

The History of the Berks County Detention Center

“Incarcerating families, no matter how long or in what manner, is immoral and illegal. It is breaking federal regulations and state law and must end immediately.” ~ The Shut Down Berks Coalition



Detained Children protesting at the center for their freedom

Pennsylvania is currently home to the Berks County Detention Center (BCRC), one of three detention centers for immigrant families, where children as young as two-weeks-old have been incarcerated. Families who have been imprisoned in the BCRC have been unjustly held anywhere from two weeks to nearly two years. There have been reports after report of documented abuse from families. In the first year of operation a mother was raped by a guard in front of other families and said guard was eventually found guilty. In another extreme case, a little girl of four years old was vomiting blood for three days and it wasn't until the third day that she was finally taken to a hospital to receive medical attention.

In 2009 and again in August 2015, a Federal Court determined that the practice of detaining children in jail-like settings for extended periods of time is illegal and ordered Immigration and Customs Enforcement (ICE) to comply to the Flores ruling, the ruling that had initially barred the practice of family detention. The Department of Homeland Security defied these rulings and continues to detain immigrant families.

Additionally, the prison violates state law and in February 2016, the PA Department of Human Services (PA DHS) chose to not renew the license to operate the Berks County Detention Center, a victory won due the coalition's research and organizing. The detention center appealed the state's decision to not renew the license. Because of this appeal process the case languishes in bureaucratic proceedings and the center continues to operate and accept new families.



Detained Mother protesting their freedom from the center

However, extensive legal research has been presented directly to PA Department of Human Services and Governor Wolf outlining the specific powers that PA DHS has to end the use of the BCRC as an immigrant detention center, and yet they have refused to take action. The laundry list of abuses suffered by parents and children is sufficient grounds for an Emergency Removal Order. These failures to provide adequate medical care demonstrate an immediate and serious danger to the health of the detainees. Therefore, PA DHS is in fact required to issue an Emergency Removal Order (ERO) to immediately prevent new families from being brought to the center, regardless of their status as federal detainees.



Protestors at the Capital Building before being arrested calling on the Governor to issue an ERO

The Shut Down Berks Coalition advocates for releasing families to relatives or to sponsors in the United States while they await their immigration status hearings. The coalition stands firmly against the separation of families for the purpose of incarcerating parents as individuals. As well, the coalition stands against the practice of criminalizing families through the use of ankle bracelets.

The only way to ensure that no new families are brought to the prison would be for the state of Pennsylvania to issue an Emergency Removal Order, an action that the state has taken before on other facilities several times in the last fifteen years. Now is the time to stand for Pennsylvania to stand up and protect immigrant families.

How Wolf Can End Family Detention in Pennsylvania

The coalition has historically consisted of organizers and lawyers, with lawyers making up our legal team. A part of this legal team has been the Sheller Center for Social Justice of the Beasley Law School of Temple University. It was their research that proved that the center had been erroneously licensed and it's their research that shows that the Wolf administration indeed can issue an Emergency Removal Order.



The Key Findings from the Sheller Center's research are;

1. The Pennsylvania Department of Human Services ("PA DHS") has the authority to regulate the Berks County Residential Center ("Berks")
2. Despite the fact that Berks holds federal detainees, Pennsylvania laws regarding the operation of child residential facilities still apply
3. PA DHS will not violate federal law (in fact it will comply with federal law set out in Flores decision) if it chooses to issue an Emergency Removal Order or a Cease and Desist Order
4. PA DHS can work with the federal government to provide ample notice so that U.S. Immigration and Customs Enforcement can address the situation of detainees prior to shutting the facility down

What the Governor's Office is Saying

Constituents from all over the state for the last two years have made calls into the Governor's office to urge him to have an Emergency Removal Order issued. Here are a few examples of the misinformation being told to constituents with responses that reflect what has actually occurred.

Pennsylvania does not have jurisdiction over the Berks facility, ICE does.

The Berks County Detention Center is owned and operated by the county and therefore is under the supervision of the state. PA has jurisdiction over all children residing within the state and the Dept. of Human Services has the legal obligation to protect the welfare of those children, regardless of immigration status.

PA took ICE to court and won, but ICE took it to a higher court and got their authority reinstated.

The state has never taken ICE to court. In 2016, the center appealed the state's decision to not renew their license. The appeal case is in the first round of this bureaucratic appeal which is being reviewed internally within the Department of Human Services.

There is no current litigation.

PA DHS revoked the prison's child care license and the county appealed the decision. That case is still pending at PA DHS, which had been delayed for nearly a year.

The Department of Human Services is doing something for the families at the center.

PA DHS's oversight of the prison has been woefully inadequate, with a child vomiting blood for 4 days without medical care and outbreaks of Shigellosis. And many, many other instances of failure to provide adequate medical and mental health care, education, nutrition and to protect children from abusive behavior by staff and ICE.



offsite.

Nearly all people have been removed. Those who remain are adults.

There are currently and have consistently been approximately 30 families at the center. By definition, only family units are held there, which means as long as the prison is open, there will be children there.

An ERO only (or mostly) applies to schools.

An ERO has been used not just for schools, but also for daycare centers and a "personal care center." (see Sheller Center Memo) But Berks is being used as a school, since Berks parents are not allowed to send their kids to school

Wolf stopped ICE from sending any more people there.

There are about 30 families detained at any given moment in the center. The prison is run by Berks County under contract with ICE. The Governor has sadly not done all he can. If he does not want the children to be harmed, he should take immediate action by issuing an ERO to ensure that no new families are brought to the center.