



Dialine Dorvil, 14, was detained for six months.

6. Alternatives to Detention – A Step Ahead, A Step Back

A number of programs, known as “alternatives to detention,” have been tested in the United States. These programs generally provide for release of individual detainees from jail with some additional measures to monitor the individual upon release, such as requiring the individual to report periodically to an immigration office. Despite the successful testing of pilot programs, and the authorization of some funding for these efforts, the U.S. government has not initiated nation-wide use of alternatives to detention.

The Department of Homeland Security has taken steps to begin an alternative to detention program in eight cities. It is not yet clear whether this will be a permanent initiative of the new Department, or if it is simply the result of the fact that Congress has authorized some funding. Concerns have been raised that in some cases, the DHS’s use of alternatives to detention has been directed at monitoring individuals who would have been released from detention anyway, rather than providing detained individuals with a true alternative to detention.

The Vera Supervised Release Model

A number of successful models of alternatives to detention have been tested in the United States. These models have demonstrated high appearance rates for asylum seekers – ranging from 93 percent to 96 percent – with significant cost savings for the U.S. government.

The most comprehensive model alternative program was a pilot project conducted by the Vera Institute of Justice in contract with the INS from 1997 to 2000. In this pilot program, which was called the Appearance Assistance Program, the Vera Institute supervised the release of asylum seekers and other non-citizens. In order to be released to supervision, participants were required to report regularly in person and by phone. Their whereabouts were monitored. Participants were also provided with information about the consequences of failing to comply with U.S. immigration laws. Participants in a less intensive program were given reminders of court hearings and were provided with legal information, and referrals to lawyers and other services.¹²⁶

The Vera Institute pilot project reported an appearance rate of 93 percent for asylum seekers released through its appearance assistance program. It also concluded that the cost of supervision was 55 percent less than the cost of detention. The Vera study found that: “[i]t costs the INS \$3,300 to supervise each asylum seeker who appears for hearings compared to \$7,300 for those detained.” Based on its research, the Vera study concluded that: “Asylum seekers do not need to be detained to appear for their hearings. They also do not seem to need intensive supervision.”¹²⁷

Another successful alternative model was coordinated by the Lutheran Immigration and Refugee Service (LIRS). Through that project, the INS released 25 Chinese asylum seekers from detention in Ullin, Illinois to shelters in several communities. The community shelters reminded participants of their hearings, scheduled check-ins with the INS, organized transportation and accompanied asylum seekers to their appointments. Nonprofit agencies also found *pro bono* attorneys for all of the asylum seekers who were released to the shelters. The project achieved a 96 percent appearance rate.¹²⁸

Funding for Alternatives Used Instead for More Detention?

Encouraged by the success of the Vera pilot project, the U.S. Congress allocated \$3 million for alternatives to detention during fiscal 2002.¹²⁹ But rather than developing broader supervised release programs similar to the Vera project, U.S. officials indicated they were contemplating spending the money on building new detention facilities and/or shelters. On August 16, 2002, Senators Leahy, Kennedy, Hatch, and Brownback, who had been instrumental in authorizing the funds, wrote to the Attorney General to stress that the funds were intended for Vera-like supervised release programs and to express their concern about “reports that the INS intends to use “\$3,000,000 earmarked for ‘alternatives to detention’ to build new detention centers or shelters”¹³⁰ When Congress re-authorized these funds for fiscal year 2003, it specifically directed that the “\$3,000,000 for alternatives to detention [be used to] promote community-based programs for supervised release from detention such as the Vera Institute for Justice’s Appearance Assistance Project or other similar programs. These funds shall not be available for new or existing detention facilities, including non-secure detention and/or shelter care detention facilities.”¹³¹

Ankle Bracelets for Asylum Seekers in Florida

In August 2003, the Department of Homeland Security (ICE) initiated a program in Miami, Florida through which asylum seekers were released from detention but subject to electronic monitoring devices (EMDs). The Women's Commission for Refugee Women and Children, the Florida Immigrant Advocacy Center, and the Lawyers Committee for Human Rights wrote to DHS Secretary Ridge to express concern about the use of these devices as a substitute for less intrusive parole options for asylum seekers. The groups noted that the devices could be useful in allowing for the release of individuals who would otherwise be detained.

Asylum seekers subject to the Miami program were not permitted to leave their homes for more than five hours, hampering their ability to meet with lawyers or to attend to medical or family matters. In one case, ICE authorities believed an asylum seeker had violated the requirements of the program when he left his home to appear for his immigration court hearing at the Krome Service Processing Center.¹³²

DHS Requests Proposals from Contractors To Run Intensive Supervised Release Projects in Eight Cities

The Department of Homeland Security (ICE) has solicited proposals from contractors for a new alternative to detention program called the Intensive Supervision Appearance Program (ISAP). The intensive supervision program is planned for 2004, and for 200 participants each year in eight cities: Baltimore, Maryland; Denver, Colorado; Kansas City, Missouri; Miami, Florida; Philadelphia, Pennsylvania; Portland, Oregon; San Francisco, California; and St. Paul, Minnesota.

It is not clear to what extent this program will be available to asylum seekers. DHS has said that at least some of the participants will be asylum seekers; others will be non-criminal aliens and aliens on "orders of supervision." The list of locations selected does not include New Jersey and New York – states with two of the largest U.S. detention facilities for asylum seekers.

Public interest organizations have voiced concerns about the ISAP program's proposed use of electronic monitoring devices for some individuals. There is also concern that the program – like the Miami monitoring device program – may be applied to immigrants who would otherwise be released from detention without supervision, instead of to detainees who would not otherwise be released. In response to these concerns, DHS has stated that it: "does not intend to utilize the ISAP to 'widen the net' for persons that would normally be released anyway. It is designed to improve appearance rates at immigration hearings for those persons that would otherwise be held in secure detention."