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# Biden Administration Detains Women Seeking Safety and Separates Them From Their Families

## *Conversations with Women Incarcerated at ICE Berks Detention Center*

In September 2021, the Biden administration signed a new contract to reopen the Berks County Residential Center (“Berks Detention Center” or “Berks”) in Reading, Pennsylvania in order to detain asylum seekers and other immigrant adult women. Just months prior, the Department of Homeland Security’s (“DHS”) Immigration and Customs Enforcement (“ICE”) had, in a welcome move, stopped using Berks Detention Center to incarcerate minor immigrant children with their parents.

After the Biden administration signed a new contract in September with the operator of the detention center, Berks County, the facility [reopened](#) in January 2022. Human and immigrant rights [organizations](#) and [members of Pennsylvania’s congressional delegation](#) strongly opposed the move to reopen Berks, particularly given the detention center’s long history of [human rights abuses](#), [medical neglect](#), and [sexual assault](#). Since January, the U.S. government has transferred hundreds of women who sought refuge in the United States at the southern border to Berks. In August 2022, the government transferred another approximately 100 women from DHS border custody to the detention center and subsequently transferred approximately another 160 women to Berks in fall 2022. As of the date of publication of this factsheet, there are 38 women detained at Berks.

Recent media reports [indicate](#) that DHS will terminate its contract with Berks County on January 31, 2023, a critical step that would end the administration’s cruel and unnecessary incarceration of asylum seekers and migrants at the facility. The decision comes after years of relentless [advocacy](#) and community organizing [efforts](#) supporting the families and women in the facility who bravely disclosed the abuses they endured. Researchers from Human Rights First and Physicians for Human Rights (PHR) conducted a human rights monitoring visit to the detention center in September 2022 and spoke with women incarcerated at the facility, including teenagers separated at the border from parents, mothers separated from adult children, and women separated from spouses and other family members. The women interviewed were notified of these visits beforehand and were given an opportunity to volunteer to speak with Human Rights First and PHR. The interviews were conducted in English, Spanish, Portuguese, and Russian and ranged from approximately 30 minutes to one hour in length.

27 women were interviewed, some in-person at the Berks Detention Center and others later by phone. Pseudonyms have been used throughout to protect their identities. Their stories reflect DHS’s cruel treatment of these women and underscore the inhumane decision by the Biden administration to incarcerate asylum seekers requesting protection in the United States, when it has the [legal authority](#) to release them as they pursue their asylum claims. **Interviews with women detained at the Berks Detention Center about the harms they suffered confirm that the administration must permanently close the facility as well as stop incarcerating asylum seekers and migrants in other detention centers.**

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Among those incarcerated at Berks at the time of the visit were women—some as young as 18 years old—from Brazil, Colombia, the Dominican Republic, Ecuador, Eritrea, Nicaragua, Peru, Russia, Turkey, and other countries. In their countries of origin, some of the women had suffered political persecution by government officials, gender-based violence, anti-LGBTQ attacks, and religious-based attacks. Many of the women undertook dangerous journeys to escape persecution to exercise their [legal right](#) to seek asylum.

Some of the women interviewed had been detained for more than four months at the time of the visit, despite President Biden’s campaign [promise](#) to end prolonged detention. For example, a woman granted asylum due to political persecution in Nicaragua was detained for over six months before ICE finally released her after her asylum request was granted.

The Biden administration has taken steps to expand immigration detention despite campaign [promises](#) to end prolonged detention, reinvest in case management programs, and eliminate for-profit detention facilities. In addition to reopening Berks to incarcerate adult immigrant women, DHS has entered into contracts to [open](#) and [expand](#) private detention facilities. As of November 2022, there are more than [twice](#) as many asylum seekers and immigrants incarcerated in the United States compared to [when](#) President Biden took office. Human Rights First and PHR’s full recommendations can be found at the end of this factsheet.

## Devastating Impact of Continued Family Separation

The women interviewed were initially detained by DHS officials at the southwest border and held in inhumane and unsafe conditions that [violate guidance](#) for conditions in government custody.<sup>1</sup> Some women reported suffering severe anguish and anxiety because DHS separated them from their adult children, partners, and other family members at the border. Several spent weeks unable to find out where their family members were sent and remained separated from them while incarcerated at Berks.

Patricia, a Brazilian asylum-seeking grandmother whom DHS separated from her two adult children and her grandchild with whom she traveled, said: “[d]uring the whole time I was in [border custody] I had no idea where they were...I spent more than a week not knowing where my children were. I was **anguished.**” Clara, another asylum seeker from Brazil whom DHS separated from her husband at the border, told researchers: “I asked [the guards] whether my husband was in the same place...they did not respond. They closed the door in my face.” Svetlana, an 18-year-old Russian woman who fled government persecution with her husband after Russia’s invasion of Ukraine, said: “[t]hey [DHS] separated my husband and me at the border. I just wanted to see him, talk to him. I wish I could call him to wish him a happy birthday... I haven’t spoken with him in three weeks.”

In January 2022, the United Nations High Commissioner for Refugees (UNHCR) [expressed](#) concern that “asylum-seeking families who arrive at or are apprehended near the U.S. border may face separation due to U.S. policy and practice that appears to favor detention” and that these family separations “may cause

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<sup>1</sup> Asylum seekers and migrants processed by DHS border officials are often detained by Customs and Border Protection (CBP) at CBP holding facilities at ports of entry or at Border Patrol stations located along the US-Mexico border. Based on the information provided by the women interviewed, they were likely initially held by DHS in CBP or Border Patrol facilities.

unnecessary distress, and...have the potential to generate protection challenges, including refoulement.” The UNHCR [recommended](#) that the Biden administration treat incarceration of asylum seekers as a measure of last resort, in line with [UNHCR detention guidance](#), and use alternatives to incarceration that advance family unity. As [medical experts](#) have concluded, family separation can amount to torture for children and their parents. Cases of family separation have been associated with long-lasting psychological harm, including Post-Traumatic Stress Disorder (PTSD), major depressive disorder, and generalized anxiety disorder.

Juliana, a woman who was sexually abused and tortured in Brazil reported suffering severe physical and psychological harm after DHS separated her from her husband, with whom she sought protection at the U.S. border. Of her incarceration at Berks and continued separation, she said: **“My head won’t stop hurting in this place because I need to be near my husband... I need to be with him. It’s been 37 days since I’ve seen him.”** Helena, another Brazilian asylum seeker who had been incarcerated for a month at the time she spoke with a researcher, said that it is very difficult to remain separated from her fiancé, who is her “support system,” after DHS separated them at the border.

### Inhumane Conditions in DHS Border Custody

Prior to being transferred to Berks, the women reported being subjected to inhumane treatment and conditions in DHS custody after being detained at or near the southwest border, similar reports to those that have been [extensively documented](#) in the past. They reported being held in DHS border custody for more than a week, and some for more than two weeks, even though DHS is only permitted to detain people for up to [72 hours](#) in border holding facilities. They also reported that they were denied basic necessities in border custody such as the ability to shower regularly, brush their teeth, access menstrual products, and obtain medical care, in violation of [guidance](#) for conditions in government custody.

According to the women interviewed, DHS officers threw away the women’s medications and other personal items, including an asylum seeker’s only photos of her 12-and-15-year-old children who were still in Brazil, causing her enormous distress. Multiple women reported that DHS detained them in an extremely cold room and that they were only able to shower, brush their teeth, and change their clothes around every five to seven days. The women disclosed that they slept on thin mats on the floor, often having to share a mat with a stranger, and were only given Mylar [foil blankets](#) to keep warm. The lights were kept on all night, which made it difficult to sleep and gave the women headaches.

Gabriela, a Colombian asylum seeker, said: **“I never imagined having to experience humiliation, having to beg for clean water, being made fun of by officers... they laughed at us. It has been really hard. At one point, I wished I had killed myself in Colombia instead of enduring these abuses.”** She reported that guards only permitted her to shower twice in over a week. She witnessed children sobbing and guards yelling at women and children. In one instance, she watched a guard separate a nine-year-old boy from his mother and send him with a stranger to the male showers—apparently assuming that the man was related to the boy—and prevent the mother from explaining that the man was, in fact, a stranger.

Andrea, an Indigenous asylum seeker from Ecuador said her time in DHS border custody **“was the worst ten days of my entire life. It was hell.”** She reported many women were sobbing and having panic

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attacks while detained there. Juliana, a Brazilian woman, said that the guards would often yell at the detained women, wake them up every day at 3am, and, in the rare instance that the women had an opportunity to shower—only twice in 12 days for Juliana—the guards would yell at them to hurry up, saying: **“This is the United States. This isn’t a fashion show.”**

Marcia, a Brazilian asylum seeker who was menstruating while in DHS border custody, said that **officers threw away her menstrual pads and that she had to spend an entire day begging for sanitary pads.** She asked four separate times and waited from morning until nearly dinnertime before finally receiving them. She was only able to shower three times in the 16 days she spent in DHS border custody. She witnessed a guard mock another Brazilian woman who was attempting to clean her armpits with her shirt pulled up because they weren’t allowed to shower regularly. The guard told the woman to put her clothes on “because women only dress like that in Brazil.”

Many women reported that the food they received in border custody was inadequate and often inedible. Andrea, an Indigenous asylum seeker from Ecuador, reported only receiving an apple and a piece of bread each day. Some received cold burritos each day that tasted awful. One of the women told the guards that they were hungry and the guards said “it’s not time to eat” and then threw leftovers from their food on the ground for the detained women to pick up and eat.

Some women reported experiencing **medical neglect** while detained by DHS at the border. For instance, a Brazilian woman who suffered a severe headache while in border custody spent days asking for medication that she never received. An asylum seeker from Ecuador reported she was ill for three days with a fever and throat pain but didn’t receive any medical attention, while a Nicaraguan woman sick with flu symptoms managed to speak with a medical provider but was denied treatment and told that “medicine is for kids.” Another asylum seeker **started experiencing COVID-19 symptoms in border custody and reported her symptoms to a medical provider at the facility but was not given a test to confirm the infection.** It was only after being shackled and transferred to Berks in Pennsylvania that she was diagnosed with COVID-19 and isolated.

Three of the women detained by border officers and transported to Berks in late August were pregnant, according to officials at the Berks facility. The pregnant women were released after their arrival to Berks, but an asylum seeker detained with one of them reported that one woman was approximately seven months pregnant and suffered severe stomach pain while in border custody, requiring her to be transported off-site for emergency medical care. DHS’s [detention](#) of pregnant people in DHS Customs and Border Protection (“CBP”) facilities and Border Patrol stations is inconsistent with ICE [policy](#) that people who are pregnant, postpartum, or nursing should not be detained absent exceptional circumstances. Officials eventually returned the pregnant woman to the border holding cells and transported her to Berks, in violation of [ICE policy](#).

Women reported symptoms that could be related to PTSD and were exacerbated by conditions in DHS custody at the border. Damla, a Turkish asylum seeker fleeing religious-based persecution who reported a history of rape and several attempts to kill herself, said that while detained she has suffered from insomnia, flashbacks, and other symptoms, and that she **again began planning to kill herself** while detained in terrible border detention conditions. Sabrina, a young Brazilian woman fleeing gender-based

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violence whose mother is an asylee living in Florida, said: **"I stopped eating at times in the detention center because of anxiety... When I arrived in the [border] detention center, I was having a lot of nightmares... nightmares of people dying."**

### Traumatic Transfers to ICE Detention

ICE humiliated the women and withheld information from them as they were transported in shackles to Pennsylvania. One asylum seeker commented: **"[t]hey didn't tell us anything about where we were going. We thought we were being deported. I was very scared when they handcuffed me. I have bruises on my hands and ankles because they were very tight. I felt pain in my neck because we didn't sleep for two days."** Immigration officers refused to answer questions about whether the women were being deported, disregarding them or mocking them with statements such as: **"[y]ou're going on a trip."**

According to an asylum seeker who spoke with us: **"[w]hen the flight attendants did the presentation about the safety equipment and how to put on the masks, they couldn't stop laughing the whole time. I think it's because we were all in handcuffs... because, how would we save ourselves in handcuffs?"**

Adeena, a Nicaraguan asylum seeker incarcerated since April 2022 reported that during the flight to Pennsylvania women were crying because they thought they were being deported. She said: **"[w]hen we landed, I saw the American flag and told my friend, 'don't worry, we're still in the United States.'"**

Some women reported they weren't provided with food for nearly 24 hours during the transfer. Patricia, a Brazilian asylum seeker, said: **"[w]e were told by an officer that we would be reunited with our families, but then they handcuffed us around our hands, feet, and waist. They made us wait, handcuffed, in a parked bus for six hours without water or food, and we couldn't go to the bathroom."** Another woman asked the bus driver transporting her whether she could go to the bathroom, and he said, **"[y]ou have to figure it out."**

The women arrived at Berks exhausted, traumatized, many separated from children or spouses. A mental health provider at Berks told researchers that some women arrived at the prison with a history of trauma and were suffering from anxiety, depression, and insomnia.

### Asylum Seekers Forced Through Expedited Removal Process at Berks

Many of the women who were transferred to the Berks Detention Center in late August had been placed by DHS in expedited removal and were forced to undergo and pass credible fear interviews ("CFIs"), conducted by U.S. Citizenship and Immigration Services ("USCIS"), in order to eventually present their full legal claims for asylum.

Under the expedited removal [process](#), DHS officers who determine an individual is inadmissible may order the person removed from the United States without an immigration court hearing. But asylum seekers who express an intent to seek asylum or a fear of return to their country of nationality must be referred by DHS for a preliminary fear screening by a USCIS asylum officer. These CFI interviews have typically been conducted while asylum seekers are detained, often after harrowing journeys to the United States and before they can consult with a lawyer. If the asylum officer conducting the interview



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determines that the asylum seeker has a credible fear of persecution (i.e. a “[significant possibility](#)” the individual would be eligible for asylum after a full hearing), the asylum seeker must be referred for a full adjudication of their asylum claim. Asylum seekers who do not establish a credible fear of persecution are deported unless that determination is reversed.

Requiring asylum seekers to establish a credible fear of persecution in an initial screening (rather than using DHS’s [authority](#) to refer them immediately for full asylum adjudication) increases the risk that refugees will be deported due to erroneous negative credible fear determinations. As repeatedly documented by [Human Rights First](#) and other [organizations](#), the credible fear process is deeply flawed, especially when it is carried out in detention. Incarceration cuts asylum seekers off from legal representation and inflicts physical and psychological harm that interferes with their ability to present their asylum case, leading to mistaken decisions that result in deportation to harm.

CFIs occur at an unpredictable pace and, as mentioned above, often before an asylum seeker has obtained representation. For instance, [99.1 percent](#) of asylum seekers in two immigration detention facilities in Texas—for which the government has recently published data—were unrepresented during their credible fear interviews from June to mid-September 2022. At Berks, we spoke with several women who also underwent CFIs before they had an opportunity to speak with a lawyer. Francisca, a Brazilian asylum seeker who received a negative credible fear determination after undergoing a CFI without representation, said: **“I didn’t know what it would be like. I was confused... I was nervous, inside of a cabin... the place was small. I couldn’t talk because I have difficulty concentrating under pressure.”** At Berks, CFIs are conducted in small soundproof booths where the asylum seeker sits alone and completes the interview by phone with an interpreter, who is also present on the telephone in a three-way conference call.

Aldea PJC, the principal legal services provider for the Berks Detention Center, reported that a Peruvian asylum seeker detained at the facility in October 2022 underwent a CFI while suffering severe pain in her breasts for which the facility did not refer her to a specialist for medical care. After receiving a negative result, she decided not to request review of the decision by the immigration judge despite her fear of return to Peru, due to the severe pain she was experiencing and trauma of incarceration. Human Rights First has [documented](#) many instances of asylum seekers forced to undergo CFIs while detained and suffering urgent medical issues.

Some of the women reported spending nearly a month at Berks waiting for a CFI, their incarceration prolonged by the delay because ICE is often more likely to release people once they have received a positive credible fear determination. These delays are compounded by additional wait times for USCIS to provide the CFI results. Juliana, who reported being sexually abused and tortured in Brazil, had a CFI and was already waiting 15 days for her interview result when she spoke with us. She reported that she suffers severe anxiety because she doesn’t know how much longer she will be incarcerated.

### Asylum Seekers Forced to Prepare Case for Immigration Court During Prolonged Incarceration

ICE forces some women detained at Berks to prepare and present their entire asylum claims to an immigration judge while suffering the trauma of incarceration and ongoing family separation. We spoke

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with an asylum seeker from Nicaragua, Adeena, who had been incarcerated at Berks for at least four months and was previously held in DHS border custody in Texas and an ICE prison in Louisiana. ICE did not release her to pursue her asylum claim, and the immigration court imposed bond at an unaffordable amount of \$5,000. Adeena reported that she had fled Nicaragua because she was being investigated for her anti-government views and attacked by men who threatened to take her to [El Chipote](#), a government torture prison. She was granted asylum by an immigration judge in November 2022 after more than six months of incarceration. Another woman, Miriam, who fled religious, gender, and political-based harm in Eritrea, was granted asylum by an immigration judge in late September while having been detained for six months.

At the time of the human rights monitoring visit, Adeena was scheduled for a final hearing with the immigration court and had to prepare evidence and testimony in support of her claims while incarcerated. Adeena said: “[w]e were happy because we thought we would be released. But ICE said we would have to get bond... I couldn’t pay my bond... then the immigration judge told me I would need to provide proof for my case.” Already incarcerated for over five months when she was interviewed, Adeena stated that she was denied care at Berks for an urgent dental issue and that she feared it would endanger her while she waited for her asylum hearing in November. When Adeena was incarcerated by ICE in Louisiana, the facility staff removed the bottom wire of her braces but did not replace it, resulting in some of the brackets falling out. At Berks, the top wire came undone, causing significant pain. When she sought help from the Berks medical unit, she was told that the doctor could not assist and that there was no dental care at the facility. A doctor eventually removed the wire but refused to remove the brackets or refer her to a local dentist, which has left Adeena afraid that she will swallow the brackets.

Forcing asylum seekers to prepare and present their cases to an immigration judge while experiencing the trauma of incarceration, family separation, and medical and other problems raises significant due process concerns. Detention [impedes](#) many asylum seekers from effectively and fairly presenting their requests for protection. It [limits](#) asylum seekers’ access to legal representation and translation assistance to complete the complex and technical asylum application in English. It inflicts [physical](#) and [psychological](#) harm that impedes asylum seekers’ ability to prepare and present their cases, it can [cut off](#) communication with important witnesses and experts as well as access to crucial documents that may serve as evidence in an asylum claim, and it [pushes](#) some asylum seekers to abandon their claims rather than continue to endure the trauma of detention. A [study](#) conducted by PHR and the Bellevue/NYU Program for Survivors of Torture found that detention causes asylum seekers’ mental health to deteriorate and that their mental health worsens the longer they are detained.

The incarceration of the women who were interviewed at Berks and other asylum seekers and migrants is not only cruel but also unnecessary and costly. Many asylum seekers and migrants have family members and friends in the United States who are ready to house them. Their continued incarceration keeps them

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separated from family and comes at [high cost](#) to the government and taxpayer. For instance, Svetlana, an 18-year-old Russian woman, and her husband have a sponsor in El Paso ready to house them, but rather than releasing her to pursue her case in the community, ICE expended considerable resources to transfer her to Berks Detention Center in Pennsylvania. If released, Svetlana would have to arrange for her own travel back to El Paso. Other women have family in Washington, Florida, and other states, and remain separated from them during their ongoing incarceration.

### Recommendations

The detention of asylum seekers beyond initial processing is generally [prohibited](#) under international law and is unjustifiable given that asylum seekers [overwhelmingly appear](#) for hearings after release from DHS custody. The United States is a party to—and bound by—international treaties that [prohibit](#) detention that is unreasonable, unnecessary, disproportionate, or otherwise arbitrary and [prohibit](#) governments from imposing penalties based on asylum seekers' manner of entry or unlawful presence in a country.

Rather than incarcerating asylum seekers and separating them from their families, the Biden administration should:

- Exercise its [legal authority](#) to swiftly release asylum seekers after initial processing and not transfer them to ICE facilities, so they can live safely in U.S. communities while they pursue their asylum claims.
- Permanently [close](#) the Berks Detention Center, which was reopened by the Biden administration to incarcerate adult immigrant women despite its long history of ill-treatment and abuse of detained individuals, and not enter into new contracts to reopen the facility in the future.
- Fulfill campaign [pledges](#) to end prolonged detention, invest in case support initiatives, and end the use of for-profit immigration detention centers.
- Ensure family unity by not separating families including spouses, family units, adult children from parents, caregivers from relatives in their care, and other family groups.
- Institute updated guidance on conditions of DHS custody in CBP holding facilities and Border Patrol stations, including to expand the agency's current directive to expedite processing and minimize the time that people who are pregnant, postpartum, and/or nursing, and their families, are in CBP and Border Patrol custody to only the time period necessary to process them for release.
- Direct the Office of Inspector General (OIG) and give full power to the DHS Office for Civil Rights and Civil Liberties (CRCL) to closely monitor and investigate reports of abuse, medical neglect, racist treatment, inhumane conditions, and other mistreatment in CBP, Border Patrol, and ICE facilities.
- Not subject asylum seekers to the expedited removal process, which risks the deportation of refugees to persecution and torture, and instead refer asylum seekers for initial full asylum adjudications.



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