

## Long-Term Detention of Mothers and Children in Pennsylvania

On August 8, 2016, 22 mothers at the Berks County Residential Center launched a hunger strike to protest their long-term detention and the harm it has inflicted on their children. Berks is one of three facilities that U.S. Immigration and Customs Enforcement uses to detain children with their parents.

In response to the increasing numbers of women and children requesting asylum at the southern border in the summer of 2014, the U.S. government massively increased so-called family detention. Rather than adopting a refugee protection and child protection approach, the Obama Administration implemented an “aggressive deterrence strategy focused on the removal and repatriation of recent border crossers.”<sup>1</sup>

That approach has been deeply criticized by a wide array of voices, including the American Academy of Pediatrics, the American Bar Association, 178 Representatives of the House and 35 Senators, the Inter-American Commission on Human Rights, and numerous faith groups.

Detention, even for a short time, hurts children’s long-term health and development. Aside from the devastating effect on families, former government officials—among many others—say deterrence has been ineffective, as evidenced by the continued arrival of women and children seeking protection from the violence and persecution plaguing Central America.<sup>2</sup>

The Pennsylvania Department of Human Services announced in an October 22, 2015 letter that it would not renew a license to operate the Berks

County Residential Center as a child residential facility because it was, in fact, operating “for the detention of immigrant families, including adults.”<sup>3</sup> The license expired on February 21, 2016, and an appeal filed by Berks County is pending before an administrative agency. The facility continues to operate and detain approximately 80 asylum-seeking mothers and children.

On July 25, 2016, Human Rights First visited Berks with a delegation of mental health and legal professionals and met with officials from ICE, the facility director, facility medical staff, and most of the detained mothers. The visit followed over a year of working closely with a network of lawyers, nonprofit legal organizations, community-based organizations, pro bono law firms, and an on-the-ground pro bono legal services coordinator who visits the families each week.

Most families at Berks have been there for upwards of six months. This prolonged detention has had serious negative consequences for children, including suicidal gestures and ideation, anxiety, sleeplessness, behavioral regressions, and lack of appetite. Moreover, the facility has failed to provide adequate health and mental health care to children and their mothers, has been accused of institutional neglect, and employs staff members who make children feel unsafe.

Human Rights First reaffirms many of the recommendations in our 2015 report, *Family Detention in Berks County, Pennsylvania*. First, the Obama Administration should reverse its misguided policy of detaining asylum-seeking mothers and children and instead implement a refugee protection

approach. Second, now that the operating license has been revoked, the Pennsylvania Department of Human Services should order the Berks County Residential Center to cease operations and issue emergency removal orders for the families detained there.

## Families Are Held in Long-Term Detention, Including Some for Over a Year

On September 18, 2015, Secretary of Homeland Security Jeh Johnson announced that family detention was “becoming short-term in most cases” and that family detention centers were becoming “processing centers” where families would not be detained for prolonged periods of time. Such a transition, however, didn’t take place at Berks, which has become a long-term detention facility, with release nowhere in sight for many mothers and children.

At the time of our visit, 36 families were detained at Berks. All families were mothers held with one or, in a few cases, multiple children, ranging in age from two to 16 years old. (Earlier this year, the facility also detained fathers with children despite complaints that young girls were forced to sleep in rooms with unrelated male adults.)

Several families had been held for nearly a year, with at least four families reaching the one-year mark in August. In our meeting with the mothers, they explained that about 20 of them had been held for a prolonged period of more than six months.

“We have spent birthdays here, Christmas, the New Year, Mother’s Day, Father’s Day. It’s difficult to explain [to our children] why we are still here.” The uncertainty of prolonged, indefinite detention weighed heavily on the mothers and, in turn, on their children.

On August 8, 22 mothers announced in an open letter to Secretary Johnson that they had begun a hunger strike to protest their long-term detention and

its effect on their children.<sup>4</sup> The mothers described their children’s emotional distress, which has led some to consider suicide.

Our children, who range in age from 2 to 16, have been deprived of a normal life. We are already traumatized from our countries of origin. We risked our own lives and those of our children so we could arrive on safe ground. While here, our children have told us they sometimes consider suicide, made desperate from confinement. The teenagers say that being here, life makes no sense. One of our children said he wanted to break the window to jump out and end this nightmare.

Many of these mothers had issued a statement in February of this year to protest their long-term detention and request release. At that time, they stated similar concerns and emphasized their poor treatment at the hands of facility staff and ICE agents:

[Our] children have suffered psychological damage, and many of them have suffered health-wise, because of this confinement, and not to mention the racist abuse and poor treatment from certain members of the staff in this detention center, but especially by the agents of ICE that play and mock our dignity as immigrants. We came here seeking refuge. We came to this country to save our lives and the lives of our children.

Some of the mothers in long-term detention at Berks are class members in a constitutional case before the Third Circuit to seek federal court review of their asylum screening interviews, which they claim did not include proper procedural protections. The U.S. Commission on International Religious Freedom, as well as Human Rights First and other groups, have long raised concerns about the lack of effective implementation of protection screening safeguards in the expedited removal process.

It is unclear how long that case will carry on. Lee Gelernt, deputy director of the ACLU Immigrants’

Rights Project, which is representing the women in this case, recently stated, “It is becoming increasingly hard to conclude that there is not some punitive element to keeping these women in detention simply because they exercised their right to bring a constitutional test case.”<sup>5</sup>

## Detention at Berks Has Had Severe Negative Impacts on Children, Including Suicidality

There is clear evidence that detention for immigration purposes is harmful to the health and wellbeing of children and families. Studies show that children in immigration detention can have high rates of psychiatric symptoms, including self-harm, suicidal ideation, depression, developmental regressions, and post-traumatic stress disorder, and may suffer physical health problems, such as weight loss and frequent infections.<sup>6</sup>

The American Academy of Pediatrics wrote in a July 2015 letter to Secretary Johnson—in response to the recent massive expansion of family detention—that detention unnecessarily exposes families with high rates of previous trauma, physical and sexual abuse, and exploitation to additional psychological trauma, putting children and their parents “at greater risk for physical and mental health problems.”

The letter explained that the “act of detention or incarceration itself is associated with poorer health outcomes, higher rates of psychological distress, and suicidality making the situation for already vulnerable women and children even worse.”

Even brief periods in immigration detention are harmful for children. A recent study found that families detained for less than two weeks suffered detrimental effects, which mirrored the negative impacts suffered by children detained for much longer periods, and noted that any incarceration, even under relatively safe conditions, is damaging for immigrant children, especially those with high levels of previous trauma.<sup>7</sup>

However, the negative impacts of detention often increase in direct relation to the period of time in detention, putting children in prolonged detention at even greater risk of long-term harm.<sup>8</sup>

Human Rights First spoke to women detained at the Berks family detention center during our July 25, 2016 visit to the facility, as well as during prior visits, about their and their children’s experiences in detention. We also reviewed children’s and mothers’ health reports from the facility, which were obtained by the families’ lawyers, as well as psychological evaluations conducted by independent mental health professionals.

The health reports, combined with the mothers’ accounts, shed light on the range and severity of harm suffered by children and families at Berks. For example:

- Mothers reported to Human Rights First—and in their open letter to Secretary Johnson—that several children have mimicked suicide by grabbing the cords that hang around their necks to hold their ID cards and tightening them around their necks, saying they prefer to die than to continue life in detention. In the case of one child, who was evaluated by an independent psychologist, the child indicated he thought he could “save his mother, because he believed that she might be released [from detention] if he were dead.” When another child has made suicidal gestures, as reported by his mother, facility staff have not offered any crisis intervention or support, but rather ignored the child.
- In many cases, mental health evaluations conducted by independent psychologists contain diagnoses of post-traumatic stress disorder (PTSD) and anxiety, which have been either perpetuated or exacerbated by detention. While some children’s symptoms may not rise to the level of clinical PTSD, independent psychologists have indicated that they are at

increased risk for “symptoms becoming full-blown PTSD.”

- Many mothers have also recounted that their children are anxious, sad, or depressed, and engage in behavior such as pulling hair, fighting with other children, biting or kicking their mothers, or crying throughout the night. Mothers also reported to Human Rights First—and, in some cases, to the facility health staff—that their children do not eat well.
- While many children and mothers have reported that children enjoy school, several questioned whether it was adequate, particularly over such a prolonged period of time. Children at the facility are placed into one of two school groups: one for younger, elementary school-aged children and another for middle and high school-aged children, making it difficult for any teacher to adequately adapt and provide age and skill-level appropriate instruction. Additionally, some mothers have reported that their children have difficulty concentrating in school and suspect this is due to the ongoing trauma and uncertainty of prolonged detention.

## Mothers and Children Are Denied Adequate Health and Mental Health Care

While detention in itself can negatively impact even a healthy child, some children’s acute and chronic health conditions—which were identified by facility health staff as well as independent health professionals—have gone untreated during their prolonged detention. For example:

- The Berks facility and ICE have failed to provide major dental care to a six-year-old child who has been in detention for one year and has at least 11 teeth in need of treatment. The mother reported to Human Rights First that she repeatedly requested that her child see a dentist since September 2015. ICE approved a visit to
- an outside dentist in February of this year and the dentist advised the mother that her child had an infected molar that needed to be extracted as well as 10 other teeth that needed treatment, such as crowns and cavity fillings. The little boy has still not been taken for this surgery and has a painful infection in several teeth. The boy was taken to the hospital emergency room in July 2016 and was treated for an infection with antibiotics, but has yet to undergo the recommended procedures on the 11 teeth.
- Facility health reports on a seven-year-old boy, who was transferred to Berks with his mother from a Texas detention facility in December 2015, show that he is only in the third percentile for weight for his age (though he is in the 46th percentile for height). The mother stated to facility health staff that she worried her child was losing weight since his time in detention. The child also exhibited behavioral problems, including biting and hitting his mother. In the facility health report, the psychologist attributed the child’s behavior largely to the mother’s being “essentially ineffective in her parenting skills.” The child was later diagnosed with PTSD by an independent mental health professional.
  - As documented in facility health reports, a 10-year-old detained at Berks for approximately eight months suffers from nocturnal enuresis (urinary incontinence) and must wear a diaper at night. A psychological evaluation conducted by an independent therapist concluded that the girl suffers from post-traumatic stress disorder and should be seen by a specialist to determine the root cause of her enuresis. However, the facility psychologist indicated in health records obtained by the family’s attorney that “the impression she left on me and the interpreter was that her enuresis was related to nothing more than laziness.” It does not appear that the girl has received treatment or follow-up to assess her condition and weekly psychological well-checks

are conducted by the facility psychologist with her mother while the child is in school.

It appears that many or most children do not participate in their own weekly psychological well-checks. Instead, the psychologist meets with the mother and the child is merely observed at the facility.

Even in the case of an 8-year-old girl who had witnessed the rape of a 19-year-old mother by a staff member, the facility psychologist only met with the girl once.<sup>9</sup> Subsequent weekly checks were conducted only with the mother while the girl was in school.

Many other reports dismiss mothers' concerns about their children's behavior and indicate instead that a child has been "observed on the unit in a euthymic mood." However, some of these same children have been diagnosed with PTSD by independent mental health professionals who conducted evaluations pro bono at the request of families' lawyers. As one boy stated to an independent psychologist conducting an evaluation, "It's horrible to live here. You don't see my crying, but my heart is broken."

Moreover, in several medical reports obtained by lawyers for families and reviewed by Human Rights First, it appears that facility health staff strongly reject suggestions by mothers that changes in their children's behavior may be caused or impacted by the stress of detention—despite clear evidence of detention's negative impacts on children in medical and mental health studies.

For example, in one child's medical report, the mother expressed concern that her two-and-a-half-year-old son had begun spitting and pulling hair, which she attributed to the stress of detention. The facility psychologist denied that detention would have had any impact on this child's behavior and attributed it to his belief that the mother "has been observed to be a lackadaisical parent at correcting her son's comportment." The facility psychologist further indicated that the little boy "was observed to again be content and happy."

## Children Detained at Berks Sometimes Do Not Feel Safe

Mothers and children have reported that children feel uncomfortable and unsafe with staff at the facility. One mother told Human Rights First that children fear that "those who misbehave will be sent back to their country." Other mothers and children recounted similar fears to independent mental health professionals conducting evaluations, indicating their children's impressions that receiving "three reports" from facility staff would result in deportation.

Some children told an independent psychologist that the facility staff "mock" them and that some wear gloves before touching any of the children or mothers. One boy began to cry during an evaluation with an independent psychologist when his mother recounted an incident when facility staff laughed at her when she told them that her lawyer was helping her and her son get released.

Two children, in separate psychological evaluations, described an incident in which a child collapsed and appeared to stop breathing, yet received no help from staff who witnessed the incident. Eventually, a 16-year-old boy detained at the facility carried the sick child to the medical unit, and the boy was then sent to the hospital emergency room in an ambulance.

Both children reported being distressed by the facility staff's failure to offer assistance. An independent mental health provider who heard of this incident while conducting an evaluation reported it as staff and institutional neglect to ChildLine, Pennsylvania's child abuse and neglect registry. A six-year-old child who witnessed the incident continued to speak of it months later, expressing fear that the boy who was rushed to the emergency room had died.

In a separate instance, a three-year-old boy was left at Berks in the care of adults who did not speak his language for three days while his mother was in the hospital for emergency care. Other mothers reported

to Human Rights First that they were deeply disturbed by seeing the boy without his mother, and one mother reported that facility staff placed the boy in a room by himself in response to a tantrum.

The boy's biological grandmother lives in the United States and was willing to take custody of the child; however, neither the grandmother nor the family's counsel of record was notified by the facility that the mother was in the hospital while the child remained at the detention center. It was only after other mothers at the detention center informed the on-the-ground legal services coordinator, who in turn notified the attorney, that the attorney was able to intervene and secure the child's release to his grandmother.

Last year, several mothers reported to Human Rights First that they felt fearful in the aftermath of a sexual assault at the facility. In April 2015, a staff member was convicted for sexually assaulting a 19-year-old woman detained at the facility. An eight-year-old girl, also detained, told police she had walked in on the guard assaulting the young mother in the bathroom stall. After, the girl was afraid to leave her mother's side.

According to three mothers detained at Berks at the time of the assaults and during the aftermath, the facility did not take measures to provide coping therapies or alleviate fear and anxiety among women or children who would have felt particularly vulnerable.

In an interview with MSNBC, the victim said she was made to feel that she was "the guilty one." She said, "Nobody approached me to help or ask me how I was."<sup>10</sup> Instead, according to attorneys who represented families, the facility began to monitor women's choice of clothing more closely.

## Sleep Deprivation and Fear Among Children

### Berks County Continues to Conduct 15-Minute Bed Checks, Causing Sleep Deprivation and Fear Among Children, Despite Criticisms for Over a Year

An ongoing practice of frequent nightly checks has caused additional stress and sleep deprivation for the mothers and children at Berks. Families have complained for over a year that staff perform constant checks—every 15 minutes—throughout the night. Mothers reported to Human Rights First last month that the night guards continue to engage in this practice, shining flashlights on each person and opening and closing doors loudly.

This practice leads to disruptions in sleep, fear, and nightmares. One mother, who had been detained at Berks for four months in 2015, told Human Rights First that this practice caused her daughter to be afraid of the staff. Her daughter had recurring nightmares even two months after her release.

During our July 25, 2016 visit to the facility, Human Rights First inquired whether staff were still performing the night checks. The director of the facility responded, "Yes, we are mandated by the State [of Pennsylvania]."

## Recommendations

Given the effect of detention on the children and mothers detained at the Berks County Residential Center—as well as in two family detention facilities in Texas—Human Rights First makes the following recommendations to federal authorities:

- The Obama Administration must end family detention once and for all.
- DHS should refer all families directly into removal proceedings before an immigration judge, and/or refer them directly for full asylum eligibility interviews before the USCIS asylum office, rather than invoking expedited removal.

- DHS and the Executive Office for Immigration Review (EOIR) should implement legal orientation presentations at the border and increase access to counsel. For cases that require additional support to ensure appearance, refer families to community-based alternatives to detention programs.
- The Obama Administration should work with regional partners to promote refugee protection in the Northern Triangle region of Central America and to implement a comprehensive plan to address the Central American refugee crisis by improving conditions in Central America so that children, families, and other individuals

can safely remain in their countries of origin. In the meantime, however, the Obama Administration must implement a refugee protection and child protection approach to asylum seekers arriving at the border.

The Pennsylvania Department of Human Services should also take immediate action to prevent further harm to the families detained at the Berks family detention facility by:

- Ordering the Berks County Residential Center to cease operations.
- Issuing emergency removal orders for the families detained in the facility. ■

<sup>1</sup> Statement by Secretary of Homeland Security Jeh Johnson Before the Senate Committee on Appropriations, July 10, 2014, *available at* <https://www.dhs.gov/news/2014/07/10/statement-secretary-homeland-security-jeh-johnson-senate-committee-appropriations>.

<sup>2</sup> Chico Harlan, "Inside the Administration's \$1 billion deal to detain Central American asylum seekers," *The Washington Post*, August 14, 2016.

<sup>3</sup> Letter to Diane Edwards, Executive Director, Berks County Commissioners, RE: Berks County Residential Center, signed by Matthew J. Jones, Director, Bureau of Human Services Licensing, Pennsylvania Department of Human Services, January 27, 2016.

<sup>4</sup> Madres de Berks, "Mothers to Homeland Security: We Won't Eat Until We Are Released," *New York Times*, Blog, August 12, 2016, *available at* [http://kristof.blogs.nytimes.com/2016/08/12/mothers-to-homeland-security-we-wont-eat-until-we-have-asylum/?\\_r=0#more-14003](http://kristof.blogs.nytimes.com/2016/08/12/mothers-to-homeland-security-we-wont-eat-until-we-have-asylum/?_r=0#more-14003).

<sup>5</sup> Renee Feltz, "Mothers at US immigration center on hunger strike to protest one year in custody," *The Guardian*, August 15, 2016.

<sup>6</sup> See Sarah Mares, Louise Newman, Michael Dudley, and Fran Gale, Seeking refuge, losing hope: parents and children in immigration detention, *10 Australasian Psychiatry* 2, June 2002; Z. Steel and S. Momartin, et al., Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia, *28 Australian and New Zealand Journal of Public Health* 527 (2004); Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014); Intercollegiate Briefing Paper, citing Lorek et al, The mental and physical health difficulties of children held within a British immigration detention centre: A pilot study, *Child Abuse and Neglect*: 33: 573-585 (2009); Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (June 2003); Rachel Kronick and Cecile Rousseau, "Asylum-Seeking Children's Experiences of Detention in Canada: A Qualitative Study," *American Journal of Orthopsychiatry*, Vol. 85, No. 3, 287-294 (2015); see also A. S. Keller, et al, The Mental Health of Detained Asylum Seekers, *362 The Lancet* 1721 (2003); United States Commission on International Religious Freedom, *Report on Asylum Seekers in Expedited Removal: Volume 1: Findings and Recommendations* (February 2005), p. 197-198.

<sup>7</sup> Rachel Kronick and Cecile Rousseau, "Asylum-Seeking Children's Experiences of Detention in Canada: A Qualitative Study," *American Journal of Orthopsychiatry*, Vol. 85, No. 3, 287-294 (2015).

<sup>8</sup> Corlett, D., with Mitchell, G., Van Hove, J., Bowring, L., Wright, K. (2012) *Captured Children: Melbourne*, International Detention Coalition, p.49.

<sup>9</sup> See Renee Feltz, "Immigration facility guard given jail time for sexual assault of detainee," *The Guardian*, April 23, 2016.

<sup>10</sup> Amanda Sakuma, "Assaulted and shamed in family detention," *MSNBC*, August 4, 2015.