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***By Overnight Mail***

January 4, 2017

Commonwealth of Pennsylvania  
Department of Human Services  
Bureau of Hearings and Appeals  
2230 Vartan Way  
Harrisburg, PA 17110-9721

**Re: In Appeal of Berks County Residential Center  
BHA ID No. 9999  
Docket No. 061-16-0003**

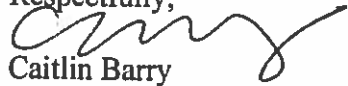
Dear Judge:

Please find enclosed an amicus brief in support of the Pennsylvania Department Human Services in the above-captioned matter. This brief is written on behalf of a group of health professionals who are knowledgeable about family detention at Berks and its specific impact on children. As distinguished from the government parties in the case, the amici offer their unique perspective and experience regarding the broader context within which the Department of Human Services regulates Berks and its impact on the health, safety, and well-being of children.

An amicus brief is usually admissible as long as the amici have a sufficient interest in the case, the brief is desirable, and it discusses matters that are relevant to the disposition of the case. *See, e.g., Neonatology Associates v. C.I.R.*, 293 F.3d 128, 131 (3d Cir. 2002). The proposed brief submitted addresses matters that are relevant to the disposition of this appeal, and it offers arguments and perspectives, not adequately elaborated upon, that will assist the Court in resolving the issues presented.

This group of amici respectfully requests that this Court consider the accompanying amicus brief. The Pennsylvania Department of Human Services consents to this group's participation as amicus curiae.

Respectfully,



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DOCKET CASE NO. 061-16-0003

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF HEARINGS AND APPEALS

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In Appeal of Berks County Residential Center

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**BRIEF OF AMICI CURIAE IN SUPPORT OF THE  
PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES**

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### INTEREST OF AMICI CURIAE

Individual physicians, psychologists, social workers, and nurses, as well as Psychologists for Social Responsibility, submit this *amici curiae* brief in support of the Pennsylvania Department of Human Services (Department). Psychologists for Social Responsibility is an independent, non-profit organization that applies psychological knowledge and expertise to promote peace, social justice, human rights, and sustainability. Its members are psychologists, students, and other advocates for social change in the United States and around the world. Individual *amici* are nationally recognized professionals with expertise on issues affecting child and adolescent psychiatry, children's mental health.

*Amici* file this brief out of deep concern that the practices of family detention at the Berks County Residential Center inflict serious harm on asylum-seeking children. In particular, several of *Amici's* members have visited the Berks family detention center. They are familiar with the impact that detention has on children and support the crucial decision made by the Department to refuse to continue to license the detention center.

If Appellant is successful and the detention center remains licensed, substantial harm will result to children within the Commonwealth. The Department, therefore, has requested *Amici's* submission of this brief to provide more comprehensive background about the conditions at the facility and their true negative impacts on children.

## **SUMMARY OF THE ARGUMENT**

The Pennsylvania Department of Human Services (Department) acted well within its authority when it refused to renew the license for the Berks County Residential Center. In addition to the licensing violations identified by the Department, the continued detention of families will jeopardize the health, safety, and well-being of children within this Commonwealth. If the detention center remains licensed, the Department will be sanctioning a facility that engages in human rights abuses by detaining asylum-seeking families in conditions that pose a severe risk to the mental health of minors. Pennsylvania law prohibits the operation of a facility like the Berks County Residential Center because it recognizes that such a facility is contrary to the best interests of children. For these reasons, we request that Bureau of Hearings and Appeals (BHA) affirm the decision of the Department to deny the renewal of the facility's license.

## **BACKGROUND**

The Berks family detention center currently holds a contract with the federal government to detain immigrant families, the majority of whom are seeking asylum in the United States.<sup>1</sup> These families arrived at the US border and sought protection due to their experiences of persecution in their home countries, which in most situations has caused severe trauma. Federal deportation authorities may arbitrarily choose to release or detain a family seeking asylum at their sole discretion. Some asylum-seeking families are released at the border after initial processing, while others are detained.<sup>2</sup> Once a family is detained, there is no limit to the length of

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<sup>1</sup> *Juvenile and Residential Management Unit*, COUNTY OF BERKS, PENNSYLVANIA, <http://www.co.berks.pa.us/Dept/Berks/Pages/JuvenileandFamilyResidentialManagement%20Unit.aspx> (last visited Dec. 30, 2016).

<sup>2</sup> Inter-American Commission on Human Rights (IACHR) *Refugees and Migrants in the United States: Families and Unaccompanied Children*, 70 (Jul. 24, 2015), <https://www.oas.org/en/iachr/reports/pdfs/Refugees-Migrants-US.pdf> ("No substantive criteria are used, nor is an individualized assessment conducted (beyond that limited to

time the federal government may hold the family in detention. Families at the detention center face prolonged detention, with many detained for over one year.<sup>3</sup>

## ARGUMENT

### **I. The Berks Family Detention Center Violates Pennsylvania Law By Failing to Protect the Health, Safety, and Well-Being of Children.**

The conditions at the Berks family detention center have a detrimental impact on the refugee children and their parents detained there. Many of the children held at the detention center experience significant mental, physical, and emotional health problems, which may permanently impact their social and psychological development. These children, the vast majority of whom are seeking asylum based on persecution in their home countries, have experienced significant trauma, which is exacerbated by their detention.<sup>4</sup> Under Pennsylvania law, the Department has an affirmative obligation to protect children. In particular, the Department's purpose of licensing child facilities "is to protect the health, safety and well-being of children receiving care in a child residential facility through the . . . enforcement of minimum licensing requirements."<sup>5</sup> The Department took appropriate measures in refusing to continue licensing the detention center as it operates in violation of Pennsylvania's minimum licensing requirements by failing to protect the health and well-being of children.

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finding a host for the family), to determine which families will be detained versus those that will be released on recognizance to a sponsor.").

<sup>3</sup> *Report of the DHS Advisory Committee on Family Detention*, 4 (Sept. 30, 2016), <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf> ("...families housed at Berks have faced very substantially longer detention periods [than those housed at other facilities] with some families remaining in detention for over a year.").

<sup>4</sup> *Id.* at 7 (describing serious medical conditions suffered by individuals in detention, including "mental health conditions that may be exacerbated by prolonged detention"); American Academy of Pediatrics, *Letter to Secretary Jeh Johnson* (July 24, 2015), <https://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/AAP%20Letter%20to%20Secretary%20Johnson%20Family%20Detention%20Final.pdf>

<sup>5</sup> 55 PA. CODE § 3800.1 (2000).

A. The Berks Family Detention Center Fails to Protect Families from Harm.

Families at the Berks family detention center have experienced multiple human rights abuses, including the denial of essential or adequate medical care for children. Medical professionals have questioned whether family detention centers can provide appropriate care for children.<sup>6</sup> Sick children have been denied medical and dental care by staff, including: (1) a three-year-old who vomited blood for four days before being taken to a hospital;<sup>7</sup> (2) a six year old with a severe dental condition that went untreated for months despite the child being sent to the emergency room from resulting complications;<sup>8</sup> (3) two children reporting feeling distressed by an incident in which a child collapsed and appeared to stop breathing, yet received no help from nearby staff (the sick child was eventually carried to the medical unit by an older child);<sup>9</sup> and (4) a six-year-old who had persistent diarrhea for a year before receiving treatment.<sup>10</sup> Mothers have reported taking their children suffering from high fevers to the medical staff and being denied any sort of fever reducing medication, being instructed instead only to “drink more water.”<sup>11</sup>

In one instance, a six-year-old girl was prescribed medication by medical professionals at the emergency room which the medical staff at the detention center then refused to fill after determining, in contradiction to the prescribing hospital, that such medications were

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<sup>6</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 8 (Aug. 2015), <http://www.humanrightsfirst.org/sites/default/files/HRF-Family-Det-Penn-rep-final.pdf> (“Medical professionals have questioned whether ICE can provide appropriate care for children, particularly given the degree of past trauma suffered by asylum-seeking families.”); American Academy of Pediatrics, *Letter to Secretary Jeh Johnson* (Jul. 24, 2015) (“we remain concerned that continued detainment of any children and mothers in the existing [family detention] facilities puts them at greater risk for physical and mental health problems and unnecessarily exposes children and mothers to additional psychological trauma.”).

<sup>7</sup> Ed Pillington, *Child immigrant detainees: ‘There’s an overwhelming sadness among them’*, THE GUARDIAN (May 12, 2015), <https://www.theguardian.com/us-news/2015/may/12/immigration-detention-centers-children>.

<sup>8</sup> Human Rights First, *Long-Term Detention of Mothers and Children in Pennsylvania*, 4 (Aug. 2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-Long-Term-Detention-Brief.pdf>.

<sup>9</sup> *Id.* at 5 (children who witnessed incident “continued to speak of it months later, expressing fear that the boy who was rushed to the emergency room had died.”).

<sup>10</sup> *Statements from Madres Berks* (Dec. 2016) at 5, attached as Exhibit A.

<sup>11</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 8 (Aug. 2015)

unnecessary.<sup>12</sup> In another instance, a mother “had to obtain a prescription to give yogurt to her daughter—who had lost considerable weight and was persistently ill.”<sup>13</sup> These examples demonstrate the center’s failure to provide for children’s essential healthcare needs.

The daily conditions of surveillance at the detention center also contribute to the deterioration of the children’s health. Guards “check” the rooms every fifteen minutes during sleeping hours by shining flashlights into the rooms, disrupting sleep cycles.<sup>14</sup> One doctor who visited the detention center described this practice as “inexplicable” and expressed concern for the long term effects of disrupted sleep.<sup>15</sup> This practice causes insomnia, fear, and anxiety in children held within the facility. These behaviors and attitudes create an environment where children constantly feel both unwelcome and unsafe.

In addition to the lack of adequate health care and concern for children’s well-being, the abuse and misconduct by the guards at the detention center create a harmful and stressful environment for children.<sup>16</sup> One young mother suffered repeated sexual assaults by a facility guard, one instance of which was witnessed by an eight-year-old girl.<sup>17</sup> Although the guard was ultimately convicted of institutional sexual assault and sentenced to six to 23 months in prison, the staff at the detention center took no steps to attempt to alleviate fears or provide enhanced

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 7-8. Under the Pennsylvania code, these regular nightly observations are required only for secure detention facilities. *Compare* 55 PA. CODE § 3800.57(d)(a) (in residential facilities, bed checks for children should be once per hour) *with* 55. PA. CODE § 3800.274(7) (in secure facilities, bed checks for children should be once every fifteen minutes). Although Berks was licensed as a residential facility and not a secure facility, facility representatives reported that they were required to conduct these checks every 15 minutes. *See* Human Rights First, *supra* at 11.

<sup>15</sup> *See* Decl. Alan Shapiro, MD, Dkt. No. 187-7, Case No.2:85-cv-04544-DMG-AGR, filed on Aug. 14, 2015 (“Shapiro Decl.”), ¶ 8, attached as Exhibit B.

<sup>16</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 8 (Aug. 2015) (mother reported that her daughter was “afraid of the staff” and “had recurring nightmares about the facility”).

<sup>17</sup> *Id.* After seeing the guard with his victim in a bathroom stall, the girl was afraid to leave her mother’s side and reported having difficulty sleeping and being afraid to go into the bathroom. *Id.*; *see also* Renee Feltz, *Immigration Facility Guard Given Jail Time for Sexual Assault of Detainee*, THE GUARDIAN (Apr. 23, 2016), <https://www.theguardian.com/us-news/2016/apr/23/immigration-detention-center-guard-sexual-assault-prison>.

protection for detainees, instead creating restrictions on the dress code for women and children.<sup>18</sup>

Children express fear of the guards and staff at Berks,<sup>19</sup> and one mother reported that her young son was punished for being too noisy.<sup>20</sup> The frequent nightly bed checks conducted by the guards foster an environment of stress, fear, and sleep deprivation.<sup>21</sup>

The Berks family detention center fails to comply with basic human rights law that requires that detainees have the right to medical care and be treated humanely in conditions that are dignified.<sup>22</sup> The inhumane treatment of children at the detention center also falls short of the requisite safety and health conditions that must be met when a government agency detains children.<sup>23</sup> As the Department can only license child facilities that protect the health, safety, and well-being of children, these human rights abuses render it impossible for the facility to remain licensed.

B. Detention of Children at the Berks Family Detention Center Is Harmful to their Mental Health.

The Supreme Court recognizes that children possess a “peculiar vulnerability” not seen in adults and therefore require stability and nurturing to promote cognitive and emotional

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<sup>18</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 8 (Aug. 2015). In an interview, the victim of the assaults stated that, rather than alleviating her fear and anxiety, the staff response to her disclosure made her feel as though she was the guilty one. *Id.* See also Feltz, *supra* note 17 (after assault was reported, the “staff at Berks instituted a new dress code that barred detainees as young as six years old from wearing shorts, tight clothes and tops that showed cleavage.”). According to Feltz, the guard may “serve less time than his victim and her three-year-old son spent in detention.” *Id.*

<sup>19</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 11 (Aug. 2015).

<sup>20</sup> *Statements from Madres Berks* (Dec. 2016) at 7. One mother reported in her letter that her 7-year-old son was mistreated by guards: “[T]he people who work here mistreat my son and tell him he is a problem because they don’t want him to make any noise, they don’t let him play but he is a child and being locked away makes him behave this way.”

<sup>21</sup> Human Rights First, *Long-Term Detention of Mothers and Children in Pennsylvania*, 6 (Aug. 2016) (nightly checks involve “every 15 minutes...shining flashlights on each person and opening and closing doors loudly.”).

<sup>22</sup> *International Covenant on Civil and Political Rights*, 999 U.N. T.S. 171, 176 Art. 10 (Dec. 16, 1966) (“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”).

<sup>23</sup> Inter-American Commission on Human Rights (IACHR), *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, (March 14, 2008), <https://www.cejil.org/en/principles-and-best-practices-protection-persons-deprived-liberty-americas>.

development.<sup>24</sup> It is well-documented in medical and mental health research that detention—even for just a few weeks—is harmful to children. Leading pediatricians, physicians, and social workers have described the negative effects of immigration detention on children, which include “behavioral regressions, depression, anxiety, and suicidality.”<sup>25</sup> With recognition of the severe trauma that many asylum seekers have faced, international human rights guidelines have recognized that periodic assessments by qualified medical professionals are required as a means to combat the “serious consequences of detention.”<sup>26</sup> However, the Berks family detention center falls woefully short of the goals of the licensing code in protecting children’s health and safety, as children suffer significant mental and emotional health challenges in an environment which is more likely to retraumatize than protect the well-being of the children.<sup>27</sup>

Studies of immigrant children detained with their parents confirm that the children are severely impacted by their confinement.<sup>28</sup> Further, the stress of detention can impact the mental

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<sup>24</sup> *Bellotti v. Baird*, 443 U.S. 622, 634 (1979).

<sup>25</sup> Human Rights First, *Family Detention, Still Happening, Still Damaging*, 3 (Oct. 2015), <http://www.humanrightsfirst.org/sites/default/files/HRF-family-detention-still-happening.pdf>; see also Giselle Hass, *Statement Regarding the Mental Health Needs of Women and Children Detained in Immigration Facilities*, CONGRESSIONAL WOMEN’S WORKING GROUP ON IMMIGRATION REFORM, 5 (Jan. 22, 2015), [http://www.asistahelp.org/documents/news/Mental\\_Health\\_Statement\\_GH\\_E49E41BF6BFF5.pdf](http://www.asistahelp.org/documents/news/Mental_Health_Statement_GH_E49E41BF6BFF5.pdf) (“The sole confinement, surveillance, security controls and harsher regime of detention aggravate the mental health problems of immigrant women and children because they replicate the dynamic of control and coercion that victims suffered in the past and induce the same sense of helplessness and victimization.”); National Latina/o Psychological Association, *Letter to Secretary Jeh Johnson* (Oct. 7, 2016) (“Ongoing confinement for an undetermined period of time will only serve to exacerbate [the women and children housed at Berks’] suffering and compromise their long-term emotional well-being.”), attached as Exhibit C.

<sup>26</sup> United Nations High Commissioner for Refugees (UNHCR), *Detention Guidelines: Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 33 (2012) (“Guideline 9.1: Victims of trauma or torture ... Because of the serious consequences of detention, initial and periodic assessments of detainees’ physical and mental state are required, carried out by qualified medical practitioners. Appropriate treatment needs to be provided to such persons...”).

<sup>27</sup> See Shapiro Decl. ¶ 10 (describing lack of bilingual mental health staff at facility).

<sup>28</sup> See Jon Burnett, et al., *State Sponsored Cruelty, Children in Immigration Detention*, MEDICAL JUSTICE (2010); Rachel Kronick, et al., *Asylum-Seeking Children’s Experiences of Detention in Canada: A Qualitative Study*, 85 AM. J. ORTHOPSYCHIATRY 287 (2015); Human Rights & Equal Opportunity Comm’n, *A Last Resort? National Inquiry into Children in Immigration Detention* (Apr. 2004), Ann Lorek, et al., *The Mental and Physical Health Difficulties of Children Held Within a British Immigration Detention Center: A Pilot Study*, 33 CHILD ABUSE & NEGLECT 573 (2009); Zachary Steel, et al., *Psychiatric Status of Asylum Seeker Families Held for a Protracted Period in a Remote Detention Centre in Australia*, 28 AUSTL. & N.Z. J. PUB. HEALTH 527 (2004).



health and well-being of parents so significantly as to render them incapable of parenting.<sup>29</sup> Witnessing their parents' struggles causes significant distress for children and in some cases leads to an increase in attachment disorder among children.<sup>30</sup> Children are forced to witness their parents' suffering abuse at the hands of the guards,<sup>31</sup> medical distress,<sup>32</sup> and mental health challenges.<sup>33</sup> Not only do the children themselves experience retraumatization, anxiety, and hopelessness, but they are also forced to watch their parents endure these experiences as well.<sup>34</sup> Far from having a mitigating effect, the detention of children with their parents can ultimately exacerbate the negative mental health consequences experienced by children in detention.

After just a few weeks in detention some children at the Berks family detention center exhibit "symptoms of behavioral regression," including "oppositional-defiant disorder, depression, anxiety, and increased aggression."<sup>35</sup> These negative feelings and mental health problems only intensify as the length of time in detention increases.<sup>36</sup> Some children have spent

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<sup>29</sup> Australian Human Rights Comm'n, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, 64 (2014) ("When parents are mentally unwell, the probability of harm increases because parents have a crucial role in shaping the trajectory of their child's life.").

<sup>30</sup> *Id.* at 106 ("Clinical research into the effects of detention on family relationships shows evidence of attachment disorders in 30 percent of children. After a year of detention, the rates of attachment disorder increase.").

<sup>31</sup> Renee Feltz, *Immigration Facility Guard Given Jail Time for Sexual Assault of Detainee*, THE GUARDIAN (Apr. 23, 2016), <https://www.theguardian.com/us-news/2016/apr/23/immigration-detention-center-guard-sexual-assault-prison> (describing repeated instances of sexual assault suffered by one young mother at hands of a guard).

<sup>32</sup> *Statements from Madres Berks* (Dec. 2016) at 7. One mother reported that she was unable to manage her diabetes effectively because she was in detention and stated, "I ask them to let me get out due to how sick I am but they do not want to do so."

<sup>33</sup> See Shapiro Decl. ¶ 13.

<sup>34</sup> See Shapiro Decl. ¶ 14.

<sup>35</sup> Shapiro Decl. ¶¶ 7-8, 14. See also Society for Community Research and Action (SCRA) Policy Committee, *Family Detention in the U.S.: The Incarceration of Undocumented Migrant Families* (Jul. 2016) (psychosocial impact of detention on children include "feelings of depression, anxiety, and ... post-traumatic stress symptoms[,] and "[t]he mere threat of deportation is associated with negative emotional well being, ... poor parent-child relations and poor academic performance.").

<sup>36</sup> Human Rights First, *Long-Term Detention of Mothers and Children in Pennsylvania*, 3 (Aug. 2016) ("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.").

over 450 days in detention at the detention center,<sup>37</sup> and others have been held in detention for almost half of their lives.<sup>38</sup> Mothers who have spent over a year detained at the detention center report that their children are “desperate, sad, and anxious,” and believe that “life for [them] has no reason.”<sup>39</sup> One mother reported that her young son tried to strangle himself with the lanyard from the ID badge he is required to wear.<sup>40</sup> A pediatrician who spent time meeting with families at the detention center stated that their detention had caused feelings of “isolation, helplessness, [and] hopelessness.”<sup>41</sup> Children detained at the detention center have no idea when, if ever, they will be released.<sup>42</sup> The facility offers few opportunities for education or entertainment,<sup>43</sup> leading the children to complain of boredom and repeatedly ask to leave or question why they are being made to stay.<sup>44</sup> The effects of detention can be long-lasting and can cause permanent damage both to children’s mental health and to their cognitive and emotional development.<sup>45</sup>

Recently, a Texas Court ruled that the licensing of family detention facilities “runs counter to the general objectives of the Texas’ Human Resources Code” and denied child care

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<sup>37</sup> *Statements from Madres Berks* (Dec. 2016) at 1 (“There are mothers amongst us who, with children of between two and fifteen years old, have been detained for more than 450 days.”).

<sup>38</sup> *Id.* Among the children described in these letters are a 3-year old who has been detained at Berks for over 420 days and a 2-year-old who has been detained for over 400 days.

<sup>39</sup> *Id.* at 4, 9.

<sup>40</sup> Samira Paul, *Mental Health and Immigration Detention*, GRADPSYCH BLOG (Nov. 2, 2016), <http://www.gradpsychblog.org/mental-health-and-immigration-detention/#.WGvYJvkrJME>.

<sup>41</sup> Shapiro Decl. ¶ 16.

<sup>42</sup> See generally Lorek, et al., *supra* note 28, at 578 (reporting findings from study of children in detention: “Many [of the children interviewed for this study] asked the psychologist why they were in ‘prison’ and when they would be allowed to go ‘home’ again.”). For specific accounts of the impact that the uncertainty of detention has on children at Berks, see *Statements from Madres Berks* (Dec. 2016) at 4-6, 9.

<sup>43</sup> *Statements from Madres Berks* (Dec. 2016) at 6. One mother reported in her letter that her four year old son is “always bored, sick” and that he “looks through the window of the room and always says [] ‘I want to leave’ and he says ‘mommy, let’s go to the park’, ‘mommy, why can’t we leave this place?’”

<sup>44</sup> *Id.*

<sup>45</sup> See generally Steel et. al, *supra* note 28 (discussing prolonged impact of detention on asylum-seeking youth); Human Rights & Equal Opportunity Comm’n, *supra* note 26, at 431 (“the seriousness of the impact of continuing detention on children...suggest that the best interests of the child [are] not a primary consideration”).

licenses to the family detention centers in that state.<sup>46</sup> The purpose of the Texas licensing code is “to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program.”<sup>47</sup> Analogous to Pennsylvania’s Public Welfare Code, it lends credence to the principle that family detention cannot comply with state licensing regulations seeking to protect children.

The detention of children at the Berks family detention center similarly contradicts the Department’s purpose of licensing child facilities “to protect the health, safety and well-being of children.” The Department has the authority to make decisions about the facility’s license regardless of its contract with the federal government.<sup>48</sup> It is, therefore, well within the Department’s discretion to deny the renewal of the detention center’s license because its mandate is to “enforce[] minimum licensing requirements.”<sup>49</sup> At the Berks family detention center, the detention, mistreatment, and abuse of children all provide sufficient grounds for the Department’s decision to refuse to renew the detention center’s license.

## **II. The Detention of Refugee Children Runs Counter to their Best Interest Under Pennsylvania Law.**

### **A. Pennsylvania Law Prohibits Detention of Young Children and Children Who Are Not Found Dependent or Delinquent by a State Court.**

Due to the deleterious effects of detention on children’s well-being, Pennsylvania law

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<sup>46</sup> See *Grassroots Leadership, Inc. v. Texas Dep’t Family & Protective Servs.*, No. D-1-GN-15-004336 (Tex. Dist. Ct. Dec. 2, 2016), attached as Exhibit D; see also *Texas Court Blocks Licensing of Family Detention Camps as Childcare Facilities*, GRASSROOTS LEADERSHIP, (Dec. 3, 2016), <http://grassrootsleadership.org/releases/2016/12/breaking-texas-court-blocks-licensing-family-detention-camps-childcare-facilities>.

<sup>47</sup> TEX. HUM. RES. CODE § 42.001.

<sup>48</sup> *United States v. Pa. Envtl. Hearing Bd.*, 431 F. Supp. 747 (M.D. Pa. 1977).

<sup>49</sup> 55 PA. CODE § 3800.1.

only permits children to be placed in detention in specific circumstances,<sup>50</sup> none of which apply to the Berks family detention center. Pennsylvania law does not permit detention of children under nine, and children over the age of nine still cannot be detained without being alleged or adjudicated dependent or delinquent by a state court.<sup>51</sup> For this reason, the Department cannot issue a license for a secure facility that holds children who have never been in a juvenile or family courtroom.

To protect their health and safety, Pennsylvania law prohibits the detention of children below the age of nine in a secure facility like the Berks family detention center.<sup>52</sup> However, there is currently no policy prohibiting the detention of young children at the Berks facility. There has been at least one child under two years old detained at the facility, as well as numerous children under the age of nine.<sup>53</sup>

Even children over the age of nine cannot be detained in Pennsylvania unless they have been alleged or adjudicated delinquent or dependent by a state court.<sup>54</sup> When dependent and delinquent children are detained in secure facilities in Pennsylvania, the median stay for juveniles in detention facilities is 10 days,<sup>55</sup> reflecting the intention of the youth detention system to only use detention in extreme situations. Yet at the Berks family detention center, children of all ages have been detained for prolonged periods, including some for over 15

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<sup>50</sup> 42 PA. CONS. STAT. § 6325 (1978).

<sup>51</sup> 55 PA. CODE § 3800.283 (7) (2000) (“A child may not be admitted to a secure detention facility who is 9 years of age or younger...”).

<sup>52</sup> *Id.*

<sup>53</sup> *See Statements from Madres Berks* (Dec. 2016).

<sup>54</sup> 37 PA. CODE §§ 200.1 *et seq.* (2007) (describing circumstances under which children may be held in secure detention facilities).

<sup>55</sup> *See Juvenile Court Judges’ Commission, Pennsylvania Juvenile Court Dispositions 2004*, CENTER FOR JUVENILE JUSTICE TRAINING AND RESEARCH: SHIPPENSBURG, PA, <http://www.jcjc.pa.gov/Publications/Documents/Juvenile%20Delinquency%20Benchbook/Juvenile%20Delinquency%20Benchbook%20-%20Chapter%2003.pdf>.

months, with no indication of when they will be released.<sup>56</sup> As discussed above, long-term indefinite detention can undermine a child's health and psychological well-being and is clearly not in the child's best interest.

Contrary to the assertions by center administrators, the Berks family detention center is a secure facility detaining children in violation of Pennsylvania law. As discussed above, children in the detention center are subjected to the daily surveillance and restrictions of detention, which have harmful effects on their physical and mental health. Overwhelming evidence establishes that the facility is secured by locks, guards, and restricted access and that detainees are not free to simply "walk out" of the facility.<sup>57</sup> As a requirement of the detention center's contract with the federal government, the detention center must equip all areas accessible by residents with either deadbolts or deadlocks.<sup>58</sup> The contract between Berks County and Immigration and Customs Enforcement (ICE) calls for 24-hour guards to ensure around-the-clock visual supervision of immigrant families.<sup>59</sup> Throughout the night, parents and children are awoken from their sleep by guards conducting flashlight checks at 15 minute intervals, as required by the facility's Residential Handbook.<sup>60</sup> If detainees leave, the local authorities would be called "for safety reasons" and ICE would be contacted.<sup>61</sup> The facility's Residential Handbook states that families

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<sup>56</sup> See *Statements from Madres Berks* (Dec. 2016); Human Rights First, *Long-Term Detention of Mothers and Children in Pennsylvania* (Aug. 2016).

<sup>57</sup> Hr'g Tr. 88:8-14, *In re Licensure of Berks Cnty. Residential Ctr.*, (Nov. 7, 2016) (No. 061-16-0003) ("Hr'g Tr.") with Decl. Bridget Cambria, dated Nov. 7, 2014, ¶ 6, Pls.' First Set Exhibits In Support Mot. Class-Wide Enforcement of Settlement 67 (Doc. 101-3), *Flores v. Johnson*, Case No. CV 85-04544 RJK (Px) (C.D. Cal. filed Feb. 2, 2015), attached as Exhibit E.

<sup>58</sup> See *ICE/DRO Residential Standard Key and Lock Control* at 4, [http://www.ice.gov/doclib/dro/family-residential/pdf/rs\\_key\\_and\\_lock\\_control.pdf](http://www.ice.gov/doclib/dro/family-residential/pdf/rs_key_and_lock_control.pdf).

<sup>59</sup> See *ICE Contract*, Art. XVII.B.10, attached as Exhibit F.

<sup>60</sup> *Berks Family Residential Center Resident Handbook* at 10 ("State regulations require staff to conduct room checks at a minimum of every fifteen minutes during each overnight...During these checks staff is required to shine a flashlight into your room"), attached as Exhibit G; see also 55 Pa. Code § 3800.274 (7) (in secure facilities, "[c]hildren shall be supervised by conducting observational checks of each child within 15 minute intervals during sleeping hours.").

<sup>61</sup> See Hr'g Tr. 190:20-21.

at the Berks family detention center can be punished for “[l]eaving the grounds of the facility.”<sup>62</sup> It also defines “[e]scape” as “leaving the grounds of the facility” and ranks it as a “major offense” equivalent to arson and sexual assault.<sup>63</sup>

The state license obtained by the detention center states that it holds children “[t]o provide [r]esidential [s]ervices – [c]ommunity based, dependent & delinquent.”<sup>64</sup> However, none of the children detained at the detention center have been alleged or adjudicated dependent or delinquent. The detention center is therefore operating in contradiction to the Juvenile Act, which provides the only legal justifications for holding dependent or delinquent minors at secure facilities.<sup>65</sup> Courts must find that children meet specifically enumerated criteria for detention as part of a structured procedure to protect the rights of parents and the well-being of children.<sup>66</sup> Further, the statute requires multiple court hearings before children can be detained for reasons of delinquency or dependency, as well as continual monitoring and services from the government.<sup>67</sup> These procedures protect the best interest of children by ensuring that detention is used sparingly to provide supportive services for children with special circumstances, and only when the state has established a legitimate basis for the detention.<sup>68</sup> Here, none of the children detained in the facility meet the enumerated criteria for delinquency or dependency, nor have any

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<sup>62</sup> *Berks Family Residential Center Resident Handbook* at 28 (“Escape-leaving the grounds of the facility...without permission” defined as a major offense); ICE/DRO Residential Standard: Use of Physical Force and Restraints at 1, [http://www.ice.gov/doclib/dro/family-residential/pdf/rs\\_use\\_of\\_force.pdf](http://www.ice.gov/doclib/dro/family-residential/pdf/rs_use_of_force.pdf).

<sup>63</sup> *Berks Family Residential Center Resident Handbook* at 28.

<sup>64</sup> *Berks County Residential Center Certificate of Compliance*, PA. DEPT. PUB. WELFARE, attached as Exhibit H.

<sup>65</sup> 42 PA. CONS. STAT. § 6301.

<sup>66</sup> 42 PA. CONS. STAT. §§ 6301-2. These reasons range from truancy, abandonment, and a specific set of crimes. 42 PA. CONS. STAT. §6302 (2)-(10); 55 PA. CODE § 3800.283(7).

<sup>67</sup> 42 PA. CONS. STAT. §§ 6325, 6351-2.

<sup>68</sup> Inter-American Commission on Human Rights (IACHR), *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, (March 14, 2008), <https://www.cejil.org/en/principles-and-best-practices-protection-persons-deprived-liberty-americas..>

of the children participated in proceedings with the courts to monitor their detention.<sup>69</sup> The detention center, therefore, is not legitimately detaining children for the purpose of providing “dependent & delinquent” care in the children’s best interest, as it states in its license.<sup>70</sup>

If the decision of the Department is reversed and the Berks family detention center is permitted to maintain its license, the detention center will continue to operate both in violation of Pennsylvania law and counter to the best interest of the children held within the facility. The detention center will be authorized to bypass the important due process protections that exist to protect the health and safety of children. It will also continue to detain very young children and children who have not been alleged or adjudicated delinquent or dependent, all of which runs contrary to Pennsylvania law. Pennsylvania’s law resonates with international human rights law, which is unified in stating that detention of children is impermissible when they are seeking refuge in another country due to the mental and emotional consequences of detention.<sup>71</sup> It is internationally recognized that detention of families seeking asylum is never in the best interest of the child, as children placed in detention, even over a short period of time, are at special risk of health and development issues.<sup>72</sup> Allowing the Berks family detention center to remain open will allow the continued detention of children absent any purpose that this Commonwealth

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<sup>69</sup> Human Rights First, *Family Detention in Berks County, Pennsylvania*, 10-1 (Aug. 2015) (“none of the children at Berks are dependent, by definition, since they are with at least one of their parents, and they have not been alleged or adjudicated delinquent.”).

<sup>70</sup> See *Berks County Residential Center Certificate of Compliance*.

<sup>71</sup> See *International Covenant on Civil and Political Rights*, 999 U.N.T.S. 171, 175 Art. 9 (Dec. 19, 1966). (“No one shall be subjected to arbitrary arrest or detention.”); Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection (Art. 3 Convention on the Rights of the Child), Advisory Opinion OC-21/14, Inter-Am. Ct. H.R. (Aug. 19, 2014). Article 24 of the ICCPR states that “[e]very child shall have . . . the right to such measures of protection as are required by his status as a minor.” Article 4 of the Convention on the Rights of the Child requires the realization of civil and political rights of children immediately, without regard to economic circumstances of the country.

<sup>72</sup> See Burnett, *supra* note 28, at 37 (finding correlation between both short and long-term detention and psychiatric harm); Lorek et al., *supra* note 28, at 578-9 (discussing psychiatric impact of detention on children).

recognizes as legal.<sup>73</sup>

B. The Department Cannot Issue a License for a Facility that Mixes Adults with Children.

In accordance with its mission to protect the health and safety of children, Pennsylvania's licensing code does not provide for the detention of children with adults. The Berks family detention center cannot maintain its license as a "Child Residential and Day Treatment Facilit[y]," as envisioned under Pennsylvania law.<sup>74</sup> The detention center does not deny that it detains adults with children, which it is not authorized to do.<sup>75</sup> The license provided to the detention center as a child facility permits it only to provide "community-based, dependent, and delinquent" "[r]esidential [s]ervices."<sup>76</sup> In addition to the detention center having no relation to dependent or delinquent systems, it does not fit the definition of a child facility, which the Department's Director of Licensing describes as "residential settings for children to live away from their parents or their family units."<sup>77</sup> Child residential facilities are intended to provide care when children are forced to be separated from their family, not to hold children alongside adults or to cover the occasional "field trips" away from parents.<sup>78</sup>

As discussed above, the regulations that apply to facilities that house children are derived from the Juvenile Act, which does not contemplate the presence of people outside the Juvenile

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<sup>73</sup> "The primary purpose of the Juvenile act is the preservation of family unity wherever possible." *In re A.L.*, 779 A.2d 1172, 1174 (Pa. Super. Ct. 2001) (citation omitted). Berks, despite holding family members alongside children, separates them from the rest of their families and contradicts this goal. *See Statements of Madres Berks* (Dec. 2016) at 8 (letter from mother in detention with her 14-year-old detention who has been separated from her 9-year-old daughter, who is also in the United States).

<sup>74</sup> 55 PA. CODE § 3800 *et seq.*

<sup>75</sup> *See* Hr'g Tr. 102:23-103:2.

<sup>76</sup> *See Berks County Residential Center Certificate of Compliance.*

<sup>77</sup> Hr'g Tr. 72:9-12.

<sup>78</sup> *Compare id.* 72:9-12, 16-22 *with id.* 112:2-15. Further, section 3800 of the Pennsylvania Code does not apply to childcare providers and is not the correct license for daycare programs or situations where children are left with childcare providers while their parent is at work. *Id.* 73:12-14.



Act's definition of "child" in any facility unless they are staff.<sup>79</sup> The purpose of these regulations is to protect the health, safety, and well-being of children in facilities.<sup>80</sup> These regulations do not contemplate children being held in a facility with adults;<sup>81</sup> nor do they address the care and supervision of adults. A separate set of regulations governs facilities intended to house adults.<sup>82</sup> For this reason, out of the several hundred facilities that are licensed under this code in the state, there are no licensed facilities where adults over the age of twenty-one are housed with their children.<sup>83</sup> In the recent court decision involving family detention centers in Texas, the court struck down the state licensing of ICE contract family detention, finding that the mixing of children with adults ran contrary to their own human services law.<sup>84</sup>

Nonetheless, the Berks family detention center asks that the BHA permit an aberration that has no basis in law or practice and that would continue to threaten the health and safety of refugee families and children. The Pennsylvania code specifically charges that the Department may "deny, refuse to renew or revoke a certificate of compliance for . . . [n]oncompliance with [the Department's] program licensure or approval requirements."<sup>85</sup> The Department is well within its own authority to deny renewal of the facility's license if the facility fails to comply

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<sup>79</sup> 55 PA. CODE § 3800.1 ("The purpose of this chapter is to protect the health, safety and well-being of children receiving care in a child residential facility through the formulation, application and enforcement of minimum licensing requirements.").

<sup>80</sup> The stringent requirements, for example, call for frequent and direct care by childcare professionals, which do not contemplate children being placed alongside their parents. 55 PA. CODE § 3800.274.

<sup>81</sup> The regulations specify that for secure facilities children "may not share space or have contact with adult offenders." 55 PA. CODE § 3800.283(10).

<sup>82</sup> See *Berks County Residential Center Certificate of Compliance*.

<sup>83</sup> Hr'g Tr. 71:17-22, 72:23-25. Out of two hundred facilities licensed by DHS to care for children, only one is licensed to hold adults as well solely because the adults have the mental capacity of children and began their tenure as minors who remain there until they can be placed elsewhere. *Id.* 181:2-8, 16-25, Nov. 7, 2016. The Department does license some facilities to hold parents with their children, but those parents are minors themselves, not fully grown and self-sufficient adults. *Id.* at 184:16-22.

<sup>84</sup> *Texas Court Blocks Licensing of Family Detention Camps as Childcare Facilities*, GRASSROOTS LEADERSHIP, (Dec. 3, 2016), <http://grassrootsleadership.org/releases/2016/12/breaking-texas-court-blocks-licensing-family-detention-camps-childcare-facilities>.

<sup>85</sup> 55 PA. CODE § 20.71(a)(2).

with the licensing regulations. Requiring the Department to renew the license of the Berks family detention center would be requiring the licensing of a facility for which a specific set of governing regulations do not exist. Such a result would set a dangerous precedent, allowing licenses to be issued regardless of whether a facility is in compliance with the Department's governing regulations and regardless of whether such facility operates contrary to the best interests of the children housed within. BHA, therefore, should affirm the Department's decision to deny renewal of the Berks family detention center's child facility license on the grounds that it operates a facility that mixes children and adults together.

C. Estoppel Cannot Justify the Detention of Children Against their Best Interests.

The Department should not be estopped from refusing to renew the Berks family detention center's license, as the continued operation of the detention center is contrary to Pennsylvania law. As stated above, it is undisputed that the detention center is in violation of its license and the Department can refuse to renew the license on that ground.<sup>86</sup> Effectively, the detention center is requesting an amendment to existing law – 55 Pa. Code § 3800 – to permit the licensure of a detention center that does not comply with the existing regulatory framework that protects the well-being of children. Pennsylvania courts have held that estoppel is inappropriate if estopping the action would “override” the “enforcement of a statute.”<sup>87</sup> Here, the existing regulatory framework seeks to protect children by addressing their care and supervision at facilities that house only children. Granting estoppel would override the enforcement of the licensure regulations for “Child Residential and Day Treatment Facilities” to create a new type of facility without the accompanying regulations addressing the care and supervision of children

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<sup>86</sup> *Id.*

<sup>87</sup> *Finnegan v. Pub. Sch. Emp. 's Retirement Bd.*, 560 A.2d 848 (Pa. Commw. Ct. 1989); *see also Borkey v. Twp. of Centre*, 847 A.2d 807, 813 (Pa. Commw. Ct. 2004); *Chester Extended Care Ctr. v. Dept. Pub. Welfare*, 586 A.2d 379, 383 (Pa. 1991).

in a facility with adults.

By seeking to reverse the Department's decision, the Berks family detention center seeks to do exactly this. The facility's defense that it has never acted legally and so should not have to now do so runs contrary to the Pennsylvania Supreme Court, which has rejected estoppel in situations like these where permitting the licensure would be a "violation of positive law."<sup>88</sup> The Department's previous acquiescence does not change the fact that the detention center holds children in its facility in violation of Pennsylvania law. Nor does it alter the necessity of revoking its license given this violation of law. Allowing the Berks family detention center to violate Pennsylvania law cannot serve as a punishment for the Department's failed vigilance against the facility. This argument would make an end run around Pennsylvania's mechanism for protecting families and children.

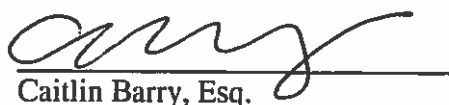
### CONCLUSION

Protecting the dignity of children should be an ongoing, affirmative goal. The decision to license the Berks family detention center has far-reaching impacts on the safety, health, and well-being of children. By affirming the Department's decision to deny the license to the Berks family detention center, it sends a message that Pennsylvania will not tolerate detention practices that violate the best interest of children in this Commonwealth.

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<sup>88</sup> *Chester Extended Care Center*, 586 A.2d at 383.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Caitlin Barry', is written over a horizontal line.

Caitlin Barry, Esq.

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*Counsel for Amici Curae*

**APPENDIX A**  
*Amici of Mental Health Professionals*

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Judy I. Eidelson  
Ph.D., Clinical Psychologist, Adjunct Fellow  
University of Pennsylvania Center for Public Health Initiatives

Antonieta (Tania) Erlij  
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Susanna Francies  
Licensed Psychologist

David Gangsei  
Ph.D., Licensed Clinical Psychologist

Joseph Gorin  
Licensed Doctoral Psychologist  
Joseph Gorin, Psy.D. and Associates

Suzan B. Greenberg  
Psy.D., Licensed Psychologist

Giselle Hass  
Psy.D., Licensed Psychologist, ABAP  
Ainsworth Attachment Clinic

Lisa Hoffman  
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Luis H. Zayas  
Ph.D., Licensed Psychologist & Clinical Social Worker, Dean of School of Social Work,  
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The University of Texas at Austin

DOCKET CASE NO. 061-16-0003

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF HEARINGS AND APPEALS

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In Appeal of Berks County Residential Center

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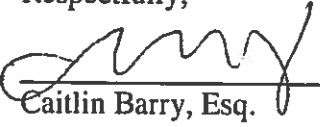
**CERTIFICATE OF SERVICE**

I, Caitlin Barry, hereby certify that on 1/4/17, I served a copy of the **Brief of Amici**  
**Curae** by United Parcel Service (UPS), postage pre-paid to the following:

Matthew J. Connell, Esq.  
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Department of Human Services  
Governor's Office of General Counsel  
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Respectfully,

  
Caitlin Barry, Esq.  
Farmworker Legal Aid Clinic  
299 N. Spring Mill Rd.  
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# EXHIBIT A



Tuesday, December 13<sup>th</sup> 2016

To: Pennsylvania Governor Tom Wolf and Secretary Ted Dallas

We are a group of mothers asking for your help to obtain our FREEDOM. We have been unjustly incarcerated merely for having asked for refuge in this country. We never imagined that the United States would receive us with such a gigantic blow that is to deprive our children of FREEDOM. There are mothers amongst us who, with children of between two and fifteen years old, have been detained for more than 450 days. Many of us are sick and are not receiving any treatment.

We are desperate because this will be the second Christmas that our children have to spend here. This is in addition to all the other special dates, such as the birthdays of our children and our own, Mother's Day, Father's Day, etc, that we have had to spend in this jail, including the 4<sup>th</sup> of July on which this country celebrates FREEDOM. There are many of us who, while these celebrations take place, are suffering unjustly without being criminals, without having committed any crime.

All that we ask for is that you reach into your heart and that you give us the FREEDOM that we so long for for our children and for ourselves. We know you have the power in the State of Pennsylvania and that in a matter of minutes you can order that we all be freed.

We ask you, 17 desperate mothers, to give the biggest gift to our children of being able to spend Christmas among family.

As Berks mothers, we bid farewell to you,

Madres Berks

December 13, 2016

To: Governor Tom Wolf  
Secretary Ted Dallas

I am writing this letter to beg you the opportunity to release us from prison. I am one of the 17 mothers who have been imprisoned for a prolonged amount of time at the Berks Detention Center.

My son and I arrived to United States on October 21, 2015, when he was 22 months old. He will be 3 years of age on December 16 this year. It breaks my heart to realize that my child has spent almost half of his life incarcerated. According to the Flores' Law, he should be liberated long time ago. It is an act of inhumanity to deprive a little child from his freedom and treated as criminal.

We already spent 416 days in detention, per words of the Secretary of National Security, J. Johnson, and "a child should not be imprisoned for more than 20 days"

My baby and I have spent many special days and holidays in jail. This will be his second Christmas in Berks. I am begging you to listen with your hearts in this Christmas time, and to release us from this prison- you have the power to do it and our Lord will give you his blessing for giving to my child the best Christmas gift he can get, our FREEDOM.

It is not fair that we have spent so much time in jail when we came fleeing the terrifying conditions of our country, Honduras. Like any human we are just searching for shelter and protection.

God Bless you,  
Sincerely, W.O.

My name is Maribel. I am from Guatemala.

I came to escape with my three children who are 8, 9 and 2 years old. I entered the United States on November 28<sup>th</sup>, 2015 and I was sent to the "Freezer," which is a place that is as cold as a freezer. From there I was sent to Dilley and I was there for 21 days, then I was transported to Berks Center on December 21<sup>st</sup> where I am still being detained with my children.

We have been here for 390 days and while here we have gotten sick, the kids don't want to eat the food, they want to go to an adequate school and we have already spent a Christmas being locked away.

We don't want to spend another Christmas here, which is why I ask the governor to please reach into your heart and give us the gift that we most wish for.

Merry Christmas

Sincerely, Maribel

Tuesday, December 13<sup>th</sup>, 2016

To: Tom Wolf and Ted Dallas

I write these lines to you so that you may help us and find a solution to our problem.

I have been imprisoned at the Berks Family Residential Center for 13 months. I arrived in this country on August 29<sup>th</sup>, 2015, which means that in total I have been detained for more than 450 days. I am also here with my son who is only 6 years old.

We need help to get out of here and we reach out to you because we know that you can do something to solve our problem. It is very sad to know that many people are getting prepared to spend this holiday among family, and are sharing all of the good things that happened to them this 2016, and that meanwhile this will sadly be our second Christmas here and we can't celebrate as others do. Our family has seats on their table for us and these have been awaiting us for 450 days, along with beds, clothing, shoes, food, love and care, all of which is turning to dust while waiting for us, and that we sadly do not know when the moment we long for, when we are warmly, strongly and sincerely embraced by the arms that have been wide open for us, awaiting us for more for than a year.

These days have been very difficult because we long to be with our loved ones but we also have suffered too much, as have our children, because they are desperate, sad, anxious, and many of them depressed because they know that during this second Christmas here they will continue to be incarcerated.

I pray to God that he continues to strengthen us, that he softens the hearts of people who are not letting us out and who I know will help us and will support us so that we can make true the most desired dream of our children: obtaining their freedom!

Infinite blessings, Merry Christmas and Happy New Year 2017,

Tuesday, December 13<sup>th</sup>, 2016

I am a mother with a 6-year-old daughter who has been detained for 460 days. It has not been easy to spend all of this time incarcerated with my daughter, suffering from illnesses such as diarrhea since last December. At the beginning, they would not provide good care but now they have done exams and sent her to stomach specialists and all that comes up is lactose intolerance. She has to eat the same food everyday due to her lactose intolerance and we have had to spend two of our birthdays incarcerated. All that my daughter asks for everyday is that I take her out of this place. Last Christmas we spent it here and now another Christmas is coming and she cries because she does not want to spend another Christmas incarcerated.

We came running away from crime and violence in my country, searching for protection and a better future for our children and the only thing we have found here is psychological and emotional abuse. It isn't fair that as a result of looking for a little bit of protection for my daughter we are treated as criminals. We are not a danger to this country. To whomever is reading this letter, I ask that you gain consciousness of all this and that you do not deny my daughter her right to be free and that she can celebrate Christmas with our family and live a normal life as any child deserves. Thank you very much! God Bless You,

Sincerely,

A desperate mother with more than one year detained in the Berks Center

My name is Carmen. I am from Honduras. I came with my son who is only four years old because I feared for my life. I was threatened in my country and I could not find another solution, I came to this country on October 24<sup>th</sup> of last year and I was in the "freezer" for two days and then I was sent to Karnes and I was there for 22 days, and then I was transferred to here to the Berks Center where I arrived on November 18<sup>th</sup>.

Since then I have been in detention with my son and I have been for 14 months already. It is very sad because we can't go wherever we want and my son is always bored, sick and the food that they give us is not good and my son does not like it but the works here only care about one taking the food even if one doesn't eat it. My son looks through the window of the room and always says to me "I want to leave" and he says "mommy, let's go to the park", "mommy, why can't we leave this place?". It is very difficult to answer this question to my son. He has spent his birthdays here, Christmas here, 14 months without our families being able to see us because we are in jail.

It is not fair that my child, who is so little, must live without his freedom. Being here has caused me to gain weight due to the stress, insomnia and to many headaches. We can't bear being locked away any longer. How much I would love to spend this Christmas with my family who since last year have been waiting for me.

This is why I ask that you please help me, I ask you Mr. Governor, to President Obama, and to all the people who have the power to give us our freedom, please free me from here. We are not bad people, my son is a poor innocent boy here.

I only seek protection for my son and for me. I would like to ask a question: If you won't give us our freedom this year, when will you do so? Or do you intend to have us locked away for years here?

We need to get out, my family is waiting for us.

Sincerely,

Carmen & 4-year-old son

Merry Christmas and Happy New Year

My name is Celina. I am Salvadorean and I have with me my son who is 7 years old.

I came to the United States on November 10<sup>th</sup> 2015, running away from the crime that batters our country. When I arrived here they put me in the “freezer” and one day in the “dog kennel”, which are places where the temperature is kept very cold. After that, I was taken to a detention center in Dilley, Texas, where I was kept for 18 days.

After that, I was transported to another detention center, the Berks Detention Center in Pennsylvania, where I am still kept already for more than a year. The situation here has been very difficult for me and for my son. We never imagined that all of this would happen to us because here all kinds of things have happened to us. We have been sick, we have been very mistreated, the people who work here mistreat my son and tell him he is a problem because they don't want him to make any noise, they don't let him play but he is a child and being locked away makes him behave this way. Additionally, the food that they give people here is really bad. My son does not like it, he has a very low weight and I feel pity that all of this is happening to my son. We need to be let free, to be able to spend Christmas with our families. We are not bad and we are not criminals to be incarcerated already for 13 months. This is an injustice what they are doing to us and to our children.

I have diabetes and it is very difficult to manage it due to being locked away. I ask them to let me get out due to how sick I am but they do not want to do so.

Please, I ask the people reading this letter to please listen to your heart and help us get out of this place. This place is not a place for a 7-year-old. It is his dream to be with his family, to be able to go to school in an adequate school.

I wish you a very happy day and thank you for listening to us.

Sincerely,

A mother asking for freedom for her and for her child.

December 12, 2016

Mr. Governor Tom Wolf and Ted Dallas,

I hope this letter finds you in good health. I am writing to you to ask you help us, 17 mothers along with our children, because many of us have been detained 13 months and others of us have been detained 15 months. We have committed no crime that would merit continuing to keep us in this place any longer.

My name is Lesly and I am depressed. I have a daughter here with me, she is 14 years old and she does not deserve what is going on this place. Youth have come and just as they come they go and this is very frustrating for her. We came here escaping and seeking refuge because in my country there is too much crime and we came here to find this gigantic injustice. We only ask for your help because what is happening to us here is a cruel nightmare to all of the families who are here living through this.

I am very sick and my daughter is sick, as well, and we have not received the healthcare that we deserve, we have not received any treatment that we need, they don't have any consideration for us here. I have a 9-year-old daughter that is waiting for me with arms wide open, she is in Arkansas. We only ask for our freedom so that we can be with our loved ones. Please, I know that it is in your hands to help us and it is only a matter of you wanting to do so. We will be grateful and God, our lord almighty will greatly reward you.

There are children here that arrived here when they were 22 months old, they do not deserve to spend so much time imprisoned. We all have spent our birthdays here, locked away. This is very saddening and frustrating. This Christmas the biggest gift that we could ask for is to be free. It isn't fair to spend another Christmas locked away. It isn't fair for our children. We need to be with our families and to be happy.

God Bless You,

Lesly



Tuesday, December 13<sup>th</sup>, 2016

Letter to Governor Tom Wolfe,

I hope you are having a good day. I greet you as one of the mothers that is in the Berks Center. I am from El Salvador and I have a son who is 15 years old; we entered the United States on October 15<sup>th</sup> 2015. We have been incarcerated for 425 days. We came escaping violence, criminal groups, seeking help and protection and what we have received from the United States is the deprivation of our freedom. I am worried about my son, he is depressed because a second Christmas as an incarcerated child is coming; he says that life for him has no reason and it worries me because he feels frustrated to see these four walls and I understand him because he is young and he wants to be free and happy just as other children are.

Please reach into your heart and help us get out of this jail. I know that as a father you will understand why we fight and suffer so that our children will have a good future and that is the reason why I am running away and asking for help in this country, searching for a good future for my son. Because of this I ask you Governor Tom Wolf, and all of the people who have the power to help us, to do help us. Help us obtain our freedom so that we can spend a Christmas with family as all human beings deserve. Remember we are not troublemakers or criminals, we are just mothers looking for protection.

I bid farewell to you as a desperate mother asking for your help. Thank you.

Mi nombre es Maribel. Soy de Guatemala.

Me vine huyendo con mis tres hijos de 8 años, 9 años, y dos años.

Entre a los Estados Unidos el 28 de noviembre de 2015. Me mandaron a la hielera, un lugar tan frío como un freezer; luego me mandaron a Dilley, estuve allí por 21 días; luego me trasladaron al Centro de Berks el 21 de diciembre, donde aún sigo aquí en detención con mis hijos ya tenemos 390 días estando aquí.

Nos hemos enfermado, la comida no quieren comérsela, pasan frustradas, ellas quieren ir a una escuela adecuada y ya pasamos una Navidad encerradas y no queremos pasar otra Navidad aquí.

Por eso le pido al gobernador que por favor se toque el corazón y nos puedan dar el regalo que más deseamos.

Feliz Navidad.

Atentamente,

Maribel

Martes 13 de diciembre de 2016

Para los señores: Tom Wolf y Ted Dallas

El motivo de estas líneas es para que puedan ayudarnos y buscar una solución a nuestro problema.

Estoy recluida en Berks Family Residencial Center hace 13 meses; yo llegué a este país el 29 de agosto de 2015 lo que quiere decir que en total son más de 450 días en detención, también estoy con mi hijo de seis añitos de edad.

Necesitamos ayuda para poder salir de aquí y recurrimos a ustedes porque sabemos que pueden hacer algo para resolver nuestro problema.

Es muy triste saber que muchas personas están haciendo sus preparativos para pasar esta Navidad en familia y compartiendo todas las cosas buenas que les pasaron este año 2016.

Lastimosamente esta sería nuestra segunda Navidad aquí y no podemos celebrar de la misma manera que los demás. Nuestra familia tiene un espacio en la mesa para nosotros que está listo desde hace 450 días; hay camas, ropa, zapatos, comida, amor y afecto que se está empolvando esperando nuestra llegada y que lastimosamente no sabemos cuándo llegará ese tan ansiado momento en el que los brazos que han estado abiertos por más de un año al fin puedan llegar a cerrarse en un infinito, fuerte y sincero abrazo.

Estos días han sido difíciles porque anhelamos estar con nuestros seres queridos pero también hemos sufrido demasiado al igual que nuestros hijos. Ellos están desesperados, tristes, angustiados y algunos un poco deprimidos por el hecho de saber que en esta segunda navidad estarán nuevamente encarcelados.

Le pido a Dios para que nos siga fortaleciendo y para que ablande el corazón de las personas que no nos dejan salir y asimismo sé que nos ayudarán y apoyarán para cumplir el sueño más anhelado de nuestros hijos: ¡Obtener su Libertad!

Bendiciones infinitas.

Feliz Navidad y Próspero año 2017

Martes 13 de diciembre de 2016

Soy una madre con una niña de seis años de edad con 460 días en detención. No ha sido fácil pasar todo este tiempo presa con mi hija padeciendo(me) de enfermedades como diarrea. Desde diciembre del año pasado, (me) padece de diarrea, al principio no me la atendían bien, pero ahora (me) le han hecho exámenes y (me) la han mandado con especialistas para el estómago y lo único que sale es que es intolerante a la lactosa.

Donde tiene que comer la misma comida todos los días debido a la intolerancia a la lactosa. Donde hemos tenido que pasar dos de nuestro cumpleaños encerradas.

Mi hija lo único que me piden todos los días es que la saque de este lugar. La navidad pasada la pasamos aquí y ahora viene otra navidad y ella llora porque no quiere pasar otra navidad encerrada.

Venimos huyendo de la delincuencia y violencia que hay en mi país, buscando protección y un futuro mejor para nuestros hijos y con lo único con lo que nos hemos encontrado es con puros maltratos psicológicos y emocionales.

No es justo que por buscar un poco de protección para mi hija nos traten como si fuéramos unas criminales. No somos un peligro para este país.

A la persona que lea esta carta le pido que por favor tome conciencia y no le niega mi hija el derecho de ser libre y pueda celebrar la Navidad con nuestra familia y llevar una vida normal como todo niño merece.

¡Muchas gracias! Que Dios lo bendiga.

Atentamente,

Una madre desesperada con más de un año detenida en el Centro de Berks.

Mi nombre es Carmen, soy de Honduras. Me vine con mi hijo de solo cuatro años ya que temí por mi vida. Fui amenazada en mi país y no encontré otra solución.

Llegué a este país el 24 octubre del año pasado y estuve en la hielera 2 días y luego me mandaron a Karnes y estuve 22 días; luego me trasladaron aquí en el Centro de Berks donde llegue el 18 de noviembre y desde entonces estoy en detención con mi hijo.

Ya tengo 14 meses de estar aquí, es muy triste ya que no podemos ir a donde queremos; mi hijo se la pasa muy aburrido, enfermo y más que la comida que hacen no es buena y a mi hijo no le gusta, pero a los trabajadores de aquí sólo les importa que uno agarre la comida aunque él no se la coma. El mira por la ventana del cuarto y siempre dice "yo ya me quiero ir" y él me dice mami vamos al parque mamá, porque no nos vamos de aquí y es muy difícil contestarle a mi hijo esa pregunta. Ha pasado su cumpleaños aquí, la Navidad aquí, 14 meses sin que nuestra familia lo mire porque como estamos en la cárcel no es justo que mi hijo a tan pequeña edad esté sin su libertad.

A mí el estar aquí me ha dado sobrepeso debido al estrés y al insomnio, y muchos dolores de cabeza. Ya no soportamos este encierro y cuánto me gustaría que esta Navidad la pase con mi familia que desde el año pasado me están esperando.

Es por eso que les pido que por favor me ayuden. Al señor Gobernador, el Presidente Obama y a todas las personas que tienen el poder darnos libertad. Ya libérenme de aquí, no somos unas malas personas, mi hijo es un pobre inocente aquí.

Sólo busco protección para mi hijo y para mí y me gustaría hacer una pregunta: si nos dan libertad este año ¿cuándo va a ser? O será que nos piensan tener años aquí.

Necesitamos salir, mi familia me espera.

Atentamente,

Carmen e hijo de cuatro años

Feliz Navidad y Año Nuevo

Mi nombre es Celina. Soy salvadoreña y tengo a mi hijo de siete años.

Yo entré a los Estados Unidos el 10 de noviembre de 2015, huyendo de la delincuencia azota a nuestro país. Al llegar aquí me tuvieron dos días en la hielera y un día en la perrera, lugares donde la temperatura es muy fría. Después de eso me trasladaron a un centro de detención en Dilley Texas, donde permanecí ahí por 18 días.

Luego me trasladaron a otro centro de detención, el Centro Berks en Pennsylvania donde todavía permanezco ahí ya por más de un año. La situación aquí ha sido muy difícil para mí y para mi hijo. Nunca nos imaginamos que todo esto iba pasar, pues aquí nos ha pasado de todo; nos hemos enfermado, ne han tratado muy mal a mi hijo, el personal que trabaja aquí donde me dicen que mi hijo es un problema porque no quieren que haga bulla, no lo dejan jugar, mi hijo es muy hiperactivo pero el es un niño y el encierro me lo hace comportarse así.

Además la comida que dan aquí es muy fea, a mi hijo no le gusta, él está bajo de peso y me da lástima que a mi hijo le esté pasando todo eso. Nosotros necesitamos que nos den nuestra libertad, pasar una navidad con nuestra familias, no somos malos ni tampoco criminales para que no tengan aquí encerrados ya por 13 meses.

Es una injusticia lo que están haciendo con nosotros y con nuestros hijos.

Yo tengo la enfermedad de la diabetes donde muy difícil controlarla por este encierro; les pido que me dejen salir por lo mal que me pongo, pero no quieren.

Por favor les pido a las personas que lean esta carta que se ponga la mano en el corazón y nos ayuden a salir de este lugar. Este no es lugar para un niño de siete años que su ilusión es estar con su familia y estudiar en una escuela adecuada.

Les deseo que pasen un feliz día y gracias por escucharnos.

Atentamente:

Madre pidiendo libertad junto a su hijo

Estimado Gobernador Tom Wolff y Secretario Ted

Por este medio quiero pedirles que si está en sus manos poder salir de este lugar sería el mejor regalo de Navidad que nos darían a mí y mi hijo.

Mi hijo y yo que soy su madre venimos huyendo de nuestro país y lamentablemente hemos venido a este país y estamos encerrados con muchas madres que al igual que nosotros han venido buscando protección, pero lamentablemente estamos encerradas en cuatro paredes y no podemos salir. Tengo un niño de 9 años, ya son dos cumpleaños que mi hijo ha pasado encerrado y también serían dos Navidades que pasaríamos en este lugar.

Para mí como madre es frustrante porque no puedo darle a mi hijo lo que él desea en esta Navidad que es el estar juntos con su familia.

Él está bien deprimido porque no puede estar con su familia. Tenemos 14 meses de detención.

No es justo para todos los niños que hay en este lugar. Hay muchos niños de 3 años hasta 16 años.

No somos ningunos delincuentes y ya pagamos todo un año encerrados con nuestros hijos.

Libertad madres

(Berks) somos 17 madres

Mi nombre es Elsa del Salvador. Me vine con mi hijo de cuatro años.

Vine huyendo de mi país, fui amenazada y no me quedó de otra que venirme para acá.

Llegué el 16 de noviembre del año pasado y estuve dos días en la hielera; después me mandaron a la detención de Dilley, Texas y estuve 20 días; y después para este Centro de Berks al que llegue el 8 de diciembre. Desde entonces estoy detenida con mi hijo, ya tengo 13 meses de estar detenida, ya mi hijo no quiere estar aquí, se la pasa aburrido, no come bien, no duerme bien.

Todos los días me dice que se quiere ir, pasa peleando con los demás niños y mi hijo no era así y yo paso muy estresada y me he pasado solo enferma y ya estoy cansada de estar aquí, y por eso le pido de por favor al señor Gobernador y al Presidente Obama y a otras personas que nos liberen de aquí. No somos criminales para estar aquí, mi hijo y yo somos buenas personas.

Sólo busco libertad para mi hijo y yo.

Atentamente

Elsa



# EXHIBIT B

**DECLARATION OF ALAN SHAPIRO, MD**

I, Alan Shapiro, MD, make the following declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. I am a licensed Pediatrician in the state of New York since 1990, an Assistant Clinical Professor of Pediatrics at Montefiore Medical Center and the Albert Einstein College of Medicine and the Senior Medical Director for Community Pediatric Programs at the Children's Hospital at Montefiore for over ten years. Community Pediatric Programs, founded in 1987, provides comprehensive primary care to children and families at its federally qualified community health center, The South Bronx Health Center and Center for Child Resiliency, and through its federally qualified homeless health care program serving the New York City shelter system. I have personally provided pediatric care to under-served children since beginning my career with Community Pediatric Programs in 1990.
2. Additionally, I co-founded Terra Firma, a medical-legal partnership program designed to provide integrated medical, mental health and legal services for undocumented immigrant children, both accompanied and unaccompanied by a legal guardian. This program was designed to facilitate access to the above-mentioned services and improve medical, mental health and legal outcomes for undocumented immigrant children. Integral to our program is a psycho-educational support group designed to assist youth in acculturation and help develop healthy behaviors and social networks. Terra Firma was founded in

2013 to respond to the rise in unaccompanied immigrant children arriving at the US border, particularly from the Northern Triangle of Central America. The majority of our patients come from Honduras, El Salvador and Guatemala. Our program is perfectly situated in a federally qualified community health center in the South Bronx where there is a large population of Central Americans. As such, many of the unaccompanied immigrant children and newly arrived immigrant families are moving into this area to reunite with family members.

3. The vast majority of patients we see in our program have lacked comprehensive medical care for the entirety of their lives. None have had mental health care in their country of origin despite significant histories of trauma they have sustained either directly or indirectly (e.g. witnessing the murder of a family member or friend). Since our program began, we have also seen a rise in the number of families (predominantly women and children) who have fled to the United States seeking safe haven. Many are escaping community violence, domestic violence and most critically lack of state protection. Most unaccompanied minors and newly arrived immigrant families state that they are fleeing for their lives. Of note, depression, anxiety, adjustment disorders and post-traumatic stress disorder are common mental health diagnoses among this population. In a recent review of over 100 newly arrived patients, sixty five percent have one or more mental health diagnoses.
4. Moreover, once the decision has been made to flee, the family must make the often times perilous journey to the US (over 3,000 miles to the US border). Families face hunger,

exposure to the elements, extortion, violence and sequestration – histories we frequently elicit in our medical and mental health visits. This history of trauma from home country to the US border is important to understand in respect to the deleterious effects detention has on families.

5. The harmful effects of immigration detention on families and unaccompanied immigrant youth has been documented in numerous peer reviewed academic articles. I am making my declaration as a pediatrician with over 25 years of experience working with immigrant families, and based on a site visit I made on August 11, 2015 to the Berks County Residential Center in Leesport, Berks County, Pennsylvania.
6. On August 11, 2015, I accompanied a group of immigration lawyers and the President-elect of the American Academy of Pediatrics, to the Berks County Residential Center. First, we participated in an approximately one and a half hour orientation and tour of the facility during which we had the opportunity to ask questions to U.S. Immigration and Customs Enforcement (ICE) and Berks County staff and supervisors. We learned during our meeting with ICE and Berks County officials that the longest length of stay at the time of our visit was 120 days.
7. After the orientation and tour, we met with a group of sixteen parents and some of their children who were detained at the facility. The adults in the group consisted of three men and thirteen women. What quickly emerged as we talked was the overwhelming stress that all participants felt.

8. **The effect on children:** First and foremost was the parents' concern for their children. They related symptoms of behavioral regression (e.g. increased clinging), oppositional-defiant disorder, depression, anxiety and increased aggression both towards parents and other children. One symptom common in children under stress is changes in eating patterns. The parents we met with stated that this was a frequent problem, including increasing refusal to eat, increased pickiness and subsequent weight loss. Parents were also concerned about sleeping patterns. One inexplicable practice that the parents reported at the Berks facility—and which the ICE supervisors confirmed—was that facility staff enter the bedrooms of detained families and shine flashlights on each person every fifteen minutes throughout the entire night. Parents complained that this practice is very disruptive to their own and their child's sleeping patterns, both frightening them and waking them up.
9. **Education:** The parents and children we interviewed stated that while there was summer school (most of the families arrived after the typical school year ended), none of the teachers were bilingual and so they do not understand any of the assignments given.
10. **Medical/Mental Health Care:** While parents stated they were pleased with the medical services they received, they stated that there were no bilingual mental health staff and that this strongly impacted their decision to seek care. Fear of deportation, based on revealing mental health symptoms to clinical staff, was another concern we heard during the meeting with parents and children. In one instance, a mother broke down crying,

explaining that her son was having suicidal ideation and making suicidal threats but she was too fearful of the consequences to bring him to the medical office.

11. When I directly questioned the head of the facility's mental health services about how they screen for mental health symptoms, we were told that this occurred mostly via observation and questioning parents, but not through direct interactions with the children. He was unable to mention any formal, evidence based, validated tools for screening or monitoring this population. This raises serious concerns about the care that detained families with compounded histories of trauma receive. As previously mentioned, sixty-five percent of newly arrived immigrant children we see in our health center have symptoms of mental health conditions. When we asked the head of mental health services about the availability of support groups for detainees, he stated that these were run using a telephonic translation service. The families we met with subsequently raised serious concerns about attending these groups due to the lack of Spanish speaking mental health staff. This was also the case for individual care.

12. What was truly remarkable in the meeting with parents and children that I co-led in Spanish was how it immediately turned into a session where both adults and children one by one opened up, disclosing their stories often accompanied by crying – in effect a mental health support group. It was surprising to me, as a pediatric provider, that this detention facility lacked Spanish speaking bilingual staff to provide care to a predominantly Spanish speaking detained population. It was clear from our visit that the critical need for mental health services was not being met. In fact the claim by the head of

the mental health staff that detainees were not interested in participating in a support group was completely contradictory to what we found on the visit.

13. **Parents:** It was evident from our discussion with parents and children that the detained adults in the Berks facility were under enormous stress. The group consisted of almost half of the adults in the center at that time so we felt we had a substantial sample to validate our concerns. There were two categories of problems we observed. First, parents themselves openly disclosed worries about their own mental health, particularly feeling both hopeless and helpless. These are key symptoms of depression. The vast majority of the group stated they were not represented by legal counsel and that they had not been provided any information about their cases or told when they would have a credible or reasonable fear interview or see a judge. This led to overwhelming feelings of desperation, leading many of the adults to breakdown crying in our meeting. Another concern was the high cost of the bonds they needed to pay in order to leave detention. Bonds of \$5,000 were considered prohibitively high to gain release. One man in the group stated that a \$1,500 bond would be too high. Many participants in the discussion were frustrated by this reality, which led to feelings of hopelessness.

14. Secondly, the parents expressed helplessness when it came to explaining to their children why they were being detained and why they could not tell them how long this would continue. In one instance, following our group discussion with families, a parent informally brought her thirteen-year-old daughter to me for advice. They had been detained for fifteen days and her daughter began acting out, refusing to talk to her and

withdrawing from most activities. When I met with this girl alone, she stated she did not understand why her mother could not help them get out of the detention center. The daughter expressed frustration at her mother's helplessness and her anxiety about being detained and about her future. This was not isolated as other parents in the group related similar changes in their children's behavior patterns. One disturbing behavior was the increased aggressiveness that was directed against the parents and each other. One example was on the soccer field where there had been increased fighting between the children. Importantly, parents made it clear that these were new behaviors not observed in their own countries or prior to detention.

15. Based on my observations at the Berks County Residential Center, my experience working with immigrant families, and my 25 years of clinical experience in community pediatric care, it is my professional opinion that any detention is extremely detrimental and places both the child and parents' short-term and long-term well-being at risk. In the meeting we conducted with parents and children, the average length of stay was one month with a range of about two weeks to one month and a half. Notwithstanding this range, we observed significant stress and symptoms of mental health conditions in the group with whom we met.


16. Based on my clinical work with newly arrived immigrant children and their parents, observations I made at the Berks County Residential Center, and my knowledge of child development and the literature on this subject, I do not believe family detention can be implemented in a manner that does not jeopardize the mental well-being of children and



their parents. Detention, in my view, only compounds the trauma families have already endured in their home countries and during their perilous journeys to the US. Instead of providing safe haven, detention instead leads to isolation, helplessness, hopelessness and serious long-term medical and mental health consequences – even if it lasts for only a few weeks.

17. The conclusions I have reached are consistent with those expressed in the July 24, 2015 letter from the American Pediatrics Association to DHS Secretary Jeh Johnson articulating concerns with family detention, attached for reference as Exhibit A hereto.

Executed on this 12th day of August, 2015 at Bronx, New York .

  
\_\_\_\_\_  
Alan Shapiro, MD

# EXHIBIT C



# National Latina/o Psychological Association

Asociación Nacional de Psicología Latina

October 7, 2016

The Honorable Jeh Johnson  
Secretary of Homeland Security  
Washington, DC 20528

Dear Secretary Johnson:

The National Latina/o Psychological Association is an organization composed of mental health professionals and students committed to promoting awareness and understanding of issues pertaining to the health, mental health, and well-being of Latina/o communities. We want to express our serious concerns over the detention of Central American women and their children at Berks Family Residential Center (Berks) in Leesport, PA. Berks, a U.S. Immigration and Customs Enforcement facility, is currently operating under an expired license. The Pennsylvania Department of Human Services failed to renew the facility's license in February 2016, yet they have been allowed to continue operations during the appeals process. We have evidence of the growing desperation from the mothers housed at Berks: 22 mothers launched a hunger strike on August 8, 2016. We also have indication of coercive practices used to control their behaviors: the hunger strike was temporarily halted on August 23<sup>rd</sup> due to reported threats from officials that mothers would be separated from their children.<sup>1</sup>

The women and children housed at Berks are vulnerable. The majority originate from the area known as the Northern Triangle: El Salvador, Guatemala, and Honduras. The Northern Triangle has been recognized for its extreme levels of poverty and violence. Over the past years, these countries have collectively accounted for the highest murder rates in the world.<sup>2,3</sup> Many of these women and their children have been likely exposed to significant traumatic events. Ongoing confinement for an undetermined period of time will only serve to exacerbate their suffering and compromise their long-term emotional well-being. Narratives of escalating distress on the women and children at Berks is illustrated in a recent brief from Human Rights First following a July 2016 visit from a team of advocates, attorneys, and mental health professionals who met with the detained mothers.<sup>4</sup>

The detrimental effect of detention on children and families has been well-documented nationally and internationally.<sup>5,6,7</sup> The American Immigration Lawyers Association, Women's Refugee Commission, and American Immigration Council detailed the trauma experienced by women and children and called for an investigation into the impact of detention on children and mothers.<sup>8</sup> The American Academy of Pediatrics expressed concern about women and children detained in family residential centers in Texas and Pennsylvania, noting that "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.”<sup>9</sup> Internationally, the United Nations Committee on the Rights of the Child clearly states that: “The detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children on the basis of their immigration status.”<sup>10</sup> Most recently, on September 30, 2016, the Department of Homeland Security Advisory Committee on Family Residential Centers – a committee your office established in June 2015 in response to a recognized need to “make substantial changes to our detention practices when it comes to families” – released a 159-page report recommending the termination of detention practices for children and families.<sup>11</sup>

We join our colleagues and urge you to ensure the emotional well-being of the mothers and children who have sought refuge in the United States. The National Latina/o Psychological Association condemns the detention of immigrant women and children and begs you to consider the negative psychological impact of confinement on a young child’s developing identity and a mother’s ability to provide a positive and predictable environment. Given the compelling evidence of the damaging effects of detention on the health and mental health of detainees, we recommend the immediate closure of Berks, and the release of the mothers and children to their families and community-based alternatives to detention while they await their immigration proceedings. We believe there is a need for immediate action. Knowing the troubling conditions experienced by the families in immigration detention facilities requires a humanitarian response. It is negligent for individuals, organizations, or an entire nation, to witness injustice and remain silent.

The National Latina/o Psychological Association stands ready to be part of the solution. We are available to further discuss this issue with you or your staff and to collaborate on efforts to protect the psychological well-being of immigrant women and children. Please do not hesitate to contact me via email at: [melanie.domenech@usu.edu](mailto:melanie.domenech@usu.edu).

Sincerely,

Melanie M. Domenech Rodríguez, Ph.D.  
President, National Latina/o Psychological Association

#### References

<sup>1</sup>Fernández, V. (2016, August 25). Moms go on a hunger strike to get themselves and their kids out of immigration detention. *Public Radio International*. Retrieved from <http://www.pri.org/stories/2016-08-25/madres-berks-are-hunger-strike-get-their-kids-out-immigration-detention>

<sup>2</sup>UNODC *Global Study on Homicide 2013* (United Nations publication, Sales No. 14.IV.1) Retrieved from United Nations Office of Drugs and Crime website: <https://www.unodc.org/gsh/en/index.html>

<sup>3</sup>Renwick, D. (2016, January 19). *Central America's Violent Northern Triangle*. Retrieved August 25, 2016, from <http://www.cfr.org/transnational-crime/central-americas-violent-northern-triangle/p37286>

<sup>4</sup>Human Rights First. (2016). *Long-term detention of mothers and children in Pennsylvania*. Retrieved from <http://www.humanrightsfirst.org/sites/default/files/HRF-Long-Term-Detention-Brief.pdf>

<sup>5</sup>Australian Human Rights Commission. (2014). *The Forgotten Children: National Inquiry into Children in Immigration Detention*. Sydney, Australia: Author. Retrieved from <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>

<sup>6</sup>Brabeck, K.M., Lykes, M.B., & Hunter, C. (2014). The psychosocial impact of detention and deportation on U.S. migrant children and families. *American Journal of Orthopsychiatry*, 84, 496-505.

<sup>7</sup>Physicians for Human Rights and Bellevue/NYU Program for Survivors of Torture. (2003). *From persecution to prison: The health consequences of detention for asylum seekers*. New York, NY: Author. Retrieved from <http://physiciansforhumanrights.org/library/report-persprison.html>

<sup>8</sup>Letter to Megan Mack, Office of Civil Rights and Civil Liberties, Department of Homeland Security, RE: The Psychological Impact of Family Detention on Mothers and Children Seeking Asylum, signed by Karen Lucas, American Immigration Lawyers Association, Katharina Obser, Women's Refugee Commission, and Beth Werlin, American Immigration Council, June 30, 2015.

<sup>9</sup>Letter to the Honorable Jeh Johnson, Secretary, Department of Homeland Security, signed by Sandra G. Hassink, MD, FAAP, President of the American Academy of Pediatrics, July 24, 2015.

<sup>10</sup>Committee on the Rights of the Child. (2012). Recommendation 78, *Report of the 2012 Day of General Discussion, The Rights of All Children in the Context of International Migration*. Retrieved from: <http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/ReportDGDChildrenAndMigration2012.pdf>

<sup>11</sup>Report of the DHS Advisory Committee on Family Residential Centers. (2016). Retrieved from: <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf>



# EXHIBIT D

DEC 02 2016

At 4:22 P.M.  
Velva L. Price, District Clerk

FA

No. D-1-GN-15-004336

GRASSROOTS LEADERSHIP, INC.,	§	IN THE DISTRICT COURT OF
<i>et al.,</i>	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
TEXAS DEPARTMENT OF FAMILY	§	TRAVIS COUNTY, TEXAS
AND PROTECTIVE SERVICES (DFPS),	§	
<i>et al.,</i>	§	
<i>Defendants,</i>	§	
	§	
and	§	
	§	
CORRECTIONS CORPORATION OF	§	353rd JUDICIAL DISTRICT
AMERICA, INC., and	§	
THE GEO GROUP,	§	(All proceedings assigned to the
<i>Intervenors.</i>	§	250th Judicial District Court)

**FINAL JUDGMENT**

On this day, the Court considered Defendants Texas Department of Family and Protective Services ("DFPS"), Texas Health and Human Services Commission ("HHSC"), and their Commissioners' (collectively "Defendants") Third Amended Plea to the Jurisdiction.

The Court, having considered Defendants' Third Amended Plea to the Jurisdiction and arguments of counsel, is of the opinion that the plea should be GRANTED in part and DENIED in part as follows:

1. IT IS ORDERED that Defendants' Plea to the Jurisdiction is GRANTED on the following claims: (a) Plaintiffs' claims under the Uniform Declaratory Judgment Act; and (b) Plaintiffs' claims for the recovery of attorney's fees under the Uniform Declaratory Judgment Act and Tex. Civ. Prac. & Rem. Code § 37.009; and

2. IT IS THEREFORE ORDERED that Plaintiffs' claims under the Uniform Declaratory Judgment Act and for the recovery of attorney's fees under the Uniform Declaratory Judgment Act and Tex. Civ. Prac. & Rem. Code § 37.009 are DISMISSED with prejudice; and
3. IT IS FURTHER ORDERED that Defendant's Plea to the Jurisdiction is DENIED on all remaining grounds.

By agreement of the parties, the Court considered the following Cross-Motions for Summary Judgment regarding the validity of the regulation adopted by the Texas Department of Family and Protective Services and published in the Texas Register at Title 40, Part 19, Chapter 748, Subchapter A, Rule § 748.7 (effective March 1, 2016), 41 Tex. Reg. 1493-1502 (Feb 26, 2016) (hereinafter referred to as the "FRC Rule") by submission:

1. Plaintiffs' Motion for Summary Judgment;
2. Defendants' Motion for Summary Judgment;
3. Intervenor Corrections Corporation of America's ("CCA") Motion for Summary Judgment; and
4. Intervenor The GEO Group's ("GEO") Motion for Summary.

After reviewing the parties' Cross-Motions for Summary Judgment and responses thereto, the evidence presented and objections thereto, the pleadings on file, and the applicable law, IT IS ORDERED, ADJUDGED, AND DECLARED that:

1. Plaintiffs' Motion for Summary Judgment on Plaintiffs' claim for declaratory relief under TEX. GOV'T CODE § 2001.038, also known as the Administrative Procedure Act (APA), is GRANTED;



2. The FRC Rule contravenes Texas Human Resources Code § 42.002(4) and runs counter to the general objectives of the Texas Human Resources Code and is, therefore, invalid;
3. Defendants' Motion for Summary Judgment is DENIED;
4. Intervenor GEO Group's Motion for Summary Judgment is DENIED;
5. Intervenor Correction Corporation of America's Motion for Summary Judgment is DENIED; and
6. All relief not expressly granted herein is DENIED.

All costs are assessed against each party incurring the same.

This Final Judgment disposes of all parties and claims and is a final and appealable judgment.

SIGNED on this the 2<sup>nd</sup> day of December 2016.

  
\_\_\_\_\_  
JUDGE PRESIDING  
KARIN CRUMP

# EXHIBIT E

DECLARATION OF BRIDGET CAMBRIA

I, Bridget Cambria, declare and say as follows:

1. I am an attorney licensed to practice in the state of Pennsylvania. I am a partner in the law firm of Cambria & Kline, P.C. My practice includes regular representation of immigrant and refugee children and their parents detained pursuant to the Immigration and Nationality Act and housed at the Berks Family Residential Center detention center located in Leesport, Pennsylvania (hereinafter "Berks"). In the course of my practice, I have regular occasion to observe, and therefore am familiar with, the policies and practices of United States Immigration and Customs Enforcement (ICE) toward the detention, release, and treatment of children and mothers detained at Berks. I have also had the opportunity to observe how those policies and practices have changed over time.

2. Prior to June 2014, ICE's general practice was to release children and parents upon a determination that those individuals were not a significant flight risk or a danger to the public. Generally, delays in releasing children and their parents were not significant. This release policy applied uniformly to those accused of having entered the United States without inspection, to those apprehended as "arriving" aliens, and to those placed in "expedited" removal proceedings.

3. Starting around June 2014, ICE changed its policies and practices regarding release of detained children and mothers. Since June, ICE has begun detaining all Central American families without the possibility of release on bond, recognizance, supervision, or parole if it believes that those families arrived in the United States as part of the “surge” of unauthorized entrants – mostly children – that purportedly began in the summer of 2014. The justification given for this change in policy is threefold. According to ICE, Central American parents and children pose a threat to national security and must be detained without the possibility of release to contain that risk; the detention without the possibility of release serves to deter unauthorized migration from Central America; and Central American parents and children pose an elevated flight risk simply by virtue of their country of origin and arrival during the “surge.” With respect to the final supposed justification for the change in policy, in my experience, most individuals who are released from detention at Berks do not pose a significant flight risk and do appear in court after their release.

4. To the best of my knowledge and belief, ICE never gave any public notice that it intended to reverse its prior release policy. To my knowledge and belief, the public was not given the opportunity to comment on the merits of that policy change.

5. ICE applies its current no-release policy indiscriminately to all Central American children and their mothers. ICE does not consider the individual child's age, reasons for coming to the United States, prior immigration violations, family ties in the United States, eligibility for lawful status or favorable exercise of prosecutorial discretion, credible fear of persecution abroad, likelihood to abscond, or the child's safety or the safety of others. To the best of my knowledge, the only class of non-criminal migrants that ICE detains without the possibility of release is families who ICE believes entered the United States as part of the "surge." A significant majority of these families are Central American mothers and children. The Office of Refugee Resettlement (ORR) continues to release unaccompanied minors from Central America who arrived as part of the "surge" to qualified custodians. Presently, a single man has a greater chance of being released from detention than a Central American mother with a child.

5. Since ICE's policy and practice regarding detention changed in June 2014, the long-term detention of children and parents, particularly Central American children and their mothers, has skyrocketed. Before June 2014, I estimate that a parent and child would spend, on average, seven days detained at Berks prior to release. Now, because ICE has ceased releasing individuals detained at Berks, the average stay of those currently detained in the facility is several months. In the spring of this year, to the best of my knowledge, there were

about 10 to 20 persons detained at Berks at any given time. Now, the population of the facility sits at approximately 88 persons, more than half of whom are children. The last detainees I can recall being released from Berks were freed in June 2014, and I am personally aware of multiple families that have been detained there for over six months, with no end to detention in sight.

6. Berks is clearly a secure facility. The doors of the facility are locked and guarded by staff members. Entry and exit to the facility are controlled through jail-like security procedures. Visitors to the facility are rare, and visitation has been increasingly regulated since the change in ICE release policies in June. Prior to the change in policy, I was able to bring individuals such as interpreters and counselors to meetings with my clients in Berks. Now, the process for approval of such visitors can take a week or longer. To my knowledge, children detained at Berks are only allowed outside the facility to receive medical treatment the facility is not equipped to provide internally and to get haircuts. When inside the facility, children and parents are under constant supervision by staff. Schooling takes place inside the locked doors of the facility. To my knowledge and belief, most the staff at the Berks facility were previously employed as guards when Berks was being used as a juvenile detention facility. I am not aware that the staff of Berks has been given any training in caring for dependent children under applicable state laws and standards.

7. Among my clients whose experience is illustrative of the foregoing are Wendy recently turned 18-year-old native and citizen of Honduras. She was 17 years old and a member of the class protected under the settlement in *Flores, et al. v. Holder, et al.*, No. 85-4544 (C.D. Cal), and her mother, Araceli a 38 year-old native and citizen of Honduras.

8. A- is the mother of five children, three of whom are U.S. citizens. She and her daughter W- have been detained since March of 2014, in excess of seven months. W- recently turned 18 years old, while in detention this October. They fled Honduras for two reasons. One, they are victims of domestic violence. Araceli has fled a 10 year abusive relationship. She has been physically, sexually and emotionally abused by the father of two of her children. W-, as a teenage girl has been a witness to the abuse of her mother and her siblings. Also, A- has become a target of threats and intimidation at the hands of the "maras" in Honduras following her being a witness to a gang murder in Honduras.

9. A- and W- are applications for protection from persecution and have filed applications for that protection before the immigration court. Furthermore, A- and W- have filed meritorious U-Visa applications with USCIS which are now pending. Their applications for a U Visa, based on being a victim of crime who participates with law enforcement in the prosecution of an offender, have been certified by law enforcement based on their cooperation. The certification is based

on A- participating in the prosecution of her abuser, an person whom she prosecuted in the US and who we now threaten to return her to.

10. In the seven months that ICE has detained this family they have made no effort to release A- or W- to family members or anyone else qualified to care for them. They have legal relatives in the United States able and willing to provide case. Furthermore, because A- is detained she has been unable to reunify with her children who are United States citizens. Because she is detained she has been separated from her citizen children and they have been forced to remain in Honduras while she remains at Berks. They family in the US are unable to care for three minor children without A-'s support. Since the US citizen children have been in Honduras, they have been unable to continue school because of the violence. They have been threatened and intimidated by their mother's abuser as well as the gangs which plague San Pedro Sula. ICE's detention of their mother, has placed the lives of the USC children at risk.

11. On July 3, 2014, ICE determined that both class member W- and her mother would be detained in lieu of release on bond, recognizance, supervision or parole. On or about October 14, 2014, ICE opposed parole redetermination for the sole reason that my clients have a willful disregard for Immigration laws of the United States, and without regard to the specific facts of the case, nor the equities of the family.



11. I believe that the continued detention of W- and other class members is causing them irreparable harm. I believe that the health of class members is at serious risk. Multiple mothers have reported to me that their children are unable to eat the food served at Berks. As a result, I have observed a number of children, especially younger children, lose a significant amount of weight over the course of their detention at Berks. In addition, I have observed multiple children fall ill while detained at Berks. For example, one of my clients, Candi, a 1-year-old native and citizen of Guatemala, arrived at my office recently wheezing and barely able to speak. Her and her mother had just been granted Asylum by the Immigration Court. She and her daughter were confirmed refugees. Candi had lost a significant amount of weight since her arrival at Berks, and she was struggling to breathe. Her mother informed me that she had not been given medication while detained at Berks and had not seen a doctor for two weeks. I believe this is not an isolated case. To the best of my knowledge and belief, detainees who are ill are not permitted to see a doctor unless they have a fever higher than 100 degrees. Class members' education has also suffered. To my knowledge, there are two classrooms in Berks that serve children of a wide range of ages and educational backgrounds. Many of my clients report that they do not know what grade level they are in and that they are making minimal progress in their education. The long-term detention of parents and children has caused increased tensions in the

facility have increased. Part of the increased strain is due to the fact that, to my knowledge, only one member of the Berks staff speaks Spanish. Because the vast majority of people detained at Berks are either monolingual Spanish speakers or speakers of indigenous languages, communication between staff and detained individuals is difficult. This tension is having significant adverse effects on children detained at Berks, causing increased stress and anxiety. Parents have reported to me that their children cry daily and are emotionally distressed due to their continued detention. Conditions in Berks are so difficult for children that many families are reluctant to take the additional time necessary to develop their potentially meritorious cases because of the toll of detention on the physical and emotional health of their children. Finally, continuing to detain class members at Berks is having significant negative effects on family integrity. Many of these children have family members, even siblings, living outside of Berks who they are unable to see. The continued long-term detention of W- and other class members at Berks is denying them the chance to be children.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of November 2014, at Reading, PA.

A handwritten signature in black ink, appearing to read 'Bridget Cambria', with a stylized initial 'B' and a trailing flourish.

Bridget Cambria, Esq.

# EXHIBIT F

Department of Justice  
Immigration and Naturalization Service  
*Intergovernmental Service Agreement for Housing Federal Detainees*

**Article I. Purpose**

A. Purpose. The purpose of this Intergovernmental Service Agreement (IGSA) is to establish an Agreement between the Immigration and Naturalization Service (INS), a component of the Department of Justice, and the Berks County Juvenile Detention Center (*Service Provider*) for the detention and care of Alien Unaccompanied Juveniles and Alien Family Groups detained under the authority of the Immigration and Nationality Act, as amended. The Service Provider is responsible for maintaining compliance with the standards set forth by the *Flores v. Reno Settlement Agreement*, the INS Secure Juvenile Standards Checklist and the INS Detention Standards (see attachments). The term "Parties" is used in this Agreement to refer jointly to INS and the Service Provider.

B. Responsibilities. This Agreement sets forth the responsibilities of INS and the Service Provider. The Agreement states the services the Service Provider shall perform satisfactorily to receive payment from INS at the prescribed rate.

C. Guidance. The Parties will determine the detainee day rate in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments (Attachment A) and the INS Cost Statement (Attachment B).

**Article II. General**

A. Funding. The obligation of INS to make payments to the Service Provider is contingent upon the availability of Federal funds. The INS will, however, neither present detainees to the Service Provider nor direct performance of any other services until the INS has the appropriate funding.

B. Subcontractors. The Service Provider shall notify and obtain approval from the INS if it intends to house INS juvenile detainees in a facility other than that specified on the cover page of this document. If either that facility, or any future one, is operated by an entity other than the Service Provider, INS shall treat that entity as a subcontractor to the Service Provider. The Service Provider shall ensure that any subcontract includes all provisions of this Agreement, and shall provide INS with copies of all subcontracts in existence during any part of the term of this Agreement. The INS will not either accept invoices from, or make payments to, a subcontractor. Payment will be made to the Service Provider only.

C. Consistent with law. Any provision of this Agreement contrary to applicable statutes, regulation, policies, or judicial mandates is null and void, but shall not necessarily affect the balance of the Agreement.



Department of Justice  
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**Article III. Covered Services**

A. Bed space. The Service Provider shall provide shelter care for Alien Unaccompanied Juveniles and Alien Family Groups. The Service Provider shall provide up to forty (40) beds for the Alien Family Groups and thirty-seven (37) beds for Alien Unaccompanied Juveniles. The INS agrees to reimburse the Service Provider for an average monthly minimum guarantee of sixty (60) beds.

B. Basic needs. The Service Provider shall provide temporary shelter care (as specified in Paragraph A. of this Article) with safekeeping, housing, subsistence, medical and other services in accordance with this Agreement. In providing these services, the Service Provider shall ensure compliance with all applicable laws, regulations, fire and safety codes, policies, and procedures. If the Service Provider determines that INS has delivered an unaccompanied person for custody who is the age of eighteen (18) or over, the Service Provider shall not house that person, and shall notify the INS immediately. These individuals, although released to the physical custody of the Service Provider, shall remain in the legal custody of the INS. Fulfillment of services is expected to be accomplished in a manner that is sensitive to the culture, the native language and the complex needs of this population. The alien population will consist of unaccompanied juveniles and families with juveniles up to and including seventeen (17) years of age and related adults eighteen (18) years of age and older. The Service Provider should expect aliens from any number of ethnic backgrounds and nationalities.

C. Unit of service and financial liability. The unit of service will be a "detainee day" (one person per day). The detainee day begins on the date of arrival. The Service Provider may bill INS for the date of arrival but not the date of departure. For example: If a detainee is brought in at 1900 Sunday and is released at 0700 on Monday, the Service Provider may bill for 1 detainee day. If a detainee is brought in at 0100, Sunday and is released at 2359 Monday, the Service Provider may bill for only 1 detainee day.

D. Interpretive services. The Service Provider shall make special provisions for non-English speaking, handicapped or illiterate detainees. The INS will reimburse the Service Provider for any costs associated with providing commercial written or telephone language interpretive services, and upon request, will assist the Service Provider in obtaining translation services. The Service Provider shall provide all instructions verbally (in English or the detainee's native language as appropriate) to detainees who cannot read. The Service Provider shall include the amount that the Service Provider paid for such services on their regular monthly invoice. The Service Provider shall not use detainees for translation services, except in emergency situations. If the Service Provider uses a detainee for translation service, it shall notify INS within 24 hours.

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Immigration and Naturalization Service  
*Intergovernmental Service Agreement for Housing Federal Detainees*

**Article IV. Receiving and Discharging Detainees**

A. Required activity. The Service Provider shall receive and discharge detainees only from and to either properly identified INS personnel or other properly identified Federal law enforcement officials with prior authorization from INS. Presentation of U.S. Government identification shall constitute proper identification. The Service Provider shall furnish receiving and discharging services twenty-four (24) hours per day, seven (7) days a week. The INS shall furnish the Service Provider with reasonable notice of receiving or discharging detainee(s). The Service Provider shall ensure positive identification and recording of detainees and INS officers. The Service Provider shall not permit medical or emergency discharges except through coordination with on-duty INS officers.

B. Restricted release of detainees. The Service Provider shall not release INS detainees from its physical custody to any persons other than those described in Paragraph A of this Article for any reason, except for either medical, other emergent situations, or in response to a federal writ of *habeas corpus*. If an INS detainee is sought for federal, state or local court proceedings, only INS may authorize release of the detainee for such purposes. The Service Provider shall contact INS immediately regarding any such requests.

C. Service Provider right of refusal. The Service Provider retains final and absolute right either to refuse acceptance, or request removal, of any detainee exhibiting violent or disruptive behavior, or of any detainee found to have a medical condition that requires medical care beyond the scope of the Service Provider's health provider. In the case of a detainee already in custody, the Service Provider shall notify the INS and request such removals, and shall allow the INS reasonable time to make alternative arrangements for the detainee.

D. Emergency evacuation. In the event of an emergency requiring evacuation of the Facility, the Service Provider shall evacuate INS detainees in the same manner, and with the same safeguards, as it employs for persons detained under the Service Provider's authority. The Service Provider shall notify INS within two hours of such evacuation.

**Article V. Minimum Service Standards**

The Service Provider shall:

A. house INS detainees in a facility that complies with all applicable fire and safety codes as well as ensure continued compliance with those codes throughout the duration of the Agreement.

Department of Justice  
Immigration and Naturalization Service  
*Intergovernmental Service Agreement for Housing Federal Detainees*

- B. provide guard personnel to ensure that there is a 24 hour visual supervision of detainees when housed in a dormitory type setting. The Service Provider shall visually and physically check detainees in individual cells at least hourly.
- C. segregate detainees in custody by gender and by risk of violence to other detainees.
- D. provide for issuance and exchange of clothing, bedding, linen and towels, and when appropriate, a blanket to each detainee held overnight. (See appropriate INS Detention Standards as listed in Attachment C)
- E. provide a minimum of three nutritionally balanced meals in each 24 hour period for each detainee. These meals shall provide a total of at least 2,400 calories per 24 hours. There will be no more than 14 hours or fewer than 4 hours between meals. The Service Provider will provide a minimum of two hot meals in this 24 hour period.
- F. provide medical services as described in Article VI below. (See appropriate INS Detention Standards as listed in Attachment C)
- G. provide a mechanism for confidential communication between INS detainees and INS officials regarding their case status and custody issues. The mechanism may be through electronic, telephonic, or written means, and shall ensure the confidentiality of the issue and the individual detainee.
- H. afford INS detainees, indigent or not, reasonable access to public telephones for contact with attorneys, the courts, foreign consular personnel, family members and representatives of *pro bono* organizations. (See appropriate INS Detention Standards as listed in Attachment C)
- I. permit INS detainees reasonable access to presentations by legal rights groups and groups recognized by INS consistent with good security and order. (See appropriate INS Detention Standards as listed in Attachment C)
- J. afford each INS detainee with reasonable access to legal materials for his or her case. The INS will provide the required materials. The Service Provider will provide space to accommodate legal materials at no additional cost to INS. (Note: The INS may waive this requirement where the average length of detention is 30 days or less.) (See appropriate INS Detention standards as listed in Attachment C)
- K. afford INS detainees reasonable visitation with legal counsel, foreign consular officers, family members, and representatives of *pro bono* organizations. (See appropriate INS Detention Standards as listed in Attachment C)

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*Intergovernmental Service Agreement for Housing Federal Detainees*

L. provide INS detainees with access to recreational programs and activities as described in the INS Recreation Standards (See appropriate INS Detention Standards as listed in Attachment C) to the extent possible, under appropriate conditions of security and supervision to protect their safety and welfare.

**Article VI. Medical Services**

A. Auspices of Health Authority. The Service Provider shall provide INS detainees with on-site health care services under the control of a local government designated Health Authority. The Service Provider shall ensure equipment, supplies, and materials, as required by the Health Authority, are furnished to deliver health care on-site.

B. Level of Professionalism. The Service Provider shall ensure that all health care service providers utilized for INS detainees hold current licenses, certifications, and/or registrations with the State and/or City where they are practicing. The Service Provider shall retain a registered nurse to provide health care and sick call coverage unless expressly stated otherwise in this Agreement. In the absence of a health care professional, non-health care personnel may refer detainees to health care resources based upon protocols developed by United States Public Health Service (USPHS) Division of Immigration Health Service (DIHS). Healthcare or health trained personnel may perform screenings.

C. Access to health care. The Service Provider shall ensure that on-site medical and health care coverage as defined below is available for all INS detainees at the facility for at least eight (8) hours per day, seven (7) days per week. The Service Provider shall ensure that its employees solicit each detainee for health complaints and deliver the complaints in writing to the medical and health care staff. The Service Provider shall furnish the detainees instructions in his or her native language for gaining access to health care services as prescribed in Article III, Paragraph D.

D. On-site health care. The Service Provider shall furnish on-site health care under this Agreement. The Service Provider shall not charge any INS detainee an additional fee or co-payment for medical services or treatment provided at the Service Provider's facility. The Service Provider shall ensure that INS detainees receive no lower level of on-site medical care and services than those it provides to local inmates. On-site health care services shall include arrival screening within 24 hours of arrival at the Facility, sick call coverage, provision of over-the-counter medications, treatment of minor injuries (e.g., lacerations, sprains, contusions), treatment of special needs and mental health assessments. Detainees with chronic conditions shall receive prescribed treatment and follow-up care.



# EXHIBIT G



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# **Berks Family Residential Center**

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## **Resident Handbook**

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**1040 Berks Road  
Leesport, PA 19533  
610.396.0310**

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the light fixture, doors or windows. Items are not to be hung from vents or beds. Due to the communal nature of the Center, residents are encouraged to only change their clothes in the shower rooms or in their bathroom. Approved property will be stored inside assigned bedroom closets. See the section on allowed personal property for more information. Closets shall be kept organized. No open food or drinks are allowed to be stored in bedrooms. Unopened commissary purchases may be stored in bedrooms provided they are kept in a closed bin to discourage pests. All hygiene items must be stored in hygiene boxes and kept in assigned bedroom closets. Toys are allowed in bedrooms during free movement hours. After free movement, all toys must be taken back to the common areas so that they can be sanitized for the following day. See the section on free movement for more information.

### **CHILDREN'S BEDTIMES**

Children's bedtimes were set to promote a routine for the Center children and to allow for their restful attendance in class. The general bedtime for children 4 years and younger is 8:30pm Sunday through Thursday. The general bedtime for children 5 years to 18 years is 9:00pm Sunday through Thursday. Lights are turned out 15 minutes after these bedtimes. There are no general bedtimes set for children on Friday and Saturdays. Parents are encouraged to continue (or develop) their children's bedtime routines while at the Center.

### **OVERNIGHT CHECKS**

State regulations require staff to conduct room checks at a minimum of every fifteen minutes during each overnight to ensure resident safety. During these checks staff is required to shine a flashlight into your room; the checks will be done with as little disruption as possible.

### **FREE MOVEMENT**

Barring temporary restrictions due to medical or security reasons, free movement hours are from 8:00am to 8:00pm each day. During this time adult residents are allowed to move freely throughout all programing areas of the Center without first asking staff permission or notifying staff where they are going. Children age 10 and older may participate in free movement, when issued a pass by their parent. See the section on free movement passes for more information. Children over 10 who do not currently have a pass and all children under 10 years old are expected to be under the direct supervision of their parent at all times when not in school or participating in an organized activity. Outside of free movement hours, residents are expected to remain on the bedroom floor. This floor has resident bedrooms, dayroom, law library, telephone room, medical department, bathrooms and shower rooms; all of which may be accessed freely 24 hours a day.

## **CORRECTIVE SANCTIONS FOR CHILDREN**

Sanctions 1 through 4 below may be imposed by the MRC. Sanctions 1 through 5 may be imposed by the ERP.

1. Referral to Counseling
2. Restriction to Housing Area, not to exceed 72 hours
  - a. When a child is restricted to housing, they must be afforded a minimum of one hour of outdoor activity time daily.
  - b. The child may be restricted to the dayroom area but may not be forced to remain in his/her room except during a time out period.
  - c. No sanction may restrict a child from attending required school classes or religious practices.
3. Children 12 years old and older may have their free movement privilege suspended for up to 14 days. Such a suspension would require that the parent supervise all activities for that time period.
4. Loss of extracurricular activity time such as movie night.
5. Loss of field trip privileges for up to 45 days.

Corrective action may not interfere with such daily functions as eating and sleeping. Disciplinary actions may not adversely impact a child's health, physical or psychological well-being or deny a child regular meals, sufficient sleep, exercise, medical care, the right to correspondence, or legal assistance.

## **CORRECTIVE SANCTIONS FOR ADULTS**

Sanctions 1 through 4 below may be imposed by the MRC.

Sanctions 1 through 5 may be imposed by the ERP.

1. Referral to Counseling
2. Require attendance in Parenting Classes
3. Additional work details such as: General housekeeping
4. Loss of Commissary
5. Restriction to housing Area, not to exceed 72 hours.
  - a) Imposition of such a sanction must take into account the ages of children and the negative impact this sanction would have on minor's who were not involved in the charged offense.

## **DESCRIPTION OF OFFENSES**

### **LOW OFFENSES**

(101) Being in an Unauthorized Area - Being in an area that is designated through verbal, written, or posted orders as "off limits" to residents.

(102) Disorderly Conduct- Behavior such as loud talking, yelling, or pushing which disrupts the orderly running of the facility.

(103) Failure of Parent/Legal Guardian to Appropriately Manage Children's Behavior - For parents who allow their children to be unruly, disrespectful, or insubordinate while in their presence.

- (104) Failure to Follow Verbal or Posted Rules and/or Regulations- Not following specific rules and/or orders which have been designated for the clean, safe, orderly operation of the facility which residents have been told in advance through posting or have been given verbally by an employee of the facility or person who has charge of the resident at the time. This includes not following the procedures established by the facility for taking count.
- (105) Fighting - Exchange of words or body contact in anger wherein no injury requiring medical attention occurs, such as horseplay.
- (106) Gambling - Operate or act in any game of chance involving betting or wagering of goods or other valuables.
- (107) Possession of Gambling Paraphernalia- Having in one's control, items for use in operating or acting in any game of chance involving betting and wagering of goods or other valuables.
- (108) Self-Mutilation -Inflicting injury on one's self; such as cutting on one's own body or tattooing.
- (109) Smoking - Smoking tobacco of any form in any area of the facility.
- (110) Unauthorized Receipt or Possession of any Item of Value- Receiving or having in one's possession any item of value which has been obtained through false pretenses, threats, or stealing.
- (111) Unexcused Absence from Place of Assignment- Being away, without authorization from an appropriate supervisor, from the place of assignment such as housing area, recreation area, health services, etc.
- (112) Use of Vulgar, Abusive, or Obscene Phrases/Language
- (113) Failure to Maintain Personal Hygiene or Personal Hygiene of Child - Not having a clean body or clothes.
- (114) Unsanitary and Disorderly Housing Conditions- Not keeping a clean, neat living area. The area should be kept in a manner so that all possessions are stored in an organized manner in areas designated for such. The area should be free from dirt and clutter.
- (115) Possession of Non-Dangerous Contraband (Soft Contraband) - Possession of contraband items that are not allowed at the facility but are not capable of causing serious injury or harm to self or others, including tobacco products.
- (116) Unauthorized Use of Telephone- Using the telephone during unauthorized times.
- (201) Refusal to Submit to a Reasonable Suspicion Drug Test- Not providing a urine sample for use in reasonable suspicion drug testing.

### **MODERATE OFFENSES**

- (202) Positive Reasonable Suspicion Drug Test-Testing positive for an illegal drug or unprescribed controlled substance.
- (203) Theft - Unauthorized taking of something that belongs to someone else.
- (204) Destruction, Alteration, or Damage to Property (Under\$1,000.00) - Destroying, changing or hurting property of the facility or any other person.
- (205) Forgery or Unauthorized Reproductions of Documents or Articles (Excluding Money) - Counterfeiting, forging, or reproducing without approval, any document, article, identification, or security documents.

(206) Hindering an Employee in the Performance of Their Duties- Acting in such a way to interrupt an employee during their work time such as causing delays or giving false information.

(207) Refusal to Submit to a Reasonable Suspicion Search.

(208) Child Neglect- Failure to give care and proper attention to a child (Non-Injury)

(209) Verbal Sexual Harassment of a Resident. Acting in such a manner as to create a hostile residential environment for other residents regardless of age or gender.

## **MAJOR OFFENSES**

(301) Arson - Starting or causing to be started a fire which could or does cause damage to person(s) or property.

(302) Assault/Battery-A non-sexually related attack upon the body of another person with the intention of harming or causing serious injury.

(303) Rape-Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and contact between the penis and the vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object (i.e. penetration or oral sodomy).

(303) Sexual Assault- Abusive contact of any person without his or her consent for the purpose of sexual gratification or arousal or of a person who is unable to consent or refuse; and intentional touching, either directly or indirectly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person. Sexual assault excludes incidents involving penetration or oral sodomy.

(304) Attempt/Conspiracy to Commit a Major Offense-An offense for residents who do not actually commit the offense but participate in one (1) or more of the following ways:

(304a) Attempts to commit the major offense;

(304b) Solicits another or others to commit the major offense;

(304c) Conspires with another or others to commit the major offense; and/or

(304d) Facilitates the action of another or others in committing the major offense.

(305) Child Abuse - Treating a child cruelly, roughly, wrongly, improperly, or in an insulting manner.

(306) Child Neglect - Failure to give care and proper attention to a child resulting in endangerment or injury to a child.

(307) Confirmed STG Affiliation/Activity-Affiliated or participating in a gang-related activity.

(308) Counterfeiting, Forgery, or Unauthorized Reproduction of Money

(309) Death of Any Person - Any act of which the end result is the death of any person including employees, visitors/volunteers, and/or other residents.

(310) Destruction, Alteration, or Damage to Property (\$1,000 or more) - Destroying, changing or hurting property of the facility or any other person.

(311) Hostage Taking- Holding a person(s) against their will as a security for the fulfillment of certain terms.

(312) Escape-Leaving the grounds of the facility or from the custody of an employee outside of the facility without permission.

(313) Insurrection -Participation or encouraging another to participate in unauthorized activity such as protesting or rioting.

(314) Possession of Dangerous Contraband (Hard Contraband) - Possession of contraband items that are not allowed at the facility and are capable of causing serious injury or harm to self or others. This includes deadly weapons, items altered to be used as weapons, drugs and drug paraphernalia.

(315) Sexual Misconduct - This includes, but is not limited to, the following acts:

(315a) Exposing the genitals or buttocks to an employee, visitor/volunteer, or resident for the purpose of sexual gratification or arousal.

(315b) Masturbation where an employee, visitor/volunteer, or other resident can see the act

(316) Intimidating or Threatening Another with Harm - Telling someone, through actions or words, that harm will come to them.

(317) Possession of Drugs or Intoxicants-Possession of any drugs or intoxicants which have not been prescribed or approved by the health services department for use.

(318) Violation of any Federal, State, or Local Law-Any act, though not specifically listed in this policy, that would be considered either a felony or misdemeanor under federal laws or under the state laws in which the resident is housed.

## **EDUCATION**

The Center operates an on-site school which is taught by the Berks County Intermediate Unit. Classrooms are located on the activity floor of the Center. The Center school provides educational services to all children who are at least 4 years old on September 1 of the current school year. Attendance in the educational program is mandatory and is provided in a structured classroom setting Monday through Friday. The basic academic areas include science, social studies, math, reading, writing, and physical education. Generally, children 4 to 5 years old will participate in a half day preschool program, and children 5 to 18 years old will participate in a full day academic program. All children 5 years old and over will be tested upon their admission to the Center and placed into the appropriate classroom. Parents are required to physically drop off their children in the proper Center classroom at 8:40am, Monday-Friday when school is in session. Parents must return to their children's classroom at 3:15pm each school day to pick up their children, unless otherwise told by staff of schedule changes. School holidays and breaks will be announced and posted.

## **SPECIAL NEEDS INFORMATION**

Although each child is evaluated for special needs after admission, parents who believe their children may have educational deficiencies or learning disabilities, may also initiate a special needs evaluation request. Parents may request this evaluation by speaking with their child's teacher, a caseworker, an IHSC social worker or by completing a Program Request form. These forms are located at the Resident Information Center. Completed forms are to be placed in the mailbox labeled "Requests". The educational unit will meet with the parent and test the child; if found to be eligible for special needs instruction, the child will receive an Individual Educational Plan (IEP). The child's educational program, and any necessary modifications, will be driven by their IEP.



# EXHIBIT H



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

# CERTIFICATE OF COMPLIANCE

This Certificate is hereby granted to BERKS COUNTY COMMISSIONERS

To operate BERKS COUNTY RESIDENTIAL CENTER

Located at 1040 BERKS ROAD, LEESPORT, PA 19359

ADDRESS OF FACILITY OR AGENCY

ADDRESS OF SATELLITE SITE

ADDRESS OF SATELLITE SITE

To provide Residential Services - Community Based, Residential & Self-Help

The total number of persons which may be cared for on one unit may not exceed \_\_\_\_\_ or the maximum capacity permitted by the Center and Occupancy which level is smaller \_\_\_\_\_

Restrictions: \_\_\_\_\_

This certificate is granted in accordance with the Public Welfare Code of 1967 P.L. 31, as amended, and Regulations

55 Pa. Code Chapter 3800: Child Residential and Day Treatment Facilities

and shall remain in effect from February 21, 2014 until February 21, 2015 unless sooner revoked for non-compliance with applicable laws and regulations.

No: 224580

Robert E. Robinson

CHIEF AND OFFICER

Mark D.

NOTE: This certificate is issued for the above stated only and is not transferable and should be posted in a conspicuous place in the facility.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

# CERTIFICATE OF COMPLIANCE

This Certificate is hereby granted to BERKS COUNTY COMMISSIONERS  
To operate BERKS COUNTY RESIDENTIAL CENTER  
Located at 1040 BERKS ROAD, LEESPORT, PA 19353

ADDRESS OF FACILITY SITE  
ADDRESS OF FACILITY SITE  
ADDRESS OF FACILITY SITE  
ADDRESS OF FACILITY SITE

To provide Residential Services - Commuter based, dependent & delinquent

The total number of persons which may be cared for at one time may not exceed \_\_\_\_\_  
or the maximum capacity permitted by the Certificate of Occupancy, whichever is smaller.  
Restrictions: \_\_\_\_\_

This certificate is granted in accordance with the Public Welfare Code of 1967, P.L. \_\_\_\_\_, as amended and Regulations

55 Pa. Code Chapter 3800: Child Residential and Day Treatment Facilities  
and shall remain in effect from November 21, 2013 until February 21, 2014  
unless sooner revoked for non-compliance with applicable laws and regulations.

No: 224580

Robert E. Robinson Matthew J. [Signature]  
ISSUING OFFICER ACTING OFFICER

NOTE: This certificate is issued for the above only and is not transferable  
and should be posted in a conspicuous place in the facility

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

# CERTIFICATE OF COMPLIANCE

This Certificate is hereby granted to BERKS COUNTY COMMISSIONERS

To operate BERKS COUNTY RESIDENTIAL CENTER

Located at 1040 BERKS ROAD, LEESPORT, PA 19533

ADDRESS OF SATELLITE SITE

ADDRESS OF SATELLITE SITE

ADDRESS OF SATELLITE SITE

To provide Residential Services - Community-based, dependent & delinquent

The total number of persons which may be cared for at one time may not exceed 96  
or the maximum capacity permitted by the Certificate of Occupancy, whichever is smaller.

Restrictions:

This certificate is granted in accordance with the Public Welfare Code of 1967, P.L. 31, as amended, and Regulations

55 Pa. Code Chapter 3800: Child Residential and Day Treatment Facilities

and shall remain in effect from February 21, 2015  
unless sooner revoked for non-compliance with applicable laws and regulations.

until February 21, 2016

No. 224580

Robert E. Robinson  
ISSUING OFFICER

[Signature]  
ACTING SECRETARY

NOTE: This certificate is issued for the above state(s) only and is not transferable  
and should be posted in a conspicuous place in the facility.