



## Family Detention Release and Placement Alternatives: Initial Report on Learning

### Executive Summary

The LIRS Family Placement Alternatives (FPA) is a pilot project that provides short-term, community-based case management services to families residing in Chicago, IL, recently released from immigration detention. The FPA pilot provides a unique opportunity to observe the experience of families released from immigration detention, as they pursue their application for asylum and begin integrating into their new community. Families require ample orientation and connection to supportive resources in order to successfully adhere to their release requirements. Recruiting families for the FPA pilot has given LIRS a unique point of interaction with volunteer organizations and service providers which have identified significant risks in current Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) release practices that negatively impact families' ability to comply with immigration obligations. Risks include inadequate information about release conditions, paperwork provided in English only, difficulty understanding electronic monitoring requirements, lack of coordination and orientation the time of release, and disconnection with service providers in destination communities to provide ongoing support. Failure to comply could lead to re-detention and a deportation order for an individual and reticence by ICE to consider release for families generally.

### Introduction

Since the 1990s, LIRS has been heavily engaged in community based alternative to detention models piloted in the United States for migrants and asylum seekers. According to the International Detention Coalition, alternatives to detention (ATDs) can include “any legislation, policy or practice that allows for asylum seekers, refugees and migrants to reside in the community with freedom of movement while their migration status is being resolved or while awaiting deportation or removal from the country.” The underlying rationale for restricting migrants' liberty in detention facilities is to ensure compliance with removal proceedings and where applicable, ultimate removal from the United States. In light of this, alternatives to detention programs must demonstrate success at ensuring ongoing immigration compliance in order to represent a viable alternative to detention. Successful compliance must begin with clear information regarding the individual's rights and responsibilities upon release from detention, including clear guidance as to how to successfully meet those responsibilities.

In February of 2015, Lutheran Immigration and Refugee Service (LIRS)<sup>1</sup>, with generous support from the Oak Foundation, implemented **Family Placement Alternatives**, a small, pilot program to provide community-based case management services to families leaving immigration detention. Community based support refers to a holistic social service approach to meeting the immediate and long term needs of individuals released from

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<sup>1</sup> Lutheran Immigration and Refugee Service (LIRS) has long been a leader in efforts to end the practice of family detention. In 2007, LIRS and Women's Refugee Commission (WRC) published a report entitled *Locking up Family Values* which denounced the wide-scale usage of family detention. That advocacy led to the eventual closure of the Don T. Hutto Family Residential Center in 2009, and the effective end of family detention, except for a small number of families who were held in a facility in Berks County, PA. However, during the summer of 2014, a dramatic increase of arriving asylum-seekers from Central America led to the Obama Administration's resurrection of the practice of family detention.

custody. The Family Placement Alternatives (FPA) pilot program, implemented by the Interfaith Committee for Detained Immigrants (ICDI) in Chicago, IL, was created on the assumption that if families released from detention are provided case management, legal and social support, have their basic needs met, and are provided with orientation to their immigration release terms, they will comply with their immigration requirements while living in the local community.

Evaluations of community-based alternatives to detention (ATD) programs have found that a range of factors promote higher compliance rates. These include the presence of family and community ties, regular communication with and trust in a Case Manager, an understanding of the immigration process, stability around basic needs, and representation by legal counsel.<sup>2</sup> Data from various pilots, including the International Detention Coalition's review of ATD programs indicate several factors that promote compliance. This data indicates that with support, most individuals comply with immigration obligations while they are invested in and waiting for the outcome of an immigration application, particularly an asylum application. During this phase of their legal proceedings, case management can serve as a critical tool to orient individuals regarding the US immigration system and their responsibilities, as well as reducing barriers to compliance such as transportation or psychosocial instability.<sup>3</sup>

The FPA pilot was initially based on the assumption that ICE would follow these earlier models, directly referring a small number eligible families to the program, rather detaining them. However, ICE did not agree to directly refer and release families from detention into the case management program. As a result, LIRS conducted extensive community outreach to social and legal service providers to identify recently released families who might be eligible to participate in the pilot program, observing many challenges for families and providers in the course of this outreach. Ten families were formally enrolled in the program and continue to receive services in the Chicago metropolitan area.

### **Families released from detention**

In early 2014, growing numbers of migrant family units arrived to the United States, primarily from Central America. In response, the administration announced in June 2014 that they would expand the use of family immigration detention. From July 2014 through May 31, 2015, 6,381 women and children were held in a family immigration detention facility.<sup>4</sup> On July 13, 2015, the Department of Homeland Security (DHS) announced that mothers with children, who pass credible or reasonable fear interviews, able to provide a verifiable address, and not presenting a threat to public safety or national security, would be considered for release from detention.<sup>5</sup> This announcement coupled with a judicial order in a lawsuit finding that immigration detention is not appropriate for children<sup>6</sup> have led to high numbers of families being arrested, booked into immigration detention, and released. As of Fall 2015, there are three family detention centers operating in the United States with the largest facility, in Dilley, Texas, holding 1900 women and children. And as of September 2015, approximately 50 families a day are passing their credible or reasonable fear interviews, making them eligible for release.

To ensure compliance with immigration reporting requirements, some heads of households for released families are enrolled in the [Intensive Supervision Assistance Program \(ISAP III\)](#), a privately contracted alternatives to detention program that utilizes a range of tools to promote compliance including electronic monitoring by placing GPS tracking devices onto participants' ankles. ISAP III is operated by a prison contractor, BI Incorporated, a subsidiary of the GEO Group, Inc. Electronic monitoring is intended to ensure that family

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<sup>2</sup> Sampson, R., Mitchell, G. and Bowring, L. (2011). *There are alternatives: A handbook for preventing unnecessary immigration detention*. Melbourne: The International Detention Coalition.

<sup>3</sup> *Ibid.*

<sup>4</sup> ICE Statement, June 23, 2015, accessed at: [http://www.ksat.com/news/ice-statement\\_2015073008401534](http://www.ksat.com/news/ice-statement_2015073008401534)

<sup>5</sup> DHS Secretary Johnson Testimony to Congress, 7/14/15. Available at: <http://www.dhs.gov/news/2015/07/14/written-testimony-dhs-secretary-johnson-house-committee-judiciary-hearing-titled->

<sup>6</sup> Women's Refugee Commission. *Flores Settlement and Family Detention*. July, 2015. Found: <https://womensrefugeecommission.org/images/zdocs/Flores-Settlement-and-Family-Detention-July-2015.pdf>

heads of household appear for their legal proceedings and regularly check in with Immigration and Customs Enforcement. In the near future, a small number of families in five destination cities may also be placed in a case management program operated by GEO Care, a subsidiary of the GEO Corporation, Inc, which is known primarily for running private prisons and detention facilities. GEO may partner with social service organizations to deliver these services.

## **Release Process**

Advocates have worked to improve the safety and appropriateness of releases to ensure that families are given the tools they need to comply with their immigration obligations following release. However, barriers persist, such as inadequate information provided by ICE at the time of release regarding immigration reporting requirements, poor coordination between ICE and service providers, inconsistent orientation to enrollment into ISAP III, and a lack of real connection between people at the moment of release and supportive services in their destination city.

Regardless of which post release option is established for the detained family, the release process itself has a large impact on how successfully the family is able to participate in the legal process, comply with legal obligations, and integrate into a new community. As LIRS has engaged with partners around the country providing services to families in and recently released from detention, we have had much opportunity to observe the release processes for families as they leave detention, including ICE and Customs and Border Protection (CBP) custody. LIRS spoke with service providers in Arizona, Texas and Illinois regarding the current practices relating to family releases, and conducted site visits to McAllen, TX and San Antonio, TX. These visits provided an opportunity for LIRS to speak with families and their advocates in these locations as well as capture the experiences of pilot program participants in Chicago. Information presented in this paper is a compilation of direct LIRS staff observations and those shared by service providers and affected families.

### *Information regarding immigration reporting requirements*

When families are released from detention, they are provided with written information regarding immigration reporting requirements. Families are required to report both to ICE/ERO and to the immigration court for scheduled hearings. Based on information from providers in receiving communities, and direct observation during the LIRS site visit to San Antonio, this written guidance is highly inconsistent. Many families receive the guidance in English language versions, despite being unable to speak or read English. A graphic depiction of immigration reporting requirements is also inconsistently distributed. Advocates in Arizona, reported that they have seen reporting guidance arrive with only half of the families being released from short-term custody there.

### *ICE reporting dates*

At the time of release, families are also provided the date by which they must first report to ICE/ERO in their destination city. Over the summer of 2015, these reporting dates have fluctuated significantly, ranging from 30-60 days beyond the release date, to most recently just one week from the time the family was released. Families who are provided an immigration reporting date too far into the future risk forgetting about this date as they begin the overwhelming process of integration into their destination community. On the other hand, dates that are too close to the families' arrival in their destination cities can also prove challenging. For example, the LIRS partner in Chicago discovered that one mother, unclear about her obligations and seeking support to help her understand her situation, had already missed her first ICE appointment, and is now in the process of appealing her case.

### *Points of contact within ICE*

Families are provided no clear information regarding whom to contact if they have problems meeting their initial ICE reporting date. There are occasions that necessitate a family staying longer in the area near the

detention facility, and those families must be provided information regarding whom to contact within ICE to ensure that they remain in compliance even while attending to their families' needs. For example, LIRS spoke with one mother released from detention in San Antonio, TX, who remained at a local shelter with two of her children while she attempted to obtain information regarding her husband, who had been detained separately by ICE, and another child, who had been separated and sent to ORR care. She did not feel that she could continue on to her destination until she had clear information about the rest of her family, and did not know who to call at ICE to communicate about her case.

### *Information about legal and social service providers*

The official release paperwork provided to families typically includes information regarding legal providers. However, this information, compiled and maintained by the Executive Office for Immigration Review (EOIR) is provided in English, often outdated<sup>7</sup>, and often does not correspond to the appropriate jurisdiction where the family will reside once they leave the border area. For example, in June, 2015 in McAllen, TX, LIRS staff met with two families who were to report to ICE and the Immigration Court in Chicago, but who would actually be residing in Indianapolis, Indiana. They were expected to report to ICE in Chicago because it is the closest ICE field office; information provided about legal representation was for Chicago, not for their actual location, Indianapolis. These families did not understand how to request a change in venue, if at all possible, or where to find legal representation in their destination city. While the 2011 ICE Performance-Based National Detention Standards do not apply to these families, the standards do suggest the practice of providing detainees with a list of legal, medical and social services in their "release community."<sup>8</sup> Families do not appear to be receiving this type of information from either ICE or CBP.

### **Release Process Recommendations to ICE and CBP:**

- Paperwork regarding rights and responsibilities, as well as instructions for reporting to immigration court and ICE should be explained verbally, and provided in writing in the family's primary language.
- CBP should allow access to legal service providers to CBP processing centers to present Know Your Rights or group legal orientations to migrant families.
- Official documentation should be consistent across field offices so service providers know what to look for as they explain paperwork to released families. This documentation should always be in the family's primary language.
- A clear contact person within ICE should be designated for families to contact with any questions or concerns about meeting their immigration obligations.
- Lists of legal and social service providers need to be relevant to the family's destination, provided in the family's language, and should be the most current EOIR version.

### **Family enrollments into the electronic monitoring (ankle bracelet) program**

As ICE has sought increased resources for its Intensive Supervision Appearance Program III,<sup>9</sup> and has enrolled thousands of families into this program since the summer of 2014, heads of household released from family detention are being enrolled directly into the ISAP III program. Families are monitored via GPS-tracking devices embedded in ankle monitors. Several heads of households from the families enrolled in the LIRS program are required to wear ankle monitors. Although compliance rates are high for those fitted with ankle

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<sup>7</sup> LIRS observed one family's release paperwork in San Antonio, TX in July, 2015 wherein the list of legal providers had last been updated in 2014.

<sup>8</sup> 2011 Operations Manual ICE Performance-Based National Detention Standards. Found at: [http://www.ice.gov/doclib/detention-standards/2011/admission\\_and\\_release.pdf](http://www.ice.gov/doclib/detention-standards/2011/admission_and_release.pdf)

<sup>9</sup> "ICE has been rapidly ramping up its use of Alternatives to Detention (ATDs), expanding program capacity from approximately 23,000 individuals in 2014 to a planned 53,000 in 2016. ICE has enrolled thousands of family members apprehended since last year's surge in the ATD program, and plans to expand the use of ATDs to facilitate release of individuals from Family Residential Centers if appropriate." DHS Secretary Johnson, Testimony to Congress, 7/14/15. Found at: <http://www.dhs.gov/news/2015/07/14/written-testimony-dhs-secretary-johnson-house-committee-judiciary-hearing-titled->

monitors, the devices are uncomfortable, humiliating and burdensome to maintain. Furthermore, they do nothing to assist newly released families to navigate their new communities or come to terms with the trauma that drove them from their homes in the first place. In McAllen, Texas, BI, the contractor who operates ISAP III, operates a workstation directly in the CBP processing center which processes heads of household into the ISAP III program. Similarly, family heads of household are processed directly into the ISAP III program from the Dilley, Karnes and Berks detention facilities prior to being released.

#### *Orientation to ISAP III participation*

Families are provided inconsistent information regarding their participation in and obligations to the ISAP III program.<sup>10</sup> In McAllen, TX, when released from the Customs and Border Protections holding facility, families are provided a single sheet of information from the contractor that outlines the liabilities involved in their participation of the program. This single sheet also indicates a date and address to which families must “report” – their reported address. This information, hand-written and without clear explanation, presents confusion about the date and location required of them for reporting, because it conflicts with what families are given to understand about their ICE reporting date.

While the one-pager specifies who to contact in the event of an “emergency,” it indicates that this contact information is *only* for emergencies, and does not provide additional information regarding who to contact in the event that there is a problem with one of the devices. During an LIRS site visit in June 2015, one individual at the Sacred Heart Church reception center in McAllen reported that she had accidentally thrown away the charger for her device during the process of discarding her used clothing after being released from detention. The volunteer staff believed that there was no one who would respond to a call for a replacement charger, and proceeded to sort through the dumpster trash to attempt to recover the charger that had been thrown away the day before.

As of late July 2015, written information about ISAP III program participation was not being provided to families released from the detention facilities in Karnes and Dilley, TX. When LIRS visited San Antonio, one woman whose family had been released from the Dilley detention facility just two days prior and enrolled into the ISAP III program reported that she had not received any written instructions regarding the requirements placed upon her. She reported that she had been verbally instructed to charge the device for a few hours in the morning and in the evening, and that ICE would review her enrollment once she arrived in her destination, but otherwise, was not given any information regarding who she could contact if she had a problem. Enrollees in McAllen, TX reported to LIRS that they were verbally informed by ISAP staff that it was understood that they may not be able to charge their device while travelling from the border to their destination, and that there would be no ensuing consequences if their device goes offline during that time. They were not provided this assurance in writing.

While ankle monitors may serve as a tool for ensuring that released families comply with their immigration obligations, the program does not provide additional support to families as they proceed with their immigration court case, and they do not help families understand their overall legal rights and responsibilities. The FPA Case Manager in Chicago has met with ISAP III participants who still required assistance with adjusting bracelets, securing change of venue and address with ICE, finding legal services, and being connected with resources in their destination city. These resources are not adequately provided by the ISAP III program staff.

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<sup>10</sup> The CARA Project has expressed concerns regarding coercive tactics surrounding enrollment into the ISAP III program, indicating that women have not been adequately explained their rights regarding the program. Full letter can be found at: <http://www.aila.org/advo-media/aila-correspondence/2015/letter-to-ice-recent-practices-dilley>

### **ISAP (III) Recommendations to ICE and CBP:**

- Families should be provided with clear, written instructions in their native language regarding their participation in the ISAP III program, their responsibilities regarding the device, and who to contact should they have any issue with the device both in transit and once they arrive to their destination.
- Service providers in McAllen, Tucson, and San Antonio who work with families directly following their release should have designated points of contact within ICE and ISAP III who can respond to concerns about ankle monitors.
- Ankle monitors should be used only in rare instances where flight risks are severe and cannot otherwise be mitigated. They should be the least preferred option for families released from ICE or CBP detention.

### **Services provided by NGO providers at time of release**

Since the summer of 2014, community organizations and individuals have mobilized around the country to provide hospitality, orientation, and advocacy for families as they are released from immigration detention. Particularly relevant are community groups in Arizona and Texas, which in diverse ways have organized volunteers and organizational resources to provide direct humanitarian assistance to parents and children as they leave both CBP and ICE custody. These activities involve orientation to release conditions, hygiene and clothing supplies, showers, shelter, assistance with money transfers and transportation plans.

While not uniformly available in every location, legal support and social service organizations have served as mobilizers of many of these vital resources. These legal providers continue to provide invaluable legal orientation to families prior to and immediately following release, and have been referral sources for several of the FPA participants. In McAllen, volunteer attorneys provide Know Your Rights presentations to recently released families. Likewise in San Antonio, attorneys from RAICES interview released families and help explain release paperwork. Many of these best practices have been developed to respond to the gaps in services left by the government at the time of release and are essential components to the work of helping families comply with their immigration obligations.

LIRS has learned from working with families in Chicago following release that many families require significant ongoing support once they have reached their destination city. The NGOs providing support during the immediacy of release are not equipped to provide long-term connections to legal and social services in destination cities. These immediate care providers have limited time, national scope, and personnel capacity to make adequate connections with long term providers for families who are going to a wide array of locations around the country. The Advocates for Human Rights has recently responded to this situation by establishing a national hotline to make legal referrals for families released from immigration detention. Additional organizing is required to make stronger connections between service providers in destination cities and the supportive entities working with families as they are released from detention.

The presence of community providers at the vulnerable moment of release helps identify gaps in service, insufficient policies, and best practices that should be institutionalized. Community organizations play a vital role in supporting people as they are released, though DHS should not rely entirely on the presence of supportive organizations as a substitute for institutionalizing safer release practices, nor for improving the internal practices regarding release.

### **Recommendations for service provider collaboration with ICE and CBP:**

- Community service providers and/or local nongovernmental organizations and ICE should collaborate to actively identify the locations to which families are traveling in order to connect to service providers in those destinations.

- For service providers in destination cities, conduct active outreach to identify arriving families to provide referrals for legal and social services, and seek out ways to engage in supporting them.
- Service providers should develop and present Know Your Rights or group legal orientations to migrant families in CBP processing centers.

## **Safe Release Concerns**

The moment of release is a key moment for conveying clear information. Stress and confusion during the release process, coupled with existing trauma exposure, undermine the ability for families to understand the critical information being given to them. Despite advocacy to improve conditions for families as they are released from ICE and CBP custody, best practices have not been consistently institutionalized, and coordination between CBP, ICE, detention facility staff, and community partners appears to be localized; implementation of safe release practices appears to be left to the decisions of individual field offices, personnel, and relationships that are formed on the ground with service providers.

ICE officers and transportation contractors do not communicate consistently with community service providers or nongovernmental organizations who are providing valuable orientation and resources to families at the point of release. These providers are not regularly alerted to when families will be released, nor to the quantity of people to expect. Lack of this information complicates the ability for community service providers to ensure that there are sufficient volunteers at reception sites, or supplies to provide to travelling families. Volunteers are a critical source of support for families as they prepare to move to a new location: they explain travel arrangements, provide phone calls to family, assist with money transfers, and explain immigration release paperwork.

Drop-off times are inconsistent. While releases from the CBP facility in McAllen, TX typically occur at twice-daily intervals, releases from the ICE detention facilities to the airport and bus station in San Antonio, TX are unpredictable. The irregularity of releases makes it difficult to staff reception sites with volunteers who are able to provide needed support to families upon release. Recent reports indicate that families have been dropped off at the San Antonio bus stations late at night and missed their scheduled bus times, complicating their ability to move onto their final destination. Additionally, late arrivals to the bus station result in the inability for some families to complete money transfers; if they arrive too late, they run the risk of there being no money available for them to withdraw from the Western Union service.

Families are given little advanced notice regarding their release. Attorneys, advocates and families report that families have been alerted on the same day, and told that they need to make immediate arrangements for their transportation and reception, which are often not completed prior to their release. Attorneys have been denied the opportunity to provide pre-release orientations to families to help them understand the release process.<sup>11</sup> However, current negotiations between ICE and local advocates through the CARA project indicate the possibility for the development of presentation to inform families about their immigration rights and responsibilities after leaving Dilley.

The inability to make these travel plans properly can lead to increased confusion for families and a decreased sense of stability as they arrive to their destination. Not having made these plans prior to release leaves the responsibility for orienting families to the travel process to the volunteers who step in to fill this gap in the government's stead. Especially given that community volunteers are responding to the release of increasing

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<sup>11</sup> "Letter to ICE Director Saldaña Regarding Recent Release Practices at Dilley and Karnes" July 27, 2015, [http://www.ice.gov/doclib/detention-standards/2011/admission\\_and\\_release.pdf](http://www.ice.gov/doclib/detention-standards/2011/admission_and_release.pdf)

numbers of families, ICE should coordinate with these organizations to ensure that families receive services and clear information for continuing compliance with obligations.

### **Safe Release Recommendations to ICE and CBP:**

- Prior to release, ICE should allow families the opportunity for *sufficient* communication<sup>12</sup> with family members to arrange transportation, money transfers, and reception plans.
- Provide the release date and time, as possible, to concerned parties, including family members who will receive the released families, NGO hospitality providers, bus station employees, and legal teams – especially for represented clients.
- Ensure that legal providers have access to families in the facility prior to their release, in order to capture any intake information, answer questions, make referrals, and provide orientation for their legal rights and responsibilities.
- Ensure that safe release practices are being developed and adhered to<sup>13</sup>: women and children should not be dropped off at bus stations late at night, drop-offs should only occur once travel arrangements have been made or are pending confirmation, and volunteer organizations should be alerted to the drop-off schedule in order to ensure that volunteers will be available to receive families.

### **Program Next Steps**

LIRS and the Interfaith Committee for Detained Immigrants have enrolled ten families into the Family Placement Alternatives program, all of whom continue to comply with their immigration obligations. A second and final report on this pilot will be prepared and circulated in late 2015 to share continuing learning and recommendations based on the case management services and client outcomes.

For more information regarding the Family Placement Alternatives program, please contact Liz Sweet, LIRS Program Manager for Legal Services, at [lsweet@lirs.org](mailto:lsweet@lirs.org) or 410-230-2728 or Brittney Nystrom, LIRS Director for Advocacy at [bnystrom@lirs.org](mailto:bnystrom@lirs.org) or 202-626-7943.

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<sup>12</sup> The 2011 ICE Performance-Based National Detention Standards indicate that detainees should be “notified of the upcoming release and provided an opportunity to make a free phone call to facilitate release arrangements.” Similarly, ICE should ensure that the notice given to families provides ample opportunity to make travel arrangements. The Detention Standards can be found at [http://www.ice.gov/doclib/detention-standards/2011/admission\\_and\\_release.pdf](http://www.ice.gov/doclib/detention-standards/2011/admission_and_release.pdf)

<sup>13</sup> Ibid. The ICE Detention Standards state, “The time, point and manner of release from a facility shall be consistent with safety considerations and shall take into account special vulnerabilities.” Advocates have consistently argued that women and children present special vulnerabilities, and therefore must be considered for protection at the time of release.