

Community-Based Case Management Programs:

A True Alternative to ICE's Harmful Surveillance Programs

**By Evan Benz, Senior Attorney, Immigration Impact Lab,
Capital Area Immigrants' Rights (CAIR) Coalition**

The Situation

Concern is growing over Immigration and Customs Enforcement's (ICE) dramatic expansion of its electronic surveillance of noncitizens in our communities through various "Alternatives to Detention" (ATD) programs. [1] ATD includes electronic surveillance using ankle monitors (also known as "ankle shackles") and other forms of GPS monitoring. ICE's most recent reports show that, as of September 24, 2023, it is monitoring nearly 200,000 people enrolled in ATD programs. [2] The vast majority of ATD enrollees are asylum-seekers who were detained at the U.S.-Mexico border, but also includes people that ICE detains in the interior of the U.S. Based on those numbers, ICE controls 5.5 times more people through surveillance measures than they do through detention. [3]

Despite civil liberties and privacy concerns, ICE is taking steps to further its control over the lives of hundreds of thousands of noncitizens in our communities. In May 2023, ICE announced a new program – the Family Expedited Removal Management (FERM) Program – to place ankle monitors on one adult member of certain asylum-seeking families who are detained at the border. [4] In August 2023 and again in October 2023, ICE announced that they would expand the program from the 4 initial pilot cities to a much larger number of cities across the U.S., meaning potentially hundreds or thousands of additional families seeking asylum will be subjected to surveillance, including harmful ankle monitoring. [5]

The Problem

Ankle monitors and other GPS monitoring cause lasting psychological, physical, and societal harms to migrants and their families, including immobility, difficulty providing for oneself and finding legal counsel, stigma, and even re-traumatization in some cases. [6] ICE's electronic surveillance programs also lack transparency. Even though they track hundreds of thousands of people's daily lives, there is very little public information about the amount of data ICE is collecting, whom they are sharing the data with, and what they are using the data for. [7] It is also unclear to what extent ICE is collecting information on U.S. citizens, including household members of noncitizen ATD enrollees.

In our work providing legal services to thousands of immigrants facing detention and removal, Capital Area Immigrants' Rights (CAIR) Coalition has seen the serious harm caused by ICE's surveillance programs. The core problem is that most of ICE's current "Alternatives to Detention" are really alternative *forms of* detention. That is, they are an extension of ICE's invasive and harmful control over noncitizens' bodies, their families, and their communities. [8]

Instead of increasing funding and developing technological capabilities to extend and deepen ICE's surveillance web, true alternatives to detention should be available to asylum-seekers and other immigrants in the U.S.

The Solution

This policy brief examines one effective and successful model that provides a meaningful alternative to detention: community-based case management programs. Real alternatives to detention reduce the harms of detention and surveillance, and they progressively build enduring support systems for noncitizens facing removal that do not rely on detention or surveillance but satisfy the same goals of participation in removal proceedings. Fortunately, models of community-based alternatives to detention that do not rely upon ICE or surveillance technology already exist. These models have proven to be more humane, cost-effective, and successful at ensuring that immigrants have the support necessary to follow through with immigration processes.

Ankle Monitoring and Electronic Surveillance Are Harmful and Unnecessary to Ensure Compliance with Immigration Laws

There are numerous reports and news articles documenting the myriad harmful effects of ankle monitoring in particular and of government GPS monitoring in general. [9]

In terms of physical harms, a recent survey of immigrants subject to ankle monitoring found that 90% of respondents experienced harm to their physical health due to the electronic ankle monitor, ranging from discomfort to life-threatening symptoms. [10]

An alarming 58% of surveyed individuals reported that their ankle monitor's physical impact was "severe" or "very severe," including aggravation of pre-existing conditions like diabetes or leukemia, or electric shocks from the monitor that in at least one case required a trip to the emergency room. [11]

Ankle monitors and GPS monitoring also harm individuals' mental health.

The same survey found that 73% of people surveyed believed that the monitor's impact on their mental health was "severe" or "very severe." [12]

An alarming 12% of survey participants said wearing the ankle monitor caused them to have suicidal thoughts. [13] Those survey participants attributed a variety of causes, ranging from associated depression to feelings of humiliation associated with wearing the ankle monitor. [14]



For many individuals, the psychological harms caused by monitoring persisted even after the device was removed from their ankle. [15] Over a third (38%) of survey participants believed that the impact of monitoring on their mental health was permanent. [16]

There are other, related harms associated with ankle monitoring. Monitoring often leads to social isolation, with 87% of people surveyed reporting that they did not want to be around other people because of the ankle monitor. [17] Survey participants also reported that they suffered financial harm because the ankle monitor was a significant impediment to finding and keeping a job -- over two-thirds of participants (67%) reported that they lost or had difficulty obtaining work because of their ankle monitor. [18]

I've had bosses say that the ankle monitor must mean I'm not "legal." They say I need to fix my problems with immigration first and then come back. They say this even though I have a valid work permit and a Social Security number. . . . Even though I've tried to do everything correctly with my immigration case, I feel like I'm still being punished.

-CAIR Coalition Client

These hardships are also borne by the families of those being monitored, including U.S. citizen family members. Nearly three-quarters of survey participants (74%) reported that the ankle monitor hindered their ability to care for their family or community members, and most participants (61%) said the ankle monitor made it difficult to financially provide for their family. [19]

Given these harms, it is no surprise that ankle monitoring is often experienced as an alternative form of detention, rather than an alternative to detention. On top of these egregious harms, there is no clear process for noncitizens to have ICE review and perhaps reduce the severity of their ATD conditions, and in CAIR Coalition's experience, such requests often go unanswered by ICE. Further, the studies cited above demonstrate that ankle monitoring and electronic monitoring are unnecessary to ensure that noncitizens comply with the immigration process and appear for their hearings – in fact, such restrictive monitoring is counterproductive in some cases. Community-based programs – including legal representation and social services – result in similar, if not higher, rates of compliance

and successful navigation of the immigration system.

What Are Community-Based Case Management Programs?

Community-based case management programs are run by nonprofit organizations, independent from the government that can provide a variety of social services – including legal, housing, transportation, social, and medical services – to support noncitizens as they move through their immigration processes.

When properly structured, community-based case management programs are operated exclusively by nonprofit organizations with experience supporting immigrants and refugees, using a case management model. These programs are focused on developing trust between nonprofit operators and participants, without a focus on reporting to the federal government. Fundamentally, community-based case management programs are a tool to support noncitizens in fully participating in their immigration process in the community without detention.

Additionally, these programs function to reduce the number of immigrants who are incarcerated or surveilled, rather than increase the number of immigrants under government control, reducing government expense and harms to noncitizens. Thus, the gold standard for case management programs imposes the least restrictive conditions possible on participants, without using ankle monitors or other GPS surveillance devices, while more effectively carrying out the overarching goal of immigration court compliance.

Several examples of these effective, community-based case management programs already exist, including:



Marie Joseph House

Operated by the Interfaith Community for Detained Immigrants (ICDI) in Chicago, the Marie Joseph House provides food and shelter for men, women, and families, along with an individual case manager for each guest responsible for ensuring referrals and connections to religious, health, legal, educational, language, and vocational services that are already well established in the community. This holistic model ensures asylum seekers and immigrants receive the information and tools they need to navigate their immigration cases. [20]

Freedom for Immigrants

The nonprofit Freedom for Immigrants runs a sponsorship and supportive housing initiative that works to secure release, address holistic needs, and center the voices of people directly impacted in the movement to end immigration detention. Freedom for Immigrants and its partners have trained thousands of volunteers to provide post-release housing for people who would otherwise be detained. Freedom for Immigrants also runs the only safe house for immigrants released from detention in Louisiana, providing temporary and safe sanctuary to well over 200 people in 2020. [21]

While these non-governmental programs are relatively small in nature, the infrastructure to scale up community-based programs such as these already exists in the expertise and capacity of hundreds of non-profit organizations serving immigrants across the U.S. [22]

Crucially, the average daily cost of providing community-based case management for an individual is approximately 1/10th of the FY2024 projected average daily cost of detaining an adult immigrant. [23]

To assist with and coordinate the scaling up of these models, the Biden-Harris Administration should direct ICE to contract with a non-profit organization with experience supporting immigrants and refugees to manage the national case management program and to subcontract with local service providers. A similar model has long been in place with the Department of Justice's "Legal Orientation Program" (LOP), where one contractor organization, currently the Acacia Center for Justice, manages the program and subcontracts with local legal service providers to provide LOP services (including Know Your Rights presentations, limited pro se assistance, and referrals to pro bono legal service providers for noncitizens who are detained) to individuals who facing detention and removal proceedings. [24]

Community-Based Case Management Programs Are More Effective Than ICE's ATD Programs

ICE touts high appearance rates at court hearings of ATD participants to justify the billions of dollars spent, relying on flawed compliance metrics. [25]

But the data does not show that ankle monitors and other forms of restrictive surveillance result in higher appearance rates than the less harmful community-based case management programs. Additionally, appearance rates alone, even if the data did demonstrate effectiveness, cannot justify the severe harm that ankle monitors and other forms of electronic surveillance inflict upon individuals in our communities.

Apart from the case management services discussed above, one other important and non-coercive means of ensuring noncitizens comply with immigration procedures is providing access to counsel.

In one recent survey of immigrant legal service providers, providers reported that 98% of their clients who were released without ankle monitors and had access to counsel attended all court hearings and ICE check-ins. Notably, a smaller percentage of the same legal service providers' clients -- 93% -- attended all court hearings and ICE check-ins when those clients had access to counsel, but were forced to wear ankle monitors. [26]

The non-monitored group had an exceptionally high appearance rate, higher than that of the monitored group, demonstrating how monitoring can actually be counterproductive. As the U.N. High Commission on Refugees noted over a decade ago, overly onerous conditions such as those imposed by ICE's ATD programs can lead to non-cooperation and can set up individuals willing to comply to instead fail. [27]

"Research has shown that **ankle monitors and other forms of electronic surveillance of immigrants are extremely harmful and totally unnecessary to achieve ICE's purported goals of making sure people show up to court and other appointments on time.** We call on policymakers to invest in community-based programs that work, instead of "alternatives to detention" that are mere extensions of the for-profit immigration detention system."

-Evan Benz, Senior Attorney, Immigration Impact Lab,
Capital Area Immigrants' Rights (CAIR) Coalition

Ice's Current "Case Management Programs" Are Ineffective and Deeply Flawed

In response to advocacy from stakeholders and Congressional direction, ICE has developed some ATD programs that nominally employ a case management model, but actually replicate the harms of ankle monitors and electronic surveillance. These include:

- Case Management Pilot Program (CMPP)
- Young Adult Case Management Program (YACMP)
- Extended Case Management Services (ECMS) program [28]

Despite ICE's description of these programs as "case management" programs, they all fall short of the best practices recommended by advocates. The YACMP and ECMS programs involve "case managers" employed by BI Inc. (a subsidiary of the private prison company GEO Group), which eliminates the benefits

provided by community support and misaligns the financial incentives of the programs. Also, the ECMS program – like the FERM program mentioned above – includes ankle or other GPS monitoring of participants, along with other restrictive obligations.

Although the CMPP does not include GPS monitoring and involves nonprofit organizations providing various kinds of social support services to noncitizens facing removal, this program is still managed by the Department of Homeland Security (DHS). [29] As such, there may still be problematic reporting requirements to DHS about participants' "non-compliance" and it remains unclear what DHS/ICE will do with such information. It is also unclear whether the CMPP has or will address the implementation flaws that hampered its predecessor program, the Family Case Management Program. [30]

RECOMMENDATIONS

For Reducing GPS Monitoring and Increasing Community-Based Case Management Programs

CAIR Coalition recommends the following for increasing community-based case management programs going forward. These recommendations draw on our own experience serving clients subject to ICE ATD requirements and on recommendations previously put forth by other advocates.

Set up and fund independent, community-based case management programs:

Congress should sever the link between immigration enforcement and service provision. Then, Congress should reallocate that funding to a government agency outside of DHS, such as the Department of Health and Human Services' Office of Refugee Resettlement, so they can provide legal and community support services for immigrants facing removal. This other agency should set up government contracts for service provision to qualified non-profit organizations with experience in serving immigrants and refugees. Programs should include a range of services, including holistic medical and mental health care, housing, and language access support.

Case Manager Reporting: Contracts with such social services providers should not impose obligations to report on beneficiaries' compliance with immigration check-ins, court appearances, or final orders of removal to ICE. To the extent that nonprofit case managers are required to report to ICE, such reporting should be aggregated, rather than involve individualized tracing.

End ankle monitoring and other forms of GPS monitoring:

The Biden-Harris administration should mandate that ICE eliminate the use of electronic ankle monitors and other GPS monitors, completely and expeditiously. ICE should remove the GPS monitors of all individuals enrolled in ATD programs without initiating re-detention and should cease to utilize GPS monitors moving forward. ICE should employ the least restrictive form of monitoring available (e.g., telephone check-ins) and regularly review the propriety of compliance obligations, with a preference toward de-escalation.

RECOMMENDATIONS

For Reducing GPS Monitoring and Increasing Community-Based Case Management Programs

Procedural Safeguards:

To the extent that ICE continues to employ ankle monitors and other GPS monitors, the Biden Administration should direct ICE to develop policies and procedures that help safeguard the rights of ATD participants, including a national standard for ATD enrollment/unenrollment and for escalation/de-escalation of ATD conditions. Specifically, the Biden Administration should direct ICE to:

- Provide written justification for ATD release conditions, including when placing an ankle monitor or other GPS monitor on an individual, and serve it on that individual and/or any known legal representative, to ensure due process notice of the reason(s) ATD is applied.
- Establish a clear process for the individual to seek supervisory review of ICE's decision regarding ATD conditions. ICE should also amend 8 C.F.R. § 1236.1 to establish an immigration judge's authority to review ATD conditions.
- Develop legal orientations for all ATD participants to help them understand the requirements, services available, and technical aspects of their ATD program.
- Track and monitor race, ethnicity, and national origin data related to the use of the electronic ankle monitors and other GPS monitors to guard against discriminatory practices.



Evan Benz

Senior Attorney, Immigration Impact Lab

Evan Benz is a Senior Attorney with CAIR Coalition's Immigration Impact Lab. He has experience at all levels of removal defense, including before the immigration court, the Board of Immigration Appeals, and various U.S. district and circuit courts.

ABOUT CAIR COALITION

The Capital Area Immigrants' Rights Coalition is the leading service provider for immigrant adults and children at risk of detention and deportation in the Capital region area and beyond. We do direct legal representation, know-your-rights presentations, impact litigation, advocacy, and the enlistment and training of attorneys to defend immigrants. Our programs include:

Detained Children

Provides legal services to children detained by the Office of Refugee Resettlement in Virginia and Maryland and those released locally to a sponsor in Virginia, Maryland, and D.C.

Detained Adults

We provide information, legal support, and representation to adults in detention. We use a trauma-sensitive and client-centered approach.

Social Services

We provide a holistic service model that addresses our client's basic needs—such as housing, food, and clothing, as well as referrals to medical, mental health, and educational support services.

Immigration Impact Lab

The Lab uses impact litigation to challenge barriers to asylum, minimize the consequences of criminal convictions, and protect due process rights for detained children and adults.



“

At first, I had no hope. But while we were working on my case my attorney explained my rights and how to fight. Then I felt more encouraged.

”

A CAIR Coalition client.



CONTACT US

For more information about our work. Contact us at info@caircoalition.org or www.caircoalition.org.

ENDNOTES

- [1] See, e.g., [“Letter to DHS Secretary Mayorkas from 25 House Democrats Expressing Concerns Over ISAP,”](#) Feb. 22, 2022.
- [2] TRAC, “Immigration Detention Quick Facts,” available at <https://trac.syr.edu/immigration/quickfacts/> (last accessed Nov. 15, 2023).
- [3] TRAC, “Immigration Detention Quick Facts,” available at <https://trac.syr.edu/immigration/quickfacts/> (last accessed Nov. 15, 2023) (194,632 people monitored through ATD vs. 35,289 people in ICE detention).
- [4] ICE, “ICE announces new process for placing family units in expedited removal,” (May 10, 2023), available at <https://www.ice.gov/news/releases/ice-announces-new-process-placing-family-units-expedited-removal>
- [5] ICE, “Statement regarding the Family Expedited Removal Management Program,” (Aug. 3, 2023), available at <https://www.ice.gov/news/releases/statement-regarding-family-expedited-removal-management-program>
- [6] See, e.g., Public Law Project, Bail for Immigrant Detainees, and Medical Justice, [“Every Move You Make: The Human Cost of GPS Tagging in the Immigration System,”](#) (Oct. 2022).
- [7] Chris Mills Rodrigo, The Hill, “Immigration groups sue ICE for information on alternative detention programs,” (Apr. 14, 2022), available at <https://thehill.com/policy/technology/3267504-immigrant-groups-sue-ice-for-information-on-alternative-detention-programs/>.
- [8] See Giustini, Tosca, et al., “Immigration Cyber Prisons: Ending the Use of Electronic Ankle monitors” (2021). Online Publications. 3. <https://larc.cardozo.yu.edu/faculty-online-pubs/3> (hereinafter, “Immigration Cyber Prisons”).
- [9] See Giustini, Tosca, et al., “Immigration Cyber Prisons: Ending the Use of Electronic Ankle monitors” (2021). Online Publications. 3. <https://larc.cardozo.yu.edu/faculty-online-pubs/3> (hereinafter, “Immigration Cyber Prisons”).
- [10] Immigration Cyber Prisons, p. 12.
- [11] Id. (citing Pittman, J. (2020). Released into Monitors: The Rise of Immigrant E-Carceration. California Law Review, 108(2)).
- [12] Id. at 14.
- [13] Id.
- [14] Id.
- [15] Id.
- [16] Id.
- [17] Id. at 17.
- [18] Id. at 19.
- [19] Id. at 20.
- [20] National Immigrant Justice Center, “A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration,” (Apr. 2019), pp. 6-9, available at <https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2019-04/A-Better-Way-report-April2019-FINAL-full.pdf>
- [21] Id.
- [22] American Immigration Council & Women’s Refugee Commission, “Community Support for Migrants Navigating the U.S. Immigration System,” (Mar. 1, 2021), available at <https://www.americanimmigrationcouncil.org/research/community-support-migrants-navigating-us-immigration-system>.
- [23] See AILA, “Featured Issue: Immigration Detention and Alternatives to Detention,” (Aug. 10, 2023), available at <https://www.aila.org/library/featured-issue-immigration-detention> (\$157.20 projected average daily cost to detain an adult immigrant vs. \$14.05 average daily cost of community-based case management for an individual as part of the 2018 Family Case Management Program).

ENDNOTES

[24] ee USDOJ, "Legal Orientation Program," (updated Jan. 6, 2023), available at <https://www.justice.gov/eoir/legal-orientation-program>.

[25] Singer, A., Congressional Research Service, Alternatives to Detention (ATD) Programs (CRS Report No. R45804, 2019), available at <https://sgp.fas.org/crs/homesec/R45804.pdf>.

There is reason to question the reliability of ICE's figures, due to inconsistent and incomplete data collection. Id. (noting that ICE's ATD data was "inconsistent and incomplete for over one third of program participants" making it "impossible" to fully and accurately assess the ATD program's impact on appearance rates).

[26] Immigration Cyber Prisons, p. 26. Given the known destabilizing impact of monitors, these data at minimum raise the possibility that monitoring may, in some circumstances, inhibit rather than promote appearance.

[27] United Nations High Commissioner for Refugees, Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions (May 2011), <https://www.unhcr.org/protection/expert/536a00576/global-roundtable-alternatives-detention-asylum-seekers-refugees-migrants.html>.

[28] ICE, "Alternatives to Detention," (updated 05/25/2023), available at <https://www.ice.gov/features/atd>.

[29] The CMPP is not managed by ICE, but instead by a National Board chaired by the DHS Officer for Civil Rights and Civil Liberties and comprised of nonprofits with experience providing and evaluating case management programs for asylees and refugees. See DHS, "DHS Case Management Pilot Program," (last updated June 30, 2022), available at <https://www.dhs.gov/dhs-cmpp>.

[30] See Women's Refugee Committee, "The Family Case Management Program: Why Case Management Can and Must Be Part of the US Approach to Immigration," (June 2019), available at <https://www.womensrefugeecommission.org/wp-content/uploads/2020/04/The-Family-Case-Management-Program.pdf>.