



PRISON FOR SURVIVORS



The Detention of Women Seeking Asylum in the United States



**WOMEN'S
REFUGEE
COMMISSION**

Research. Rethink. Resolve.

The Women's Refugee Commission improves the lives and protects the rights of women, children and youth displaced by conflict and crisis. We research their needs, identify solutions and advocate for programs and policies to strengthen their resilience and drive change in humanitarian practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women and children, and the policies that can protect and empower them.

© October 2017

by Women's Refugee Commission

All rights reserved

Printed in the United States of America

Women's Refugee Commission

15 West 37th Street, 9th Floor

New York, NY 10018

Phone: (212) 551-3115

Fax: (212) 551-3180

www.womensrefugeecommission.org

Acknowledgments

This report was researched and written by Emily Butera and Katharina Obser. Review and editing was provided by Michelle Brané, Dale Buscher, and Charmaine Seitz.

Women's Refugee Commission would like to thank the government and detention facility officials who facilitated access to detention facilities and shared their time and expertise; the countless legal service providers, volunteers, and others working tirelessly with detained individuals who took the time to support this report; and the courageous women who shared their stories and experiences with us. We also gratefully acknowledge the support of the foundations and donors who made this report possible.

Cover photo credit: Protesters gathered in Copley Square in Boston, MA, January 29, 2017, to demonstrate against President Trump's immigration order. Tess Schefflan / Activestills.org

Contents

Terminology	iv
Executive Summary	1
Key Findings	2
Key Recommendations	4
Introduction	6
Methodology	8
A Note on <i>Hieleras</i>	8
The Current State of Immigration Detention and Detained Asylum-Seeking Women	10
The Immigration Detention System	10
The Increased Arrival of Women and Children Asylum-Seekers	12
Why the Protection Crisis?	13
Expedited Removal: How Asylum-Seeking Women are Detained.....	15
A Statistical Snapshot of the Detention of Asylum-Seeking Women.....	16
The Impact of Detention on Asylum-Seeking Women.....	18
Findings	20
1. U.S. Detention Practices Preclude Meaningful Due Process and Access to Justice	20
2. Detention Practices—Both Treatment and Conditions—Ignore the Needs of Women and Impede Access to Protection.....	26
3. Arbitrary High Bond and No-Release Policies Prolong Detention and Deny Protection.....	40
4. Family Separation at the Border Risks Breaking Up Families, Endangers Children, and Undermines Protection.....	45
Conclusion & Recommendations	48
Appendix A: Locations Visited	53

Terminology

ATD: Alternatives to Detention; can include various forms of release, with or without conditions, or more formal government-contracted services to help ensure compliance with immigration requirements.

CBP: Customs and Border Protection of the Department of Homeland Security; includes U.S. Border Patrol, responsible for border areas between official ports, and the Office of Field Operations, responsible for official ports of entry.

CFI: Credible Fear Interview

CCA: Corrections Corporation of America; a major for-profit private prison operator in the U.S. CCA recently rebranded itself as CoreCivic.

CRCL: DHS Office of Civil Rights and Civil Liberties, charged with investigating and reporting to Congress on civil rights and civil liberties complaints.

DHS: U.S. Department of Homeland Security

DOJ: U.S. Department of Justice

Expedited Removal: An expedited deportation process created under 1996 immigration laws (IIRIRA), under which a migrant not authorized for admission is deported immediately or after brief processing, unless the migrant expresses a fear of return and is referred for a credible fear interview. Today, expedited removal applies both at formal ports of entry when someone is deemed ineligible for entry into the U.S., and can also be applied to migrants apprehended between ports of entry within 100 miles of the border.

EOIR: Executive Office for Immigration Review, part of the Department of Justice.

Geo Group: A major for-profit private prison operator in the U.S.

HHS: U.S. Department of Health and Human Services, which includes the Office of Refugee Resettlement.

HSA: Homeland Security Act of 2002, which dissolved the former Immigration and Naturalization Service and divided its responsibilities between EOIR, DHS and ORR.

ICE: U.S. Immigration and Customs Enforcement

IHSC: ICE Health Services Corps

ORR: Office of Refugee Resettlement; part of the U.S. Department of Health and Human Services.

PBNDs: Performance Based National Detention Standards that require certain conditions at many ICE facilities. ICE currently has two versions of the PBNDs: one issued in 2011 (as modified in 2016) and one issued in 2008. In addition, ICE also has the 2000 National Detention Standards and the Family Residential Standards.

PREA: The Prison Rape Elimination Act; passed in 2003 and aimed at eliminating sexual assault and violence in confinement settings. It was implemented, beginning in 2012, through U.S. Department of Justice regulations and by the U.S. Department of Homeland Security, beginning in 2014.

RFI: Reasonable Fear Interview

UNHCR: United Nations High Commissioner for Refugees, the UN Refugee Agency.

USCIS: U.S. Citizenship and Immigration Services

U Visa: A visa available to victims of crime who cooperate with a criminal investigation and who meet certain requirements.

T Visa: A visa available to trafficking victims who meet certain requirements.

VAWA: Violence Against Women Act; a law that provides access to immigration status for certain spouses of U.S. citizens who are abused or exploited.

EXECUTIVE SUMMARY

The U.S. immigration detention system is undergoing a fundamental and nearly unprecedented transformation. Long documented to be costly, with glaring gaps in oversight and accountability, its use rose dramatically in recent years for one population in particular: those seeking protection at the southern U.S. border, many of whom are women.

It is not illegal to enter the U.S. to seek asylum. In fact, the right to seek asylum is guaranteed and protected under U.S. and international law,¹ and governments may not return asylum seekers to a country where their life or liberty is at risk.²

Nevertheless, both the Obama administration, in its final years, and the subsequent Trump administration have fundamentally shifted the narrative of the appropriate response to those seeking protection at U.S. borders. While publicly focusing on the apprehension and deportation of criminal aliens, both administrations, in practice, cast a much broader net that includes, in many cases, the most vulnerable individuals and those seeking protection. The Obama administration failed to recognize that the conditions forcing Central Americans to flee were part of a larger refugee crisis across the region. Immigration officials responded by reviving the notorious practice of family detention, as well as an additional practice that was less noticed: the overall increase in detention of border crossers, many of whom were women seeking asylum. By November 2016, the U.S. immigration detention system had ballooned from 34,000 beds to 42,000 beds. At the same time, the proportion of women in detention and the proportion of detained asylum-seeking women grew dramatically. The reason for their detention was not because they posed some risk to national or public security, but simply to send a message to others fleeing harm while fueling a system that has long been about profit and politics.

The Trump administration has already capitalized on the immigration detention system it inherited, and has made clear its intention to grow the system while reducing the basic protections the previous administration developed to try to improve treatment and conditions. Given the administration's clear intention to prioritize removal for all immigrants in the United States without authorization—or in many cases those with some history with the criminal justice system—as well as anyone seeking protection at the border, the government appears eager to vastly expand the numbers of people in detention, regardless of the human or fiscal cost. Release from detention is erratic, conditioned on impossibly high bonds, and increasingly not permitted at all.

Alarmed at the increase in the detention of women seeking asylum, the Women's Refugee Commission (WRC) in 2016 and 2017 sought to document the conditions of detention, treatment, and obstacles to a fair asylum process that women in detention face.³ We visited seven detention facilities in Texas, California, Arizona, and New Mexico, spoke with numerous local service providers and advocates, analyzed government data, and spoke to nearly 150 women who were in need of protection but were instead detained, many for months. Their stories made clear the human cost of a political choice.

While this report focuses largely on the treatment of—and access to protection for—those seeking asylum, it is important to highlight the significant parallel shift in the last six months to increased enforcement against immigrant women already living in the United States. This report originated at

a time when women and others seeking asylum at the U.S. border were one of the few delineated enforcement priorities. Today they remain a top priority alongside countless other targets, including other migrant women, children, and families already in the United States. Although this report focuses on the particular challenges faced by women seeking asylum in detention, other women in detention face similar barriers to counsel, lack of fair treatment, and resultant emotional distress and despair.

The conditions and barriers to protection facing asylum-seeking women that we documented will only continue to worsen if the Trump administration's priorities are funded and policies enacted.

Key Findings

More women are in detention than ever before, and the number of women and girls seeking asylum while in detention has grown exponentially.

- While the total number of detainees in immigration custody has increased, the percentage of women among that population has also increased—by 60 percent. In 2009, women made up nine percent of the immigration detainee population. By 2016, that percentage had gone up to 14.5 percent. Between 2013 and 2016, the number of women and girl asylum seekers going through an initial asylum screening, likely while in detention, more than quadrupled.

U.S. detention practices preclude meaningful due process and access to justice.

- Access to counsel and legal information are a necessity for understanding the asylum process. But the remoteness of detention facilities and the often erratic timeline of immigration proceedings when in detention impede access to the few existing local service providers. In addition, these service providers are themselves overburdened and under-resourced.
- Access to interpreters is crucial for key interactions with government officials and the asylum process, and yet WRC identified numerous cases of inadequate or nonexistent interpretation, particularly for those who speak minority and indigenous languages. This not only means women cannot explain their reasons for asylum, but can also result in prolonged detention.
- For those in detention, initial asylum screenings are often conducted by phone, and immigration court hearings by video. Even when a facility hosts an in-person immigration court, numerous obstacles remain, including last minute transfers away from those facilities. These practices render due process nearly impossible.

Detention practices—both treatment and conditions—ignore the needs of women and impede access to protection.

- Many women expressed a fear of retaliation and a sense of powerlessness in trying to file grievances or complaints about treatment and conditions.

- Medical care and mental health care was repeatedly reported to be insufficient or denied, including in cases of serious medical conditions and pregnancy, in which mothers and babies were endangered.
- Conditions of detention are inappropriate and uncomfortable for women seeking protection. WRC identified serious concerns over privacy—including showers and toilets with little to no privacy, insufficient access to basic needs such as sanitary products, and humiliation and physical discomfort at having to wear used underwear.



I don't have money to buy pads. I would rather use that money to call my kids," Iliana* told the visiting WRC team.

Women asylum seekers may be forced to buy their own feminine hygiene products, and cannot get the type or quantity that they need. Others said they were forced to wear underwear and bras that were visibly soiled from prior use.

-
- At some facilities, access to meaningful recreation was often limited. Women at Mesa Verde were forced to use a much smaller recreation area than men. At Joe Corley, nearly every woman WRC interviewed reported that access to outdoor recreation was far below the required minimum of one hour each day, and consisted of time in a mid-sized indoor gym with an opening in the ceiling to allow in fresh air.
 - At nearly all facilities, women reported exorbitant phone fees, making contact to the outside world impossible, or forcing some women to work for meager wages in order to be able to speak to their families.

Arbitrary high bond and no-release policies kept—and continue to keep—asylum-seeking women detained and protection denied.

- Asylum-seeking women are often subjected to prolonged detention despite posing no flight or safety risk. The need to fill beds for political or financial reasons often seems to supersede any actual concern over public safety risks.
- As a result, the conditions of release offered to women are often inconsistent, erratic, and not commensurate with the risk posed by the detained. WRC found that bond amounts varied wildly based on detention location, country of origin, and other factors. The use of bond and parole appears to have become even stricter—or even nonexistent—under the Trump administration.

**All detained women cited in this report are referred to by pseudonyms in order to protect their identities.*

Family separation violates family unity and undermines access to protection.

- Families arriving at the border seeking protection increasingly faced separation, whether due to the way in which they were processed or for more punitive reasons. Mothers detained in adult facilities often had no way of locating or reuniting with their partners or with their children. Family members separated from one another face additional obstacles in applying for asylum—often forced to do so separately when they could be on the same application, or unable to present evidence because it remains in the possession of another, distant, family member.

Key Recommendations

The U.S. government, regardless of the administration, should need no further evidence that detention and deterrence efforts are not and never will be appropriate for those who are fleeing for their lives. To that end, WRC recommends the following:

ICE should:

- End the detention of women seeking protection who pose no risk to public security. Individuals with serious medical or mental health conditions—including pregnant women, as well as other vulnerable populations such as those who identify as LGBTI or are primary caregivers—should be released. In cases where no existing community ties exist, placed into the least restrictive alternative to detention program.
- Prioritize access to legal counsel and legal information by promoting access and proximity to legal service providers with capacity to provide services at the detention facility.
- Rather than end the Family Case Management Program, expand its Alternatives to Detention (ATD) programming to include more non-custodial, community-based ATD for women that delivers much-needed case management. ICE should partner with non-governmental and non-profit organizations to deliver needed services to those who may need additional support upon release.

To address detention conditions, ICE should:

- Rather than eliminate current detention standards, ensure that the most recent 2011 PBNDS and all PREA requirements are implemented meaningfully across all ICE detention facilities.
- Recognize that mental health services are important for reducing risk to and managing a traumatized population, and retain and expand trauma-informed care models to ensure the identification, safety and well-being of detained women who are survivors of sexual and gender-based violence and other forms of violence and abuse, and expand the availability of mental health services in detention facilities.

To ensure fair treatment of detained asylum-seeking women and other vulnerable populations, ICE should:

- Regularly re-assess custody decisions for detained asylum-seeking women and other populations using consistent individualized assessment mechanisms that take into account an individual's circumstances, risk factors, and options for release. Individuals seeking asylum should not be treated as a default threat to public safety or a flight risk.
- Release asylum-seeking women as soon as possible following a favorable initial screening (credible fear interview or reasonable fear interview), with no or minimal bond or on parole that is not conditioned on bond or ATD. The government should demonstrate in writing where someone poses a public safety risk that requires detention, and regularly review any custody determination where an individual remains in custody.

Department of Homeland Security (DHS) should:

- Ensure appropriate screening by Customs and Border Protection (CBP) officials at ports of entry or for those apprehended by U.S. Border Patrol. CBP officials must process anyone requesting protection accordingly, ensuring that all questions are asked appropriately.
- Detain an individual only where there is a specific and demonstrable risk to public safety or national security, and reduce detention space accordingly.
- Issue written guidance and implement policies ensuring that family members arriving together are subject to a presumption of liberty, and should not be unnecessarily or intentionally separated.
- Implement the recommendations of its own Homeland Security Advisory Committee in its November 2016 report, along with its dissent that a majority of the committee approved, and move away from a reliance on county jails and privately run facilities, thereby reducing the profit motive in the immigration detention system.
- Ensure that the DHS Office of Civil Rights and Civil Liberties (CRCL) and Office of Inspector General (OIG) regularly assess and review ICE detention practices with annual OIG inspections of ICE facilities, and ensure that ICE is held accountable for demonstrating compliance with CRCL and OIG recommendations.

Executive Office for Immigration Review (EOIR) and U.S. Citizen and Immigration Services (USCIS) should:

- Expand Legal Orientation Programs to all existing and future detention facilities, and expand legal representation for all immigration detainees regardless of ability to pay, with the goal of ensuring that any detainee needing an attorney can obtain one.
- Facilitate in-person asylum screenings and immigration court hearings with access to appropriate interpretation. Asylum and immigration court proceedings should be timely, but not rushed, and take into consideration access to counsel.

Congress should:

- Resist calls to increase detention spending, and instead direct ICE to release asylum seekers who pose no flight or security risk, using a spectrum of alternatives to detention programming in place of detention when needed to mitigate a demonstrated flight risk.
- Use congressional authority to require transparency and oversight of ICE detention practices, policies, and facilities.

“

Today, we're here, but tomorrow, our sisters are here, our daughters are here. These are human beings."

– Gloria, an asylum seeker from El Salvador detained at Mesa Verde. WRC explains before each interview that we cannot take on a case. Gloria told us why it was so important for her to speak with us regardless.

“

"I'm a nobody. I know I lost all my rights when I arrived to this country. [...] It does not seem right to me that, knowing that if a person is returned, she will be killed, that the U.S. returns the person anyway."—Rosa, detained in El Paso.

INTRODUCTION

On January 25, 2017, U.S. President Donald Trump issued two executive orders relating to immigration enforcement at U.S. borders and in the interior.⁴ Taken together, the orders call for a dramatic increase in immigration enforcement and the use of immigration detention, effectively prioritizing all immigrants present without authorization or with encounters with the criminal justice system in the United States for enforcement, detention, and removal. The orders also call for the automatic detention throughout their proceedings of all immigrants apprehended at the border and in the interior, even if they are seeking asylum, and with virtually no consideration for humanitarian or other factors. While the small

possibility remains that immigrants apprehended at the border may still be released if they are able to show that they have an asylum case, the threshold for proving such a case has increased significantly.

Numerous developments since issuance of the executive orders suggest that the implementation of these orders will fundamentally change the current U.S. immigration detention system. The subsequent memoranda detailing the implementation of the executive orders that were issued on February 20, 2017, coupled with the administration's budget request on May 23, 2017, indicate that the numbers of individuals detained each year—and the length of their detentions—is likely to skyrocket. Such an increase in immigration detention would come at an enormous cost to the ability of individuals—particularly those seeking protection here in the United States—to exercise their right to due process and protection. And it would come after the United States has already significantly shifted its approach to asylum seekers seeking protection at the border and increased immigration detention levels in the last two years.

Although the overall numbers of immigrants crossing U.S. borders is at an historical low,⁵ the United States has seen a notable increase in the number of asylum seekers arriving at its borders over the last several years. Most of these asylum seekers are from the Central American countries of Guatemala, Honduras, and El Salvador, known as the Northern Triangle, and are often children or mothers and children fleeing harm in their home countries. In the summer of 2014, the situation gained widespread attention when significant numbers of unaccompanied children and mothers with children arrived at the southern U.S. border seeking protection.

It is not illegal to seek asylum in the United States; in fact, the U.S. obligation and commitment to ensure the protection of asylum seekers is enshrined into international and domestic laws.⁶ Yet since 2014, as the numbers of individuals and the evidence of a refugee crisis continued to grow, the U.S. has responded with increased detention and deterrence. Enforcement priorities shifted to concentrate on those recently arriving at the border—largely asylum seekers. As a result, in the last three years, individuals seeking asylum at the border were 1) being detained in higher numbers and 2) subject to policies that kept them detained for longer periods of time and with far greater obstacles to being released.

The crisis is growing even more acute particularly for women in detention, whose needs have long been either unnoticed or ignored.⁷ Based on the most recently available statistics, adult women (asylum seeker or not) now make up nearly 15 percent of the entire detained population, up from nine percent in 2009.⁸ In other words, the proportion of adult women in detention has grown by over 60 percent between 2009 and 2017. Between 2013 and 2016, the number of asylum-seeking women undergoing an initial screening, likely while detained, more than quadrupled.⁹ Furthermore, the proportion of the total number of initial screening interviews that women and girls comprise grew from 30.2 percent in 2013 to nearly 50 percent in 2016.¹⁰ Thousands of women are detained each year alone in adult detention facilities, many of whom have experienced separation from their family members at the border, inflicting even further trauma and complicating their asylum cases.

These shifts, which took place under the Obama administration, are now being capitalized on by the Trump administration. The immigration detention system, although characterized as essential to U.S. security, is a system that is increasingly demonstrated to be motivated by politics and profit above all else. As a result, as a new administration with a new Department of Homeland Security (DHS) has

taken over, there is every reason to believe that what was already a crisis in protection is about to get far worse. A vast network of roughly 200 facilities that cost taxpayers more than \$2.7 billion each year,¹¹ the immigrant detention system, has already been and is likely about to be dramatically expanded. In the final months of the Obama administration the system grew from 34,000 to at least 40,000 beds,¹² and in Fiscal Year 2016 was populated by an average of over 70 percent of recent border crossers.¹³ The Trump administration requested funding for over 51,000 detention beds for Fiscal Year 2018, and recent DHS documents have already confirmed that the department has identified 21,000 new detention beds in 27 facilities around the United States, representing a more than 50 percent increase in detention beds than the number that DHS is currently funded to use.¹⁴ Further, the Trump administration is considering allowing current short-term facilities to hold detainees for up to seven days; under these rules both these and certain other detention facilities would be held to far lower standards than the standards previously in place.¹⁵ In addition, the Trump administration's new executive order makes clear that fewer asylum seekers will be released from detention, and the initial threshold for making an asylum claim is already being raised.¹⁶ Alarming, some of these policies may in fact be specifically targeted at women and children seeking protection.¹⁷

Through the lens of interviews and focus groups conducted with nearly 150 detained asylum-seeking women in 2016 and 2017, this report illustrates why the current U.S. strategy to detain and deter asylum seekers at the border has and will continue to fail women seeking protection. Our findings make clear why the Trump administration's plans will dramatically exacerbate the crisis of keeping asylum seekers from accessing a process they are legally entitled to and will result in substantial human rights violations, particularly for women, whose stories often remain invisible. This is particularly true given that the circumstances driving women and their family members to flee have not changed and yet, more and more individuals already living in the United States, including caregivers, survivors of domestic violence, and others, are also now targets of immigration enforcement. WRC's research shows that the detention system women seeking asylum enter subjects them to unnecessary and prolonged confinement, often in punitive conditions, where access to a lawyer or fair immigration process is often impossible. It is a system that needs oversight and reform, not expansion.

METHODOLOGY

This report discusses both the conditions of detained asylum-seeking women's confinement and how their apprehension and decisions about their custody inhibit a fair legal process. Research for this report was carried out during visits to the Eloy Detention Center in Arizona; the Joe Corley Detention Center, Laredo Detention Center, T. Don Hutto Residential Center, and El Paso Processing Center in Texas; the Mesa Verde Detention Facility in California; and the Otero County Prison in New Mexico. Visits were conducted in April and May 2016 and March and August 2017.¹⁸ For information on the facilities that we visited, see Appendix A. It is important to note that one day after visiting Otero County Prison, and with no notice, all women detained in ICE custody there were transferred to a facility nearly two hours away in Sierra Blanca, Texas. Some women WRC interviewed had already been detained in that facility and described the conditions as worse than other facilities.

During these visits, researchers toured the facilities, spoke with U.S. Immigration and Customs Enforcement (ICE) officials and facility staff, and conducted individual interviews and focus groups with nearly 150 detained women from 16 countries of origin.¹⁹ Many had been detained for months and the vast majority were seeking asylum. This represented only a subset of those who signed up to speak to us. Some interviews were cut short by our own or the facility's time constraints or factors such as facility count procedures and ICE restrictions on interviews. WRC also interviewed legal service providers, community groups, and immigrant rights advocates, both local to the facilities that were visited and in other areas across the country. Unless otherwise noted, all information about experiences of women in detention in this report was obtained directly from the women we met or from practitioners and volunteers familiar with the facilities. WRC obtained verbal informed consent from all detainees interviewed. We have used pseudonyms throughout this report to protect their identities. WRC documents accounts from our interviews, but also follows up on claims and especially contradictory information that is received through interviews and consultation with ICE and facility officials and other detainees and practitioners. This report is also informed by desk research from both prior to and since our visits to detention facilities.

Notably, although WRC repeatedly requested basic nationwide statistical information relating to the detention of adult women and asylum-seeking women, ICE repeatedly delayed or denied access to this information; a Freedom of Information Act (FOIA) request for basic information on where women are detained and what part of the detained population they form took nearly 10 months to be fulfilled, and a request for updated statistics submitted in April 2017 remains unfulfilled. Statistical data in this report derives from information from local ICE or facility officials, ICE data accessed via FOIA, data from U.S. Citizenship and Immigration Services, as well as other publicly available information.

Although many of the practices and patterns documented in this report occurred under the previous administration, they paint a picture of how the draconian policy proposals announced since the start of the new administration will impact (or have already impacted) women and others seeking protection at our borders. This report's primary focus on single women asylum seekers²⁰ is not intended to diminish the experiences of other detained women, children, and men in detention, or other specifically vulnerable groups such as detained LGBTI²¹ individuals. As the administration cracks down on immigrants everywhere, WRC knows that all migrant women and children—whether seeking asylum or longtime residents in the United States with few ties to their country of origin—are at risk for detention and deportation. We hope to elevate the stories of an often-neglected detained population, particularly at a moment where women seeking protection at our borders are one of the populations most targeted with harmful deterrence policies.²²

A Note on *Hieleras*

This report focuses on ICE custody. However, nearly all of the women interviewed for this report were transferred to ICE facilities after being apprehended by Customs and Border Protection (CBP) officials while trying to enter the United States at an official port of entry²³ or between ports.²⁴ CBP custody conditions and treatment have been widely reported to be punitive and inappropriate.²⁵ At almost all facilities, women reported being held for days in freezing cold CBP facilities commonly

referred to in Spanish as *hieleras*.²⁶ Some reported that CBP ignored or failed to explain their rights. Others slept on the floor and were denied access to sufficient food, water, sanitary products, and medical care. Some women reported being physically abused by CBP personnel, which included efforts to discourage them from making an asylum claim.²⁷ Women also recounted spending hours shackled at the hands and feet in vans and buses en route from the border to ICE detention centers, and being denied food, water, and bathroom breaks during the trip. While CBP custody is beyond the scope of this report, and while it was not possible for us to investigate and confirm the stories that women shared with us, it is important to acknowledge that ICE detention centers are not the only place where asylum-seeking women experience inhumane treatment and face threats to their ability to make an asylum claim.

Despite having the discretion to release asylum seekers after the completion of initial security and background checks, border officials often choose instead to place an apprehended individual—even those seeking protection—into expedited or reinstatement of removal. This action ultimately results in their detention in ICE custody and inability to present a case before an immigration judge unless they first pass an initial screening. Indeed, since research for this report began, WRC and other organizations have documented that CBP often does not even permit individuals to seek asylum in the first place, denying them the ability to be referred for a screening interview.²⁸ WRC also learned of cases of asylum seekers referred for criminal prosecution for illegal entry or re-entry upon being apprehended, a trend that is increasing and blatantly in violation of U.S. commitments under international obligations.²⁹ It is important to note that, although outside the scope of this report, CBP could reduce instances of detention of women, the harm detention causes, and the barriers it places before access to justice by instead releasing asylum-seeking women to sponsors or into an alternative to detention program, from which they would be able to present their asylum case before an immigration judge.

THE CURRENT STATE OF IMMIGRATION DETENTION & DETAINED ASYLUM-SEEKING WOMEN

The Immigration Detention System

ICE holds tens of thousands of men, women, and families in detention every day. Although immigration detention is civil detention, and is not allowed to be punitive incarceration, ICE's network of roughly 200 detention facilities around the country is a system of jails and places that resemble jails at a cost of over \$2.7 billion each year.³⁰ In Fiscal Year 2016, over 350,000 individuals were booked into ICE detention.³¹ As of April 2016, individuals were detained in one of 143 ICE facilities that detain individuals for over 72 hours; the rest of the facilities are classified as detention for under 72 hours only.³² Eighty-two of the 143 facilities that detain people for over 72 hours (57 percent) include the detention of women.

While the number of detention centers has dropped in recent years, the number of individuals in immigration detention daily has now more than doubled since 2004.³³ These detention levels exist not because public safety requires them but primarily because of political and financial motivators. Until this year, Congressional appropriations language had for years contained what was known as the “bed quota,” a requirement to maintain 34,000 beds at a given time.³⁴ Although the quota language was not included most recently, Congress has now increased funding to maintain a new level of 39,324 immigration beds.³⁵ The Trump administration’s FY 2018 budget request proposes a new increase to \$4.9 billion and 51,379 detention beds.³⁶ If passed, such detention levels would represent a 50 percent increase from previous years.

Federal funding for ICE is not the only driver of detention levels. Guaranteed detention minimums in certain ICE field offices obligate ICE to pay federally contracted local jails and private prison companies for a minimum number of detention beds—regardless of whether they are filled or not.³⁷ Private prison companies as well as other localities whose county jails detain immigrants also have strong incentives to maintain contracts for detention space with ICE. At one facility WRC visited, the private contractor’s daily stock value had been written on a white board near the entrance, underscoring the profit motive driving what should be a federal administrative practice.

In November 2016, the Department of Homeland Security Advisory Committee (HSAC), following a brief review of DHS contracting with and reliance on private prison companies, concluded that ICE detention should have stronger oversight, that ICE should generally move away from county jails, and—in a dissent to the report’s findings but agreed to by the majority of HSAC members—that ICE should explore reducing its reliance on private prison companies to operate its facilities.³⁸ Despite these recommendations and the elimination of the bed quota, contracts that require guarantees for a minimum number of beds, and political pressure to detain and maintain beds as a deterrent continue to affect detention decisions. Detention decisions frequently are not driven by individualized assessments to determine whether an individual poses a threat to public and national security, but rather based on whether empty detention beds are available to be filled, resulting in the detention of countless individuals who pose no danger to society.³⁹ These practices, coupled with now even more draconian enforcement practices that prioritize the detention of border crossers without an exception for asylum seekers, have resulted in not only the ongoing large-scale detention of immigrants, but an increase specifically in the detention of asylum seekers.⁴⁰

The system is also notable for serious gaps in oversight, transparency, and accountability.⁴¹ ICE’s detention facilities for those held more than 72 hours are governed by one of four different sets of detention standards that set basic requirements and guidelines over the conditions and treatment of individuals in ICE custody. Detention standards were originally developed in 2000, with new standards issued in 2008 and again in 2011, as well as a separate set of standards governing ICE’s family detention facilities. Not all facilities are required to meet the most recent standards, and despite such benchmarks, the immigration detention system remains fraught with mistreatment and inadequate basic care.

In November 2016, ICE and DHS expanded the immigration detention system even further, with reports suggesting new detention levels of approximately 42,000.⁴² Some of the new detention centers that ICE contracted with had recently been released from agreements with the Justice Department over concerns regarding conditions.⁴³ In April 2017, the *New York Times* reported that, despite

a demonstrated need to improve conditions, ICE plans to cease using its detention standards and will close the office that was dedicated to detention reform, favoring instead a basic checklist used by the U.S. Marshals.⁴⁴ The administration's FY 2018 budget request confirms that the agency plans to implement a three-tiered detention system in which two of the three tiers would have only minimal standards in place, while the final tier would maintain PBNDS 2011. WRC is particularly concerned that this plan proposes to convert facilities that are currently under 72 hours—where individuals are generally held for brief periods of time prior to transfer to other facilities—to under seven-day facilities. These short-term facilities already receive minimal oversight and attention. According to the FY 2018 budget request, the purpose of such facilities would be to 1) facilitate a detainee's immediate removal from the United States, or 2) coordinate a detainee's transfer to a longer-term facility. The budget request justifies this shift by saying it seeks to "increase the versatility of the detention network and accommodate the broader utilization of local government and law enforcement assistance and cooperation." Both these facilities, as well as the over-seven-day facilities that are not dedicated ICE facilities but are contracted to local and county jails, would be evaluated against "a revised set of standards," seemingly because (as the request states) "current ICE standards are very prescriptive and often conflict with local and county jails' policies and procedures." Oversight at the short-term facilities could include a "self-assessment" and the longer, non-dedicated facilities would be limited to inspections by "trained ICE officers and medical staff rather than contractor inspection teams."⁴⁵

These changes would undoubtedly reverse course on the basic minimum protections currently in place for those in immigration detention. It would also risk that those held in facilities intended for fewer than seven days of detention could be processed so quickly and in such remote areas that they may have no means of accessing legal counsel before deportation. Even though ICE's detention standards often fail to protect detained individuals—especially when coupled with an absence in meaningful oversight and accountability—eliminating the standards entirely will leave detained women and men even more vulnerable to harm, mistreatment, and even death. The concerns WRC documents here—such as inadequate conditions, lack of oversight and accountability, the inability to exercise the right to protection, and unjust custody decision making—are certain to be exacerbated significantly by the coming expansion.

The Increased Arrival of Women and Children Asylum Seekers

The current immigration detention system tells only half the story of why the ability to access protection and the conditions facing detained asylum-seeking women have deteriorated so significantly, and now risk becoming even more difficult.

Equally important are the push factors driving women out of their home countries. In 2011, WRC and other non-governmental organizations began observing an increase in the number of unaccompanied children fleeing El Salvador, Guatemala, Honduras (the countries making up the Northern Triangle of Central America) and parts of Mexico.⁴⁶ This paralleled a general increase in asylum seekers and especially an increase in the number of family units—mostly mothers with young children.⁴⁷

In 2014 and 2015, the United Nations High Commissioner for Refugees (UNHCR) set out to assess the reasons why women and children had begun fleeing the Northern Triangle countries and parts of Mexico in record numbers. UNHCR concluded that a regional “protection crisis”⁴⁸ was underway, fueled by what the agency called “deadly, unchecked gang violence”⁴⁹—and gender-based violence—from which these governments were unable to provide protection. The women and children fleeing for their lives were not seeking refuge only in the United States. Rather, the violence has led to a twelve-fold increase in asylum applications in neighboring countries and Mexico since 2008.⁵⁰

Why the Protection Crisis?⁵¹

The majority of women and children interviewed by UNHCR were fleeing from domestic violence, rape, assault, extortion, and violence at the hands of gangs, cartels, and other militant transnational groups—situations that demand protection. Most (85 percent) of the women interviewed reported living in neighborhoods controlled by maras, armed criminal gangs that are common in the region. Others (64 percent of women) told UNHCR that they had been the targets of direct threats or attacks by these gangs. Many women described the killings or disappearances of relatives, attempts by the gangs to forcibly recruit their children, and being threatened with physical harm if they refused to pay the taxes levied by the gangs for living in or passing through certain areas. Women described seeing dead bodies in the streets and being afraid to leave their homes. In addition, women reported widespread sexual violence and abuse, both in their neighborhoods and at home. This included domestic violence, repeated rapes, sexual assaults, and extortion by partners, police, and members of armed groups. Almost across the board, women told UNHCR that their governments were unwilling or unable to protect them, in many cases because their partners were members of or cooperating with gangs, and that they had no choice but to leave. More than two-thirds tried to find protection in other parts of their countries, but found they were unable to do so. The agency’s findings are confirmed by U.S. statistics from the same time period: in FY 2015, the U.S. government found that 82 percent of the over 16,000 women from the Northern Triangle countries and Mexico who underwent “credible fear” interviews—the first threshold in requesting asylum—had a credible fear of persecution if returned home.⁵² (For more information on the process, see page 15.)

The U.S. government has long detained asylum seekers apprehended at its borders, despite in recent years articulating a focus of only apprehending non-citizens with a violent history.⁵³ DHS often places asylum seekers into expedited legal proceedings resulting in detention and rushed proceedings. DHS is not obligated to do this; it has the authority to place an individual or family that is applying for asylum into removal proceedings and release them. However, in the summer of 2014, the U.S. government responded to the increase in refugee women and children at the southern border by adopting an explicit policy to deter future arrivals and pressure those already here to abandon their

asylum claims by using detention, fast-track removals, and a blanket refusal to release women and children.⁵⁴ DHS Secretary Jeh Johnson urged Congressional support for “an aggressive deterrence strategy focused on the removal and repatriation of recent border crossers.”⁵⁵ Officials publicly articulated a policy of “no bond” or “high bond” for these asylum-seeking families.⁵⁶ The human consequences of this strategy played out most publicly in the context of family detention. By early 2015, the U.S. government possessed the capacity to detain more than 30 times as many mothers and children together as it had in May of 2014.⁵⁷

Women crossing alone or separated from their children upon arrival in the United States were also caught up in the widened enforcement net. In November 2014, Secretary Johnson augmented existing immigration policy by issuing widely lauded immigration enforcement priorities intended to shield long-residing immigrant youth and their parents in the United States from deportation. That same policy also formally designated any recent border crossers as a Level 1 priority for enforcement and removal.⁵⁸ As a result, rather than reinforcing that protection as a fundamental obligation under U.S. and international law, the administration continued to emphasize deterrence measures against those lawfully seeking asylum in the United States. Combined with expanded expedited removal practices and large-scale detention practices already in place,⁵⁹ these policies increased the number of detained asylum-seeking women and children in the United States, and blocked their release.

In the intervening years, multiple lawsuits have struck significant blows to policies relating to family detention,⁶⁰ yet these outcomes had little impact on the detention of asylum seekers detained as adults.

The Trump administration is now openly expanding on these enforcement and deterrence strategies, with asylum-seeking women especially at risk of being denied the protection that is their right.⁶¹ The administration’s executive orders, DHS implementation memos, and other proposed policies outline numerous ways in which asylum-seeking women will now face even greater hurdles to access protection, including raising the initial “credible fear” screening standard for asylum far beyond its intended threshold; requiring the detention of border crossers for the duration of their case; severely limiting access to parole; potential separation from children; prosecution for attempting to protect children; and accelerating the already expedited proceedings many detained asylum seekers face.

The findings of this report are clear. Many asylum-seeking women are already being separated from their families, subjected to prolonged and often arbitrary detention in wholly inappropriate conditions, issued prohibitively high bonds or no bonds at all, denied full and fair access to the asylum process, and placed at considerable risk of removal to a country where their lives are at risk. Rather than taking course-correcting action on these and other rights violations, the Trump administration seems set to worsen the practices causing them in the first place.

Expedited Removal: How Asylum Seekers are Detained

To seek asylum in the U.S., an individual must be located at or within its borders. In one route, an affirmative petition is filed with USCIS, which rules on the case. If the petition is denied, and the individual does not have authorization to remain, then an immigration judge reviews the case and makes a ruling. In the past, affirmative asylum applicants have rarely been detained by ICE.

The other means of requesting asylum is when asylum is used as a defense in removal proceedings before an immigration judge with the Executive Office for Immigration Review (EOIR). Defensive asylum processing might occur at the end of the affirmative asylum process after an asylum officer has ruled negatively on the case. It also begins when an individual is apprehended at a port of entry without a valid visa or entry documents or without immigration status, or is apprehended by U.S. Border Patrol. These may be individuals entering the U.S. for the first time, or people who were previously removed, whether formally or as a result of voluntary departure, and then have returned. These individuals could be released to pursue their asylum claims in immigration court outside of detention. However, many are placed into expedited removal proceedings or have a prior removal order reinstated.⁶² In both cases, they are subject to mandatory detention, where a USCIS asylum officer conducts a credible or reasonable fear interview to assess their eligibility to apply for asylum, withholding of removal, or protection under the Convention Against Torture. Essentially all of the cases discussed in this report refer to defensive petitions such as these.

The standard for credible fear interviews was intended to be low, and is not the same as that of a full asylum claim, given that it is only meant to be an initial screening. Despite this, under the Trump administration, USCIS has recently issued revised training guidance to asylum officers suggesting a heightened standard and more difficult requirements enabling asylum-seeking women to pass this initial interview.⁶³

Only if an individual meets the threshold of the initial screening is he/she able to present a full asylum case to an immigration judge, who will then determine whether or not the asylum seeker is eligible for asylum in the U.S. As described in this report, most asylum-seeking women have no legal representation and must navigate this system on their own, in a foreign language, and often by telephone or videoconference.

Expedited removal has been in use at ports of entry since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and has since been expanded to all areas within 100 miles of the border and for anyone unable to demonstrate presence in the United States for more than 14 days. Since its inception, the flaws of expedited removal have been extensively documented.⁶⁴ The January executive orders and recent reports make clear that the administration is now considering expedited removal for anyone apprehended anywhere in the United States who cannot prove presence for more than 90 days.⁶⁵ This will not only increase the numbers of those swiftly removed without a court hearing, but also likely increase the numbers of those invoking asylum to prevent return to a country they fear. As a result, even more individuals will be subject to the barriers described in this report.

A Statistical Snapshot of the Detention of Asylum-seeking Women

Data on immigration detention is notoriously difficult to obtain due to inadequate data availability and ICE's lack of transparency, making it impossible to have a comprehensive and current data analysis on the detention of asylum-seeking women. However, WRC did obtain the following three sets of data, which begin to paint a picture of the dramatic increase in asylum-seeking women in detention in recent years. First, a Freedom of Information Act request for basic data as of April 2016 on adult women (regardless of whether seeking protection) in ICE custody was finally fulfilled 10 months after it was originally submitted. Second, WRC reviewed statistics through the Haitian Refugee Immigration Fairness Act (HRIFA), drawn from ICE reports from fiscal years 2012, 2013, and 2014. ICE is obligated to provide reports to Congress each fiscal year that look specifically at the detention of asylum seekers (although the definitions of asylum seeker used in the reports suggest that ICE may be under-counting asylum seekers).⁶⁶ Finally, WRC obtained data on the number of preliminary screening interviews—both credible and reasonable fear interviews—that U.S. Citizenship and Immigration Services (USCIS) conducted from fiscal year 2013 through the first half of fiscal year 2017; these screenings nearly always occur while the asylum seeker is detained.

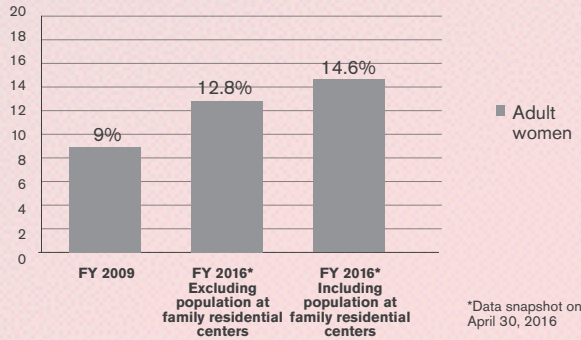
The statistics measure different things, are not fully current, and cannot be easily compared against each other. It remains deeply troubling that more clear, comprehensive, and up-to-date statistics are not publicly available.⁶⁷ Nonetheless, the data gives crucial insights into trends in the detention of adult asylum-seeking women over the last few years, and especially in 2016, the most recent year for which data is available:

- Based on reports and data from ICE, **the proportion of all adult women in detention has grown from nine percent in 2009 (the last available year of data) to 14.6 percent in April 2016** (including women in family detention). A snapshot from April 30, 2016 showed that 4,829 adult women were in ICE detention on that day including family detention. Overall, that represents a nearly 60 percent increase in the proportion of adult women in ICE detention.⁶⁸
- In addition, **the proportion of adult women in detention who do not have a criminal conviction has increased from 67 percent in 2009 to 78 percent in 2016.**⁶⁹
- **Between FY 2013 and FY 2016, the number of women and girl asylum seekers going through an initial asylum screening likely from detention more than quadrupled.**⁷⁰ Data from the first two quarters of FY 2017 show similar numbers of credible fear screenings as those in FY 2016.
- **USCIS data shows that the percentage of credible fear applicants who are women and girls increased from 30 percent in FY 2013 to nearly 50 percent in FY 2016.**
- HRIFA reports indicate that **between FY 2012 and FY 2014, asylum-seeking women in detention increased from**

6,684, or 12 percent of the detained asylum-seeking population, to 16,017, which is 36 percent of the detained asylum-seeking population.⁷¹

■ From FY 2013 to FY 2016, most asylum seekers interviewed in the credible fear and reasonable fear process originated from El Salvador, Honduras, and Guatemala.⁷²

ADULT WOMEN IN DETENTION AS A PERCENTAGE OF TOTAL ICE DETAINED POPULATION, 2009 VS. 2016



TOP FIVE COUNTRIES OF ORIGIN FOR ADULT WOMEN IN ICE DETENTION FACILITIES, APRIL 2016

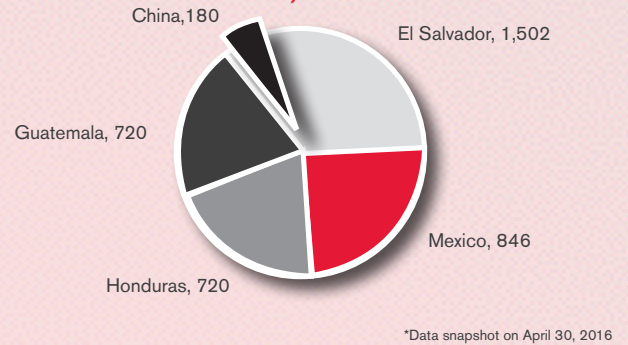
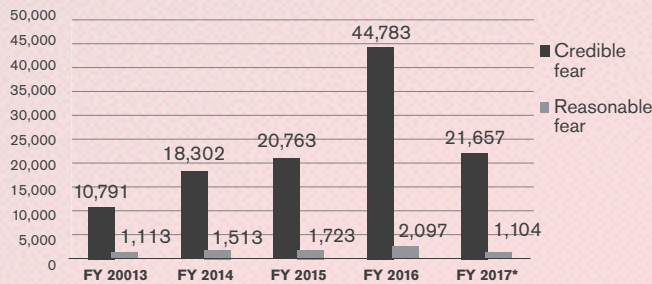


Figure 1. Source: 2009 data from "Immigration Detention: Overview and Recommendations," Schiro, Dora, October 6, 2009, <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>. 2016 data from Immigration and Customs Enforcement data obtained through Freedom of Information Act (FOIA) request. On file with author. Data represents a snapshot of population on April 30, 2016 and includes all women, not only those seeking asylum.

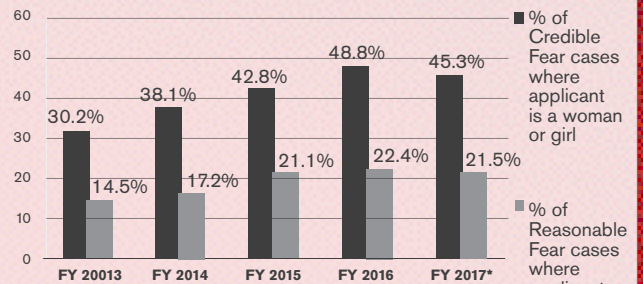
Figure 3. Source: 2016 data from Immigration and Customs Enforcement obtained through Freedom of Information Act (FOIA) request. Data represents a snapshot of population on April 30, 2016. On file with author. Data includes all women, not only those seeking asylum.

CREDIBLE FEAR AND REASONABLE FEAR INTERVIEWS FOR WOMEN & GIRLS (FY 2013 - FY 2017 THROUGH Q2)



*2017 represents only first two quarters (Oct. 2016 - March 2017)

CREDIBLE AND REASONABLE FEAR CASES WHERE APPLICANTS ARE WOMEN & GIRLS (FY 2013 - FY 2017Q2)



*2017 represents only first two quarters (Oct. 2016 - March 2017)

Figure 5. Source: Data from FY2013 through FY2017 obtained from U.S. Citizenship and Immigration Services (USCIS), May 16, 2016 and May 2, 2017. On file with author. CFIs and RFIs typically occur while detained.

Figure 6. Source: Data from FY2013 through FY2017 obtained from U.S. Citizenship and Immigration Services (USCIS), May 16, 2016 and May 2, 2017. On file with author. CFIs and RFIs typically occur while detained.

The Impact of Detention on Asylum-Seeking Women

Detention, especially for asylum seekers, is a traumatic experience regardless of gender. However, women in detention—regardless of their immigration status or claim—are uniquely vulnerable and can be disproportionately disadvantaged because they make up such a small percentage of the overall detained population,⁷³ and because their particular needs are not addressed. Across the country, detained women are held in a system that is primarily designed for and focused on men. Indeed, some facility layouts and procedures seem designed to support a single male population, impacting the well-being of women and their ability to access protection. For example, women's ability to move around inside detention facilities is often limited by the need to maintain gender separation and the separation of different levels of security classification. Women's sanitary needs are often left unaddressed, ignored, or treated with insensitivity and disdain. Our past detention monitoring has also regularly found that women are afforded less meaningful access than men to recreation, law libraries, and sometimes to courts and attorneys. While not universally the case, an example of this trend was evident in our visit to the Laredo Processing Center, where the recent arrival of men—despite being the minority in the population—meant that for logistical purposes women were restricted to housing pods with less private group showers and bathing areas than newer areas with individual private showers.



Refugee women and girls have special protection needs that reflect their gender: they need, for example, protection against manipulation, sexual and physical abuse and exploitation, and protection against sexual discrimination in the delivery of goods and services.”
—UNHCR Guidelines on the Protection of Refugee Women

Detained asylum-seeking women in the United States include: survivors of torture, trafficking, and domestic violence; primary caretakers of U.S. citizens and lawful permanent resident children; the elderly; women suffering from a wide range of medical and mental health conditions; pregnant women; and nursing mothers. There is a high prevalence of past incidents of sexual and gender-based violence.⁷⁴ In addition, women are more likely than men to suffer from depression, anxiety, and other vulnerabilities,⁷⁵ leaving them at risk for re-traumatization and abuse and impeding their ability to articulate an asylum claim.

Many of the women WRC encountered during our research appeared to be or reported being in their late teens and early twenties, consistent with the most recent data (in 2014) that the majority of detained asylum seekers are between the ages of 18 and 30.⁷⁶ Many of them were in the United States for the first time.

Trauma and its Implications for Women Seeking Asylum

The rate of trauma and mental health concerns among detained asylum-seeking women is significant. According to one study, after five months in detention in the United States, 86 percent of detained asylum seekers exhibit symptoms of depression, 77 percent exhibit “clinically significant symptoms of anxiety,” and 50 percent exhibit signs of post-traumatic stress disorder.⁷⁷ Mental health concerns may be the result of “multiple and cumulative traumas”⁷⁸ connected to their decision to flee, compounded by the shock and re-traumatization of being arrested, shackled, and detained upon arrival to the United States. Almost all of the women interviewed for WRC’s research recounted instances of past trauma, or expressed “fear, disbelief, dehumanization, confusion, or isolation” similar to what has been found in other reporting.⁷⁹ The amount of time women had been in detention did not appear to minimize the trauma of the experience. This is unsurprising given research that has shown that “even if an individual ultimately remains in detention for a relatively short period of time, at every stage the lack of information, lack of understanding, and lack of knowledge of how long she will be detained renders the subjective experience of detention as indefinite.”⁸⁰

Several women manifested profound signs of mental distress during their interviews with WRC, including paranoia and a fixation on past trauma. Separation from family members and especially the uncertainty over what happened to those family members leaves women in despair. Others reported losing their asylum claim and being in fear for their lives. One woman expressed the ways in which the act of being detained can compromise physical and mental wellbeing, saying, “Coming here [detention] is another form of torture.”

The high level of trauma among detained asylum-seeking women impedes their ability to access protection. Several women told us that they had struggled to recount what had happened to them with the level of detail and consistency necessary to overcome challenges to their credibility, or when a man was present. These women knew that their inability to recount the most salient details of their case meant they were going to be sent back to a place where their safety and lives were at risk.

FINDINGS

1. U.S. Detention Practices Preclude Meaningful Due Process and Access to Justice.

- *Access to counsel and legal information are a necessity for understanding the asylum process. The remote nature of detention facilities and the often erratic timeline of immigration proceedings when in detention impede access to the few existing local service providers. In addition, these service providers are themselves overburdened and under-resourced.*
- *Access to interpreters is crucial for key interactions with government officials and the asylum process, and yet WRC identified numerous cases of inadequate or nonexistent interpretation, particularly for those who speak minority and indigenous languages. This not only means women cannot explain their reasons for asylum, but can also result in prolonged detention.*
- *For those in detention, initial asylum screenings are often conducted by phone and immigration court hearings by video. Even when a facility hosts an in-person immigration court, numerous obstacles remain, including last minute transfers away from those facilities. These practices render due process nearly impossible.*

The right to seek asylum is guaranteed and protected under U.S. and international law.⁸¹

Governments may not return asylum seekers to a country where their life or liberty is at risk.⁸² Despite the fact that they are legally seeking asylum, detention has long been and is now even more likely to be the inevitable outcome for the many asylum-seeking women apprehended at a port of entry to the United States or by the U.S. Border Patrol along the southern border.⁸³ Arbitrary and unfair parole and bond practices raise the stakes even higher. WRC found widespread concerns nationwide about DHS custody decision-making regarding asylum seekers. These concerns appear to have increased during the Trump administration. Taken together, the specific hurdles presented by making an asylum claim while detained, and ICE's frequent refusal to release asylum seekers undermine the U.S. obligation to ensure full, fair, and meaningful access to asylum and other forms of relief.⁸⁴ It is unquestionable that given the shifts in the current administration's policies, the practices and conditions WRC observed are likely to result in even more asylum seekers denied access to justice and protection, and instead returned to their home countries to face harm, violence, and death.

Asylum screening interview procedures impede a fair hearing.

Although initial screenings in detention in the form of credible fear interviews (CFIs) and reasonable fear interviews (RFIs) were once conducted in person or by video, in recent years the majority are done by telephone. While the success rate for telephonic interviews have been similar to those done in person, WRC has documented many concerns from women that telephonic interviews are

plagued by significant procedural and logistical impediments that can impede women's access to asylum, such as inability to hear clearly, inability to speak privately with an attorney, and lack of privacy. Furthermore, most asylum seekers never have the chance to speak to a lawyer prior to their CFI or RFI. WRC found that even where a facility had a Legal Orientation Program (LOP) or Know Your Rights presentation (KYR) by a local legal service provider—intended to provide a basic overview of legal rights and obligations—detained women often did not receive these presentations prior to having their CFI or RFI screening, leaving them unprepared and without a clear understanding of the process.

Many of the women WRC spoke with reported being unable to hear or hear clearly the asylum officer conducting the interview, or the interpreter. Phone screenings are often conducted in semi-public areas which impede privacy; in Hutto the cubicle settings have walls that do not reach the ceiling, and Eloy has tiny phone booth-type settings with similar confidentiality concerns. Ambient noise, combined with the stress that can arise from being asked to recount emotionally traumatic experiences in non-confidential spaces where women can be seen or heard by guards and others, can make it difficult for women to explain their stories. Yet failure to tell their whole story, and to tell it accurately, can prevent women from making it into the full asylum process and can expose them to challenges of their credibility in court.

Women reported that asylum officers frequently cut women off, ask them to tell their stories as quickly as possible, or ask them to focus their claim on one central experience. Many women described their interviews with resignation and reported that they were aware that their experience during their CFI or RFI would preclude them from ever being allowed to make their case to an immigration judge. These consequences are especially dire for women in reinstatement of removal proceedings, many of whom told us that they had been forced to re-enter the United States multiple times only because on their earlier attempt they were turned back from the border without a credible fear hearing, and despite asking for asylum.⁸⁵ One woman we met at Hutto told the team, “They sent me back the first time without ever asking if I was afraid.”

ICE practices can also impact the ability of someone to share their asylum claim. ICE personnel and women detained at Mesa Verde told us that asylum-seeking women at that facility are taken to the ICE Bakersfield sub-office for telephonic CFIs and RFIs. Mesa Verde has a policy of shackling both men and women when transporting them to locations outside the detention center, meaning that women seeking asylum are subjected to significant trauma and discomfort at a particularly critical juncture in their case, which no doubt creates additional stress that can affect CFI and RFI outcomes.

As part of DHS's implementation of the executive orders relating to immigration enforcement and the border, the agency is considering sending more asylum officers to detention centers to conduct asylum interviews in person, particularly near the border. In-person interviews could address some of the concerns documented above, but the fact that USCIS appears to be heightening the standards for CFIs in the first place, coupled with what will likely be extremely expedited case processing that will keep individuals from finding a lawyer, would likely mitigate any positive impact of in-person interviews.⁸⁶

Access to counsel is both critical to success, and severely limited.

In addition to being a basic legal right, access to counsel can be the single most important factor in the outcome of an asylum case.⁸⁷ Recent analysis of asylum claims brought by women with their children found that legal representation increased the chance of a successful case outcome fourteen-fold.⁸⁸ Many women described the extensive evidence required of them to corroborate their fears. Yet overall, only 14 percent

of detained individuals have legal representation, impacting every stage of the asylum and detention process, including the ability to be released in the first place.⁸⁹ Given that the asylum process essentially requires effective legal representation for a reasonable chance of success, the fact that the majority of detained immigrants remain unrepresented and are forced to navigate complex asylum and immigration law alone unfairly impedes access to protection. Though detention facilities ostensibly have some legal resources in libraries, as discussed below, access to libraries is often limited and materials are often outdated, not in a language an applicant understands, or inaccessible without computer training.



The judge insists that you have a lawyer. It costs \$5,000. I spent everything I had, everything I ever had. And then the judge orders you removed. It's pointless. It's just punishment. The U.S. should just say it's not accepting refugees.”—Clara fears returning to her country in West Africa and describes what so many women felt was the impossible feat of winning asylum.⁹⁰

Detention centers are often located in remote areas with unreliable access to lawyers and local legal service providers who often do not have sufficient capacity to visit the centers regularly. Instead, these providers struggle to place cases with better-resourced pro bono attorneys. Many have no choice but to triage cases, sometimes prioritizing pro bono placement for those cases with the strongest claims, or focusing their efforts on helping women understand relevant paperwork and types of hearings they may be required to attend alone. Other detained individuals may ultimately turn to unscrupulous lawyers. As the new administration seeks to increase the number of detention facilities and the number of detained individuals, while simultaneously trying to accelerate proceedings and asylum cases, the right to counsel will become even more critical and counsel likely even more difficult to obtain.

Space and access are often key issues. At Laredo, pro bono attorneys have to coordinate client meetings between the two available meetings rooms, leaving limited ability to meet with the numerous detained women in need of representation. Despite detention standards calling for “private consultation rooms,”⁹¹ Joe Corley, El Paso, and Otero did not even have contact visitation rooms for all or most client-lawyer meetings, forcing individuals to speak to their attorney through Plexiglas and without assurances of confidentiality. In addition, juggling limited common-use space in detention facilities with other programming and activities, outside visits such as from WRC, as well as the logistics of a detention population where certain detained individuals cannot be together in the same room (for example men and women, or those with different risk classification levels) often creates a shortage in what should be readily available space for legal representation.⁹²

The remote location of detention facilities presents an additional hurdle. Attorneys representing asylum-seeking women at Mesa Verde, for example, only had the resources to come to the facility once a month

and were forced to provide information by teleconference. In Texas, local service providers have recently reported an inability to keep up with the caseload at Hutto and efforts at *pro se* help or representation.⁹³ The problem of remoteness is compounded by lack of communication by officials. Attorneys reported that ICE often fails to inform them when their clients are being released, transferred, or removed, and even that ICE declines to return their phone calls. This continued to be a significant concern: in summer 2016, attorneys reported the sudden transfer of numerous women, including those with representation in the midst of their legal proceedings, to the Laredo Detention Center in 2016 with no notice to their counsel.⁹⁴ Transfers in Texas have continued, including women who are represented by local counsel.⁹⁵ Most recently, only one day after touring and interviewing women at Otero County Prison, WRC learned that all 65 women in ICE custody at the facility had been transferred to a facility nearly two hours away with notoriously poor conditions.⁹⁶ Some of these women had already been transferred from other facilities in the past. These transfers wreak havoc on legal representation. Irma, one of the women moved from Otero to Sierra Blanca, had an upcoming hearing that her lawyer had been working to prepare for. The transfer meant that she was in a constant state of uncertainty about whether her case would still be heard in the same court jurisdiction as before, or a new immigration court jurisdiction, with a new judge and with different hearing dates. ICE never notified her lawyer of the transfer, who must now commute three hours instead of one to the new detention center.⁹⁷

Inadequate interpretation impedes fair hearings and right to counsel.

At several facilities, WRC identified violations of the right to interpretation including difficulty hearing, quality of interpretation, incomplete translation, and lack of access to interpretation in indigenous languages. The inability to access meaningful interpretation has direct implications for access to protection and the outcome of an asylum claim.

Women reported not being able to hear interpreters during their CFI and RFI interviews and court hearings. An interpreter is often conferenced into a screening telephone call or into the court hearing, where often the asylum seeker is herself not present in person. In these cases, it can be virtually impossible for the asylum seeker and the interpreter to hear one another with any degree of clarity or reliability. In addition to difficulties hearing, WRC received reports of poor interpretation quality. Poor interpretation can affect not only a woman's understanding of what is happening in her case, but her ability to make a meaningful claim. Multiple women interviewed by WRC described that the transcript of their CFI or RFI did not reflect what they told the asylum officer.



My CFI was by phone. There were three different interpreters. The second kept cutting me off because it was hard to tell my story. It took a lot of time and I cried a lot. Finally he said, ‘I don’t know enough Spanish to do this,’ and he hung up. When I saw my transcript, there were errors, and the things I said weren’t there.” —Melinda, a native Spanish speaker who had failed to establish that she felt credible fear of return to her home country, recounting her screening interview.⁹⁸

Legal hurdles posed by a lack of interpretation are especially pronounced for indigenous women, whose native languages are less common ethnic languages or even sub-dialects of these languages. Like others in detention, they may be unable to read or write any Spanish and may even be illiterate in their own language. These women are far from home—many for the first time—frightened, traumatized by the very issues they fled and by the conditions of detention, and often extremely confused about why they are in detention and what is happening with their legal case. Often they cannot communicate with facility staff about even their most basic needs. Some women are unable to effectively articulate an asylum claim and are simply ordered removed, such as in the case of an Achi speaker who had lost a previous claim after requesting and being denied an interpreter, and a Quiche speaker whose CFI continued even after she told the interpreter that she could not understand his dialect. Still others, including a number of indigenous women at Hutto, face long delays before being provided their credible and reasonable fear interviews and their merits hearings. These women sit in detention for months or even years because the court cannot find an interpreter.⁹⁹ Local service providers report that language access remains a problem at Hutto, particularly for indigenous language speakers, where the language barrier has even contributed to denial of bond.¹⁰⁰

Speakers of indigenous languages are also particularly disadvantaged when it comes to legal representation, as ethical considerations impact an attorney's ability to take a case when there are communication gaps. In addition, women at Eloy told us that indigenous language speakers are often pressured to sign deportations because they cannot read or understand the documents ICE presents to them.

Video-teleconferenced court hearings do not allow for proper due process.

Like many immigration detention facilities, Hutto, Joe Corley, and Mesa Verde all facilitate hearings before an immigration judge by video-teleconferencing (VTC). In recent months, a handful of facilities near the border that previously had only VTC capability now have in-person immigration judges.¹⁰¹ While this may be an improvement over VTC, the changes have been ad hoc and confusing, leading to additional hurdles.¹⁰²

Where only VTC capability exists, judges can require ICE to transport a woman to court, but the ICE personnel we met at these facilities uniformly reported that the courts rarely make these requests and, in many cases, do not believe they have the authority to do so.¹⁰³ As a result, attorneys must choose whether to be present with their client or in person in front of the judge, negatively impacting their clients' due process regardless of which option they choose.

WRC heard numerous reports from women who said they were unable to hear their proceedings, including what the judge, interpreter, prosecuting attorney, and even their own attorney were saying. Often, interpreters do not interpret all aspects of the court hearing back to an individual, leaving them in the dark as to what is occurring. This raises considerable due process concerns and can make it even more difficult for women to share details of their case. Several women who had VTC asylum hearings reported feeling that they could not tell the judge what had happened to them, including one woman at Hutto who said she was afraid to tell the judge that she had been raped. The inability to follow court proceedings and communicate effectively can also result in clerical errors with grave consequences. At Eloy, we met two different women whose case records included factual errors that

had affected their eligibility for release, and by extension their access to asylum. In one instance, the court had mixed up the files of two women with similar names, and the judge was using information that demonstrated prolonged unlawful presence to decline to reduce a woman's bond. In another, a woman told us that she had crossed into the United States through the desert, but Border Patrol had written on her file that she had presented herself at a port of entry, and the immigration judge was using this information to deny bond. Once such mistakes are in the record, they can be nearly impossible to correct.

Frida speaks an indigenous language and reported being unable to understand the court proceedings that would decide her fate. Because she spoke a rare language her court hearings were repeatedly postponed, leaving her in detention longer since ICE would not release her. She fled rape in her home country, but felt unable to share her story with the judge or the government attorney; it was not until she met with lawyers who were women that she described what had happened to her. Despite her trauma and the delays she continually experienced, she told WRC that she wanted to be in the United States because she felt here the law actually protects people; in her home country the police never helped.¹⁰⁴

Immigration court proceedings occur at speeds that subordinate the rights of asylum-seeking women.

The speed of immigration court dockets can have profound effects on women's access to protection. Detained asylum seekers are prioritized on the immigration court docket, and the Trump administration promises to accelerate immigration proceedings even further. Though this might appear to be beneficial given massive backlogs in the immigration courts,¹⁰⁵ cases are already being rushed so quickly through the court system that women are unable to find counsel and understand the legal process in time for their case. At Hutto, we found that the high speed of "rocket dockets" precluded women's access to certain visa protections¹⁰⁶ that are crucial for survivors of domestic and intimate partner violence, victims of crimes, or survivors of trafficking. Attorneys do not have time to assess women's cases for potential claims and obtain necessary certification from law enforcement.

At the other end of the extreme we found that, even despite their prioritization on the immigration dockets, court speeds at Eloy, Joe Corley, Mesa Verde, and in the El Paso area were very slow. Many women were waiting months for a full asylum hearing due to backlogs and insufficient staffing in the immigration courts, and the countless due process violations described in this report. When delays were this long, women became increasingly traumatized by detention, and many considered abandoning their claims, and endangering their lives, as a result.

While timely case adjudication is important, rushing cases through the system faster than normal will harm women's ability to access asylum. Above all, access to counsel is crucial, and is most easily accessed when individuals are not detained in remote areas and rushed through court proceedings they do not understand. Courts should consistently take into account the need to find counsel, and use discretion in cases that need additional time in order to present the necessary evidence to support their claims.

2. Detention practices—both treatment and conditions—ignore the needs of women and impede access to protection.

- *Many women expressed a fear of retaliation and a sense of powerlessness in trying to file grievances or complaints over treatment and conditions.*
- *Medical care and mental health care was repeatedly reported to be insufficient or denied, including in cases of serious medical conditions and pregnancy, in which mothers and babies were endangered.*
- *Conditions of detention are inappropriate and uncomfortable for women seeking protection. WRC identified serious concerns over privacy—including showers and toilets with little to no privacy, insufficient access to basic needs such as sanitary products, and humiliation and physical discomfort at having to wear used underwear.*
- *At some facilities, access to meaningful recreation was often limited. Women at Mesa Verde were forced to use a much smaller recreation area than men. At Joe Corley, nearly every woman WRC interviewed reported that access to outdoor recreation was far below the required minimum of one hour each day and consisted of time in a mid-sized indoor gym with an opening in the ceiling to allow in fresh air.¹⁰⁷*
- *At nearly all facilities, women reported exorbitant phone fees, making contact to the outside world impossible or forcing some women to work for meager wages in order to be able to speak to their families.*

Asylum seekers should never be punished for seeking asylum, and, as a rule, should not be detained. The conditions of detention for asylum seekers, in the rare circumstances where it may be necessary, should be humane and dignified.¹⁰⁸ However, detained women seeking asylum in the United States routinely experience inadequate, inappropriate and inhumane treatment that fails to meet their basic needs, undermines their dignity, compounds their trauma, and—for too many—compels them to give up their asylum claims and return to the violence and persecution they fled. The specific needs of women in detention have long gone unnoticed or been ignored.¹⁰⁹ Even with significant attempts

by ICE to improve detention standards over the last several years, these findings underscore that standards are either not being met or, even when implemented, are completely insufficient to ensure the well-being of those in custody.¹¹⁰

It is worth noting that one facility—the Otero County Prison—was in the early stages of taking steps to become more “gender responsive” through external consultants, a positive step given WRC’s past and current findings. Yet one day after visiting the facility, all women in ICE custody were transferred out of Otero (though women in other federal and state custody remain).

WRC’s findings are particularly alarming given ICE moving to roll back detention reforms and close its Office of Detention Policy and Planning (ODPP).¹¹¹ Established in 2009 as part of a slate of detention reforms after multiple reports and ICE’s own review revealed serious gaps in immigration detention,¹¹² ODPP’s purpose was to identify gaps and opportunities for reform in a system with little oversight and accountability. Numerous directives and detention standards were developed and implemented under its purview, all of which are now at risk of being eliminated and rolled back. Critically, this includes updates to the 2000 National Detention Standards in 2008 and 2011 when ICE issued its revised Performance Based National Detention Standards (PBNDS). Although our findings show that even the existing detention standards are often not fully and sufficiently implemented, the standards represent a much needed baseline to ensure oversight and accountability. In its place, ICE is reportedly considering using a basic U.S. Marshals checklist or other minimum standards. Many facilities will be held accountable only via “self-inspections” or by internal ICE officials rather than external contractors. The government’s justification for this is to enable it to partner more easily with state and local law enforcement agencies, whose county jails often have extremely poor conditions.¹¹³ WRC is deeply concerned that if detention standards are eliminated, asylum-seeking women and others in detention will not only be less able to access legal protection, but will also be increasingly at risk of harm and death, due to decreased oversight, potential increases in mistreatment, or lack of appropriate medical care.

U.S. immigration officials and detention facility staff pressure women to abandon their asylum claims.

The experience of being detained and the conditions in detention facilities lead many women to consider giving up their cases, despite the fear they face of returning home. While WRC’s research illustrates that detention was already part of a deterrence strategy¹¹⁴ intended to persuade those already here to abandon their claims and to discourage other women from coming to the United States, deterrence is now at the heart of the Trump administration’s strategy.¹¹⁵ One way in which that translates to women in detention is the pressure to sign an agreement to their own deportation, particularly while in CBP custody, but also in ICE custody.

Most women first encounter immigration officials at the border, where numerous reports have documented intimidation, abuse, and inhumane conditions of custody.¹¹⁶ These experiences stay with women beyond their time in border custody. Some women WRC spoke with reported being physically abused by CBP personnel. Others told us that they were held in locked rooms for days while officials repeatedly pressed them to sign for their own deportation. Pressure and intimidation also occur in ICE facilities. For example, women who sought medical or mental health care or who asked

“

Before I had even said anything they ascribed a fear of gangs to me and told me that I would be deported.”

– Maria¹¹⁷ explains her treatment by CBP officials when she sought asylum at the border.

ICE to help them reunite with their children or for updates on their case were often denied and, in one case, asked, “Why don’t you just go home?” However, some incidents were far more explicit. In one case recounted to us, a woman who had indicated a fear of returning to her country received a note from her deportation officer that said, “I will deport you back to your country ASAP.”¹¹⁸ At Mesa Verde, Carmen reported being told by an ICE officer, “There is no law that can protect you... why don’t you go to another country?” Despite pressure to agree to being deported she told WRC, “I am not leaving here....I would rather die here than at home.” In Texas, WRC heard about Joanna, who had been detained repeatedly and refused to sign any ICE documents at the instruction of her attorney. Her attorney reported that ICE officials responded by coming to her dorm late one night and telling her they had documents from her attorney that she needed to sign. Believing that to be the truth, the woman signed the paperwork and was dragged out of her cell and deported in the middle of the night, even though she had submitted a petition under the Violence Against Women Act, which allows battered women to apply for U.S. residence.¹¹⁹

Medical care is delayed and even denied.

As a result of past trauma, poor medical care in the country of origin, injuries during their journey, and the prolonged nature of their detention, many detained asylum-seeking women have considerable medical and mental health needs.¹²⁰ However, medical care has long been inadequate in immigration detention facilities, resulting in harm to detainees and deaths that could have been prevented with more appropriate care.¹²¹ At the time of writing this report, in FY 2017, 12 deaths had occurred in detention.¹²² WRC’s research found that these circumstances remain despite revisions to ICE’s detention standards (that are now at risk of being rolled back further), including the addition for the first time of a women’s health standard in 2011 that was intended to specifically improve care for women.¹²³ While these standards are critical in naming the specific needs and goals of medical care specific to women, they continue to lack meaningful implementation.

“

Instead of keeping us healthy, they are letting us leave [detention] in really bad shape.”—Susana summed up the state of medical care.¹²⁴

Women echoed stories of delayed and denied medical care and its profound effect on women's physical health and mental well-being.¹²⁵ Breaches of the right to adequate healthcare and detention standard violations identified by WRC include:

- *Significant delays in accessing medical care*, such as at Joe Corley where women told us that it takes 7-10 days from the time a request to see the doctor is submitted until it is granted, and at Eloy, where Elena told us, "The doctors don't help you until they see you passing out." Women detained at Laredo also reported lengthy delays in receiving care, or simply having their request for medical attention ignored.
- *Inadequate and denied care*, as in the case of a Karen at Joe Corley, who had a high fever for 15 days and was only given ibuprofen despite repeated requests for medical attention, and Melinda at Eloy who suffered from ovarian cysts, was experiencing vaginal bleeding, and received only Tylenol for two months. At Laredo, WRC spoke to a woman who had a cyst and explained that she simply gets a sedative. At Eloy, Joe Corley, and Mesa Verde, women told us that the only consistent medical care is acetaminophen and the instruction to "drink more water." One woman summed up the effects of this denied care, saying, "Our medicine is water and to cry."
- *Lack of follow-up care for chronic health concerns*, as in the case of Michaela.¹²⁶ She had been diagnosed with ovarian cancer prior to being detained and was refused regular check-ups in detention despite the fact that the doctor whose care she had been under prior to being detained stipulated that the visits were critical for her care.
- *Failure to provide women with access to their medical records*, including test results. Women at both Mesa Verde and Eloy reported not being provided with the results of medical exams. At Mesa Verde, women said that the only way they could get copies of their records was if their attorneys requested them even though the majority of the women at Mesa Verde lack representation.
- *Fear of retribution for accessing medical care*. At Hutto, Ximena had a painful hernia and told us that she did not feel comfortable seeking medical attention even though it was evident that she was in considerable discomfort. At Mesa Verde, women told us that they did not want to request medical care because detained individuals, including women, are shackled at the wrists and ankles whenever they are taken offsite, including for medical testing or to see a specialist.
- *Inappropriate use of restraints*. In Otero, Nina reported that she was shackled at the wrists, waist, and feet both en route to and returning from a surgery to address injuries from gender-based violence she experienced in her home country, despite alerting guards to the pain she experienced from the shackles, especially post-surgery.
- *The use of segregation units to house women placed in medical isolation*, as was the case on the day of our visit to Joe Corley when three women with varicella, including one pregnant woman, were held in segregation because there was no space in the medical unit to house them.

At best, the research team observed a staffing ratio of roughly one mid-level medical provider per 100 detained individuals (at Hutto). In the worst case documented, Joe Corley had one full time physician and one full time nurse practitioner for over 1,500 people at the time of our visit. Inadequate staffing may partially explain widespread delays and denial of care. However, past WRC monitoring suggests that women's healthcare needs may often be overlooked either because they are a comparatively small percentage of the overall detainee population, because they are more likely to have complex and costly reproductive and other healthcare needs, or even because their needs are not considered important.

Requests for mental health care are often ignored.

Immigration status is a proven risk factor for both moderate and severe mental health issues, and the experience of detention can lead to depression or exacerbate mental health issues.¹²⁷ Nearly every detained woman the team spoke with reported that she or someone she knew felt depressed or anxious. Many women broke down in tears during their interviews, and many alluded to past incidents of trauma including domestic violence, rape, sexual abuse and assault, extortion by gangs and cartels, or generalized violence in their communities.¹²⁸



It's like a jail for domestic violence survivors," said a volunteer of the Hutto detention center.¹²⁹

At all seven facilities, medical staff displayed awareness that many of the women in their custody had experienced trauma, including rape and sexual abuse, and struggled with mental health concerns. One medical director noted that detention is often where women first begin to process sexual abuse, violence, and other trauma, which is only exacerbated by bad news that many receive from home while detained.

ICE's 2011 PBNDS require a mental health screening within 12 hours of arrival, a full mental health evaluation for any detainee referred for treatment, and screening of all detainees for a history of gender-based violence, sexual assault, and domestic violence. In addition, the standards require intervention and treatment for female survivors of assault and abuse.¹³⁰ Similarly, the Family Residential Standards emphasize the need for staff (in this case, at Hutto) to be aware of the high level of sexual abuse, domestic violence, and other trauma.¹³¹ The health services administrator at Hutto reported that, under the standards, women with mental health concerns are seen within 72 hours.

Despite individual exceptions, in most facilities WRC visited, screening and treatment requirements had not resulted in adequate service delivery. Many of the women we spoke with expressed a desire for counseling and other mental health support but reported that such requests were almost always ignored, even if they were told there would be follow-up by facility staff. In some cases, women reported that mental health staff tried to discourage them or pressure them to agree to deportation. One visibly distraught woman reported having asked the psychiatrist to refer her for counseling and being told to "go home."¹³²

Appropriate mental health care can only occur through meaningful identification of need followed by effective and thorough follow-up from qualified providers. The effectiveness of the screening required by the standards is limited by the fact that it relies on highly traumatized women feeling safe enough to disclose a trauma or mental health history, often to a clinician or guard in uniform during a chaotic and vulnerable time. In addition, all seven facilities had insufficient levels of mental health care staffing. For example, at the time of our visit Joe Corley was in the process of growing from one to three mental health service providers at a facility serving 1,500 individuals. At Laredo, there was not one full time mental health service provider. The lack of in-person translation and providers who speak Spanish or other languages also impedes trust and makes treatment inefficient. One mental health care provider noted that mental health care is often the first point of care where providers must use a language line (rather than using simple English in other interactions with facility officials) to communicate, underscoring the importance of language access in all parts of the process.

Reports suggested an overreliance on medication to treat asylum-seeking women who are suffering from depression and anxiety. At Mesa Verde, the health services administrator told us that they tend to prescribe medication for mental health problems, rather than therapy. Another concerning trend is the apparent use of segregation for detainees who are depressed or with mental illness. One woman we interviewed at Mesa Verde told the team that, “If you seem depressed, the officials will try to ‘talk you out of it.’ But if it doesn’t stop, they will put you in segregation.”

There are indications that the ICE Health Service Corps (IHSC) was becoming more attuned to the need for additional mental health services for women. Eloy had recently begun to pilot an eight-week trauma-informed care group therapy program for women survivors of abuse. The curriculum, provided by the Substance Abuse and Mental Health Services Administration (SAMSA), focused on building resilience and peer support. According to a licensed clinical social worker who administered the curriculum, the women who participated responded favorably and demonstrated a reduction in mental health concerns.¹³³ As such, the facility was at that time considering conducting additional sessions in the future. WRC was also told that Eloy has recently begun monthly trainings for medical staff on trauma-informed care that will soon be expanded to include other personnel in the facility. Since WRC’s earlier visits, ICE had also taken steps to implement trauma-informed care in a small number of other facilities.¹³⁴ Although we were unable to get official confirmation, WRC has learned that the Trump administration has ended the trauma program.

Karen, an asylum seeker being detained at Mesa Verde, asked the psychiatrist at the facility for mental health counseling. They responded by telling her to go home.

Ultimately, additional mental health staffing, the implementation of trauma-informed care models, and other therapies for survivors of gender-based violence and other forms of abuse would help women begin to process past trauma and build resilience and coping skills. WRC is concerned that even these basic practices will disappear as detention increases and standards are reduced. However, the level of trauma is so high and detention itself so traumatic that punitive detention practices remain incongruous with addressing detained women's mental health needs. The compounding effects of past trauma and detention can place women at increased risk of harm and can exacerbate depression, anxiety, and post-traumatic stress disorder to such an extent that they sometimes see no option other than to abandon their asylum claims.

Pregnant women continue to be detained despite ICE's articulation of a preference for release.

ICE policy at the time of our initial research stated that pregnant women should not be detained absent extraordinary circumstances, and officers were encouraged to use prosecutorial discretion to decline to detain pregnant women and nursing mothers.¹³⁵ Further, following our research, in August 2016, ICE issued a new directive relating to the monitoring and treatment of pregnant women in detention, seeking to improve medical care and monitoring of pregnant women, and continually evaluate their detention. That directive has since been incorporated into the PBNDS 2011. While WRC believes the directive is a positive and long overdue step toward the protection of pregnant migrant women in custody, the memo does not expressly preclude the detention of pregnant women, nor prohibit the shackling of pregnant women.¹³⁶ The directive may also no longer universally be in effect given the administration's executive orders.

It is worth highlighting why the directive is so important, particularly when it seems possible that ICE may reverse or simply disregard it given its stance on detention standards. In 2015, WRC observed a substantial increase in the number of detained pregnant women. These increases were likely due to ICE's treatment of all recent border crossers as an enforcement priority and therefore subject to detention regardless of vulnerabilities. While reports of detained pregnant women declined in 2016, officials at all seven facilities at the time of our visits confirmed that they do receive pregnant women and two had pregnant women in custody at the time of our visit. ICE reportedly makes an effort to release these women quickly, usually within a matter of days or weeks. Yet the detention of pregnant women for any length of time places them at risk of harm to themselves or their child, as was the case for a pregnant asylum seeker detained at Mesa Verde in 2015, who fell on her stomach while shackled at the wrists, ankles, and belly, and suffered a miscarriage.¹³⁷

Some women are already aware of their pregnancy when they are apprehended. Others, including those who are pregnant as a result of a rape en route to the United States, may only become aware upon receiving results of a pregnancy test that is administered at the time women come into ICE custody. While women who are pregnant as a result of a rape are referred for counseling, service providers expressed concern that pregnancy test results are delivered in a perfunctory manner and that women are not provided with adequate mental health services and support.

Pregnant women face enormous physical, emotional and legal risks. Prenatal care is often inadequate. IHSC claims that pregnant women are referred to outside obstetricians who provide them with multi-

vitamins. However, reports from attorneys, community volunteers and even a former detainee who was pregnant while she was at Eloy indicate that pregnant women receive only the bare minimum of services and accommodations and are denied extra blankets, additional food, and adequate prenatal care. In addition, pregnant women are not excluded from work detail and are not allowed to lay down to rest during the day.¹³⁸ Reports from attorneys, community volunteers, and detained women also indicate that the stress and discomfort of detention, and the fear of miscarriage, can lead pregnant asylum-seeking women to give up their cases and accept deportation.¹³⁹ Ana, who was pregnant when she was detained at Eloy, became so desperate to get out because of the harm she feared to her child that she accepted deportation back into the hands of her abusive partner.¹⁴⁰

A recent report indicated that 292 pregnant women were held in ICE detention from January through April 2017.¹⁴¹ WRC is trying to track changes in detention practices of pregnant women since January 2017, and has anecdotally heard of additional cases of pregnant asylum seekers being detained in recent months. In March 2017, a Salvadoran asylum seeker was detained for months and transferred at least six times in the El Paso, TX area despite her asylum claim and complications with her pregnancy.¹⁴² In multiple detention centers across the United States, WRC has heard of at least three confirmed reports of the detention of pregnant women or women who suffered excruciating miscarriages as a result of mistreatment and medical neglect.¹⁴³

Lack of privacy increases women's sense of vulnerability.

During our visits, WRC observed a complete absence of privacy in virtually all facilities, whether in dorm settings like Mesa Verde, Laredo, Otero, El Paso, or Joe Corley, or in pods with cells like at Hutto and Eloy. Given the trauma experienced by asylum-seeking women, such a lack of privacy can feel especially violating.

Although Hutto and Eloy have shower rooms that are completely closed off, women were forced to use toilets in their cells that had no door or curtain around them. Otero—which now no longer detains women in ICE custody—had recently taken steps as part of a larger effort to become more responsive to specific women's needs to have frosted walls separating the toilet and shower area from the main housing unit area; each toilet was also separated by a partial wall. At Mesa Verde and Joe Corley, shower stalls had no curtains, and toilets have only half doors, and it may be possible for other detainees and staff (including male staff if they happen to be in the area) to see into the shower and toilet areas. At Laredo, toilets had only half walls and a curtain, and the women's showers were shared in a large, mostly enclosed area, offering some privacy from the rest of the room but not from one another. This was despite the availability of another dorm with individual private showers and full curtains that was not in use at all but was inaccessible to the women due to logistics related to male detainees at the facility. At El Paso, women complained about the lack of privacy of showers that were all grouped together were partially separated by a wall from the main housing unit area, and a toilet area that had only a half wall to separate it from the main area and no walls to offer privacy between toilets or in front of them. At Joe Corley, open showers and toilets were directly inside small dorms rather than large housing units. Women feel extremely vulnerable because other detainees and staff are able to see them naked. Heidi, who suffered from colon issues, told WRC that she was embarrassed by the open toilets she had to use and said, "I tried to use a sheet, but they took it away."¹⁴⁴

Nina, a lesbian, felt that other women were made uncomfortable by her presence in the open dorm, and that, as a result, she was experiencing some of the same discrimination in the facility that had prompted her to apply for asylum.¹⁴⁵

Jail and detention settings are often extremely loud, but at Laredo, WRC noticed disproportionate noise levels. Guards and staff often yelled to one another across a long corridor that divides the space where women's housing is, and numerous women WRC spoke to commented on the pervasiveness of the noise. Women also shared with WRC that facility officials—rather than distributing medication during the day—often entered a dorm in the middle of the night in order to deliver prescribed pills, waking an entire dorm to do so. Similarly, although all facilities hold population counts that often disrupt activities and force women to remain in place, the number of counts at Laredo seemed unusually high. The housing units in El Paso and Otero were also extremely loud given that TVs were set to high volume and women were not provided with headphones in order to reduce TV noise.

In a practice WRC has never observed before, detained individuals at the El Paso detention center were additionally required to wear a radio-frequency monitoring device on their ankles, which ICE explained was a free service provided by their contractor and intended to serve as an additional safety check. Every individual WRC interviewed in El Paso—men and women—said they had never received an explanation for the monitor, and many said it caused discomfort.

Undergarments and feminine hygiene products are inadequate.

WRC found that a lack of feminine hygiene products and clean undergarments are a critical concern for many detained women, a consistent finding across WRC's history of detention visits. Detained women rarely have access to sufficient feminine hygiene products and the type they prefer. At Eloy, women shared that they often have to beg for tampons, buy them from the commissary, or go without. Because the commissary only sells tampons, women who prefer pads have none available to them when the housing units run out, which happens frequently. At Mesa Verde, women told us that officials had recently taken away tampons and were subsequently only providing thin panty-liners. A request for a more appropriate option had been denied. There, too, women told us that the facility sometimes runs out of hygiene products and women's only choice is to buy them from the commissary.¹⁴⁶ Iliana told the team, "I don't have money to buy pads. I would rather use that money to call my kids."

In addition to complaints about feminine hygiene products, many women felt humiliated and distressed that they were forced to use underwear and bras that had been previously used. At Joe Corley, women received only two sets of underwear, which they reported having to wash in the sink with body soap. At Mesa Verde and Laredo, women told us that the underwear is visibly soiled. At Eloy, women were concerned that used panties could spread infections from one woman to another. These two issues are emblematic of the degrading treatment women receive in detention, and of all the small ways that being detained breaks a woman down by denying her basic human dignity.



I don't have money to buy pads. I would rather use that money to call my kids," Iliana told the visiting WRC team.

Women asylum seekers may be forced to buy their own feminine hygiene products, and cannot get the type or quantity that they need. Others said they were forced to wear underwear and bras that were visibly soiled from prior use.

Detention creates feelings of powerlessness and fears of retaliation.

A problematic power dynamic exists in detention facilities stemming from the fact that ICE serves as both jailer and prosecutor. As a result, women in detention view agency officials as not subject to accountability and a source of danger, not security. This can make women afraid to advocate for their basic rights and needs.

Many of the women WRC spoke with expressed an acute sense of powerlessness and felt that there were few channels through which they could safely raise concerns about their treatment in detention or seek redress. One woman at Mesa Verde told researchers, "The men stick together more, so they get more things. We women don't speak up." Detained women are highly vulnerable to exploitation and abuse by ICE and detention center staff, who have tremendous control over both their length of stay in detention and the treatment they receive while detained. Further complicating this power dynamic, WRC observed on its visits an imbalance of power between ICE and the private prison companies contracted to run these facilities, in which company employees are dictating policies and practices to ICE. This dynamic places women at even greater risk by undermining the limited accountability measures ICE has put in place through its detention standards and oversight mechanisms.

While women were quick to acknowledge that there are both kind and unkind guards, many women reported a feeling of routine disrespect or discrimination by facility staff. At Eloy, Joe Corley, and Mesa Verde, women told WRC that some guards discriminate against Spanish speakers. "When we ask questions, the guards say they don't speak Spanish and if we want to talk to them, speak English," said a woman at Eloy. Some women also reported what they described as psychological abuse. At Eloy, a woman told us that when a group of women went to talk to some guards, one of the guards said, "Close the door. Here come the jalapeños." Even if such incidents are isolated, language used to speak to and about detainees matters, both to the women who hear it and to the culture of the facility. Terms like "bodies" and "client base," which at Mesa Verde are used to describe detained individuals, are dehumanizing and can foster an environment inside facilities where abuse is more likely to occur.

Women also told us that the grievance procedures put in place by ICE,¹⁴⁷ to provide detained individuals with a way to raise concerns and seek remedy, are often ineffective. Women at Joe Corley and Eloy were particularly reluctant to file grievances because they feared they would be retaliated against or that to do so would hurt their legal cases. At Eloy, women told us that those who filed

grievances were given extra work as punishment or were written up. Once a woman is written up, the women said, life is a “nightmare.”¹⁴⁸ Women there also felt that facility staff manipulate the grievance process, such as never calling witnesses to make sure that any grievances that are filed remain unsubstantiated. Women in El Paso shared that nobody believes allegations of poor treatment and that they have been told that their complaints will have a negative impact on their court case. Even when this isn’t true, it instills a chilling effect and fear in women who might otherwise alert officials to their mistreatment.

This failure of established procedures to effectively investigate and resolve complaints appears to extend to investigations of sexual abuse and assault. In the last several years, there have been multiple documented sexual assault allegations in family detention settings,¹⁴⁹ and in adult detention.¹⁵⁰ In 2014, DHS released regulations¹⁵¹ to bring the agency into compliance with the 2003 Prison Rape Elimination Act (PREA).¹⁵² Consistent with PREA, ICE also established a zero tolerance policy for immigration detention facilities,¹⁵³ and requires each facility to have a designated PREA coordinator.¹⁵⁴ The research team noted an increased level of awareness among facility and ICE staff of these obligations as compared to WRC’s previous detention visits, and observed ICE’s large PREA posters and information on display at every facility but Mesa Verde. The absence of full-size PREA posters was especially concerning given that a recently released ICE inspection report of the facility from January 2016 (prior to WRC’s visit) indicated that Mesa Verde had numerous deficiencies concerning required policies relating to ICE’s Sexual Abuse and Assault Prevention Standard.¹⁵⁵

WRC remains concerned about the degree to which increased awareness of sexual abuse and assault in detention is leading to increased prevention and improved responses. When asked at Otero and El Paso, numerous women did report having seen a poster and number to call should an incident ever occur. But at a majority of facilities, staff or ICE personnel reported at least one allegation in recent memory, including both detainee-on-detainee and staff-on-detainee allegations.¹⁵⁶ In each instance, according to facility staff, the allegation had been determined to be unfounded.¹⁵⁷ However, conversations with ICE and facility staff during our visits suggest that PREA investigations often focus more on verifying that certain procedures have been followed than on ensuring that investigations are effective. In addition, we found practices at Mesa Verde and Eloy that raise concerns about improper actions by detention facility staff that may be putting victims at risk. At Mesa Verde, we were informed that the GEO Office of Professional Responsibility holds investigative authority over sexual abuse and assault cases rather than DHS or local police. At Eloy, detained individuals can call an internal hotline to report allegations. However, unbeknownst to the caller, the hotline number connects the caller to a voicemail box that all senior CCA staff can simultaneously listen to. These concerns underscore that PREA implementation remains non-systemic, often deferring to prison contractors’ rather than ICE’s policies, and may lack safeguards and accountability to ensure that survivors are supported and protected.

While ICE officials demonstrated awareness of the 2013 ICE Segregation Directive, the use of segregation for medical, administrative, and disciplinary reasons remained an issue of concern.¹⁵⁸ At Mesa Verde, women told us about a woman who was sent to isolation and “didn’t come back for two weeks.”¹⁵⁹ Although WRC cannot confirm this, at Eloy, women told us that “those who get put in the hole get injections that put them to sleep for two or three days.” At Joe Corley, three women were being held in the segregation unit for medical isolation purposes, because all of the medical isolation

cells were in use to treat more serious medical cases. The fear of segregation among women at all of these facilities was evident, but we were not able to determine from our interviews how common it is for women to be placed in segregation in the facilities we visited.

During WRC's tour of Hutto, facility staff informed us that no segregation space or special housing unit existed at the facility. However, accusations of inappropriate segregation practices at Hutto came to public attention in 2015 when ICE and facility staff reportedly utilized segregation and transfer to punish the leaders of a hunger strike that was initiated to protest the prolonged detention of women with reasonable fear cases.¹⁶⁰ Ultimately, several members of the hunger strike were transferred to the Laredo Detention Center several hours away in what appeared to be punishment. Women who had been detained there prior to being sent to Hutto reported deplorable conditions at Laredo and mistreatment of women.¹⁶¹ Our visit to Laredo, although several months after both that and a later transfer, confirmed that conditions are clearly different between the two facilities, especially given that Hutto facilitates greater freedom of movement and access to recreation. That said, WRC was told by staff that segregation is very rarely used for women detained at Laredo.

DHS had previously endeavored to expand channels through which detained individuals and those assisting them can raise complaints to headquarters that have not been resolved at the local level. The team was pleased to see contact information for the ICE Detainee Reporting and Information Line (DRIL), the DHS Office of Civil Rights and Civil Liberties, and the DHS Office of the Inspector General posted in housing units. Unfortunately, many of the women WRC spoke with were not aware of these resources and how they could help. In addition, the process for calling the hotlines is convoluted and confusing, requiring women to put in a specific code rather than dialing the listed phone number, a process that was so complicated it inhibited even women who had been at a detention center for some time. However, given shifts at ICE to move community resources and hotlines entirely away from those in its custody and instead towards U.S. citizens,¹⁶² it is unclear whether even this minimal access to recourse will continue.

Costly phone calls and inadequate visitation policies impede privacy and protection.

Staff at both Mesa Verde and Eloy observed that women in their facilities get fewer visitors than the detained men. This may be attributable to the fact that many are recent border crossers with fewer family ties in the United States and whose family members may not be near the facilities to which they were sent. In the past, WRC has found a lack of parity in visitation policies between men and women, with men at some sites allowed more or more convenient hours for visitation than women.¹⁶³ WRC has also expressed concerns over the inability to have contact visitation and the lack of appropriate visitation spaces for children. Hutto has long had more appropriate visitation spaces and hours, including contact visitation. Researchers were pleased to find that at other facilities, women and men appeared to have more equal opportunities for visitation than we have seen in the past. However, the team was very concerned to find that Joe Corley does not permit contact visits at all, neither for attorneys nor family members. In addition, privacy and confidentiality, especially for attorney visits, was a significant concern at all facilities, given that asylum-seeking women and others often discuss sensitive and confidential case information with their attorneys.¹⁶⁴

The ability to speak with family and legal counsel by phone is vital. Telephone calls can be a critical resource for women who are trying to build an asylum case, as they often need to call friends and relatives in their home countries to ask for help in obtaining documents and other evidence. Calls are also crucial lifelines to separated family members, whether a woman was separated from family upon trying to enter at the border or as a result of interior immigration enforcement. The team was deeply concerned to discover that frustrations over phone costs (despite calling rate reductions in some facilities over time) resemble the same frustrations heard for years, even in a facility like Mesa Verde that was recently retrofitted to make it appropriate for immigration detention.

The high cost of phone cards was women's most common complaint, even where rates were ostensibly low. At at least four facilities, women reported a \$5 card expiring within minutes, prompting them to ask themselves whether it was more important to buy food or call family. Women also noted that poor phone connections make it hard to hear the person on the other end of the line. Because phones are in the common areas of housing units, there is no privacy for personal or legal calls, compromising the ability to have confidential legal conversations. Both factors impede a woman's ability to build an asylum case, especially one that is dependent on her sharing personal details, including about sexual abuse, gender orientation, or other experiences that she may not want other women to know about.

Access to recreation, library resources, and work opportunities is limited.

Access to activities and recreation was widely varied, demonstrating how environmental improvements can impact detained women's lives. Most fundamentally, the women visited by the research team talked about the effect on their mood and outlook because they have nothing to do all day other than stare at the television or sleep.

Perhaps the most egregious example of inadequate access to recreation was at Joe Corley. According to the 2011 PBNDS, asylum seekers must be allowed at least one hour of outdoor recreation every day.¹⁶⁵ At Joe Corley, however, the only recreation spaces available to detained asylum-seeking women were closed, indoor rooms with a small, mesh-covered opening in the ceiling. While facility staff stated that the women are allowed to use this space for at least an hour every day, nearly all of the women WRC interviewed shared that it is unusual for them to get recreation every day. They said they often only receive 1-3 hours of recreation per week.¹⁶⁶ In addition, because of the physical makeup of the facility, each small dorm area functions as sleeping quarters, bathroom (with little privacy), common space, and cafeteria, meaning that even on days when they access recreation, women spend up to 23 hours per day in dormitories holding 12-36 beds that have no private showers or toilets.

At Mesa Verde, too, activities were limited, with staff attributing this to the relative short-term nature of immigration detention compared to criminal incarceration. The only recreational opportunities were two outdoor recreation yards, two windowless, indoor recreation spaces with a few pieces of gym equipment, and two multipurpose rooms that are used as cafeterias, overflow recreation spaces, and for legal orientation presentations. Other facilities had even less recreation space. The smaller size of the facility and its use for both men and women also meant that daily activities had to be carefully scheduled to keep men and women apart, which limits the time women can be outside their housing

unit. Although officials shared that both men and women could access the larger outdoor recreation yard, which had soccer and basketball facilities and space to run, many of the women WRC spoke with did not even know a larger yard existed, or reported their requests to use it had been declined. More recently, WRC has learned that women still report not being able to access the larger yard at Mesa Verde.¹⁶⁷

At Eloy, El Paso, and Otero women and men receive two hours of recreation each day in enclosed yards with covered concrete patios. At Eloy, women reported that, if they go outside, they are required to stay out for one hour. While two hours exceeds the minimum one hour, it was concerning that women who do not want to go outdoors are locked in their cells during recreation time. Many women at Otero seemed glad to have the opportunity to play volleyball during their recreation time.

Both law and recreational library spaces were present at all seven facilities, and women said they had some opportunity to use the library. At Eloy, Joe Corley, Laredo, and Mesa Verde, women did not seem to use the libraries often. At Mesa Verde, one woman noted that it is complicated to sign up for library time and that the space is very small so she did not use it often. At Joe Corley, the team heard that library time for at least some of the women is offered as early as 6 or 7 a.m. once a week, rendering it nearly useless. The facility's library space was also extremely small, and is shared between ICE male and female detainees and U.S. Marshals inmates, narrowing scheduling opportunities. The Laredo library was also extremely small, and WRC observed that it contained virtually no books that are not in English. When asked, an official was only able to identify one math book in Spanish. El Paso's and Otero's libraries, by contrast, were much bigger and contained far more of a foreign language selection. El Paso permitted detained individuals to use flash drives to save their documents, useful to those preparing a legal case on their own. However, even if law libraries were more accessible, without professional assistance, detainees with no legal training and not fluent in English would find it difficult to navigate legal resources such as Lexis Nexis that are housed online on law library computers.

Women at all five facilities are allowed to participate in voluntary work for \$1 per day. Many work cleaning the facilities or in the kitchens. At Joe Corley, women who work in the kitchen earn \$3 per day. Some of the women expressed an appreciation for work because it gave them something to do when otherwise they had few if any opportunities to leave their housing units. Others shared that they worked because the meager wages were their only hope of buying a telephone card to speak to their children.¹⁶⁸ However, the team also heard concerning reports of being pressured to or prohibited from work. At El Paso, officials implied that only those who would commit to 40 hours of work each week would likely be selected for work shift, with each day paid at the standard \$1 rate. At one facility, a woman told us that she was taken off work detail because she reported a sexual assault. At Eloy, women told us that they are often not paid for their work or only paid half of what they are owed, and that if someone with a job tries to quit, they are either locked up or given extra work duty. Also of concern are the work hours for kitchen staff at Eloy. Breakfast is served at 4:30 a.m., which means that women on kitchen detail must begin cooking at 2 a.m.. At Laredo and other facilities, in addition to any paid work that women elect to do, detained women are also required to clean their housing units on a regular basis using what one woman described as very harsh chemical products.

In terms of its activities programming, however, Hutto stands apart from other detention centers. Women detained at Hutto use relatively large indoor and outdoor recreation spaces and are offered a

daily program of activities run by recreation officers. Activities include English as a Second Language classes, exercise classes with equipment, yoga, sports tournaments, movie nights, and life skills classes. On the day of WRC's visit, women were finishing papier mâché national costumes for an upcoming fashion show. Women at Hutto also have access to the internet and may send emails—a lifeline for detainees who are trying to reach family members, and one not yet available at any other facilities except for family detention centers. In our numerous visits to Hutto, both in 2016 and in the past (since it was modified and converted from a family facility), staff have always been proud of the diverse recreation opportunities, and see the offering as an effective tool for population management and mental health support. Recreation staff reportedly coordinate with mental health staff to try to engage women who are struggling. At Hutto's library, the team observed recreational reading materials in what the librarian said were 51 different languages. There were parental interest materials on the library computers and library-appropriate quiet spaces with comfortable chairs that the librarian said were regularly used. While the impact of confinement remains perceptibly punitive for women in detention, the positive effect on women's well-being of Hutto's enhanced recreation programming was obvious to the research team. It would require relatively little modification and investment for more ICE facilities to replicate such efforts.

3. Arbitrary high bond and no-release policies prolong detention and deny protection.

- *Asylum-seeking women are often subjected to prolonged detention despite posing no flight or safety risk. The need to fill beds for political or financial reasons often seems to supersede any actual concern over public safety risks.*
- *As a result, the conditions of release offered to women are often inconsistent, erratic, and not commensurate with the risk they pose. WRC found that bond amounts varied wildly based on detention location, country of origin, and other factors.*
- *High bond amounts often led women, desperate to be released, to turn to bail-bonds type companies, including one with a growing presence that has been linked to especially predatory practices.*

Non-detained immigrants generally have a significantly greater likelihood of succeeding in an immigration case,¹⁶⁹ given the increased ability to obtain counsel or prepare for a case from outside of detention. As a result, release from detention is crucial to a woman's ability to pursue protection. Yet for the last several years, release from detention has become steadily less likely for asylum seekers. Under the Trump administration, which has made clear that individuals apprehended at the border should be detained for the duration of their case or even sent back to the contiguous country (e.g. Mexico) from which they arrived to have their cases processed, release is even more unlikely and detention more arbitrary.¹⁷⁰

The decision to release or detain an individual is generally first made by ICE. Decisions to detain should be made based only on whether an individualized assessment demonstrates that an individual

Detention or Release?

DHS has discretion both in how an individual is processed and whether he or she is detained after being apprehended. Following processing at the border, immigration officials can release an asylum seeker (and her family if she is with relatives) to friends or family who will support them in the United States, allowing her to make her asylum or other immigration case in immigration court. Despite this authority, many asylum-seeking women and other migrants who are apprehended at or near the border are placed into expedited removal or reinstatement of removal, and therefore may be subject to “mandatory detention” until after they have passed a credible fear screening.¹⁷¹ Although ICE has an automated Risk Classification Assessment (RCA) meant to help officials determine whether someone should be detained or released and, if so, with what conditions, the RCA is effectively rendered meaningless for those placed into expedited removal, as it will always prioritize “mandatory detention” in ICE detention over any humanitarian concerns or the absence of any public safety risks.¹⁷²

Once they have passed a credible fear interview, asylum-seeking women apprehended by Border Patrol while crossing unofficially are eligible for release on recognizance, bond, or into an alternative to detention (ATD) program. ICE also has discretion to release those in reinstatement proceedings. Typically, an ICE officer makes an initial determination of whether to release or the amount of bond to set. If denied bond or unable to pay, an individual then has the right to review by an immigration judge of ICE's bond decision or amount. Individuals who are classified as having been apprehended while seeking protection at an official port of entry, known as “arriving asylum seekers,” are not considered eligible for bond. However, in 2009, ICE issued guidance on the use of parole for arriving asylum seekers who have passed a credible fear interview, directing that barring public safety or other serious concerns, an asylum seeker apprehended at a port of entry, who can establish her identity and who has passed a credible fear interview should be released on parole.¹⁷³ ICE may also attach conditions to the parole, such as placement into an ATD program or setting an accompanying bond amount.

Despite calling for increased detention, the Trump administration's executive order and the DHS implementation memo do not eliminate the 2009 parole directive, although they do suggest a significant shift in the burden on an individual to request and demonstrate they qualify for parole. A recently leaked DHS progress report suggests additional changes to the parole policy—almost certainly more restrictive—are forthcoming.¹⁷⁴

poses a public safety risk or flight risk that cannot be mitigated with other conditions of release. Yet practices around the country, coupled with contradictory statements by various administrations, indicate that immigration decisions are often made for reasons far more arbitrary, including deterring further migration or filling beds that have guaranteed minimum requirements. WRC's research supported two conclusions: first, that asylum seekers were widely seen as an enforcement priority

under the Obama administration despite never being publicly explicitly labeled as such, an approach that continues with the Trump administration; and second, that as a result, they are prioritized for detention despite demonstrating no factors indicating that they might pose a risk to society. The decision to detain usually manifests itself in a few different ways, among them choosing not to offer release at all to a detained asylum seeker, or offering a bond (whether by ICE or by an immigration judge) that is so high that the person could almost certainly not afford the price of being released.¹⁷⁵

What we found in 2016 is likely only a preview for what is yet to come. It seems extremely likely that rather than being related to mitigating public safety risks, custody decisions will be tied both to who is apprehended by ICE and CBP—who now have much more sweeping directives to apprehend nearly any undocumented immigrant¹⁷⁶—and how much detention space is available. What is clear is that the arbitrariness of these processes, which are exacerbated by current proposed DHS policies, fosters a sense of powerlessness and suspicion among women, leaves many detained for months on end, and may contribute to the belief discussed above among women that guards and ICE discriminate against certain groups.

Release practices and bond amounts were inconsistent and highly variable across facilities and regions.

At the time of our interviews, the ICE-reported average length of stay varied across the facilities visited, from a low of “a few days” or two weeks in the El Paso area and 21 days at Hutto to a high of 58-85 days at Mesa Verde. This is attributable at least in part to the considerable variance we observed in bond and parole decisions and amounts across the field offices where these facilities are located. (And, it should be noted, some women WRC interviewed—particularly in our August 2017 visit—were in detention far longer than these statistics indicate.) Asylum-seeking women interviewed were much more likely than in previous WRC visits to be subject to high bond or parole that was conditional on enrollment into an ATD or payment of bond, or to have bond amounts vary depending on nationality. Virtually none gave examples of anyone being released on parole without conditions or on recognizance. In our most recent visit, more than six months into the Trump administration, those in the El Paso area (including New Mexico) seemed to have virtually no chance at release unless they could afford a bond set by an immigration judge. Those deemed ineligible for bond largely also received no parole.

Local ICE officials with whom the team spoke often did not provide a clear or sometimes even any explanation of how bond and parole determinations are made. WRC found that ICE practices relating to custody decision-making, including parole and bond, shifted dramatically over the last three years,¹⁷⁷ and continues today under the new administration. Immigration judges similarly are setting disparate and prohibitively high bond amounts. Many women we interviewed reported that they or those they knew were either denied release altogether, or had been offered only an extremely high bond that they were unable to pay.

WRC found excessively high bonds at all of the facilities visited. It should be noted that bond amounts for facilities visited in 2016 may now be considerably different, and likely even higher.

- *At Hutto in 2016, WRC heard of bonds ranging from \$4,000 to \$7,000, down slightly from \$10,000 in recent years but still considerably higher than they were before 2014. The women interviewed had either been denied bond or had not yet had a credible fear interview. No bonds or other forms of release are granted in reasonable fear cases. More recently, service providers reported that ICE generally offered no form of release on bond or parole to asylum seekers, and that bonds set by immigration judges had increased from around \$8,000 in April 2017 to \$14,000–\$18,000 in late May 2017. Women face numerous technical, administrative, and language hurdles in trying to appeal these bond amounts.¹⁷⁸*
- *At Mesa Verde in 2016, ICE reported bonds ranging from \$1,500 to \$15,000 for credible fear cases in which Border Patrol apprehended a woman between ports of entry. Detained women reported that bonds for those who do get them ranged from \$4,000 to \$15,000 for credible fear cases, with women from African countries often getting higher bonds than women from Mexico and Central America. More recently, WRC received reports that parole decisions have slowed down significantly and that bonds are set higher than before, if offered at all.¹⁷⁹*
- *At Joe Corley in 2016, ICE reported that bonds ranged from \$10,000 to \$12,000, that this was similar to what judges were setting, and that individuals were able to pay. However, the women interviewed consistently reported only hearing of \$12,000 bonds and that few women were able to pay.*
- *According to ICE, bonds at Eloy tend to be \$7,500, \$15,000, \$20,000, or \$30,000. The women we spoke with who had been given bonds all had bonds of either \$15,000 or \$20,000, including some adult family units in which multiple members of the same family each had a \$15,000 bond. Women also reported higher bonds for asylum-seeking women from Africa, China and India, ranging from \$35,000 for women from African countries to \$75,000 for Chinese women to \$90,000 for Indian women. Recent information confirms that bond amounts at Eloy remain in a similar range of \$15,000 to \$30,000.¹⁸⁰*
- *Laredo differed from these facilities in two distinct ways. First, our visit to Laredo took place with new guidance in effect. Second, officials at Laredo explained that most individuals who seek asylum are transferred to another facility (largely Hutto) and that many others at Laredo have a final order of removal and are awaiting deportation. For those who are offered bond, WRC was told it is usually around \$7,500 for those from Central America, but WRC was unable to confirm this with the women we spoke to.*
- *In the El Paso and Otero facilities, WRC heard of bond amounts (set only by immigration judges—ICE is not granting bonds) ranging from \$10,000–\$12,000 in some cases and jurisdictions to \$20,000 or even \$50,000 in others. These amounts were increases from previous years, when bond amounts were usually less than \$10,000.¹⁸¹*

These findings largely confirm that ICE is either not making any individualized assessments with regards to custody after a woman has established credible fear, or that assessments seemed to be largely trumped by an individual's prioritization as a recent border crosser or by their nationality.

Custody practices were inconsistent across the locations we visited. At the time of our visit, most women detained at Hutto who passed credible fear interviews were given bond within two weeks. According to officials in San Antonio, all of the women released in the six weeks prior to our visit had

bonded out.¹⁸² However, just a few hours away at Joe Corley, ICE's Houston field office reported that for a long time they had declined to set bonds, preferring to leave the matter to the immigration judges (a practice that has no basis in law or policy). At the time, ICE indicated that agents had recently begun to grant bonds, basing their bond amounts of \$10,000 to \$12,000 on what was being set by the immigration judges. This practice of setting a bond amount to match that of average bond amounts set by immigration judges clearly suggests blanket policies rather than individualized determinations. ICE officials at Eloy were similarly unable to explain current trends and practices with regard to bond, which seem to consist either of denying release or bond or setting high bond amounts in most cases. A number of women we spoke with at Eloy told us that "you either receive bond quickly or you have to wait six months [to have bond set]."¹⁸³

Women who were seeking asylum but had been in the United States at least once before were particularly punished under the previous administration. Local service providers confirmed what we heard from the women we interviewed in 2016: not a single one of the subset who had reasonable fear claims had been offered any form of release. Despite their status as individuals who had entered the U.S. multiple times, ICE retains the discretion to release individuals in reinstatement of removal if they do not pose a security risk. Many of these women had been in detention for six months or more, were survivors of trauma or violence, made repeated requests for parole or bond, and were able to show community ties. These cases can be particularly traumatic, as the reason that women are in reinstatement of removal in the first place can include being denied access during their first attempt to cross. A reinstatement order not only results in longer detention, but also a lesser form of protection if it is granted.¹⁸⁴

Prohibitively high bond determinations are exposing women to abuse by private bond companies.

Most of the women interviewed reported that it would be extremely difficult, if not impossible, for them to pay the bond amounts they had been offered. Some women told us that they had family members who were willing to pay, but that those individuals were afraid to come forward to do so because they were undocumented. Others reported having no friends or family in a financial position to help. As a result, many women and their families are forced to turn to bail bondsmen to help pay their high bonds. However, traditional immigration bail bondsmen require families to put up their home as collateral to secure the bond, making this an unrealistic option for anyone who does not own property. The void left by the more established bond companies is now being filled by predatory private bond companies that finance their costs by putting released asylum seekers and others on ankle bracelets and then charging them exorbitant monthly rental fees upwards of \$400 for the monitoring devices. One of these companies, Libre by Nexus, operates in numerous detention facilities across the country. For a number of women interviewed at Eloy, the line between this private company, ICE, and immigration judges had become so blurred that they suggested that the relationship was improper. While WRC did not have capacity to investigate these claims separately, even the appearance of impropriety should give pause.

Moreover, anecdotal evidence suggests that the expansion of companies like Libre is contributing to higher bonds. In Arizona, researchers heard that immigration judges are denying requests for bond

redeterminations on the grounds that bonds must be reasonable because people are managing to pay—albeit through companies like Libre. Others have begun to document the dire situation of those who bond out with the assistance of private companies, research that is especially crucial particularly given that recently released women are highly vulnerable to abuse and exploitation.¹⁸⁵

4. Family separation at the border risks breaking up families, endangers children, and undermines protection.¹⁸⁶

- *Families arriving at the border seeking protection increasingly faced separation, whether due to the way in which they were processed or for more punitive reasons. Mothers detained in adult facilities often had no way of locating or reuniting with their partners or with their children.*
- *Family members separated from one another face additional obstacles in applying for asylum—often forced to do so separately when they could be on the same application, or unable to present evidence that another, distant, family member has.*

WRC has long documented what happens when parents are separated from their children as a result of immigration enforcement in the interior.¹⁸⁷ In 2013, ICE released its Parental Interests Directive¹⁸⁸ to assist parents who are dually involved in the immigration and child welfare systems in complying with a child welfare case and staying on track to reunify with their children.¹⁸⁹ While previously parental rights concerns arose most frequently when parents were separated from their children while already living in the United States, WRC has also documented an increasing trend of family separation involving families seeking protection at the Southern border.¹⁹⁰ At most facilities we visited, the WRC team met women with asylum claims who had been separated from family members, particularly spouses and children, including U.S. citizen children. The experience of being separated from their children is torturous for many mothers, especially if they do not know where their children are, or if they are involved in proceedings challenging their parental rights. One detention medical provider WRC spoke with said that family separation was a common cause of trauma among detained women, and that they had met with mothers who were still lactating who were separated from their children.¹⁹¹

The results of family separations at the border have already been well documented by WRC and other organizations.¹⁹² These reports demonstrate that the practice is widespread, and that separating asylum-seeking family members from one another, including their children, deepens their trauma, erodes family relationships, and can prompt women to attempt to abandon their case out of desperation.¹⁹³

As in all cases, DHS has the authority to place an individual or family that is applying for asylum into removal proceedings and release them directly from the border. No policy requires that they be placed into expedited or reinstatement of removal proceedings and subsequently detained and separated. However, many detained asylum-seeking women are separated from their families while in CBP custody. This often begins when CBP places family members in different holding cells and

then processes them separately, or may occur as part of a deliberate processing decision by a CBP officer. Regardless, the separation occurs prior to transfer to an ICE detention facility, and it is unclear to what extent CBP and ICE communicate about the existence of other family members. DHS has no formal mechanism to track family separations even with the Office of Refugee Resettlement (ORR) under the Department of Health and Human Services (HHS), which has custody of unaccompanied children, including those who become unaccompanied through family separation.¹⁹⁴

While ICE currently detains some mothers with minor children in one of three family detention centers,¹⁹⁵ in the cases WRC heard of and saw, the agency appears to be employing a blanket policy of separating parents and children in all cases where the parent has been previously ordered removed. In such instances, the parent is sent to an adult detention facility while children are placed in ORR custody—or, if the child is a U.S. citizen or legal permanent resident (LPR), he or she is released to relatives, friends, or child protective services. Attorneys interviewed for this research told us that in some instances, CBP is contacting child welfare agencies to make arrangements for U.S. citizen and LPR children when it wishes to detain their parents. Though in some instances, CBP and child welfare agencies work together to allow parents to contact a relative or friend to come pick up U.S. citizen or LPR children, there exists a risk of child welfare involvement in these cases, especially because informal care arrangements can fall apart when a parent is detained for a long period of time or ordered removed.¹⁹⁶

Separation profoundly heightens trauma for a family at what is already a highly emotional and frightening time. In one case we heard about, a mother was so desperate to prevent her children from being placed into foster care that she tried, unsuccessfully, to withdraw her request for asylum. Once separated, the ability to contact a separated family member is entirely dependent on the willingness and facilitation of an ICE deportation officer.

While family separation is most often considered through the lens of parent-child, WRC encountered many different permutations of separated family units in the course of our research, including spouses, siblings, grandparents, and cousins separated from one another. Other common permutations include young men and women, usually 18 or 19 years old, who are placed into an adult detention facility while their parents and younger siblings are sent to a family detention center, and families in which some members are released while others, often the mother and children, are detained. We encountered these scenarios and more during the course of our research, including:

- Lidia, an 18-year-old woman, came to the United States with her one-year-old cousin. The two girls were separated at the border, and the elder was despondent because she had been entrusted with the baby's safety and felt she had failed her.
- Aurelia, an asylum seeker who had arrived in detention only days before she encountered WRC, broke down in tears as she recounted that she had been separated from her young son by CBP. She had received no information about where he was taken and was desperate to know where he was or whether he was safe.

- Sandy was separated from her 12-year old daughter, who had been sent to an ORR facility. While ICE and ORR were able to coordinate phone calls between the two, Sandy reported not being told where her daughter was and was desperate to be reunified with her.
- Norma had been detained for six months without bond, while her husband, who had arrived separately and was also in reinstatement proceedings, had bonded out of a different detention center. Fearing sexual violence in Central America, Norma was both too traumatized to easily share her story with officials and encountered challenges because she speaks an indigenous language.
- Mayda was separated from her 16-year-old sister at the border. While she knew that her sister had been sent to an ORR facility, she had no idea where the facility was located or how to reach her.
- Liza was separated from her two teenage children when she sought protection at a port of entry, her second time seeking to enter the United States. Although she asked them not to separate her family, CBP refused, although officials did give her time to speak with her children and explained that they were taking the children to a shelter.
- Luisa knew that her son was in ORR custody and believed that if ICE deported her that they would also remove her son and send them home on the same plane. The mother was desperate to go home and repeatedly asked, “Why won’t they just deport me?”
- Julia was separated from her U.S. citizen children at the border after CBP called child protective services. She was denied the opportunity to talk with her children because ICE did not believe she was a primary caregiver, having only consulted the transcript of her CFI during which the asylum officer did not inquire about children.
- Paola fled abuse and threats with her three-year-old daughter and turned herself in to seek protection at a Port of Entry, where border officials separated her from her daughter. She was later able to locate her daughter and now speaks to her weekly.
- Multiple cases of adult family members who had other members also detained at Eloy, including mothers and adult daughters and husbands and wives. Those interviewed for this research did report that they were able to see each other on a regular basis.

From a legal and procedural perspective, family separations can limit the ability of women and their families to make a meaningful claim to asylum. Unless USCIS is able to identify and link the cases (as families are usually held in different detention centers), each family member, including children, will make an individual claim even though the family’s case may be based on persecution of the head of household or, vice versa. For example, the head of household’s claim may actually be based on danger to her child. This can result in disparate case outcomes, both because separate asylum officers may reach different conclusions, and because documents may only be with one family member or divided up, or one family member may be frightened to volunteer information about a loved one without understanding how it will affect that person. In addition, it is extremely difficult for family members to communicate with each other about their legal case or any other issue when they are detained (though the researchers did note cases at Eloy in which ICE was facilitating communica-

tion between spouses, parents, and children detained in different locations). Differing court timelines and evidence can also result in some members of a family being removed while others win asylum or get caught up in appeals, a scenario that is not only unjust but can result in heartbreaking prolonged or permanent family separations, including of parents and children. The women WRC met in the course of this research who had been separated from family members were uniformly despondent, breaking into tears when they talked about what had happened. This heartbreaking pattern highlights not only the significant due process implications of family separation but the incredibly devastating emotional consequences as well.

While the cases we identified seemed to be occurring as a result of the way that individual border officials processed families, in March 2017, then DHS Secretary Kelly repeatedly stated that DHS was considering a formal policy of separating families in order to deter them from trying to come to the United States. After enormous outcry, Secretary Kelly reversed course on this position, saying families would not be separated unless there was a clear danger to the child.¹⁹⁷ Regardless of whether or not it is a formal policy, since beginning our research, WRC has continued to learn of cases of family separation at the border.¹⁹⁸

CONCLUSION & RECOMMENDATIONS

The nearly 150 asylum-seeking women who we interviewed clearly demonstrated that the U.S. immigration and immigration detention system is fundamentally broken. Their experiences in detention are a clear warning for what is to come: dramatic expansion of the detention system concurrent with the elimination of standards that provide the only existing protections available to those in detention, and a further breakdown of the U.S. asylum system. Their stories underscore the harm they fled, the trauma of the journey to safety, and the fundamental inappropriateness of a U.S. response determined to deter them. Like other survivors of persecution and violence, they have particular physical, emotional, and spiritual needs that must be addressed alongside their legal claims if they are to have a real and meaningful opportunity to heal, build resiliency, and access protection. Instead, they are met with policies that clearly engender harm and trauma, deny them protection, and separate them from their loved ones.

While many obstacles continue to plague detained asylum-seeking women in the 20 years since WRC first began looking into their conditions of care and access to protection, those protections that have been implemented are in dire risk of being reversed and eliminated. WRC is deeply concerned that immigration detention conditions under the new administration will sink to a level far below what this country has seen in decades. Prolonged stays in detention leave women uncertain, hopeless, and traumatized. That trauma is exacerbated by a fundamental lack of dignity afforded asylum-seeking women in detention, manifested in the absence of sufficient medical and mental health care, a lack of privacy, inadequate recreation opportunities, and a fear of retaliation. What best

In a new era where nearly every unauthorized immigrant is a target and priority for enforcement, where standards are rolled back, where oversight will be reduced, where individuals are potentially processed and deported in a matter of days, mistreatment will increase and access to protection will become nearly impossible.

practices do exist, such as in certain aspects of the programming in Hutto, have not been replicated elsewhere, despite the clear benefits to both detained women and facility officials.

Detention policies impede access to protection because they traumatize those detained while precluding nearly any meaningful due process. The use of telephonic screening interviews, immigration court by video, and inadequate interpretation renders women unable to tell their stories or present their asylum case in a way required by U.S. asylum procedures. Without counsel, it is nearly impossible to assemble the evidence needed for an asylum claim or even counter the pressure that women face to abandon their asylum claims in the first place.

Despite many attempts by DHS to reform the detention system over the past seven years,¹⁹⁹ immigration politics and detention space seem to have taken precedence over protection in almost every instance. In a new era where nearly every immigrant is a target and priority for enforcement, where standards are rolled back, where oversight will be reduced, where individuals are potentially processed and deported in a matter of days, mistreatment will increase and access to protection will become nearly impossible. The detained asylum-seeking women that WRC encountered even under the Obama administration were largely being denied release or being given bonds so high that they could not pay them. Women are given no reason for these denials or for the disparities that exist between them and a fellow asylum seeker. Those who were separated from family members at the border have little recourse for information or reunification.

Protection should never be subject to partisanship. Many asylum seekers, like others, can and should be permitted to live in the community with family members or friends while they pursue their asylum cases. For women who are found through an individualized assessment to need additional attention and care, the government could place them into community-based ATD, including the case-management-focused programs that have been piloted by non-governmental organizations and ICE's own recently terminated Family Case Management Program.²⁰⁰ ATD programming and release to a sponsor are vastly more appropriate than detention to help mitigate any concerns about flight while providing women with access to medical and mental health care, housing, legal counsel, and other supports that can help them articulate an asylum or other protection claim. ATD programs have also been found to be effective in achieving the government's objective of immigration compliance.

The U.S. government—regardless of which administration is in charge—should recognize that detention and deterrence efforts are not and never will be appropriate for those who are fleeing for their lives. To that end, WRC recommends the following:

ICE should:

- End the detention of women seeking protection who pose no risk to public security. Individuals with serious medical or mental health conditions, including pregnant women, as well as other vulnerable populations such as those who identify as LGBTI or are primary caregivers should be released or, in cases where no existing community ties exist, placed into the least restrictive alternative to detention program.
- Reverse plans to expand the immigration detention system and extend short-term facilities to handle cases in under seven days, and instead invest in alternative to detention programs.
- Modify or end contracts to eliminate minimum bed requirements that promote the detention of individuals regardless of danger to public safety.
- Prioritize access to legal counsel and legal information by promoting access and proximity to legal service providers with capacity to provide services at the detention facility.
- Establish case management systems in ICE detention facilities to help identify women with asylum and other protection claims who have immediate health protection needs, ensure they receive appropriate medical, mental health and other services while detained, provide referrals to community support and services post-release, and otherwise ensure safe release.
- Rather than end the Family Case Management Program, expand ICE's ATD programming to include more non-custodial, community-based ATD programs for women that deliver much needed case management. ICE should partner with non-governmental and non-profit organizations to deliver needed services to those who may need additional support upon release.

To address detention conditions, ICE should:

- Rather than eliminate current detention standards, ensure that the most recent 2011 PBNDS and all PREA requirements are implemented meaningfully across all ICE detention facilities.
- Recognize that mental health services are important for reducing risk to and managing a traumatized population, and therefore retain and expand trauma-informed care models to ensure the identification, safety, and well-being of detained women who are survivors of sexual and gender-based violence and other forms of violence and abuse, and expand the availability of mental health services in detention facilities.
- Ensure basic dignity relating to personal hygiene, including through access to private toilets and showers out of sight of guards and other facility officials, clean underwear, and ample access to sanitary products without having to request them from facility staff or buy them from commissary.

- Build on existing best practices, such as those at the Hutto facility, to ensure meaningful access to recreation and library services that at minimum meet the best practices in the most recent PBNDS 2011. Indoor spaces should never count as outdoor recreation. Access to internet and email, such as at Hutto, to facilitate basic connectivity to family and counsel should be required in all facilities.
- Refrain from detaining pregnant women and implement the 2016 directive. For pregnant women who absolutely must be detained, ICE should ensure regular check-ups with a qualified off-site ob-gyn provider; provide additional nutrition that takes into account the needs and requests of a pregnant woman; and provide extra measures to address basic discomfort caused by pregnancy, including extra mattresses and additional opportunities for rest.

To address fairness for detained asylum seekers and other vulnerable populations, ICE should:

- Regularly re-assess custody decisions for detained asylum-seeking women and other populations using consistent individualized assessment mechanisms that take into account an individual's circumstances, risk factors, and options for release. Individuals seeking asylum should not be treated as a default threat to public safety or a flight risk.
- Release asylum seekers as soon as practicable following a favorable initial screening (CFI or RFI), with no or minimal bond or on parole that is not conditioned on bond or ATD. The government should demonstrate in writing where someone poses a public safety risk that require detention, and regularly review any custody determination where an individual remains in custody.

DHS should:

- Ensure appropriate screening by CBP officials at ports of entry or for those apprehended by U.S. Border Patrol. CBP officials must process anyone requesting protection accordingly, ensuring that all questions are asked appropriately.
- Detain an individual only where there is a specific and demonstrable risk to public safety or national security, and reduce detention space accordingly.
- Rather than expand expedited removal, DHS should clarify its authority to place individuals who express a fear of return into removal proceedings and to release them on parole, recognizance, or into other ATD programming pending a decision in their immigration case.
- Issue written guidance and implement policies ensuring that family members arriving together are subject to a presumption of liberty and not unnecessarily or intentionally separated.
- Implement the recommendations of its own Homeland Security Advisory Committee in its November 2016 report, along with its dissent that a majority of the committee approved, and move away from a reliance on county jails and privately-run facilities, thereby reducing the profit motive in the immigration detention system

- Ensure that the DHS Office of Civil Rights and Civil Liberties (CRCL) and Office of Inspector General (OIG) regularly assess and review ICE detention practices, with annual OIG inspections of ICE facilities, and that ICE is held accountable for demonstrating compliance with CRCL and OIG recommendations.

Executive Office for Immigration Review (EOIR) and USCIS should:

- Expand Legal Orientation Programs to all existing and future detention facilities, and expand legal representation for all immigration detainees regardless of ability to pay, with the goal of ensuring that any detainee in need of an attorney can obtain one.
- Facilitate in-person asylum screenings and immigration court hearings with access to appropriate interpretation. Asylum and immigration court proceedings should be timely but not rushed and take into consideration access to counsel.

Congress should:

- Resist calls to increase detention spending, and instead direct ICE to release asylum seekers who pose no flight or security risk and to use a spectrum of alternatives to detention programming in place of detention to mitigate a demonstrated flight risk.
- Use Congressional authority to require transparency and oversight of ICE detention practices, policies, and facilities.

Appendix A: Facilities Visited

Name of Facility & Location	Description	Date of Visit	Number of Detainees at Visit	Average Length of Stay (Official & From Interviews)
Eloy Detention Center in Eloy, Arizona	1,596-bed contract detention center operated at the time by the Corrections Corporation of America (CCA), which is now known as CoreCivic, under an intergovernmental service agreement (IGSA) with ICE and inspected against ICE's 2011 Performance Based National Detention Standards (PBNDS). In 2014, Eloy held the third largest number of asylum seekers of all detained asylum seekers. ²⁰¹	May 2016	904 men and 502 women	66-67 days (but one asylum-seeking woman interviewed had been detained at Eloy for 14 months, or about 420 days, and a recent audit of the facility indicated an average stay of 84 days) ²⁰²
El Paso Processing Center in El Paso, Texas	840-bed facility (though ICE indicated that overflow could allow it to reach 1,000 in case of an emergency such as a hurricane) with space for approximately 200 women and 600 men. ²⁰³ El Paso Processing Center is one of the few facilities owned and largely operated by ICE, though some services (e.g. food and security) are subcontracted. The facility is measured against the PBNDS 2011.	August 2017	ICE did not share the exact population count.	Officials indicated "a couple of weeks" though emphasized it was impossible for them to say. WRC interviewed individuals (including men) whose detention had ranged from two to seven or eight months (60-240 days).
Joe Corley Detention Facility in Conroe, Texas	1,517-bed detention center operated by the Geo Group under an IGSA between Montgomery County, Texas, ICE, and the U.S. Marshals Service; the majority of the population is ICE detainees. The facility, which only began holding women in 2015, is inspected against the 2011 PBNDS.	April 2016	512 men and 423 women	30-40 days (but at least one woman detained when the team visited had been in custody there for nine months, or about 270 days)

Laredo Processing Center in Laredo, Texas	<p>400-bed facility operated by CoreCivic under an IGSA with ICE. The facility was originally opened in 1985 and is currently evaluated against the 2000 National Detention Standards (NDS). The facility's population has varied but at the time of our visit was just beginning to detain men again in addition to women.</p>	<p>March 2017</p>	<p>271 total, of which 50 were men who had just arrived.</p>	<p>Unknown, but WRC was told that many individuals move through Laredo very quickly as they await removal while others may stay longer as they pursue an immigration case.</p>
Mesa Verde Detention Facility in Bakersfield, California	<p>400-bed detention center owned and operated by the Geo Group under an IGSA with ICE and the City of McFarland, California. It was converted from a criminal justice system facility to an immigration detention facility in 2014. Mesa Verde is inspected against the 2011 PBNDS and officials said it is the only facility in the jurisdiction of the ICE San Francisco Field Office that is PBNDS 2011 compliant.</p>	<p>May 2016</p>	<p>290 men and 87 women</p>	<p>58-85 days (but the team interviewed five women with asylum claims who had been at Mesa Verde for approximately six months, or 180 days)</p>
Otero County Prison in Chaparral, New Mexico	<p>1,418-bed facility that holds numerous inmates and detainees, including state, county, U.S. Marshals, military, ICE, and others. At the time of WRC's visit, staff shared that approximately 150 or 180 beds were designated for ICE detainees. The facility is operated by MTC (Management & Training Corporation) under an IGSA with ICE. The most recently available inspection notes the facility is inspected against the NDS²⁰⁴ but officials told WRC that it is measured against PBNDS 2011.</p>	<p>August 2017</p>	<p>65 women The day after WRC's visit, all 65 women were moved to another facility nearly two hours away in the El Paso Area of Responsibility.</p>	<p>Officials indicated "a couple months," though noted others are only there a few days. Though the team interviewed some women who had been at Otero less than a month, most had been detained there or at nearby facilities for anywhere from four to ten months (120-300 days)</p>

<p>T. Don Hutto Residential Center in Taylor, Texas</p>	<p>512-bed women-only detention center operated by CoreCivic under a contract with ICE. Came to public attention in 2007, when a report released by WRC and Lutheran Immigration and Refugee Service²⁰⁵ revealed conditions that were grossly inappropriate for the detention of families, who were held there in large numbers from 2006 to 2009. In 2009, following significant public outcry, ICE converted Hutto from a family detention facility to a facility for low-risk classification women, and classified it as a residential facility governed by ICE’s Family Residential Standards rather than adult detention standards. Hutto is highly unusual among immigration detention facilities because women detained there have more freedom of movement and the conditions of confinement are atypical for adult facilities. But past allegations of sexual abuse and assault at the facility²⁰⁶ illustrate that Hutto is far from a “model,” though often characterized as such by ICE.</p>	<p>April 2016</p>	<p>493 women</p> <p>In 2014, Hutto held the largest number of asylum seekers of any detention facility: 4,142 asylum seekers, or 10% of the total detained asylum seeker population.²⁰⁷</p>	<p>21 days (one asylum-seeking woman interviewed had been at Hutto for 13 months, or about 390 days)</p>
--	---	-------------------	--	--

Notes

- 1 See *Universal Declaration of Human Rights*, United Nations, Ar. 14, 1948; See also *Convention and Protocol Relating to the Status of Refugees*, UN General Assembly, 1951. See *Refugee Act of 1980*, P.L. 96-212, U.S. Congress, 1980 and *Resource: Refugee Policy Updates*, Refugee Council USA, 2017.
- 2 See *Convention and Protocol Relating to the Status of Refugees*, vol. 606, Article 33, 1967.
- 3 For over 20 years, the Women's Refugee Commission has advocated for protection, access to safety, and the right to due process for protection-seeking women, children, and families in the United States. Our work is informed directly by the experiences of detained women and the lawyers, social service providers, and others working to support them. Prior reports include: *Liberty Denied: Women Seeking Asylum Imprisoned in the U.S.*, Women's Refugee Commission (WRC), 1997; *Behind Locked Doors*, WRC, 2000; *Innocents in Jail*, WRC, 2001; *Locking Up Family Values*, WRC and Lutheran Immigration and Refugee Service, 2007; *Torn Apart by Immigration Enforcement*, WRC, 2010; *Migrant Women and Children at Risk: In Custody in Arizona*, WRC, 2010; *Locking Up Family Values, Again*, WRC and Lutheran Immigration and Refugee Service, 2015; and *Betraying Family Values: How Immigration Policy at the United States Border is Separating Families*, WRC, Lutheran Immigration and Refugee Service and Kids in Need of Defense, 2017.
- 4 *Executive Order: Border Security and Immigration Enforcement Improvements*, The White House Office of the Press Secretary, January 25, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>; *DHS Memorandum: Implementing the President's Border Security and Immigration Enforcement Improvements Policies*, DHS, February 20, 2017, https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf; See also *DHS Memorandum: Enforcement of the Immigration Laws to Serve the National Interest*, DHS, February 20, 2017, https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf.
- 5 WRC calculations based on CBP data, on file with authors. See also U.S. Border Patrol Southwest Border Apprehensions by Sector, U.S. CPB May 9, 2017, <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions>.
- 6 The right to seek asylum from persecution is grounded in Article 14 of the Universal Declaration of Human Rights (*Universal Declaration of Human Rights*, UN General Assembly, 217 (III) A, Ar. 14, December 10, 1948, <http://www.un.org/en/universal-declaration-human-rights/index.html>) and enshrined in the 1951 Convention Relating to the Status of Refugees and its 1957 Protocol (*Convention and Protocol Relating to the Status of Refugees*, UN General Assembly, Treaty Series, vol. 189, 28 July 1951, <http://www.unhcr.org/3b66c2aa10>). See also Article 33 of the 1951 Refugee Convention prohibits refoulement, the act of returning a refugee to the country where his or her life or freedom is threatened on one of the five protected grounds. United Nations, *General Assembly, Convention and Protocol Relating to the Status of Refugees*, vol. 606, Article 33, 31 January 1967, <http://www.ohchr.org/Documents/ProfessionalInterest/refugees.pdf>. The United States Refugee Act of 1980 (Refugee Act of 1980, P.L. 96-212, U.S. Congress, House and Senate, 96th Congress, March 17, 1980) established explicit asylum provision in U.S. immigration law and brought the United States into conformity with the treaty obligations prescribed by the 1951 Convention and 1967 Protocol. For more see *Resource: Refugee Policy Updates*, Refugee Council USA, 2017, <http://www.rcusa.org/refugee-policy-updates>.
- 7 Michelle Brané and Lee Wang, "Women: The Invisible Detainees," *Forced Migration Review*, no. 40, September 2013, http://www.fmreview.org/detention/brane-wang.html#_edn1.
- 8 2009 data obtained from: *Immigration Detention and Customs Enforcement: Immigration Detention Overview and Recommendations*, DHS, p. 6, October 6, 2009, <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>. and Freedom of Information Act Request received by WRC on 2.14.17 (14.6 percent of adults in ICE custody were women, including adult women detained in family detention).
- 9 In fiscal year 2013, the Asylum Office conducted 10,791 credible fear interviews involving women and girls. In FY 2016 those numbers had grown to 44,783. This does not include reasonable fear interviews, which also grew during that period of time. Data provided to WRC by USCIS Asylum Division on May 16, 2016 and May 2, 2017. On file with author.
- 10 Data provided to WRC by USCIS Asylum Division on May 16, 2016 and May 2, 2017. On file with author.
- 11 Consolidated Appropriations Act, P.L. 115-31, U.S. Congress, House and Senate, 115th Congress, 2017; See also *Immigration Policy Update: Federal Spending Bill and Immigration*, American Immigration Lawyers Association, May 5, 2017, http://www.aila.org/infonet/immigration-policy-update-federal-spending-bill?utm_source=aila.org&utm_medium=InfoNet%20Search.
- 12 See Devlin Barrett, "Record Immigrant Numbers Force Homeland Security to Search for New Jail Space," *The Wall Street Journal*, October 21, 2016, <https://www.wsj.com/articles/record-immigrant-numbers-force-homeland-security-to-search-for-new-jail-space-1477042202>; The Consolidated Appropriation Act of 2017, maintains immigration detention funding at 39,324 beds: *Consolidated Appropriations Act*, P.L. 115-31, U.S. Congress, House and Senate, 115th Congress, 2017; See also Ainsley and Rosenberg, "Congress to fund more detention beds despite drop in border crossings," Reuters, May 1, 2017, <http://www.reuters.com/article/us-usa-immigration-detention-idUSKBN17X2C3>.

- 13 According to the Department of Homeland Security, "Overall, 84 percent of initial enforcement actions, 72 percent of intakes to ICE detention, and 85 percent of removals and returns involved people identified at or near the border." *Annual Flow Report: DHS Immigration Enforcement: 2016*, DHS, December 2016, <https://www.dhs.gov/sites/default/files/publications/DHS%20Immigration%20Enforcement%202016.pdf> (hereafter, DHS Immigration Enforcement, 2016); Statistics reports acknowledge that many of these recent border crossers seek asylum: *Fiscal Year 2016 ICE Enforcement and Removal Operations Report*, U.S. ICE, 2016, <https://www.ice.gov/sites/default/files/documents/Report/2016/removal-stats-2016.pdf>. As interior immigration enforcement efforts are increasingly prioritized by the new administration, this proportion may shift in FY 2017.
- 14 David Nakamura, "Trump administration moving quickly to build up nationwide deportation force," *The Washington Post*, April 12, 2017, https://www.washingtonpost.com/politics/trump-administration-moving-quickly-to-build-up-nationwide-deportation-force/2017/04/12/7a7f59c2-1f87-11e7-be2a-3a1fb24d4671_story.html?utm_term=.a66ee8c432bb.
- 15 Caitlin Dickerson, "Trump Plan Would Curtail Protections for Detained Immigrants," *The New York Times*, April 13, 2017, https://www.nytimes.com/2017/04/13/us/detained-immigrants-may-face-harsher-conditions-under-trump.html?_r=0; See also *Budget Overview, Fiscal Year 2018: Congressional Justification*, DHS: U.S. ICE, pp. 138-139, https://www.dhs.gov/sites/default/files/publications/CFO/17_0524_U.S._Immigration_and_Customs_Enforcement.pdf.
- 16 *Executive Order: Border Security and Immigration Enforcement Improvements*, The White House Office of the Press Secretary, January 25, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>; See also Summary of February 13, 2017 "Asylum Division Lesson Plan Implementing Executive Orders," Tahirih Justice Center, Marcy 6, 2017, <https://www.tahirih.org/wp-content/uploads/2017/03/Tahirih-Summary-of-CFI-RFI-Changes-3.6.17.pdf>.
- 17 Julia Edwards Ainsley, "Separate mothers and Children—How a Trump threat deterred illegal migrants," Reuters, April 13, 2017, <http://uk.reuters.com/article/uk-usa-immigration-mothers-insight-idUKKBN17F23E>.
- 18 Access to all seven facilities was requested under the ICE Stakeholder Access Policy. Consistent with ICE procedures, WRC submitted requests to tour the facilities and to interview detainees held there who either signed up to speak with us or who were pre-identified. Dozens more signed up to speak with WRC, but researchers were unable to meet with them due to time and logistical constraints. All individuals interviewed gave consent to speak with us and understood that we were not legal service providers and could not help in exchange for information provided. For information on using the access policy to conduct monitoring of detention facilities, see *Immigration and Customs Enforcement Improves Access to Detention Centers*, Women's Refugee Commission, 2011, <https://www.womensrefugeecommission.org/immigration-and-customs-enforcement-improves-access-to-detention-centers>.
- 19 Cameroon, Cote d'Ivoire, Cuba, Guatemala, Ecuador, El Salvador, Georgia, Ghana, Haiti, Honduras, Jamaica, Mexico, Nigeria, Russia, Somalia, and Togo.
- 20 For the purpose of this report, unless described otherwise, the term "adult women asylum seekers" refers to adult women over the age of 18 who are detained alone or with other adult family members in ICE facilities designated for adults and seeking asylum. In addition to asylum, women may also be eligible for or seeking other legal protection, such as on the grounds of being a survivor of trafficking, a crime, or to escape an abusive relationship (VAWA). A large number of women asylum seekers are held in family detention facilities alongside their children. For more information on the treatment of detained families in the U.S., see *Locking up Family Values, Again: The Detention of Immigrant Families*, Women's Refugee Commission and Lutheran Immigration and Refugee Services, October 30, 2015, <https://www.womensrefugeecommission.org/resources/document/1085-locking-up-family-values-again>.
- 21 Those identifying as lesbian, gay, bisexual, transsexual or queer/questioning. Given the narrow scope of this research and the groundbreaking work that has been done by other organizations on the detention of LGBTI individuals, WRC did not focus on this population during our research. The team did interview women who self-identified as lesbian, and was made aware of the current or past detention of transgender women at several of the facilities visited. Despite this limited engagement and insufficient information, it is important to acknowledge their unique vulnerability and experiences. See, for example: Sharita Gruberg and Rachel West, *Humanitarian Diplomacy: The U.S. Asylum System's Role in Protecting Global LGBT Rights*, Center for American Progress, June 18, 2015, <https://www.americanprogress.org/issues/lgbt/reports/2015/06/18/115370/humanitarian-diplomacy/>; See also Brian Stauffer, "Do You See How Much I'm Suffering Here?": Abuse against Transgender Women in US Immigration Detention, Human Rights Watch, March 23, 2016, <https://www.hrw.org/report/2016/03/23/do-you-see-how-much-im-suffering-here/abuse-against-transgender-women-us>.
- 22 Julia Edwards Ainsley, "Exclusive: Trump administration considering separating women, children at the Mexico border," Reuters, March 4, 2017, <http://www.reuters.com/article/us-usa-immigration-children-idUSKBN16A2ES>.
- 23 Under the jurisdiction of the Office of Field Operations, or OFO.
- 24 Under the jurisdiction of the U.S. Border Patrol, or BP.
- 25 See James Lyall and Chris Rickerd, *A Federal Judge Denounced the 'Egregious Conditions' of Border Patrol Holding Cells: Will Anything Change?*, American Civil Liberties Union, August 31, 2015, <https://www.aclu.org/blog/washington-markup/federal-judge-denounced-egregious-conditions-border-patrol-holding-cells-will>; See also Fernanda Santos, "Photos Offer

- Glimpse Inside Arizona Border Detention Centers," *The New York Times*, August 18, 2016, <https://www.nytimes.com/2016/08/19/us/photos-show-conditions-in-arizona-border-detention-centers.html>.
- 26 Meaning "freezers" - the word many migrants use to describe CBP holding cells.
 - 27 Interview at Hutto, April 12, 2016. On file with author. WRC obtained informed verbal consent from all detainees. We have used pseudonyms throughout this report to protect their identities.
 - 28 *U.S. Customs and Border Protection's Systemic Denial of Entry to Asylum Seekers at Ports of Entry on U.S.-Mexican Border*, American Immigration Council, January 13, 2017, <https://www.americanimmigrationcouncil.org/content/us-customs-and-border-protections-systemic-denial-entry-asylum-seekers-ports-entry-us>. See also: *Human Rights First. Crossing the Line: U.S. Border Agents Illegally Reject Asylum Seekers*, May 2017. <http://www.humanrightsfirst.org/sites/default/files/hrf-crossing-the-line-report.pdf>
 - 29 *The Rise in Criminal Prosecutions of Asylum Seekers*, Human Rights First, July 2017, available at <http://www.humanrightsfirst.org/sites/default/files/hrf-criminal-prosecution-of-asylum-seekers.pdf>
 - 30 *Immigration Policy Update: Federal Spending Bill and Immigration*, American Immigration Lawyers Association, 2017. For a most recent list of ICE facilities, see "ICE Detention Facilities as of April 2017," available at http://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2017-06/ICE_detention_list_April2017_0.pdf
 - 31 DHS Immigration Enforcement: 2016.
 - 32 ICE data from a Freedom of Information Act request; on file with authors. Data current as of April 2016.
 - 33 *Detention and Removal of Illegal Aliens: U.S. Immigration and Customs Enforcement*, Office of Inspector General, DHS, pg. 17, April 14, 2006, https://www.oig.dhs.gov/assets/Mgmt/OIG_06-33_Apr06.pdf; See also U.S. Congress, House and Senate, 108th Congress, *Intelligence Reform and Terrorism Prevention Act of 2004*, P.L. 108-458, S. 2845, December 17, 2004. In 2004, funding was available for 18,000 detention beds; the current appropriations is for 34,000 beds although rose to a level of at least 40,000 beds by October 2016.
 - 34 The bed quota began to exist in 2009. The DHS Appropriations Act of 2010 included a requirement that the agency "maintain a level of not less than 33,400 detention beds," a figure that was later increased through the 2013 Continuing Resolution to 34,000 beds. See U.S. Congress, House and Senate, 111th Congress, *Department of Homeland Security Appropriations Act 2010*, P.L. 111-83, October 28. See also U.S. Congress, House and Senate, 113th Congress, *Consolidated and Further Continuing Appropriations Act*, P.L. 113-483, 2015, <https://www.congress.gov/bill/113th-congress/house-bill/83/text>. For a more thorough analysis of the bed quota see Jennifer Chan, *Immigration Detention Bed Quota Timeline*, National Immigrant Justice Center, January 13, 2017, <http://www.immigrantjustice.org/staff/blog/immigration-detention-bed-quota-timeline>.
 - 35 *Consolidated and Further Continuing Appropriations Act*, U.S. Congress, 2017.
 - 36 *FY 2018 Budget in Brief*, DHS, 2018, <https://www.dhs.gov/sites/default/files/publications/DHS%20FY18%20BIB%20Final.pdf>.
 - 37 *Banking on Detention: Local Lockup Quotas and the Immigration Dagnet*, Detention Watch Network and Center for Constitutional Rights, 2015, <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20CCR%20Banking%20on%20Detention%20Report.pdf>. Though outside the scope of this research, is important to note 18 of 27 detention facilities with guaranteed minimums or a flat fee payment structure also detain women. Although we lack current information on what proportion of detention space in these facilities is allocated for women, the presence of women in two thirds of the current guaranteed minimum facilities highlights the need for additional inquiry to determine whether women may be disproportionately affected by lockup quotas and other policies and practices that incentivize the filling of detention beds; See also Ainsley and Rosenberg, Congress to fund more detention beds; See also discussion on the FY 2018 Budget wherein the WRC cross-references FOIA to the data: *Budget Overview, Fiscal Year 2018: Congressional Justification*, DHS: U.S. ICE, pp. 131-133, https://www.dhs.gov/sites/default/files/publications/CFO/17_0524_U.S._Immigration_and_Customs_Enforcement.pdf.
 - 38 Homeland Security Advisory Council, *Report of the Subcommittee on Privatized Immigration Detention Facilities*, DHS, December 1, 2016, <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>.
 - 39 *Locking up Family Values, Again*, Women's Refugee Commission, 2015; See also *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal*, U.S. Commission on International Religious Freedom, August 2, 2016, <http://www.uscirf.gov/sites/default/files/Barriers%20To%20Protection.pdf>. In addition, in one WRC interview with ICE officials during a tour, an ICE official indicated that detention placement decisions were impacted by where bed requirements exist.
 - 40 For example, "45 percent of nonprofit attorneys surveyed by Human Rights First indicated that the 2014 Enforcement Priorities have been a reason for denying parole to asylum seekers. These nonprofit offices represented asylum seekers detained in various parts of the country, dealing with ICE offices located in Arizona, Georgia, California, New Jersey, and Florida." See *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers*, Human Rights First, 2016.
 - 41 *ICE's Failed Monitoring of Immigration Detention Contracts: A Policy Brief from Heartland Alliance's National Immigrant Justice Center*, National Immigrant Justice Center, September 2016, <https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2016-11/Inspections%20Policy%20Brief%20FINAL2%202016%2010%2003.pdf>. See also *Fatal Neglect: How ICE Ignores Deaths in Detention*, American Civil Liberties Union et. al., February 25, 2016,

- https://www.aclu.org/sites/default/files/field_document/fatal_neglect_acludwnnijc.pdf.
- 42 Devlin Barrett, "Record Immigrant Numbers Force Homeland Security to Search for New Jail Space," *The Wall Street Journal*, Oct. 21, 2016, <https://www.wsj.com/articles/record-immigrant-numbers-force-homeland-security-to-search-for-new-jail-space-1477042202>;
 - 43 Lauren Etter, "America's Private Prisons Are Back in Business," Bloomberg, January 10, 2017, <https://www.bloomberg.com/news/articles/2017-01-10/trump-deportation-plan-to-hand-windfall-to-a-dying-u-s-industry>.
 - 44 Caitlin Dickerson, "Trump Plan Would Curtail Protections for Detained Immigrants," 2017.
 - 45 *Budget Overview, Fiscal Year 2018: Congressional Justification*, DHS.
 - 46 *A Statement Submitted to the Committee on the Judiciary of the U.S. House of Representatives*, Women's Refugee Commission, June 25, 2014, <https://www.womensrefugeecommission.org/press-room/2080-administration-made-disaster-the-south-texas-border-surge-of-unaccompanied-alien-minors>.
 - 47 *Statement on Southwest Border Security: United States Border Patrol South Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016*, DHS, October 18, 2016, <https://www.dhs.gov/news/2016/10/17/statement-secretary-johnson-southwest-border-security>.
 - 48 "UNHCR calls for urgent action as Central American asylum claims soar," The UN Refugee Agency, April 5, 2016, <http://www.unhcr.org/en-us/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html>.
 - 49 "UNHCR warns of 'looming refugee crisis' in the Americas," The UN Refugee Agency, October 28, 2015, <http://www.unhcr.org/en-us/news/latest/2015/10/5630fc6a9/unhcr-warns-looming-refugee-crisis-americas.html>.
 - 50 UNHCR, October 28, 2015.
 - 51 *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, UNHCR, October 28, 2015, <http://reliefweb.int/sites/reliefweb.int/files/resources/5630f24c6.pdf>; See also *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the need for international Protection*, UNHCR, March 13, 2014, <http://www.unhcr.org/en-us/about-us/background/56fc266f4/children-on-the-run-full-report.html>.
 - 52 A "credible fear" interview is the first step in the asylum process. During a credible fear interview, an asylum seeker must demonstrate that there is a "significant possibility" that she could establish persecution or has a well-founded fear of persecution or harm on account of race, religion, nationality, membership in a particular social group, or political opinion if returned to her country. A favorable credible fear finding allows the individual to apply for asylum in the U.S. During a reasonable fear interview, an individual who has previously been ordered removed from the U.S. or who has been convicted of an aggravated felony must establish that there is a "reasonable possibility" she would be persecuted or tortured on one of the five protected grounds if returned to her home country. A favorable reasonable fear finding allows an individual to apply for withholding of removal or protection under the Convention Against Torture, but not for asylum. See *Women on the Run*, UNHCR, 2015.
 - 53 Countless reports have documented the detention of asylum seekers and other vulnerable migrants. See, for example *U.S. Detention of Asylum Seekers: Seeking Protection, Findings Prison*, Human Rights First, June 2009, <https://www.humanrightsfirst.org/wp-content/uploads/pdf/090429-RP-hrf-asylum-detention-report.pdf>; See also *Behind Locked Doors: Abuse of Refugee Women at the Krome Detention Center*, Women's Refugee Commission, October 2000, <https://www.womensrefugeecommission.org/images/zdocs/krome.pdf>; See numerous HRW reports *US: 20 Years of Immigrant Abuses*, Human Rights Watch, April 25, 2016, <https://www.hrw.org/news/2016/04/25/us-20-years-immigrant-abuses>. See also *Shadow Prisons: Immigrant Detention in the South*, Southern Poverty Law Center, November 2016, https://www.splcenter.org/sites/default/files/ijp_shadow_prisons_immigrant_detention_report.pdf; See also *Report on Asylum Seekers in Expedited Removal*, USCIRF, February 8, 2005, <http://www.uscirf.gov/reports-briefs/special-reports/report-asylum-seekers-in-expedited-removal>; See also *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal*, USCIRF, 2016.
 - 54 *Ending the Use of Immigration Detention to Deter Migrants*, Detention Watch Network, April 2015, <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Detention%20as%20a%20Deterrence%20Policy%20Brief.pdf>.
 - 55 *Statement by Secretary of Homeland Security Jeh Johnson Before the Senate Committee on Appropriations*, July 10, 2014, <https://www.dhs.gov/news/2014/07/10/statement-secretary-homeland-security-jeh-johnson-senate-committee-appropriations>.
 - 56 *Declaration of Philip T. Miller, Assistant Director of Field Operations for Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement, and Traci A. Lembke, Assistant Director over Investigative Services for Homeland Security Investigations*, August 7, 2014. Available from <https://immigrantjustice.org/sites/immigrantjustice.org/files/Government%20No%20Bond%20Declarations.pdf>.
 - 57 See WRC, American Immigration Lawyers Association, and American Immigration Council complaint to DHS CRCL, *Re: The Psychological Impact of Family Detention on Mothers and Children Seeking Asylum*, June 2015, <http://www.aila.org/advo-media/press-releases/2015/impact-family-detention-mental-health/complaint-crcl>
 - 58 Among other groups. See *Policies for the Apprehension, Detention and Removal of Undocumented Immigration Services*, DHS, 2014.
 - 59 A form of summary removal that allows DHS to remove an individual without that person being afforded a hearing before an immigration judge.

- 60 *RILR v. Johnson* opposed the government's use of a deterrence argument to justify the mass detention of families. In early 2015, the U.S. District Court for the District of Columbia ordered a preliminary injunction, prompting ICE to state that it would no longer consider deterrence in deciding whether to detain a family. For more information, see *RILR v Johnson, Civil action No. 15-11 U.S.*, July 31, 2015, <https://www.aclu.org/cases/rilr-v-johnson>; See also *Family Detention and the Flores Settlement Agreement*, Women's Refugee Commission and Lutheran Immigration and Refugee Service, July 2016, <https://www.womensrefugeecommission.org/images/zdocs/Flores-Settlement-and-Family-Detention-2016-07.pdf>. Following lengthy litigation and appeals, in July 2016 the Ninth Circuit Court of Appeals found that Flores applies to both unaccompanied and accompanied children and that ICE cannot detain children for long periods of time in locked, unlicensed facilities. See the case *Flores v Meese*, Case No. CV 85-4544-RJK, U.S., Jan 17, 1997, https://www.aclu.org/files/pdfs/immigrants/flores_v_meese_agreement.pdf.
- 61 Julia Edwards Ainsley and Diane Bartz, "Trump administration to expand groups of immigrants to be deported: documents," Reuters, Feb 18, 2017, <http://www.reuters.com/article/us-usa-immigration-idUSKBN15Y01X>.
- 62 *The Perils of Expedited Removal: How Fast-Track Deportations Jeopardize Asylum Seekers*, American Immigration Council, May 9, 2017, <https://www.americanimmigrationcouncil.org/research/expedited-removal-asylum-seekers>; See also *American Exile: Rapid Deportations that Bypass the Courtroom*, December 2014, https://www.aclu.org/sites/default/files/field_document/120214-expeditedremoval_0.pdf; See also *Report on Asylum Seekers in Expedited Removal*, USCIRF, February 8, 2005, <http://www.uscirf.gov/reports-briefs/special-reports/report-asylum-seekers-in-expedited-removal> and *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal*, USCIRF, 2016, <https://www.uscis.gov/link/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-6643.html>.
- 63 *Summary of February 13, 2017 Asylum Division Lesson Plan Implementing Executive Orders: Possible Impacts on Survivors of Domestic and Sexual Justice*, Tahirih Justice Center, March 6, 2017, <https://www.tahirih.org/wp-content/uploads/2017/03/Tahirih-Summary-of-CFI-RFI-Changes-3.6.17.pdf>
- 64 See note 62.
- 65 Abigail Hauslohner and David Nakamura, "In memo, Trump administration weighs expanding the expedited deportation powers of DHS," *Washington Post*, July 14, 2017, https://www.washingtonpost.com/world/national-security/in-memo-trump-administration-weighs-expanding-the-expedited-deportation-powers-of-dhs/2017/07/14/ce5f16b4-68ba-11e7-9928-22d00a47778f_story.html?utm_term=.67e33ac2f7c7
- 66 HRIFA reports reference asylum seekers who are in an "affirmative," "credible fear," or "defensive" posture. In addition to the definitions of those three categories lacking clarity in the report (for example, an asylum seeker labeled as "credible fear" could potentially be relabeled as "defensive"), those definitions also omit the potential of individuals in reinstatement of proceedings who would be going through the "reasonable fear" asylum screening process.
- 67 USCIS statistics do include credible and reasonable fear interviews conducted from family detention and it is not possible to separate out families from adults detained alone. In addition, it is possible, though rare, that some individuals went through the credible or reasonable fear process from outside of detention. The HRIFA statistics do not appear to include individuals in reasonable fear screenings, thus suggesting they underrepresent asylum seekers in detention; in addition, the most recent year available is FY 2014, more than two years ago. Finally, the ICE data measures all adult women in detention, regardless of whether they may have been asylum seekers or not. While each set of data is illustrative, none can be compared in a 1 to 1 manner.
- 68 2009 data obtained from *Immigration Detention and Customs Enforcement: Immigration Detention Overview and Recommendations*, DHS, 2009; 2016 data obtained from Freedom of Information Act Request received by WRC on Feb. 14, 2017 (14.6 percent of adults in ICE custody were women, including adult women detained in family detention).
- 69 *Ibid.* Risk to public safety should always be determined individually and may or may not exist regardless of whether an individual has a criminal conviction or not. However, the fact that 78 percent of individuals in detention did not have a criminal conviction strongly suggests that they are likely not a public safety risk, may be seeking asylum, and should not be a priority for detention. In addition, convictions may be for misdemeanors and minor offenses.
- 70 In fiscal year 2013, the Asylum Office conducted 10,791 credible fear interviews involving women and girls. In FY 2016 those numbers had grown to 44,783. Credible fear interviews should almost always happen while someone is in detention, though occasionally occur outside of detention. This statistic does not include reasonable fear interviews, which also grew during that period of time. Data provided to WRC by USCIS Asylum Division on May 16, 2016 and May 2, 2017. The number of reasonable fear interviews—the initial screening interview for someone re-entering the United States, also nearly doubled, from 1,113 in FY 2013 to 2,097 in FY 2016. On file with author.
- 71 HRIFA. Note these include affirmative, defensive, and credible fear cases, but do not appear to include reasonable fear or women seeking other forms of protection.
- 72 Data provided to WRC by USCIS Asylum Offices on May 16, 2016 and on file at WRC. Note that in 2013, Mexico overtook Guatemala.
- 73 See also *Immigration Detention and Customs Enforcement: Immigration Detention Overview and Recommendations*, DHS, 2009.
- 74 Many of the 48 women interviewed by Human Rights Watch for its 2009 report, *Detained and Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention* reported sexual or gender-based violence in their past. In some cases, the

- violence caused them to flee. Others reported violence either en route to the U.S. or after arrival. See *Detained not Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention*, Human Rights Watch, pp. 57-58, 2007, <https://www.hrw.org/report/2009/03/17/detained-and-dismissed/womens-struggles-obtain-health-care-united-states>.
- 75 "Women are twice as likely to be diagnosed with depression as men, and two to three times as likely to experience anxiety disorders, including post-traumatic stress disorder...They are also more likely than men to somaticize." See *Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona*, The University of Arizona, January 2009, https://law2.arizona.edu/depts/bacon_program/pdf/Unseen_Prisoners.pdf; See also Barbara Bloom and Myra Raeder, *Gender Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders*, DOJ, June 2003, <http://static.nicic.gov/Library/018017.pdf>.
- 76 Of the more than 44,000 men and women with asylum claims who were detained in 2014, nearly 32,000 of them were between the ages of 18 and 30. *2014 Haitian Refugee and Fairness Act report Table 4*, p. 19, on file with authors.
- 77 Allen S Keller et al., "Mental health of detained asylum seekers," Vol 362, *The Lancet*, p. 1721, http://s3.amazonaws.com/academia.edu.documents/45079101/Mental_health_of_detained_asylum_seekers20160425-726-1bb9ir.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=149582-3516&Signature=RFaMSPMQopUm1%2FWTtivG0HufMBw%3D&response-content-disposition=inline%3B%20filename%3DMental_health_of_detained_asylum_seekers.pdf. See also *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers*, Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, June 2003, https://s3.amazonaws.com/PHR_Reports/persecution-to-prison-US-2003.pdf.
- 78 *Tortured and Detained: Survivor Stories of U.S. Immigration Detention*, The Center for Victims of Torture et al., November 13, 2013, http://www.uusc.org/sites/default/files/report_torturedanddetained_nov2013.pdf.
- 79 Commonly reported by detained torture survivors, as found by the Center for Victims of Torture. See *Tortured and Detained: Survivor Stories of U.S. Immigration Detention*, The Center for Victims of Torture et al., p. 5, 2013.
- 80 *Tortured and Detained*, The Center for Victims of Torture, pp. 12-13, 2013.
- 81 See *Universal Declaration of Human Rights*, United Nations, Ar. 14, 1948; See also *Convention and Protocol Relating to the Status of Refugees*, UN General Assembly, 1951. See Refugee Act of 1980, P.L. 96-212, U.S. Congress, 1980 and Resource: Refugee Policy Updates, Refugee Council USA, 2017.
- 82 See *Convention and Protocol Relating to the Status of Refugees*, vol. 606, Article 33, 1967.
- 83 See text box "Expedited Removal: How asylum seekers are detained" on p. 15
- 84 Other forms of relief could include U Visas, T Visas, or protection under the Violence Against Women Act (VAWA). For more information, see *Violence Against Women Act (VAWA) Provides Protections for Immigrant Women and Victims of Crime*, American Immigration Council, May 7, 2017, <https://www.americanimmigrationcouncil.org/sites/default/files/research/vawa.pdf>.
- 85 *Mexican and Central American Asylum and Credible Fear Claims: Background and Context*, American Immigration Council, May 2014, https://www.americanimmigrationcouncil.org/sites/default/files/research/asylum_and_credible_fear_claims_final_0.pdf; See *U.S. Border Screening Errors Block Refugees From Asylum Process*, National Immigrant Justice Center et al., Nov. 13, 2014, <http://immigrantjustice.org/press-releases/us-border-screening-errors-block-refugees-asylum-process?q=press-releases/us-border-screening-errors-block-refugees-asylum-process>; See also CRCL complaint: Complaints Filed Against CBP; Asylum Screening Inadequate, Civil Rights and Civil Liberties, November 18, 2014, <https://www.lexisnexis.com/legalnewsroom/immigration/b/outsidenews/archive/2014/11/18/complaints-filed-against-cbp-asylum-screening-inadequate.aspx?Redirected=true>; See also *Recommendations to DHS to Improve Complaint Processing*, American Civil Liberties Union, May 5, 2014, https://www.aclu.org/files/assets/14_5_5_recommendations_to_dhs_to_improve_complaint_processing_final.pdf.
- 86 *Summary of February 13, 2017 Asylum Division Lesson Plan Implementing Executive Orders: Possible Impacts on Survivors of Domestic and Sexual Justice*, Tahirih Justice Center, March 6, 2017, <https://www.tahirih.org/wp-content/uploads/2017/03/Tahirih-Summary-of-CFI-RFI-Changes-3.6.17.pdf>.
- 87 See *Access to Counsel in Immigration Courts*, American Immigration Council, September 28, 2016, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf. See also Jaya Ramji-Nogales et al., "Refugee Roulette: Disparities in Asylum adjudication," *Stanford Law Review*, vol. 60 (2008), <https://www.stanfordlawreview.org/print/article/feature-refugee-roulette-disparities-in-asylum-adjudication/>; A New York study found that detained immigrants with attorneys were 500 percent more likely to win their cases than those without: Steering Committee of the New York Immigrant Representation Study Report, "Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings," *Cardozo Law Review* (December 2011), http://www.cardozolawreview.com/content/denovo/NYIRS_Report.pdf.
- 88 While specific to cases of women processed together with their children, many cases of women with children will be similar to the conditions that adult women detained alone fled; the data still illustrates the immense impact that counsel has on an immigration case outcome. *Representation Makes Fourteen-Fold Difference in Outcome: Immigration Court "Women with Children" Cases Transactional Records Action Clearinghouse*, Immigration, July 15, 2015, <http://trac.syr.edu/immigration/reports/396/>.

- 89 *Access to Counsel in Immigration Courts*, American Immigration Council, 2016.
- 90 Interview with detained woman; date and location withheld to protect identity. On file with author.
- 91 *ICE Performance-Based National Detention Standards 2011* (Revised December 2016), Section 5.7: Visitation. Available at <https://www.ice.gov/doclib/detention-standards/2011/5-7.pdf>.
- 92 In the case of the El Paso Processing Center, ICE only allowed a minority of detained individuals seeking to meet with WRC to speak with us, citing logistical constraints. Although researchers insisted on more time to interview more people, we were also aware that our need for confidential interviews prevented outside attorneys from meeting with their clients in a confidential setting during that time.
- 93 Correspondence with pro bono attorneys, May 2017. On file with author.
- 94 *RE: Call for Immediate Remedy for the Transfer of Women in DHS Custody at T. Don Hutto Residential Facility to the Laredo Processing Center*, Grassroots Leadership and American Getaways, July 20, 2016, https://grassrootsleadership.org/sites/default/files/uploads/press-releases/ice_transfer_letter_july_2016.pdf.
- 95 Correspondence with pro bono attorneys, May 2017. On file with author.
- 96 John Stanton, "Dozens of Women are Being Moved to a Detention Center That's Been Called 'Hell,'" *Buzzfeed*, August 8, 2017, available at: https://www.buzzfeed.com/johnstanton/detainees-are-being-moved-to-a-private-detention-center?utm_term=.tmeOBndP2y#.mdgPayEn3M
- 97 Conversation with pro bono attorney, August 2017.
- 98 Interview at Hutto, April 12, 2016. On file with author.
- 99 Conversation with pro bono attorneys, April 11, 2016. On file with author.
- 100 Correspondence with pro bono attorneys, May 2017. On file with author.
- 101 *EOIR provides new hearing details*, U.S. Department of Justice Executive Office for Immigration Review, March 17, 2017, https://www.justice.gov/sites/default/files/pages/attachments/2017/03/17/noticer-esixhls_03172017_1.pdf.
- 102 At the Laredo Detention Center, an immigration judge team on a short detail from another location had just begun to conduct hearings in person, a sudden shift that appeared to be causing at least some confusion and chaos which remained the case as of follow up reports in June 2017 (Correspondence with pro bono attorney, June 2017. On file with author.) Similarly, Otero also now had an in-person immigration court with judges rotating in from other cities every two weeks. The choice of Otero as a site for in-person proceedings was particularly confusing given that Otero is often seen as a staging facility and given the transfers in population immediately following our visit. At the other end of the spectrum, Hutto cases are no longer heard by VTC at the local immigration court but instead are rotated via VTC among various judges around the country. This has wreaked havoc for asylum seekers and their attorneys, who now face rotating practices in filing and other critical administrative requirements, and are forced to advocate for their clients remotely while sitting in a tiny room with them in the detention facility, rather than being in the courtroom face-to-face with the judge and trial attorney. (Correspondence with pro bono attorneys, May 2017. On file with author.)
- 103 However, WRC heard of one case in which a woman's injuries were so severe the judge determined they could not be fully and respectfully assessed by VTC and she was transported to court in person.
- 104 Interview with detained woman, Date and location withheld to protect identity. On file with author.
- 105 See *Reducing the Immigration Court Backlog and Delays*, Human Rights First, July 2016, <http://www.humanrightsfirst.org/sites/default/files/HRF-Background-Immigration-Courts.pdf>.
- 106 For an explanation of VAWA, U, and T visas and eligibility, see *Violence Against Women Act (VAWA) Provides Protections for Immigrant Women and Victims of Crime*, American Immigration Council, 2017.
- 107 *ICE Performance-Based National Detention Standards 2011* (Revised December 2016), Section 5.4: Recreation. Available at: <https://www.ice.gov/doclib/detention-standards/2011/5-4.pdf>
- 108 *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, Guideline 8, UNHCR, 2012, http://www.un.org/refugees/library/Guidelines%20Related%20to%20Detention_eng.pdf.
- 109 Brané and Wang, "Women: The Invisible Detainees", September 2013.
- 110 Conditions and treatment at ICE custody are governed by a set of detention standards developed by ICE. There are four sets of detention standards: the 2000 National Detention Standards are the most basic; the 2008 Performance Based National Detention Standards (2008 PBNDS) expanded on these and added a performance based premise. These standards were revised and expanded again in 2011 (the 2011 PBNDS) and those standards were updated again in late 2016. Finally, the Family Residential Standards govern custody of family detention centers and the Hutto facility (which was once a family detention center). Despite attempts to improve the standards over time, ICE has struggled to implement each new iteration of standards in all of its detention centers, and all four sets of standards are currently in use depending on the detention facility.
- 111 Caitlin Dickerson, "Trump Plan Would Curtail Protections for Detained Immigrants," 2017.
- 112 *Immigration Detention and Customs Enforcement: Immigration Detention Overview and Recommendations*, DHS, 2009.
- 113 *Politicized Neglect: A Report from Etowah County Detention Center*, Women's Refugee Commission, March 2012, https://www.womensrefugeecommission.org/images/zdocs/etowah_report_final_v2.pdf.

- 114 The use of detention and other tactics to deter asylum seekers, including family units, has been clearly articulated by DHS (*Ending the Use of Immigration Detention to Deter Migration*, Detention Watch Network, April 2015, <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Detention%20as%20a%20Deterrence%20Policy%20Brief.pdf>) and well documented by NGOs (*Locking Up Family Values, Again*, Women's Refugee Commission, 2015) and the media (Julia Preston, "Detention Center Presented as Deterrent to Border Crossings," *The New York Times*, December 15, 2014, <https://www.nytimes.com/2014/12/16/us/homeland-security-chief-opens-largest-immigration-detention-center-in-us.html>).
- 115 For example, in discussing plan to separate families and detain adult women separately, then-DHS Sec. Kelly explicitly stated he would like to deter families from making the journey north (Secretary of Homeland Security John Kelly, interview by Wolf Blitzer at CNN, "Kelly: Separation Families Under Consideration," March 6, 2017, <http://www.cnn.com/videos/politics/2017/03/06/trump-travel-ban-separate-parents-children-kelly-tsrbts.cnn>). See also Eric Beech, "Kelly says considering separating women, children at Mexico border," Reuters, March 6, 2017, <http://www.reuters.com/article/us-usa-immigration-children-idUSKBN16D2OX>.
- 116 For a consolidated roundup of reports and allegations, see *Challenging Unconstitutional Conditions in CBP Detention Facilities: Doe v Johnson, No. 15-00250*, American Immigration Council, June 8, 2015, <https://www.americanimmigrationcouncil.org/litigation/challenging-unconstitutional-conditions-cbp-detention-facilities>.
- 117 Interview at Hutto. April 12, 2016. On file with author.
- 118 Interview with pro bono attorney. April 2016. On file with author.
- 119 Interview with pro bono attorney. April 2016. On file with author.
- 120 There have been many WRC Reports and Complaints on this topic. See "The Traumatizing Impact of Family Detention on Mental Health of Children and Mothers" [Press Release], Women's Refugee Commission, June 30, 2015, <https://www.womensrefugeecommission.org/news/press-releases-and-statements/2278-crcl-complaint-june-2015>; See also *Detained not Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention*, Human Rights Watch, 2007; See also *Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona*, The University of Arizona, 2009.
- 121 Inadequate medical and mental health care is a well-documented problem in immigration detention facilities that has resulted in critical health outcomes and even deaths. See *US: Deaths in Immigration Detention: Newly Released Records Suggest Dangerous Lapses in Medical Care*, Human Rights Watch, July 7, 2016, <https://www.hrw.org/news/2016/07/07/us-deaths-immigration-detention>; *Fatal Neglect: How ICE Ignores Deaths in Detention*, American Civil Liberties Union et. al., 2016; Alex Friedmann, "32 Deaths at CCA operated Immigration Detention Facilities Include at Least 7 Suicides," *Prison Legal News*, June 20, 2015, <https://www.prisonlegalnews.org/news/2015/jul/7/32-deaths-cca-operated-immigration-detention-facilities-include-least-7-suicides/>; See also *Detained not Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention*, Human Rights Watch, 2007.
- 122 "Houston area detainee passes away at local hospital." U.S. Immigration and Customs Enforcement, September 18, 2017, <https://www.ice.gov/news/releases/houston-area-detainee-passes-away-local-hospital>.
- 123 ICE's 2011 PBNDS require that women "have access to appropriate and necessary medical and mental health care," to include routine and age appropriate gynecological and obstetrical health care that is consistent with recommended community healthcare guidelines. *2011 Operational Manual ICE Performance-Based National Detention Standards*, 4.4 (medical care), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/4-4.pdf>. It is important to note that the 2011 PBNDS have recently been minorly updated.
- 124 Interview at Eloy, May 5 2016 on file with author.
- 125 *Systemic Indifference: Dangerous and Substandard Medical Care in US Immigration Detention*, Human Rights Watch and CIVIC, May 2017, https://www.hrw.org/sites/default/files/report_pdf/usimmigration0517_web_0.pdf.
- 126 Interview with detained woman; date and location withheld to protect identity On file with author.
- 127 See *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers*, Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, 2003.
- 128 UNHCR 2015 report *Women on the Run* details high level of violence and abuse, including pervasive violence against women, in Mexico and the Northern Triangle of Central America. See *Women on the Run*, UNHCR, 2015.
- 129 Interview, April 2016. On file with author.
- 130 *2011 PBNDS*, 4.3 (Medical Care), U.S. ICE, 2011; 2.11 (Sexual Abuse and Assault Prevention and Intervention), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/2-11.pdf>.
- 131 *Family Residential Standards*, 4.3 (Medical Care), U.S. ICE, 2.7 (Sexual Abuse and Assault Prevention and Intervention), U.S. ICE, 2011.
- 132 Interview at Mesa Verde, May 3, 2016. Notes on file with author.
- 133 WRC did not confirm this with detained women, but was glad to hear about this effort.
- 134 Conversation with ICE officials, June 2016. Although WRC considers such practices are promising additional measures to address the gap in mental health care for traumatized detained women, WRC has not been able to evaluate the programming or detained women's opinions of it. WRC has learned that the trauma programs have been discontinued under the Trump administration.
- 135 *Policies for the Apprehension, Detention and Removal of Undocumented Immigration Services*, DHS, 2014.

- 136 See ERO Memorandum outlining ICE requirements when a detainee is determined to be pregnant: *Identification and Monitoring of Pregnant Detainees*, U.S. ICE, August 15, 2016, https://www.ice.gov/sites/default/files/documents/Document/2016/11032.2_IdentificationMonitoringPregnantDetainees.pdf.
- 137 Katie Traverso and Michael Kaufman, *Shackle a Pregnant Woman, Risk a Foreseeable Tragedy*, American Civil Liberties Union of Northern California, June 18, 2015, <https://www.aclunc.org/blog/shackle-pregnant-woman-risk-foreseeable-tragedy>. ICE's own 2011 Performance Based National Detention Standards 4.4 (Medical Care, Women) prohibits the shackling of pregnant women absent extraordinary circumstances, see 2011 Operational Manual, 4.4 (Medical Care), U.S. ICE, 2011.
- 138 Yamileth Garcia, "Immigration Detention is inhumane. But for pregnant women, it's trauma," *The Guardian*, July 27, 2015, <https://www.theguardian.com/commentis-free/2015/jul/27/immigration-detention-pregnant-women-conditions>.
- 139 Yamileth Garcia, "Immigration Detention is inhumane. But for pregnant women, it's trauma," *The Guardian*, 2015.
- 140 Conversation with attorney, May 4, 2016. On file with author.
- 141 Liz Jones, "Her miscarriage in ICE detention raises questions about care," KUOW, July 19, 2017, <http://kuow.org/post/her-miscarriage-ice-detention-raises-questions-about-care>. The article does not report data on how long, on average, pregnant women were in ICE custody.
- 142 Dalinda García, "Mujer embarazada de El Salvador pide asilo político y la detiene ICE," *Noticias ya*, April 28, 2017. <https://noticiasya.com/el-paso/2017/04/28/mujer-embarazada-de-el-salvador-pide-asilo-politico-y-la-detiene-ice/>
- 143 Correspondence with pro bono attorneys and volunteers. August 2017. On file with author. See also Liz Jones, "Her miscarriage in ICE detention raises questions about care," KUOW.
- 144 Interview at Joe Corley, April 15, 2016. On file with author.
- 145 Interview with detained woman, Date and location withheld to protect identity. On file with author.
- 146 When raised to facility staff at the end of the tour, WRC was told they would look into increasing options.
- 147 2011 PBNDS, 4.3 (Medical Care), U.S. ICE, 2011; 2011 PBNDS, 6.2 (Grievance System), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/6-2.pdf>; See also 2011 PBNDS, 6.1 (Detainee Handbook), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/6-1.pdf>.
- 148 Interview at Eloy, May 5, 2016. On file with author.
- 149 Amanda Sakuma, "Assaulted and Shamed in Family Detention," MSNBC, August 4, 2015, <http://www.msnbc.com/msnbc/assaulted-and-shamed-family-detention>.
- 150 See *Sexual Abuse in Immigration Detention Facilities: Sexual Abuse Complaints since 2007 from ACLU Freedom of Information Act documents*, American Civil Liberties Union, November 26, 2014, <https://www.aclu.org/map/sexual-abuse-immigration-detention-facilities>; See also *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, Human Rights Watch, August 25, 2010, <https://www.hrw.org/report/2010/08/25/detained-and-risk/sexual-abuse-and-harassment-united-states-immigration-detention>; Most recently, CIVIC filed a federal complaint with CRCL that detailed the large number of sexual assault complaints submitted against ICE, and the lack of follow-up or investigation into these reports in *Sexual Assault in Immigration Detention*, CIVIC, 2017.
- 151 *Federal Register: Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*, DHS, Vol. 79, No. 45, Part 115 (Rules and Regulations), March 7, 2014, <https://www.gpo.gov/fdsys/pkg/FR-2014-03-07/pdf/2014-04675.pdf>.
- 152 *Prison Rape Elimination Act of 2003*, P.L. 108-79, U.S. Congress, House and Senate, 108th Congress, Sept. 04 2003, <https://www.gpo.gov/fdsys/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>.
- 153 *Federal Register: Standards to Prevent, Detect, and Respond; ICE Policy No. 11062.1: Sexual Abuse and Assault Prevention and Intervention*, DHS, FEAN No. 306-112-002b, May 22, 2014, <https://www.ice.gov/doclib/detention-reform/pdf/saapi2.pdf>; See also 2011 PBNDS, 2.11 (Sexual Abuse and Assault Prevention and Intervention), U.S. ICE, 2011; and 2011 PBNDS, 2.7 (Sexual Abuse and Assault Prevention and Intervention), U.S. ICE, 2011.
- 154 In some facilities, this individual is referred to as a SAA-PI (or Sexual Abuse and Assault Prevention and Intervention) Coordinator.
- 155 *Compliance Inspection: Enforcement and Removal Operations (ERO) San Francisco Field Office*, Mesa Verde Detention Facility, DHS ODO, January 12-14, 2016, <https://www.ice.gov/sites/default/files/documents/FOIA/2016/mesaVerdeDetentionFacilityBakersfieldCaJan12142016.pdf>.
- 156 WRC also heard about sexual assault from detained women directly, however does not publish details of this type of sensitive information given confidentiality concerns.
- 157 WRC is not able to independently verify how the cases officials described were investigated and how conclusions that allegations were unfounded were drawn.
- 158 Several staff were aware of ICE's 2013 directive. Unfortunately we were unable to interview segregated women or otherwise assess the extent to which facilities were in compliance with the segregation directive: ICE Policy No. 11062.1.
- 159 ICE's ODO inspection of Mesa Verde also revealed numerous deficiencies with regard to the facility's compliance with ICE's segregation requirements.
- 160 Elise Foley, "Detained Immigrant Women Claim Retaliation For Hunger Strike," *Huffington Post*, November 3, 2015, http://www.huffingtonpost.com/entry/immigrant-detention-hunger-strike_us_563918c3e4b0307f2caaf975.

- 161 Interview with pro bono attorneys. April 11, 2016. On file with author.
- 162 “DHS Announces Launch of New Office for Victims of Illegal Immigrant Crime,” DHS Press Release. April 26, 2017. Available at <https://www.dhs.gov/news/2017/04/26/dhs-announces-launch-new-office-victims-illegal-immigrant-crime>
- 163 Brané and Wang, “Women: The Invisible Detainees”, September 2013.
- 164 As noted above, this occurs despite the fact that the 2011 PBNDS stipulate that “Visits between legal representatives and assistants and an individual detainee are confidential and shall not be subject to auditory supervision.”, see 2011 PBNDS 5.7 (Visitation), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/5-7.pdf>.
- 165 2011 PBNDS 5.4 (Recreation), U.S. ICE, 2011, <https://www.ice.gov/doclib/detention-standards/2011/5-4.pdf>.
- 166 Interviews with detained women at Joe Corley. April 15, 2016. On file with author.
- 167 Correspondence with local volunteer. June 2017. On file with author.
- 168 Interview at Laredo. March 30, 2017. On file with author.
- 169 *Access to Counsel in Immigration Courts*, American Immigration Council, 2016.
- 170 *Re: Arbitrary, prolonged, and indiscriminate detention of asylum seekers*, CIVIC, May 31, 2017, http://www.endisolation.org/wp-content/uploads/2017/05/CIVIC_Letter_ParoleDenials.pdf.
- 171 See text box “Expedited Removal: How asylum seekers are detained” on p. 15.
- 172 ICE officials stated that they generally do not use the RCA for aliens that ICE must detain by law or that are likely to be removed from the United States within five days: *Alternatives to Detention: Improved Data Collection and Analyses Needed to Better Assess Program Effectiveness*, U.S. Government Accountability Office, p. 8, November 2014, <http://www.gao.gov/assets/670/666911.pdf>. See also *ICE’s Computerized Detention Decision-Maker Can’t Work Because of Mandatory Detention Laws*, American Immigration Council, August 4, 2015, <http://immigrationimpact.com/2015/08/04/ices-risk-classification-assessment-cant-work-because-of-mandatory-detention-laws/>.
- 173 *Directive No. 11002.1: Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, FEA No. 601-05, U.S. ICE, December 8, 2009, https://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole_of_arriving_alien_found_credible_fear.pdf.
- 174 *90-day Progress Report to the President on Executive Order 13767: Border Security and Immigration Enforcement Improvements*, DHS, April 25, 2017, <https://www.washingtonpost.com/apps/g/page/politics/planning-for-the-trumps-deportation-force/2194/>.
- 175 *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers*, Human Rights First, 2016.
- 176 Marcelo Rochabrun, *ICE Officers Told to Take Action Against All Undocumented Immigrants Encountered While on Duty*, ProPublica, July 7, 2017, <https://www.propublica.org/article/ice-officers-told-to-take-action-against-all-undocumented-immigrants>
- 177 See also findings by HRF, which found that: parole grants down from 80% to 47% between FY 2012 and FY 2015, see *Lifeline on Lockdown*, Human Rights First, 2016; Also: USCIRF found that bond amounts may be linked to bed space: *Barriers to Protection*, USCIRF, 2016.
- 178 Correspondence with pro bono attorneys, May 2017. On file with author.
- 179 Correspondence with pro bono attorneys, June 2017. On file with author.
- 180 Correspondence with pro bono attorney, June 2017. On file with author.
- 181 Conversation with pro bono attorneys, August 2017. On file with author.
- 182 Conversation with ICE officials at Hutto, April 2016. On file with authors.
- 183 It may be that these regional particularities are related to the Ninth Circuit’s decision in *Rodriguez v. Robbins*, which requires bond hearings for individuals who are in prolonged detention. While conclusions about the effect of *Rodriguez* on women’s access to bond and, by extension, asylum are outside the scope of this research, these findings raise the concerning prospect that ICE may be using *Rodriguez* as a justification for declining to set and lower bonds for asylum-seeker held in facilities under the jurisdiction of the Ninth Circuit. For more information see *Rodriguez, et. Al. V. Robbins, ET AL*, Civil action No. 15-11 U.S., October 29, 2015, <https://www.aclu.org/cases/rodriguez-et-al-v-robbins-et-al>.
- 184 For more discussion, see “Inadequate U.S. Customs and Border Protection (CBP) screening practices block individuals fleeing persecution from access to the asylum process”, complaint cover letter to Megan Mack and John Roth of the Department of Homeland Security, November 13, 2014, <http://www.lccr.com/wp-content/uploads/Right-to-Asylum-CRCL-Complaint-Cover-Letter.pdf>.
- 185 Caroline Isaacs, *Community Cages: Profitizing community corrections and alternatives to incarceration*, American Friends Service Committee, August 2016, <https://afscarizona.files.wordpress.com/2016/08/community-cages.pdf>; See also Steve Fisher, “Getting Immigrants Out of Detention Is Very Profitable,” *Mother Jones*, September/October 2016 issue, <http://www.motherjones.com/politics/2016/08/immigration-detainees-bond-ankle-monitors-libre>; See also Michael E. Miller, “This company is making millions from America’s broken immigration system,” *The Washington Post*, March 9, 2017, https://www.washingtonpost.com/local/this-company-is-making-millions-from-americas-broken-immigration-system/2017/03/08/43abce9e-f881-11e6-be05-1a3817ac21a5_story.html?utm_term=.90324be8fe51.
- 186 “The drafters of the 1951 Convention relating to the Status of Refugees linked a protection regime premised on the individual’s fear of persecution to the family unity principle in a strongly worded recommendation in the Final Act of the diplomatic Conference that adopted the Convention. In Recommendation B, they urged govern-

- ments to 'take the necessary measures for the protection of the refugee's family', and declared that 'the unity of the family... is an essential right of the refugee'"; United Nations, General Assembly, *Final Act of the United Nations Conference of Plenipotentiaries on the Status Of Refugees and Stateless Persons, Recommendation B*, July 25, 1951, <http://www.unhcr.org/en-us/protection/travaux/40a8a7394/final-act-united-nations-conference-plenipotentiaries-status-refugees-stateless.html>; for additional analysis of refugee's fundamental right to family see Kate Jastram and Kathleen Newland, *Family Unity and Refugee Protection*, UNHCR, 2001, <http://www.unhcr.org/3bd3d4a14.pdf>.
- 187 See WRC reports: *Torn Apart by Immigration Enforcement*, 2010; and *Detained or Deported: What about My Children*, 2014, https://www.womensrefugeecommission.org/images/zdocs/Parental-Rights-Toolkit-ENG-LISH_Interactive.pdf.
- 188 *Directive No. 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities*, FEA No. 601-05, U.S. ICE, August 23, 2013, https://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf.
- 189 The team did not encounter any women with active child welfare cases during our interviews at facilities. However, our interviews with attorneys and community volunteers indicate that parental interests matters continue to be a concern while at the same time we noted that ICE staff continue to lack familiarity with the Parental Interests Directive and its requirements. At Mesa Verde, neither the librarian, the warden, nor the ICE Supervisory Detention and Deportation Officer were familiar with the directive and it was not available in the library. At Eloy, we noted challenges in setting up phone calls between parents and child welfare agencies and concern that parents may not be able to participate in family court proceedings. Furthermore, attorneys serving facilities in the Los Angeles and San Francisco field offices told us that detainees are denied calls to child welfare if there is no money in their account.
- 190 *Betraying Family Values: How Immigration Policy at the United States Border is Separating Families*, Women's Refugee Commission, Lutheran Immigration and Refugee Service, and Kids in Needs of Defense, March 2017, <https://www.womensrefugeecommission.org/rights/gbv/resources/1450-betraying-family-values>.
- 191 Interview on file with author.
- 192 *Torn Apart by Immigration Enforcement*, Women's Refugee Commission, 2010; Michael S. Danielson, *Our Values on the Line: Migrant Abuse and Family Separation at the Border*, Jesuit Conference of Canada and the United States and Kino Border Institute, September 2015, http://jesuits.org/Assets/Publications/File/REPORT_2015_Our_Values_on_the_Line.pdf; See also *Betraying Family Values: How Immigration Policy at the United States Border is Separating Families*, Women's Refugee Commission et. al., 2017.
- 193 Conversation with pro bono attorney, on file with author.
- 194 HHS is the U.S. government agency charged with care and custody of unaccompanied alien children as defined in §462 of the *Homeland Security Act of 2002: Homeland Security Act of 2002*, U.S. Congress, House and Senate, 107th Congress, P.L. 107-296, November 25, 2002, https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf.
- 195 *Locking Up Family Values, Again*, Women's Refugee Commission, 2015.
- 196 *Torn Apart by Immigration Enforcement*, Women's Refugee Commission, 2010.
- 197 Tal Kopa, "Kelly says DHS won't separate families at the border," CNN, March 29, 2017, <http://www.cnn.com/2017/03/29/politics/border-families-separation-kelly/>. See the full committee hearing from *DHS: Perspectives from the DHS Frontline: evaluating Staffing Resources and Requirements: Full Committee Hearing*, Senate Committee on Homeland Security, March 22, 2017, <https://www.hsgac.senate.gov/hearings/perspectives-from-the-dhs-frontline-evaluating-staffing-resources-and-requirements>.
- 198 Correspondence with pro bono attorney in Arizona. June 2017. On file with author. See also on Hutto: Jeremy Schwartz, "Even before Trump threat, mothers and children separated at the border," *Statesman*, April 25, 2017. <http://www.mystatesman.com/news/national-govt--politics/even-before-trump-threat-mothers-and-children-separated-the-border/Z5nVkLNQ38QbfV5Ae0LzjP/>.
- 199 See *Immigration Detention and Customs Enforcement: Immigration Detention Overview and Recommendations*, DHS, 2009.
- 200 *The Real Alternatives to Detention*, Women's Refugee Commission, National Immigrant Justice Center, et al., July 2017, <http://www.aila.org/infonet/the-real-alternatives-to-detention>. See also *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy*, Lutheran Immigration and Refugee Service, 2007, <http://www.lirs.org/wp-content/uploads/2012/05/RPTUNLOCKINGLIBERTY.pdf>.
- 201 *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers*, Human Rights First, July 2016, <http://www.humanrightsfirst.org/resource/lifeline-lockdown-increased-us-detention-asylum-seekers>; Also reviewed: *Haitian Refugee Immigration Act (HRIFA)*.
- 202 *PREA Audit: Subpart A DHS Immigration Detention Facilities Audit Report*, DHS, March 9, 2017, https://www.ice.gov/doclib/foia/prea_audit/eloyDetentionCenter02_9-17_2017.pdf.
- 203 ICE would only provide rough estimates concerning capacity at the El Paso Processing Center. The 840 figure comes from the 2016 Office of Detention Oversight inspection report conducted in March 2016. Available at <https://www.documentcloud.org/documents/2995744-2016-ODO-Inspection-El-Paso-TX.html>
- 204 *2012 ERO Inspection—Otero County Prison Facility NM*, Available at: <https://www.documentcloud.org/documents/1813842-ortero-county-prison-facility-nm-2012-ero.html>
- 205 *Locking up Family Values: The Detention of Immigrant Families*, Women's Refugee Commission, February 2007, <https://www.womensrefugeecommission.org/images/zdocs/famdeten.pdf>.

- 206 “Sexual Abuse of Female Detainees at HUTTO Highlights Ongoing Failure of Immigration Detention System” [Press Release], American Civil Liberties Union, August 20, 2010, <https://www.aclu.org/news/sexual-abuse-female-detainees-hutto-highlights-ongoing-failure-immigration-detention-system>.
- 207 *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers*, Human Rights First, July 2016, <http://www.humanrightsfirst.org/resource/lifeline-lockdown-increased-us-detention-asylum-seekers>; Also reviewed: Haitian Refugee Immigration Act (HRIFA).

15 West 37th Street, 9th Floor
New York, NY 10018
Phone: (212) 551-3115
Fax: (212) 551-3180

www.womensrefugeecommission.org