiety, very low mood, panic attacks and insomnia. I don't feel like myself at all and feel like my health is slipping away from me. I have even started to lose my memory. The other day, I was reading a book and all of a sudden, I couldn't remember anything that I had read. This has really frightened me. I'm also not able to write letters properly anymore. I have to double check a letter after I've written it and always find that I've missed out words. I then have to rewrite it which is stressful so I don't write letters anymore.

I wake up in the middle of the night, struggling to breathe. My body starts to shake by itself and I feel like I'm going to die. I only sleep for around 4 hours a day. I can't remember the last time I slept for a reasonable time. There is always so much noise. I can hear people crying and harming themselves. I can hear medics come and go and it never sounds like they properly help. The other day, a man harmed himself by cutting his stomach. The nurse came, applied treatment and left but of course, that wouldn't have addressed the reason why he did that to himself in the first place. Lots of people including young people are developing serious mental health issues.

I asked to see someone from the Mental Health Team several times but no-one came for around 6 weeks. This month, I was seen by someone but they told me that the only way for me to get better would be for me to return to my country of origin. I don't think there's anything they can do to make this situation better.

Prior to September 2020, I was prescribed painkillers and a cream for pain in my leg and back. When I was transferred to my current prison in September 2020, I was told that I had to choose between the cream and the painkillers as I couldn't have both. I therefore went with the cream. It took 5 months to see the doctor. I used to be prescribed a specific anti-inflammatory drug but now I only have paracetamol, which isn't effective. I'm still experiencing pain in my leg and back which also prevents me from sleeping.

Every day is like torture in solitary confinement. I feel suffocated and feel like I want to hurt myself or end my life because there is no other escape. I feel like I just want to shout at the

door and scream, "let me out!". Now I understand why people commit suicide; because there's no way out. As I said, I didn't enter prison with mental health problems but I'm not the same person I was. My mind is not the same.

I'm not sure if what has happened to me can be repaired. If I go to any other room (such as for a video-conference with my solicitor), I will check if the door is locked. If it's locked, I feel trapped and suffocated. I'm not sure how I'll cope outside and how I can forget all of what has happened. I intended to go back to my country so that I can look after my mum but I think she'll have to look after me instead. I told her that she needs to leave all windows open once I arrive. I just feel like I need air.

I honestly don't understand why the government is spending money on keeping me in prison. It must be costing the taxpayer so much and it's completely unnecessary. I want to return to my home country so there is no way that I'll abscond if given bail because I want to return as soon as possible."

Jason

After a sentence of 1-day imprisonment Jason was detained for 3 months under immigration powers, and was confined to his cell 23.5 hours per day. This was despite there being a legal barrier to removal and copious evidence of his vulnerability and lack of fitness for immigration detention even if he were to be detained in an IRC.

"I was held in segregated confinement in prison from January 2021 to April 2021. This meant that I was locked up for 23.5 hours a day with my cell-mate.

I was sentenced to one day of imprisonment but the Home Office held me in prison under immigration powers for over 3 months. This was despite the fact that at the time, they had three different medical reports stating that I was unfit to be detained even within an IRC where I wasn't being locked up for so long.

My mental health really suffered during segregated confinement and I could see no way out. I was hearing voices and self-harmed which led to heavy bleeding. Because of this, I was made subject to the ACDT process (Assessment Care in Detention and Teamwork). I was supposed to be monitored by staff every hour but this didn't always happen. My cell-mate who was a source of support asked to be moved because he was so distressed by my self-harm and didn't want to watch me die.

Although I've now been released, I still live in fear that I'll be re-detained and confined. I'm so anxious about this. I wouldn't wish segregated or solitary confinement on anyone. It was the most harrowing experience. I still experience nightmares and sometimes when I'm alone and upset, I hear voices. I don't know what's wrong with me."

David

David was confined to his cell 23.5 hours per day for an 8-month period of immigration detention. After repeated attempts he was eventually transferred to an IRC where he remains.

"I experienced torture in my home country; I was stabbed in my head and leg and sustained injuries. I still experience physical pain in my head and leg and I suffer from poor circulation. I also experience frequent tooth-pain; I have been told that I need treatment that isn't currently available in prison due to Covid-19. Even though I didn't move much during the day, I experienced heavy fatigue; I was just so tired all the time. I also found it difficult to eat and sleep. I felt so overwhelmed with despair all the time and even considered asking the Home Office to deport me to a country where I feel at risk; I was just so desperate to get out.

For a long time, I was only allowed out for 30 minutes a day (15 minutes to shower and 15 minutes to exercise). This wasn't enough time at all. One of the worst things about the segregated confinement was that I didn't know when it would end. I felt like a caged animal and questioned how the Home Office could do this to me after I completed my sentence. It was just so unfair."

Malcolm

Malcolm came to the UK as a young child with his family and has lived here ever since. After a criminal conviction he was initially held in a Young Offenders' Institution but then moved to an adult prison.

"From February 2020 to December 2020 I was detained under immigration powers in prison and subjected to solitary confinement due to the pandemic. Sometimes, I was locked up for 23.5 hours and sometimes even 24. For around 3-4 weeks, I was locked up for 24 hours so I couldn't shower. I had to pad-wash by the sink during this time, which made me feel horrible and dirty.

I wasn't able to sleep properly and felt anxious all the time as everything was out of my control. I asked for sleeping tablets but for some reason, I wasn't prescribed any. The most difficult part of solitary confinement in immigration detention was that there was no release date. I had nothing to look forward to and I couldn't see my family either as visits were banned.

I know that others in prison self-harmed as they were so frustrated by the conditions that they were being held in.

Thankfully, I've now been released. Looking back, I can't believe I ever experienced this."

Health Impacts of Solitary Confinement

The detrimental health consequences of solitary confinement have been unequivocally evidenced and recognised.³² Solitary confinement is found to have profoundly harmful effects on both psychical and mental health. The detrimental effects on mental health are found in those with and without pre-existing conditions; confinement can cause the onset of new mental health problems, or exacerbate pre-existing conditions.³³ ³⁴

The most common psychological conditions have been summarised by the *Dignity Library* to include *"depression, anxiety, difficulty concentrating, substance abuse and dependence, cognitive disturbances, perceptual distortions, paranoia, psychosis and Post Traumatic Stress Disorder (PTSD)"*.³⁵ The Istanbul Protocol explains that *"When a person is examined while in detention or living under considerable threat or oppression, some symptoms may be adaptive [a response to their situation]. For example, diminished interest in activities and feelings of detachment or estrangement would be understandable in a person in solitary confinement"*.³⁶ Solitary confinement has also been established as a particular risk factor for suicide and self-harm.³⁷ In the USA, prisoners in solitary confinement were found to be *"seven times more likely to self-harm and three times more likely to commit suicide than other prisoners"*.³⁸

The specific factors that contribute to the negative health impacts include social isolation, reduced activity and stimulation, lack of control, and the duration of confinement.³⁹ The lack of distractions, routine and social isolation are particularly damaging to mental health. Without social contact and support, further social withdrawal may be precipitated, resulting in negative psychological impact upon the person.

³² Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008; Stuart Grassian, ['Psychiatric Effects of Solitary Confinement'](#), *Washington University Journal of Law & Policy* 22 (January 2006); Appel AM, Aon M, Cakal, E, ['Solitary Confinement'](#) (DIGNITY Library, 2018).

³³ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008, 10. See also ['The Istanbul Statement on the Use and Effects of Solitary Confinement'](#) (The International Psychological Trauma Symposium, Istanbul, 9 December 2007) which states: *"Solitary confinement harms prisoners who are not previously mentally ill and tends to worsen the mental health of those who are"*.

³⁴ ['The Istanbul Statement on the Use and Effects of Solitary Confinement'](#) (The International Psychological Trauma Symposium, Istanbul, 9 December 2007).

³⁵ Appel AM, Aon M, Cakal, E, ['Solitary Confinement'](#) (DIGNITY Library, 2018); See also Stuart Grassian, ['Psychiatric Effects of Solitary Confinement'](#), *Washington University Journal of Law & Policy* 22 (January 2006).

³⁶ UN Office of the High Commissioner for Human Rights (OHCHR), [Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) ("Istanbul Protocol"), 2004, HR/P/PT/8/Rev.1, para 239.

³⁷ Appel AM, Aon M, Cakal, E, ['Solitary Confinement'](#) (DIGNITY Library, 2018).

³⁸ Appel AM, Aon M, Cakal, E, ['Solitary Confinement'](#) (DIGNITY Library, 2018).

³⁹ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008.

Solitary confinement can trigger an immediate onset of negative outcomes. As Thomas Hewson, Andrew Shepherd, Jake Hard and Jennifer Shaw have found, in the context of prisoners being kept in cells for up to 23 hours a day due to COVID-19 restrictions, “[e]ven short periods in solitary confinement are associated with psychological consequences, including anger, depression, anxiety, paranoia, psychosis, and exacerbation of underlying mental illness and increased mortality after release from prison”.⁴⁰

Such detrimental outcomes are found to worsen over time.⁴¹ A “study in Italy found the suicide rate among detainees in short-term isolation went from being 239% higher than among other detainees to 439% among detainees in maximum security isolation”.⁴²

Juan Mendez, the former UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, has called for a ban on solitary confinement of more than 15 days, as it has been evidenced that the negative effects of isolation are more likely to become permanent at this point. As stated above, prolonged solitary confinement, namely confinement which exceeds 15 consecutive days, is prohibited by the Mandela Rules.

In R (on the application of Bourgass and another) [2015] UKSC 54, the Supreme Court cited the detrimental impact of solitary confinement that “can occur after only a few days in confinement, and the health risks are purported to rise with each additional day spent in such conditions”.⁴³

Although ethical and practical problems limit scientific research in this field, there is a growing body of literature and evidence that shows the harm of confinement. Such harmful outcomes are exacerbated when isolation is “used punitively, without clear time limits, for periods that are longer than four weeks and for people with prior mental health problems and poor social adjustment”.⁴⁴

Evidence from Medico-Legal Reports

Medical Justice has seen six clients who have experienced solitary and/or shared confinement whilst being held in prison. Medical Justice doctors conducted examinations for the purposes of producing medico-legal reports from December 2020 to May 2021. Four of the six clients were also clients of BID and provided witness statements, documented above.

⁴⁰ Hewson T, Shepherd A, Hard J & Shaw J, [‘Effects of the COVID-19 Pandemic on the Mental Health of Prisoners’](#), *The Lancet Psychiatry* 7 (July 2020): 569.

⁴¹ Appel AM, Aon M, Cakal, E, [‘Solitary Confinement’](#) (DIGNITY Library, 2018).

⁴² Appel AM, Aon M, Cakal, E, [‘Solitary Confinement’](#) (DIGNITY Library, 2018).

⁴³ R (on the application of Bourgass and another) (Appellants) v Secretary of State for Justice (Respondent) [2015] UKSC 54, para 38.

⁴⁴ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008, 23.

Of Medical Justice's six clients, four were held in solitary confinement, one was held in prolonged shared cell confinement and one was held in both shared and solitary confinement. At the time of their medico-legal assessments, four clients were in prison whilst two were in IRCs. Medical Justice's six clients were held in were HMP Lewes, HMP Doncaster, HMP Thameside, HMP Wandsworth, HMP Highpoint and HMP Huntercombe. Four of the six clients have now been released, one has been transferred to an IRC and one remains in prison.

The six medico-legal reports document the various detrimental health outcomes that solitary and shared confinement has had on these individuals. They highlight that confinement is likely to have contributed to deterioration in health, and that immigration detention compounds such harm. Five clients had pre-existing mental health problems which made them more likely to suffer harm in confinement, whilst one client did not have any underlying mental health conditions. This section draws on the evidence collected in these reports and wider academic literature.

Exacerbation of Pre-Existing Mental Health Conditions

From a clinical perspective, whilst confinement is potentially harmful for anyone, those with pre-existing mental health conditions should be presumed unfit for any solitary confinement, especially in a non-therapeutic environment such as a prison or detention centre. Indefinite prolonged cell confinement is considered particularly harmful. Solitary confinement poses dangerous risks to those with pre-existing mental health conditions, making them particularly vulnerable to the negative effects of isolation and risks deterioration. Such deterioration has been experienced by Medical Justice's clients who have underlying mental health conditions, including diagnoses of post-traumatic stress disorder (PTSD), severe depression, and a history of self-harm and suicidal thoughts. For those with PTSD, solitary confinement has caused flashbacks about past events, detachment from the surrounding environment and increased nightmares and panic attacks.

Charles, who already had a high risk mental health condition, experienced a sharp deterioration whilst in solitary confinement. The medico-legal report suggests that his symptoms at the time of confinement made him particularly vulnerable to the effects of isolation; from a clinical perspective he should not have been considered fit for indefinite solitary confinement. He experienced a high degree of stress with new suicidal thoughts and plans. Solitary confinement is likely to have caused this deterioration and precipitated particular symptoms. Charles had initially been put into a single cell following government shielding advice. However, this isolation was prolonged beyond the advised 12 weeks of shielding; he was in fact kept in solitary confinement until his release, *nearly a year later*.

For Jason, isolation for the purposes of preventing the transmission of COVID-19 resulted in the denial of access to emergency hospital treatment. Jason had been advised by clinical

staff to seek immediate hospital care, but, according to his medical records, this was refused by prison staff on the basis that he was isolating, having tested positive for COVID-19. It is unacceptable to deprive those with a serious illness of medical care, on the grounds of having COVID-19 and this scenario ought to have been considered by the Home Office when deciding to detain Jason, and indeed when deciding to hold *anyone* in immigration detention, despite the risk of contracting COVID-19 in prison.

For Richard, who had pre-existing symptoms of social anxiety, PTSD and a history of addiction, solitary confinement in a prison cell was particularly harmful. It has exacerbated his social anxiety through depriving him of social contact and healthy distractions. The nature of confinement triggered an increase in his PTSD symptoms; being left alone in a cell for prolonged periods left him feeling unable to cope with flashbacks and intrusive memories of traumatic experiences. He was restricted from using the coping strategies he would normally employ. In his medico-legal assessment, Richard describing this experience: *"Sometimes I feel I'm being tortured by my own brain"*. Particularly when alone in his cell, he described being *"just fixate[d] on the past and the experiences I've been through"*. A medical-legal assessment found it clinically plausible that the significant decline in his mental health was attributable in part to indefinite immigration detention, and in part to prolonged solitary confinement.

Onset of New Mental Health Conditions

Solitary confinement has caused and precipitated the onset of new mental health conditions for one of Medical Justice's clients. Omar experienced increasingly frequent panic attacks, insomnia and suicidal thoughts whilst in solitary confinement. When Medical Justice assessed him, his mood had been consistently low for several months and he was unable to concentrate on distractions he might otherwise have employed, such as reading. Omar described worrying constantly through the day and his worries keeping him awake at night. He experienced consistent low moods, suicidal thoughts and strong feelings of hopelessness. Having had no psychiatric diagnosis prior to imprisonment, he was diagnosed with depression some months into the period of solitary confinement. The temporal relationship between solitary confinement and a marked deterioration in mental health highlights the severity of solitary confinement's impact on mental health.

Difficulties Leaving Cells

The psychological impact is highlighted by clients who after a period of confinement, begin to avoid leaving their cells in the limited 30 to 60 minutes that they are allowed to do so, due to symptoms of anxiety and depression. Omar, who had no history of mental health conditions, now feels a constant need to look over his shoulder to check he is safe. In his medico-legal assessment, Richard described: *"I don't really take enjoyment in anything anymore. I just get things done on autopilot and then go back to bed"*. Although he

struggled to cope with symptoms when in his cell, after the extended periods alone, he found himself frightened by the rare opportunities to be around others and unable to engage. He would start shaking and sweating, his legs would feel weak and he felt the need to *"sit down and get away from everyone"*. Richard had been anxious in group situations before his solitary confinement, yet such anxiety has unsurprisingly worsened. Richard described: *"Now I don't even feel comfortable to speak to just one person"*. With regards to *"welfare checks"* every fortnight, he stated that *"when they ask me anything my mind goes blank, and I can't come up with an answer"*.

Lack of Medical Support compared to segregation in other contexts of incarceration

Medical Justice has concerns about the lack of medical support that was available to its clients.

It is instructive to compare the current lockdown regimes Medical Justice's clients are facing in prisons with the practices of 'segregation' that take place in prisons and IRCs outside of the pandemic. Segregation involves separating individuals from the rest of the detained population and limiting their interactions with others. There are detailed policies and safeguards that govern the use of segregation in prisons and IRCs. Such policies are in place in recognition of the considerable harm that segregation can cause.

Daily visits by a member of healthcare staff are required for those in segregation and isolation, in both prisons⁴⁵ and in IRCs.⁴⁶

The Prison Service Instruction on *Segregation, Special Accommodation & Body Belts* requires that a safety screening for segregation must be completed by a doctor or registered nurse within 2 hours of segregation. This is required in any segregated environment within the prison. A doctor must visit individuals in segregation *"as their individual health needs dictate and at least every three days"* and a registered nurse or healthcare officer *"must make the assessment on all other days"*. Healthcare staff should assess individuals' physical, emotional and mental well-being and any clinical reasons that should cause a discontinuation of segregation. Details of each visit must be made in the clinical record.

For IRCs, Rules 40 and 42 of the *Detention Centre Rules* outline when detainees can be removed from association (Rule 40) or held in temporary confinement (Rule 42). These are important to consider, given that the conditions of solitary confinement in prisons are so similar (and sometimes worse), and Medical Justice's clients are detained under immigration powers. The *Detention Services Order (DSO) 02/2017 concerning Rules 40 and*

⁴⁵ The Prison Service Instruction on ['Segregation, Special Accommodation & Body Belts'](#).

⁴⁶ [Detention Services Order 02/2017 Removal from Association \(Detention Centre Rule 40\) and Temporary Confinement \(Detention Centre Rule 42\)](#), September 2020.

42 also requires for daily visits by healthcare staff, members of the Independent Monitoring Board and religious services, regardless of their health condition.

Such daily checks have not always been in place for people being detained in prisons and confined to their cells for 23 hours per day. For example, Omar had previously been reviewed on a weekly or fortnightly basis, yet this was discontinued upon being transferred to a different prison and held in solitary confinement, despite requests for help and deteriorating mental health. During the time of his solitary confinement, Omar did not have daily checks, nor did he have any specific mental health or wellbeing checks for six months. Charles, who was shielding upon government COVID-19 advice, had sparse mental health checks; after being prescribed medication for his mental health condition, his next mental health check recorded was almost two months later. The lack of support for those in prolonged confinement with serious mental health conditions is extremely concerning.

There are strict limits on the use of segregation in IRCs for people with mental health problems, in recognition of the immense harm that it can cause. The *DSO concerning Rules 40 and 42* states that removal from association and temporary confinement can only be used for individuals with serious psychiatric illnesses or mental health conditions “*where justified on the basis of the risk presented in accordance with the terms of the relevant Rules*”. It stipulates that this must be “*exceptional in practice*” and requires “*particular care*” to be taken to ensure that “*use of the Rules is for the shortest time possible and only as a last resort*”.⁴⁷ Individuals at risk of suicide or self-harm, must not be placed held Rule 40 or 42 other than in exceptional circumstances, for the shortest time possible and as a last resort. All other options considered and dismissed should be recorded.⁴⁸ Despite this we have found that people with serious psychiatric illnesses or mental health conditions are routinely being held in their cells for 23 hours per day in prisons during the current lockdown regime.

Survivors of Torture

Individuals with a history of torture are at particular risk of deterioration in solitary confinement and are in fact deemed to be unsuitable for immigration detention.

There is expert consensus that torture survivors should not be placed in detention, let alone be considered fit for solitary confinement. As the Faculty of Forensic and Legal Medicine

⁴⁷ [Detention Services Order 02/2017 Removal from Association \(Detention Centre Rule 40\) and Temporary Confinement \(Detention Centre Rule 42\)](#), September 2020, para 31.

⁴⁸ [Detention Services Order 02/2017 Removal from Association \(Detention Centre Rule 40\) and Temporary Confinement \(Detention Centre Rule 42\)](#), September 2020, para 34.

Quality standards for healthcare professionals working with victims of torture in detention⁴⁹ states that:

- *"detention is acknowledged to be harmful to the health of victims of torture*
- *healthcare professional[sic] have an obligation to identify and report torture*
- *torture victims have a right to rehabilitation*
- *rehabilitation cannot be effectively undertaken whilst they are in detention."*

Medical Justice has assessed clients who have had histories of torture but were placed in solitary confinement. This suggests a concerning lack of safeguards to ensure identification and protection of torture survivors.

Compounded Impact of Immigration Detention

The impact of ongoing uncertainties about the immigration status and of the indefinite nature of immigration detention, compounds the effects of solitary and shared confinement. Confinement which is indefinite or without a known end date has been demonstrated to be particularly damaging. This describes the situation of most immigration detainees. Studies have evidenced that *"an important element in the level of endurance of solitary confinement is prior knowledge of its duration"*.⁵⁰ Uncertainty of the duration of isolation exacerbates feelings of helplessness, in comparison to finite sentences.⁵¹

The medico-legal reports document this impact. One client, Omar, described having constant ruminations about his immigration case, which continued in solitary confinement, adding to his deteriorating mental health.

This has been more broadly evidenced by the Royal College of Psychiatrists, with regards to the impact of immigration detention on those with mental health conditions. Its position statement on the detention of people with mental disorders in Immigration Removal Centres states that uncertainties around asylum status can compound existing symptoms of depression and anxiety. The statement particularly notes that *"the unpredictable event of arrest, the indefinite period of stay and chronic threat of imminent return will exacerbate helplessness in a state of intense fear"*.⁵² As a result, detainees are likely to *"suffer further loss of hope or motivation, particularly in relation to hope of safety and future life goals*

⁴⁹ The Faculty of Forensic and Legal Medicine of the Royal College of Physicians (FFLM), '[Quality Standards for Healthcare Professionals Working with Victims of Torture in Detention](#)', May 2019.

⁵⁰ Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008, 21. See also R (on the application of Bourghass and another) (Appellants) v Secretary of State for Justice (Respondent) [2015] UKSC 54, para 39.

⁵¹ Toch *Mosaic of Despair: Human Breakdown in Prison*, 1992, Washington DC: American Psychological Association, 250, cited in Sharon Shalev, [A Sourcebook on Solitary Confinement](#), 2008, 21.

⁵² The Royal College of Psychiatrists, '[Position Statement on Detention of People with Mental Disorders in Immigration Removal Centres](#)', 2021.

associated with staying in the UK, further increasing the risk of suicide".⁵³ Moreover, pre-existing psychoses and PTSD are likely to be exacerbated in the setting of immigration detention.⁵⁴

Lasting Impact

The detrimental health impact upon persons who suffer prolonged confinement will often not disappear upon release. Although the extent of this depends on individual resilience factors, it is evidenced that there is a risk of permanent harm: *"although many of the acute symptoms suffered by these inmates are likely to subside upon termination of solitary confinement, many - including some who did not become overtly psychiatrically ill during their confinement in solitary - will likely suffer permanent harm as a result of such confinement."*⁵⁵ The Supreme Court judgement of R (on the application of Bourghass and another) [2015] UKSC 54 has also recognised that *"harmful psychological effects of isolation can become irreversible"*.⁵⁶

More broadly, it has been widely documented that the mental health impact of immigration detention upon people persists well beyond the period of detention. Immigration detention is found to be an independent risk factor for *"ongoing PTSD, depression and mental health-related disability. Longer detention is associated with more severe mental disturbance"*.⁵⁷ One study shows that these outcomes *"persisted for an average of 3 years after release"*.⁵⁸

The evidence presented here, from existing research and medical-legal examinations of Medical Justice's clients, has documented harm that is attributable to solitary confinement. There is reason to be concerned that these detrimental effects will last well beyond their release.

⁵³ The Royal College of Psychiatrists, ['Position Statement on Detention of People with Mental Disorders in Immigration Removal Centres'](#), 2021.

⁵⁴ The Royal College of Psychiatrists, ['Position Statement on Detention of People with Mental Disorders in Immigration Removal Centres'](#), 2021.

⁵⁵ Stuart Grassian, ['Psychiatric Effects of Solitary Confinement'](#), *Washington University Journal of Law & Policy* 22 (January 2006), 332.

⁵⁶ R (on the application of Bourghass and another) (Appellants) v Secretary of State for Justice (Respondent) [2015] UKSC 54, para 37.

⁵⁷ Zachary Steel et al., ['Impact of Immigration Detention and Temporary Protection on the Mental Health of Refugees'](#), *The British Journal of Psychiatry* 188, no. 1 (January 2006): 58.

⁵⁸ Zachary Steel et al., ['Impact of Immigration Detention and Temporary Protection on the Mental Health of Refugees'](#), *The British Journal of Psychiatry* 188, no. 1 (January 2006): 58.

Evidence from 30 bail cases

From February – May 2021 BID provided representation in bail hearings to 30 individuals detained under immigration powers in conditions amounting to solitary or shared confinement. In those cases BID made representations in relation to the conditions that the individual was being held in, arguing that the conditions of detention were disproportionate and arguing in favour of release on those grounds. In grounds for bail BID also cited evidence from academic insights, inspectorates and caselaw demonstrating the harm caused by solitary confinement. BID conducted file reviews of these 30 cases to examine the Home Office and the Tribunal's approach to the issue of solitary confinement.

BID's clients provided instructions in relation to how long they were being held in their cells. In 21 cases the person was being held for more than 23 hours per day. In six cases, the individual instructed that they were being held for 'roughly 23' hours per day. Three clients reported being held for at least 22 hours per day.

18 of the 30 cases had pre-existing vulnerabilities that made them more likely to suffer harm in detention – in 17 cases this was due to pre-existing mental health problems, while one individual had a condition that put them at greater risk of becoming seriously ill from Covid-19.

In 20 of the 30 cases BID cited medical evidence or instructions from the client illustrating a deterioration in their mental health as a result of being held in prolonged shared or solitary confinement.

All the people in the sample were male. People in the sample were held in the following prisons:

HMP Brinsford, Doncaster, Durham, Elmley, Forest Bank, High Point, Hull, Huntercombe, Leeds, Lewes, Maidstone, Risley, Thameside, Wandsworth, Winchester, Wormwood Scrubs.

There were 47 bail hearings in total because a number of BID's clients in the sample had more than one bail application where it made arguments in favour of release on the grounds of solitary or shared confinement. In 20 of those cases BID provided representation in just a single bail hearing. There were 10 cases where BID provided representation in multiple hearings. 26 of the 30 people in the sample were granted bail on at least one occasion including 17 people who were granted 'bail in principle' on at least one occasion.

At the time of writing (6th June 2021) 18 of BID's clients' files had been closed. 15 were released from detention into the community and there are 2 cases where BID closed the file while the individual was still detained. One was deported from the UK. Those individuals were detained for an average of 204 days⁵⁹.

⁵⁹ This figure is an underestimate as it includes two cases where the file was closed while the individual was still detained, and so we have calculated the length of detention as the time until the file was closed.

Of the 12 open files where the client was still in detention at the time of writing, we calculated the average amount of time they had been detained. Those 12 individuals had been detained for an average of 278 days under immigration powers.

Generally the Home Office did not engage with arguments about the conditions of detention and failed to consider whether detention continued to be proportionate in view of conditions of solitary or shared confinement. In only 2 cases did the Home Office engage with the arguments BID made, in both cases agreeing to transfer the individual to an IRC. In one case the Home Office stated in the bail summary that *"he will be transferred to Colnbrook where his healthcare needs can be monitored more closely by immigration. Once there he will not be subject to the confinement of remaining in his room for 22 hours which will hopefully alleviate some of his anxiety"*. In another case the Home Office also engaged with the arguments and stated that he was scheduled to be moved to an IRC.

There were only 3 cases where the judge engaged with BID's arguments about solitary confinement in a bail decision. However judges often do not provide detailed reasons for granting bail so it is not always possible to tell whether this was a factor in the decision not to grant bail.

The evidence from BID's review of 30 case files was extremely concerning. Despite overwhelming evidence of the harm caused by solitary confinement, particularly where that individual has pre-existing mental health issues, the Home Office did not engage with arguments on the issue or consider this as part of the detention decision-making process, even in the 17 cases where the individual had pre-existing mental health problems. The individuals in the sample were detained for exceptionally long periods and many remain in detention.

Practical issues

The use of prisons for immigration detention always makes it more difficult to provide legal representation to BID's clients. It is often difficult to communicate with, and take instructions from, individuals as they do not have access to the internet or mobile phones and most communication happens via a slow postal system. This problem pre-dates the pandemic but the strict lockdown regimes have made it worse. In a number of cases BID has been forced to provide representation on the basis of partial instructions from individuals. In a number of cases strict lockdown regimes, or coronavirus outbreaks, have meant that an individual cannot be produced for the bail hearing or could not communicate with counsel prior to the hearing.

Prison – IRC transfer requests

In six cases BID made requests for an individual to be transferred to an IRC, citing the impact of prolonged shared or solitary confinement on the individual. In addition to each case BID included generic evidence about the harm caused by solitary confinement.

At the time of writing BID was awaiting a response on three requests. Two requests were rejected. In one case the individual was transferred from prison to an IRC three months after the request was made.

Neither rejection engaged with the arguments BID made and simply stated that the individual had been assessed as unsuitable for transfer. One rejection stated that six months ago the individual had been assessed *"as unsuitable for transfer to an Immigration Removal Centre (IRC) in line with the service level agreement with the National Offender Management Service. He is to remain in the prison estate indefinitely"*. This is concerning as the Service Level Agreement between the Home Office and HMPPS (disclosed to BID through a Freedom of Information Request) states that *"HOIE is expected to conduct weekly assessments of all immigration detainees in the prison estate for suitability for an IRC and for the outcome of these assessments to be shared with HMPPS"*. BID has seen no evidence of such weekly assessments being carried out.

Correspondence summary

BID wrote to Mr Tyson Hepple, the Director General of Immigration Enforcement, on 16th March 2021 raising concerns about the rights violations and the use of prolonged solitary confinement, citing caselaw, parliamentary committees, UN bodies, with a particular focus on the decline in prisoners' mental and psychological health. It also raised the barriers to justice this presents for immigration detainees as a particular cohort. BID's letter, and Mr Hepple's response have been included at the end of this report.

Disappointingly, Mr Hepple's response failed to engage substantively with any of BID's arguments about the harmful impact and potential human rights abuses currently taking place. BID asked a number of specific questions that were ignored, including whether any assessment has been made of the potential that current conditions may amount to a breach of Article 3 rights, particularly in cases where the individual has pre-existing mental health problems.

Consistent with BID's direct casework experience, it was clear from Mr Hepple's response that particularly harmful effects of prison conditions are not being taken into account when assessing the proportionality of periods of immigration detention, and there are no policies in place to provide for this.

In the Court of Appeal decision of Manning⁶⁰, the Lord Chief Justice said, in relation to sentencing of offenders during the Covid-19 pandemic, that *"Judges and magistrates can, therefore, and in our judgment should, keep in mind that the impact of a custodial sentence is likely to be heavier during the current emergency than it would otherwise be [41]"*. Despite this approach taken by the Court of Appeal in relation to sentencing offenders, the Home Office seems to have ignored this issue for people being held for administrative reasons. In

⁶⁰ R v Manning [2020] EWCA Crim 592 (30 April 2020).

fact the number of people detained under immigration powers in prisons has risen considerably – from 359 at the end of 2019 to 577 at the end of March 2021.

Recommendations

Although the evidence in this report, and the expertise of BID and Medical Justice, relates to immigration detainees, both submit that the use of solitary and shared confinement has such detrimental health impacts to individual health and wellbeing that such practice should be urgently ended for everyone.

For immigration detainees, BID and Medical Justice recommend that:

- The use of solitary and shared confinement in prisons should be ended. The UK government must adhere to the UN minimum rules on the treatment of prisoners (the Mandela Rules), and the use of prolonged cell confinement (more than 15 days) should be ended. This should happen as a matter of urgency given that the impact upon health risks becoming irreversible beyond this point.
- The government should provide medical, psychological and other support services to people who have been held under conditions of prolonged solitary or shared confinement to address the harm caused and enable people to reintegrate, whether they remain in the prison estate or are released
- BID and Medical Justice believe that all immigration detention should be ended. However while it continues immigration detainees should not be held in prison.
- While immigration detention in prisons continues the government needs to:
 - Review the location of detention on a weekly basis as per its own policy
 - o Serve people with a decision-letter, notifying them that detention will take place in a prison
 - o Ensure that the length of time that shared and solitary confinement will last is communicated to detainees at the outset of their confinement.
 - o Weigh the conditions of treatment and the impact this has on individuals in each review of detention
 - o Apply the same safeguards available in IRCs to people held in prisons whenever an individual is removed from association or placed in temporary confinement. This includes strict time limits, daily doctors' visits, assessments of vulnerabilities and the need to escalate any health concerns. Any segregation of vulnerable individuals, including those with pre-existing mental health conditions and survivors of torture, should be prohibited.

BiD Bail for
Immigration
Detainees

Medical Justice
seeking basic rights for detainees

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