Questions over alternatives to detention programmes

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An alternative to detention programme is generally understood as a means for government bodies to track non-citizens without incurring all of the costs and rights violations associated with immigration detention. These programmes are by and large less expensive than formal custodial supervision in immigration detention centres. People enrolled in these programmes may enjoy more rights and freedoms while simultaneously meeting the state's primary interest in ensuring that non-citizens are available should they be issued with removal orders.

House arrest plus a combination of electronic surveillance, daily or weekly reporting requirements and/or curfews can be substituted for formal, custodial detention.[1] Individuals may be fitted ('tagged') with electronic ankle bracelets connected to a satellite surveillance system. Although the system does not track a wearer's movements as precisely as a homing device can, it can determine if the wearer is at home as expected. If visible, however, the ankle bracelet can be socially stigmatising. Even if not visible, it may cause physical distress through its chafing, and emotional distress through its association with prisons and potential deportation.

Community supervision represents a much less intrusive programme than custodial detention or house arrest plus monitoring. Such programmes usually include the key elements of provision of competent legal advice, closer case management, and awareness (among those enrolled) of the consequences of non-compliance. People enrolled in community supervision programmes are permitted to live with family members and/or fellow church members or other community organisation members; they may be allowed to work, and their children can usually attend school and medical appointments. As such, it makes use of community trust and kinship and faith networks, as opposed to ankle bracelets and reporting requirements.

Most observers see the provision of competent legal advice as key to the low rates of absconding generally associated with 'alternatives to detention' because people enrolled in these programmes are able to develop confidence in the asylum and immigration adjudication system. The essential role of the provision of competent legal advice makes it difficult to assess the roles of other aspects of house arrest or community supervision. In other words, are people not absconding because they are resigned to being monitored? Or because their monitoring prevents absconding? Or because they have a sense of being watched, even in the community? Or because their deeper understanding of their legal situation provides an assurance of fair adjudication and an incentive to see their cases through to a conclusion?

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1. Crawley H 'Ending the detention of children: developing an alternative approach to family returns', 2011 http://tinyurl.com/Crawley-familyreturns-2010