



The Real Alternatives to Family Detention

FACT 1: The vast majority of detained families are bona fide asylum seekers under U.S. law. [Recently-released USCIS data shows that 88 percent of families](#) are proving to the government that they have credible claims to protection.

FACT 2: There is no humane way to detain families. [Experts show that the stress of detention](#) can damage a child's developing brain and re-traumatize victims of violence.

FACT 3: Pressure is mounting on the Obama Administration to end family detention. [Three quarters of the President's own party in Congress](#) have called for the practice to end.

For most asylum-seekers, release on parole, their own recognizance or a minimal bond is appropriate because they have no criminal history and, with strong family ties in the U.S. and strong legal claims, pose little flight risk.

Three basic steps support the integrity of the entire system:

- **Improve access to counsel.** Unaccompanied children who have counsel have a [94.7% appearance rate](#) at their hearings. Studies show that individuals who feel they have been given due process are much more likely to accept the final determination and comply with removal orders.
- **Provide better information at the border.** People who are clearly informed about their obligations are more likely to meet those obligations. But many families do not understand the paperwork they are given by Border Patrol or what they were being asked to do.
- **Ensure immigration courts have resources to hear cases in a timely, but not rushed, manner.** Individuals need time to find a lawyer and prepare a case, but extreme delays undermine the immigration system's integrity. Creating a shortcut "expedited docket" instead of properly investing in the courts was no solution, and made the problem worse.

Where a more substantial flight risk cannot otherwise be mitigated, proven **alternatives to detention (ATDs)** should be used instead of incarceration.

- **ATDs cost far less than detention.** The President's FY2016 budget prices family detention at \$342.73 per person per day. ICE plans to expand this year to 3,700 family detention beds. By contrast, for FY2016, DHS estimates that the average cost per ATD participant will be \$5.16 per day.
- **ATDs are extremely effective.** ICE's current ATD program and several community support pilot programs have shown high rates of compliance with immigration hearings and removal. [Over 95% of those on "full-service" ATDs \(which include case management\) appeared for their final hearings.](#)
- **Alternatives are widely used in the pre-trial criminal justice context.** They are recommended as cost-savers by the American Jail Association, American Probation and Parole Association, American Bar Association, Association of Prosecuting Attorneys, Heritage Foundation, International Association of Chiefs of Police, National Conference of Chief Justices, National Sheriffs' Association, Pretrial Justice Institute, Texas Public Policy Foundation, and the Council on Foreign Relations' Independent Task Force on U.S. Immigration Policy.
- **The Administration has signaled a commitment to greater exploration of ATD.** The President's FY2016 budget request would increase ATDs by nearly \$30M to \$122M. ICE is currently considering proposals for community-based ATD models.

What kinds of alternatives are appropriate and effective?

The most restrictive alternatives, like ankle bracelets, are also the most costly. Ankle bracelets require confinement in a specific space for many hours per day to charge the device. That kind of restriction on liberty is rarely necessary for an asylum-seeker who has every incentive to attend her hearing. DHS should only use GPS devices when no other conditions could reasonably ensure public safety and compliance with the immigration process.

Community-support ATD models are far more appropriate. Holistic programs that offer case management services and facilitate access to legal counsel as well as safe and affordable housing have been shown to substantially increase program compliance without the extensive use of electronic monitoring. Previous pilots have shown excellent results:

- **95.6% appearance rate:** In June 2013, Lutheran Immigration and Refugee Services (LIRS) entered into a memorandum of understanding with ICE to screen vulnerable immigrants for release and enrollment in LIRS' Community Support Initiative. Between June 2013 and Nov. 2014, 44 out of 46 formal referrals were in full compliance.
- **96% appearance rate at 3% the cost of detention:** In 1999, the Immigration and Naturalization Service (INS) partnered with LIRS to release 25 Chinese asylum seekers from detention and provide them shelter, food, medical care, and case management. Annual program costs were just 3% of what detention would have cost.
- **97% appearance rate:** From 1999 – 2002, 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, a fraction of the cost of detaining them.
- **91% appearance rate:** Funded by INS, the Vera Institute of Justice studied over 500 participants in a supervised release and assistance program from 1997-2000. Participants were asylum seekers; convicted criminals facing removal; and undocumented workers. The program saved taxpayers \$4,000 per participant, boasted a 91% overall appearance rate at required hearings, and a 93% appearance rate for asylum seekers.

Guiding Principles for the Use of Alternatives to Detention

- Alternatives to detention are intended to reduce reliance on costly institutional detention, not to place additional restrictions on immigrants who – based on an individualized assessment – should be released.
- Anyone whose flight risk can be mitigated by ATD or bond should not be detained, even if there is bed space.
- ICE should utilize community-support ATD instead of relying exclusively on electronic monitoring programs.
- All custody and release decisions should be made after an individualized assessment of public safety and flight risk. ICE should conduct periodic re-assessments on all individuals who remain detained, including after h/she has passed a credible/reasonable fear interview or obtained an attorney.
- The least restrictive alternative should be used in every case.
- ICE should ensure adequate staffing for ATD programs *within ICE*, and the availability of ATDs in all field offices, so that the agency can utilize all available slots.

For more information, contact Karen Lucas, American Immigration Lawyers Association, klucas@aila.org; Royce Murray, National Immigrant Justice Center, rmurray@heartlandalliance.org; Brittney Nystrom, Lutheran Immigration and Refugee Service, bnystrom@lirs.org; or Katharina Obser, Women's Refugee Commission, katharinao@wrcommission.org.