

Alternative to Detention Programs

Why Use Alternatives to Detention?

The immigration detention system, initially created to ensure immigrants appear for their court proceedings, is broken, costly, and inhumane. Currently, immigrant detention costs taxpayers \$2 billion/year with a \$166/day/individual cost for adult detainees. With the addition of family detention, which costs \$240-280/day per family member, the cost to operate the immigrant detention system has escalated. Moreover, the current detention system locks up vulnerable migrants who should not be detained and primarily relies on for-profit private prison corporations to imprison roughly 440,000 individuals a year. Alternatives to detention (ATDs) programs enable individuals to live in the community, not in prison-like settings, while complying with U.S. immigration law.

Government May Use Discretion Not to Detain

For many immigrants in Immigration and Customs Enforcement (ICE) custody, detention is not legally required. ICE has the discretion to decide whether a person should be detained, released, or placed into an ATD program. In response to claims that it was not adequately using its discretion, ICE developed and deployed a risk assessment tool to help make informed detention decisions based on an individual's circumstances. However, the risk assessment tool's guidance can be overridden to ensure that ICE meets its detention bed occupancy requirement of 34,000 beds per day, which is currently required by appropriations language. Additionally, ICE can enroll individuals in its own ATD program, ISAP II (Intensive Supervision Assistance Program), which is a program that utilizes electronic ankle monitors, biometric voice recognition software, unannounced home visits, employer verification, and in-person reporting to supervise participants. ISAP II offers only basic case management services and is incompatible with service methods for the humane treatment of vulnerable populations such as mothers with children or survivors of trauma.

Past ATD Programs Have Worked

The following are examples of effective community-based ATD programs that have demonstrated a high percentage of compliance with immigration proceedings and lower costs than the current government model:

- From 1999 – 2002, Immigration and Naturalization Services (INS) collaborated with Catholic Charities of New Orleans to work with 39 asylum seekers released from detention and 64 indefinite detainees who could not be removed from the United States. The court appearance rate for participants was 97% and the program cost \$1,430 per year per client.¹
- From 1997-2000, the Vera Institute of Justice's Appearance Assistance Project implemented a supervised release and assistance program. The program served over 500 participants in three detained groups: asylum seekers, persons convicted of crimes facing removal, and undocumented immigrants. The program saved taxpayers \$4,000 per participant and boasted a 91% appearance rate at required hearings, including a 93% appearance rate for asylum seekers.²
- In 1999 the INS partnered with Lutheran Immigration and Refugee Service (LIRS) to assist 25 Chinese asylum seekers released from detention. INS released the asylum seekers into open shelters around the country, where they received housing, food, medical care, and continuous case management. Participants had a 96% appearance rate.³
- In 2013, DHS signed separate Memorandum of Understandings (MOUs) with LIRS and the Catholic network (the Catholic Legal Immigration Network, Inc. (CLINIC) in partnership with United States Conference of Catholic Bishops (USCCB)) to pilot ATD programs providing care for asylum seekers and vulnerable groups released from detention. LIRS's program was originally operating Newark/New York, Chicago, and San Antonio. The Catholic program originally operated in Baton Rouge and Boston. The Catholic program served approximately 45 individuals during its service term.

What Are Case Management-Based Community Support Forms of Alternative to Detention?

Alternatives to detention programs that utilize unique case management-based community support models provide legal and social services as well as community support to vulnerable individuals such as asylum seekers, torture victims, pregnant women, families with young children, primary caregivers, elderly, and victims of crime who would otherwise be detained. This type of program offers unique data collection, case management experience, and customized case-by-case evaluation methodology implemented by expert staff to ensure humane treatment and compliance with immigration legal requirements. These types of programs strive to provide participants with high rates of compliance and appearance for initial court proceedings, greater access to due process, and improved wellbeing and integration into the community.

Links between Family Detention and Case Management

Since July 2014, when the government began utilizing large-scale detention facilities to detain immigrant women and children, child welfare and immigration experts have been advocating for community-based case management ATDs as a meaningful alternative to family detention facilities. In March 2015, the Department of Homeland Security issued a request for proposals for what it described as a Family Case Management Proposal (FCMP). The FCMP was proposed as a pilot for a new community-based alternative to detention initiatives specifically designed to enroll immigrant families. The pilot program will enroll family units residing or intending to reside in Baltimore/Washington D.C., Miami, Los Angeles, New York City/Newark and Chicago.

In September 2015, the entire FCMP was awarded to GEO Cares, part of a for-profit entity, GEO Corporation, which oversees 25% of the entire immigrant detention system in the country. GEO Cares has limited legal and social service case management experience. A national company, they have few on the ground relationships with local immigration social and legal service providers.

Conclusion

CLINIC maintains that immigrant women and children should not be detained in large scale detention facilities but instead should be released to family members in community settings. CLINIC believes that families can be better served in these settings and will also be more likely to comply with their immigration proceedings if they are given adequate information and opportunity. CLINIC will continue to work to advocate for meaningful alternatives to detention and adequate post-release screening and access to legal services for families released for detention.

End notes

- ¹ A More Human System: Community-Based Alternatives to Immigration Detention (Part 2), Sue Weishar, Just South Quarterly.
- ² The Appearance Assistance Program, Attaining Compliance with Immigration Laws Through Community Supervision, Vera Institute of Justice, 1998, www.vera.org/download?file+211/aap.pdf.
- ³ Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy, Lutheran Immigration and Refugee Service, October 27, 2011, available at www.lirs.org/dignity.