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Immigration Cyber Prisons: Ending the Use of Electronic Ankle Shackles

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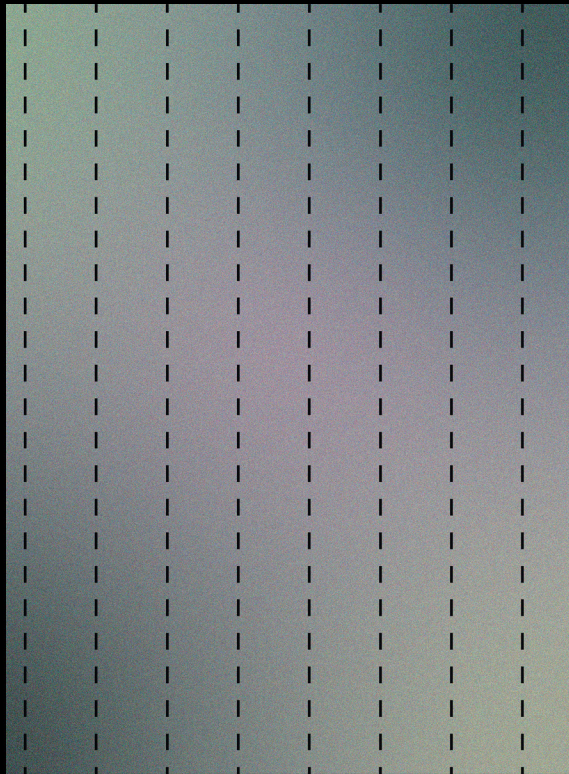
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July 2021

Benjamin N. Cardozo School of Law Kathryn O. Greenberg Immigration Justice Clinic
Freedom for Immigrants
Immigrant Defense Project

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The primary authors and editors of the report are Tosca Giustini, Sarah Greisman, Peter Markowitz, Ariel Rosen, Zachary Ross, and Alisa Whitfield of Benjamin N. Cardozo School of Law, Kathryn O. Greenberg Immigrant Justice Clinic; Christina Fialho of Freedom for Immigrants; and Brittany Castle and Leila Kang of the Immigrant Defense Project.

Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law is a law school clinic that works to improve access to justice for immigrants through individual representation and transformative law reform initiatives, while simultaneously training the next generation of exceptional immigrant advocates.

Freedom for Immigrants (FFI) is a national 501(c)3 nonprofit devoted to abolishing immigration detention, while ending the isolation of people currently suffering in this profit-driven system. FFI monitors the human rights abuses faced by immigrants detained by ICE through a national hotline and network of volunteer detention visitors, while also modeling a community-based alternative to detention that welcomes immigrants into the social fabric of the United States. Through these windows into the system, FFI gathers data and stories to combat injustice at the individual level and push systemic change.

The Immigrant Defense Project (IDP) was founded over 20 years ago to combat an emerging human rights crisis: the targeting of immigrants for mass imprisonment and deportation. As this crisis has continued to escalate, IDP has remained steadfast in fighting for fairness and justice for all immigrants caught at the intersection of the racially biased U.S. criminal and immigration systems. IDP fights to end the current era of unprecedented mass criminalization, detention and deportation through a multipronged strategy including advocacy, litigation, legal advice and training, community defense, grassroots alliances, and strategic communications.

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Terminology

Alternative to Detention (ATD): A term misappropriated by city, state, and federal government agencies as well as private prison companies to refer to coercive programs that tag people with intrusive methods of surveillance, such as GPS monitoring through electronic ankle shackles or mobile app, telephonic or in-person appointments, and arbitrary home visits. Previously, some advocates used the term to describe community-based programs that ensure immigrants are released from physical detention and provided with the support they need to fight their immigration case.

Behavioral Intervention (BI) Incorporated: A subsidiary of private prison corporation GEO Group. Manufactures electronic ankle shackles and contracts with ICE to operate the Intensive Supervision Assistance Program (ISAP).

Black Immigrants: In the data collection for this report, the category “Black immigrants” refers to individuals who self-identified as Black to the legal service providers as part of the organizations’ standard intake procedures.

E-Carceration: The use of technology to deprive people of their liberty.¹

Electronic Ankle Shackles: Commonly referred to by immigration authorities as “ankle bracelets,” “ankle monitors,” or “GPS monitoring devices.” Because these terms fail to capture the true nature and impact of these devices, we use the term “electronic ankle shackle(s)” or “ankle shackle(s)” throughout the report.

Immigration and Customs Enforcement (ICE): The agency within the Department of Homeland Security in charge of arrest, detention, and deportation of immigrants within the interior of the United States. ICE heavily relies on the use of physical detention as well as e-carceration through programs like ISAP.

Immigration Detention: The government practice of incarcerating people pending or following a decision on their immigration case.

Intensive Supervision Assistance Program (ISAP): The primary component of ICE’s so-called Alternative to Detention program, administered by BI Incorporated. Individuals who are required to enroll in ISAP, often as a condition of release from physical detention, are typically subject to one or more forms of e-carceration (e.g., GPS monitoring through electronic ankle shackles or mobile apps) and other reporting requirements.

Executive Summary

The call to end immigration detention has garnered strong support in recent years due to a growing public awareness of its devastating impact on the individuals locked away, their families, and entire communities. Throughout the nation, communities, organizers, advocates, and public officials have demanded the shutdown of Immigration and Customs Enforcement (ICE) detention centers, particularly those operated by private prison companies.

However, less attention has been paid to another form of detention that has been insidiously expanding alongside ICE's brick-and-mortar jails: the Intensive Supervision Assistance Program (ISAP), the primary component of ICE's so-called "Alternatives to Detention" program. ISAP surveils, monitors, and restricts immigrants by using invasive and evolving forms of technology. Like much of ICE's sprawling detention system, ISAP is fueled by a multi-billion-dollar contract with the subsidiary of a private prison corporation that profits from detaining and surveilling immigrants. One of the most common and dehumanizing forms of surveillance in ISAP is a GPS-enabled ankle monitor that shackles individuals both visibly and invisibly.

As lawmakers and other public officials have searched for a solution to the federal government's reliance on immigration detention, they have turned to ISAP, framing it as a more "humane" option. That stance became particularly apparent during the COVID-19 pandemic, which magnified the deadly health risks associated with detention. As large numbers of people were released from physical detention, often only by court order, ICE immediately imposed electronic ankle shackles on many of them.² As of May 2021, 31,069 people were subjected to electronic ankle shackling by ICE.³

As impacted individuals and advocates have long known, ankle shackles themselves are neither humane nor an alternative to the central harms of detention. Shackles cause physical and psychological damage, restrict the movement and interactions of those subjected to them, and result in financial hardships. A number of well-researched reports and countless anecdotal accounts have addressed the detrimental effects of ICE's electronic shackling program.⁴ To date, however, there has been no empirical research providing data quantifying such harms. This report leverages survey responses from approximately 150 immigrants across the country who were subject to ankle shackles, as well as aggregate data of over 950 cases from three major immigration legal service providers to, for the first time, document the scale and severity of the impact of ankle shackles on individuals. This empirical evidence is supplemented by examples drawn from qualitative interviews conducted with a small group of impacted individuals.

Key findings include:

- **90% of survey participants experienced harm to their physical health** caused by the ankle shackle, most commonly including aches, pains, and cramps; numbness due to impaired circulation; discomfort related to excessive heat; and sustained swelling/ inflammation. Further, one in five surveyed individuals reported experiencing electric shocks from the ankle shackle.
- **88% of survey participants reported that the ankle shackle negatively impacted their mental health**, including a large majority who reported severe symptoms related to anxiety and sleep disruption. An alarming 12% of participants reported thoughts of suicide as a result of the shackling.
- **Nearly every survey participant (97%) experienced social isolation due to the ankle shackle**, primarily related to social stigma. One interviewee explained that “the ankle shackle is a modern-day scarlet letter.”⁵
- **Nearly three-quarters of survey participants (74%) reported that the ankle shackle negatively impacted their family or community. Over two-thirds of participants (67%) reported that they and their families experienced financial hardship** when they lost or had difficulty obtaining work as a result of their electronic ankle shackle.
- **Black immigrants were disproportionately subjected to ankle shackles by ICE.** Black immigrants were represented in the shackled cohort at more than twice the rate of their representation in the non-shackled cohort.
- **Survey participants and interviewees experienced ISAP and electronic ankle shackling as an alternative form of detention**—as “e-carceration,” a term coined by advocates leading the fight against ankle shackling and other forms of surveillance in the criminal legal system.
- **ISAP is no more effective at ensuring appearance than holistic approaches**, such as access to legal representation and non-coercive community support services, rendering it unnecessary for its stated purpose.

The findings of this report illustrate that similar to physical detention, electronic shackling and surveillance is deeply harmful and dangerous.

This report recommends that ICE immediately wind down ISAP and cease its use of electronic ankle shackles, first by removing them from all individuals currently subject to ISAP. To the extent that ankle shackles continue being used while phasing out ISAP, the administration should mandate ICE to track the data needed to prevent discriminatory practices; provide both a clear written justification and review process when deciding to subject an individual to ankle shackles; and allow those subject to ankle shackles to secure employment, participate in family and community activities, and seek medical treatment. This report also recommends a severance of the link between immigration enforcement and service provision through community-based programs, as well as allocation of government funding for community support and legal representation services.

As the harms of electronic ankle shackling demonstrate, ISAP is by no means an acceptable reform to the existing detention apparatus; rather it is another form of confinement that must be dismantled alongside physical detention. While the coercive and dehumanizing shackling of humans is unacceptable in any form, the data demonstrating the comparable or superior efficacy of more holistic intervention also lay bare the animus and profit motives at the heart of ICE's shackling regime. Ending shackling is not just good policy; it is an issue of racial, economic, and health justice.

Background

For the last twenty-five years, the United States has been in an unprecedented era of mass detention and deportation of immigrants. The U.S. has deported more than twice as many people in the first two decades of the 21st century as in its entire previous history.⁶ The nation now spends **over \$28 billion dollars** annually on federal immigration agencies that work to arrest, detain, and deport immigrants, which is more than the budget of all other federal law enforcement combined.⁷ The vast network of immigration detention continues to expand nationwide.⁸ The daily detention population grew from under 6,800 in 1994 to an all-time high of more than 52,000 in 2019—a sevenfold increase.⁹

Historical Context and Current Use of Electronic Ankle Shackles

The creation and expansion of immigration e-carceration is inextricably entwined with the onset of the modern era of mass detention and deportation. In 1996, former President Bill Clinton signed into law the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The 1996 laws substantially expanded the criminal grounds that trigger detention and deportation, in addition to instituting fast-track deportation procedures, and mandatory detention for certain individuals. These laws thus laid the legal foundation for an expansive detention and deportation regime.¹⁰

Around the same time the Immigration and Naturalization Service (INS) contracted with the Vera Institute of Justice to run a pilot community-based alternative to detention program for individuals in removal proceedings, which was called the Appearance Assistance Program (AAP). The evaluation of that pilot was published in 2000, finding that 90% of AAP participants appeared for their hearings without the use of detention, and recommending a reduced reliance on detention in favor of alternatives to detention.¹¹

This early momentum was lost soon thereafter, following the events of September 11, 2001. In 2002, Congress enacted the Homeland Security Act, creating the Department of Homeland Security (DHS) to replace the INS. The creation of DHS bolstered a growing political narrative around immigration as an issue of “national security,” which the government used to justify unprecedented measures prioritizing the deportation and surveillance of immigrants.¹² Two agencies within DHS were specifically charged with the arrest, detention, and deportation of immigrants: ICE and Customs and Border Protection (CBP). As part of an increasingly restrictive immigration system, ICE and CBP have utilized detention and related policies to deter, punish, and coerce immigrants.¹³

DHS regulations provide both ICE and CBP officers broad discretion regarding when and if to initiate deportation actions¹⁴ as well as whether to strip immigrants of their liberty during the pendency of their case.¹⁵ ICE and CBP

have utilized that authority to physically lock up an increasing number of immigrants, primarily in private prisons or local jails which immigration authorities pay to provide detention beds. From 2004 to 2019, the number of individuals in immigration detention annually more than doubled, from approximately 235,000 to 510,000.¹⁶

For decades, advocates have documented and denounced the devastating impacts of physical detention, including rampant medical neglect,¹⁷ physical and sexual abuse,¹⁸ coercive and traumatizing reliance on solitary confinement,¹⁹ exploitative labor practices,²⁰ and immense hardship to the person's family.²¹ Numerous years of activism from both within and outside detention centers have engendered an emerging consensus among immigrant communities and advocates that immigration detention cannot be reformed and must be phased out entirely.

In addition to physical detention, immigration authorities also strip people of their liberty by subjecting them to e-carceration programs, often as a condition of release from physical custody by CBP or ICE. The most prevalent immigration e-carceration program is ICE's Intensive Supervision of Appearance Program (ISAP), created in 2003, shortly after ICE's creation. Under the agency's policies and practices, an ICE officer may decide both whether an individual should be subject to ISAP and the level of supervision to which they are subjected.²² In some cases, ICE enrolls an individual in ISAP directly after arrest, but in other circumstances the program is imposed after a judge has ordered the person released from detention, or after the person paid an immigration bond to secure their release. While ICE is the primary entity forcing immigrants to wear ankle shackles, some bond companies have also conditioned the payment of an immigration bond on a requirement that the individual be subjected to private electronic shackling.

In general, enrollment in ISAP subjects individuals to one or more forms of surveillance technology that enable DHS to closely monitor them.²³ ISAP typically restricts the person's movement to certain geographic regions, with reporting programs that include answering regular phone calls, having unannounced home visits by an officer, using a cellphone application equipped with GPS monitoring and voice and facial recognition software, appearing for in-person appointments, and/

Electronic Shackling in the Criminal Legal System

ISAP was developed against the backdrop of an already rising use of e-carceration in the criminal legal system. In the criminal context, the number of individuals subjected to electronic monitoring programs increased 100-fold from 1987 to 1998.²⁴ ISAP has become a large and growing segment of the e-carceration industry.

While this report focuses on electronic ankle shackles in the immigration context, the harms caused by electronic ankle shackles in the criminal legal system are already well-documented.²⁵ The stigma of wearing electronic ankle shackles has enormous consequences on individuals' daily lives. For example, individuals placed in ankle shackles through the criminal legal system have found it difficult to maintain meaningful relationships in their communities and find employment as a result of the device.²⁶ In 2011, the National Institute of Justice surveyed 5,000 individuals on electronic ankle shackles in the criminal context and found that 22% of survey participants had been fired or asked to leave a job because of the shackle.²⁷ The risk of re-arrest is also a constant source of anxiety, as individuals who commonly experience device malfunctions or are unable to pay the fees associated with the shackle are subject to re-detention.²⁸ Moreover, electronic ankle shackles amplify the larger system of mass surveillance of communities of color, who have been targeted by racist police practices and policies.²⁹

or wearing an electronic ankle shackle.³⁰ The electronic ankle shackle—a battery-powered, GPS tracking device that is strapped around one’s ankle—cannot be physically removed by the individual and requires frequent charging.³¹ The GPS unit enables DHS to track individual’s location and movements.³² ISAP currently uses the electronic ankle shackle to collect the GPS coordinates of an individual’s location as frequently as every three minutes, uploading that data at least once every four hours to a monitoring system, and sending an alert to ICE if the person leaves their assigned geographic area—which could be as large as the state or as small as the person’s home.³³ Even while the person is forced to wear the electronic ankle shackle, there are often additional reporting requirements such as unannounced home visits, in-person check-ins, telephonic check-ins, and potentially a curfew.³⁴

ISAP: A Tool for Expanding Detention and Surveillance

ISAP’s reach is broad—and rapidly expanding. ICE utilizes ISAP to monitor both individuals in removal proceedings as well as those who have received a removal order. As of May 12, 2021, there were 96,574 individuals forced into ISAP, with approximately a third of such individuals subject to electronic ankle shackling.³⁵ In 2021, the average length of time people were subjected to ISAP ranged from two to three years, varying across ICE Field Offices nationwide.³⁶

ICE refers to ISAP and its shackling program as an “Alternative to Detention,” essentially co-opting the term from advocates who had previously used it to refer primarily to community-based non-coercive programs.³⁷ But the number of individuals placed in ISAP has grown along with the number of people in physical detention. From 2008 to 2021, ISAP grew from 15,300 individuals to almost 100,000.³⁸ Meanwhile, the average daily detained population increased from 19,718 in 2005 to almost 50,922 by the end of 2019.³⁹ In fact, ICE has repeatedly expanded the scope of ISAP, sweeping in categories of people who would previously have been at liberty. For example, ICE initially described ISAP as an alternative to requiring a person to pay a monetary bond in order to be released from detention. In 2015, ICE instructed officers to consider enrolling individuals in ISAP *in addition* to requiring monetary bond payment.⁴⁰

Expansion of ICE Surveillance and Big Data Collection

ICE now has more access to personal data than ever before, much of it collected through data surveillance and physical monitoring of immigrants and their families.⁴¹ Because of data and information-sharing programs, any time an individual is arrested by law enforcement and fingerprinted—the first step in many arrests—their fingerprints are electronically shared with ICE.⁴² Despite ICE’s initial assurance that the program would be optional, in the face of opposition to the program by localities trying to protect immigrant community members by limiting the entanglement between local criminal legal system and federal immigration enforcement, ICE declared the program was mandatory.⁴³ ICE uses this information to surveil individuals they have targeted, including by collecting information about where they live, who they live with, and where they work.⁴⁴ ICE also has access to information collected by Automated License Plate Readers (ALPRs), which capture license plate information, allowing them to track cars and individuals in real time. In doing this, ICE may get information from local DMVs or law enforcement to determine to whom a car is registered.⁴⁵ ICE has also been reported to rely on IMSI Catchers (a.k.a. Stingrays), an invasive cell phone surveillance device, to track the physical location of individuals.⁴⁶ ICE’s expanded access to big data, coupled with its broadened scope of technologies utilized for ISAP, makes the scope and future of ICE’s e-carceration programs all the more troubling.⁴⁷

In its current form, there are no discernible, consistent, and objective decision-making criteria governing whether an individual is subjected to ankle shackling or not. According to ICE guidance, the level and type of ISAP supervision, including shackling determinations, are made on a “case-by-case basis,”⁴⁸ subject to broad discretion of individual officers. When asked about shackling criteria in public settings, ICE has either declined to answer, referred back to generalized factors, or has candidly stated that there are “no firm benchmarks.”⁴⁹ The predictable result has been enormous disparities in shackling decisions across the country, with some ICE Field Offices using electronic ankle shackles in less than 10% of ISAP cases, and other using them in over 60% of ISAP cases.⁵⁰

Not only has enrollment in ISAP grown alongside an increase in the number of people in brick-and-mortar physical detention, but ICE is simultaneously expanding its methods of surveillance and monitoring of individuals on ISAP. Beyond electronic ankle shackling, many people in ISAP must now download and use SmartLINK, a mobile device application uses facial recognition and GPS tracking to monitor individuals.⁵¹ ICE’s latest ISAP contract explicitly opens the door for new technologies, noting: “ATD participants are mandated to use some form of technology which can consist of a GPS tracking device, Telephonic reporting, Biometric check-in technology *and any future technologies deemed appropriate by the government.*”⁵² The net effect is a rapidly expanding sphere of surveillance and control by ICE over vast swaths of the community as ICE is able to track individuals, their movements, and even those they interact with in real time.

ISAP: A Profitable Venture

Private prison companies manufacture the technology used by ISAP, staff the program, and have spent millions lobbying for their business interests.⁵³ Following the success of Vera Institute of Justice’s pilot program and the subsequent replacement of INS by DHS, ICE issued a Request for Proposals for a federally-funded program. However, instead of relying on community-based programs, ICE awarded the contract to Behavioral Interventions (BI) Incorporated.⁵⁴ Known as “the ankle monitor company,”⁵⁵ BI Incorporated has contracted with ICE to run ISAP since the program’s inception in 2004; the contract has been renewed three times since, expanding each time.⁵⁶ BI’s 2020 contract with ICE for ISAP is worth \$2.2 billion.⁵⁷ BI Incorporated is a subsidiary of the private prison company GEO Group, which also has a massive share of the private prison industry.⁵⁸ GEO Group, along with CCA/CoreCivic and Management and Training Corporation, account for more than 96% of the total number of private prison beds in the U.S.⁵⁹ In the immigration context, GEO Group and CCA/CoreCivic operate approximately 72% of all privately contracted ICE immigration detention beds.⁶⁰ As the U.S. vastly expanded its use of for-profit immigration detention, GEO Group’s profits multiplied almost four-fold between 2005 and 2020.⁶¹ From January 2016 to June 2017, the government funded a pilot case management program, the Family Case Management Program (FCMP), for families seeking asylum at the border.⁶² Despite the fact that a non-profit’s proposal had received the

highest technical rating in the bidding process, the contract was awarded to GEO Group.⁶³ Under their management, the program included compulsory case management including: check-ins, legal orientation to the asylum system but not full representation, assistance obtaining medical services, educational enrollment, English classes, and identity documents, as well helping each participant with details of appearance requirements and transportation to and from hearings.⁶⁴ ICE determined this program to be a success,⁶⁵ achieving 99% appearance rate for the 2,163 program participants,⁶⁶ however, advocates pointed out that the program's compulsory nature and administration by GEO raised concerns about unnecessary enrollment in the program, inexperienced handling of case management, and gaps in support.⁶⁷ It is telling that both GEO Group and CCA/CoreCivic have lobbied for the First Step Act of 2018, which requires individuals on home confinement in the criminal system to be subjected to 24-hour electronic monitoring.⁶⁸

Methodology

The findings of this report are based on original data collected by a research team from the Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. Three different sources of data were collected and analyzed for this report.

- 1 **Survey of Impacted Individuals:** We created a survey soliciting responses from people who are or have been subjected to electronic ankle shackling in the immigration context. This included individuals subject to shackling during the pendency of removal proceedings as well as those subject to final orders of removal. Using both open- and closed-ended questions, the survey focused on the various impacts of shackling as experienced by the individuals.

A link to the survey was circulated broadly via email to organizations and advocates working with immigrants across the U.S. The survey was available online from November 2020 to April 2021, in three different languages: English, Spanish, and Haitian Creole. We also encouraged people to call our team if they wished to take the survey but spoke other languages or were unable to take the written survey online. For those individuals, we conducted the survey by asking each question orally, with the help of a language line where needed.

The survey received 147 anonymous responses from people who had worn or currently were wearing an electronic ankle shackle in the immigration context as a requirement imposed by ICE, a judge, or a bond company. The survey data that was collected is shown

throughout this report in the form of graphs and charts illustrating aggregate responses. In addition, some narrative responses that were written into the survey appear in the report as quotes. Such responses are attributed to the survey participant with the initials “S.P.” and a number indicating from which survey response the quote originates (e.g., “S.P.1” would indicate a quote drawn from the first survey participant).⁶⁹ Some of the responses quoted in the report were edited only for spelling, verb tense, or grammar.

2 Data from Legal Service Providers (LSPs): We collected aggregate, anonymized client data from three organizations that provide immigration legal services: American Friends Service Committee (New Jersey), The Bronx Defenders (New York), and Brooklyn Defender Services (New York) (collectively, “the LSPs”). We asked the providers for data from 2018 to 2021 pertaining to two groups of clients: (1) clients who had been forced to wear an electronic ankle shackle,⁷⁰ and (2) clients who were in removal proceedings but had not been forced to wear an electronic ankle shackle.⁷¹ Specifically, we requested information on the number of people who had missed any immigration court hearings or mandated check-ins with ICE, as well as the race and national origin of the clients.

In total, the LSPs provided data regarding 972 people in removal proceedings from 2018 to 2021. Of this sample, 54 individuals were shackled for some or all of the reporting period, and the remaining individuals were never subjected to shackling during the reporting period. All clients in both groups had been released from physical detention for some or all of the relevant period.

We analyzed whether there are any statistically significant differences in the composition of the group who were assigned electronic ankle shackles and the group who were not assigned electronic ankle shackles. This analysis was completed by two cooperating experts, one with an expertise in R programming and the other with expertise in applied statistics.⁷² These experts performed chi-square tests of independence to test for statistical significance in each analysis.

3 Long-Form Interviews of Impacted Individuals: We developed a narrative interview instrument and conducted long-form interviews with nine individuals who had been subject to electronic ankle shackling in the immigration context. The interview responses were used to contextualize the survey data and provide a qualitative description of the experiences of impacted individuals. Quotes from interviewees are designated throughout the report by the initials of the participant.

Findings

The findings set forth below fall into three categories.

Section A documents the physical, psychological, financial, and social harms suffered as a result of ICE's electronic shackling program.

Section B explores racial disparities in ICE's shackling decisions.

Finally, **Section C** examines ICE's purported justification for ISAP and the availability of non-coercive alternatives.

Impact of Electronic Ankle Shackles on Individuals

The data set forth below document the devastating impact of ankle shackles on those who are forced to wear them.

Harm to Physical Health

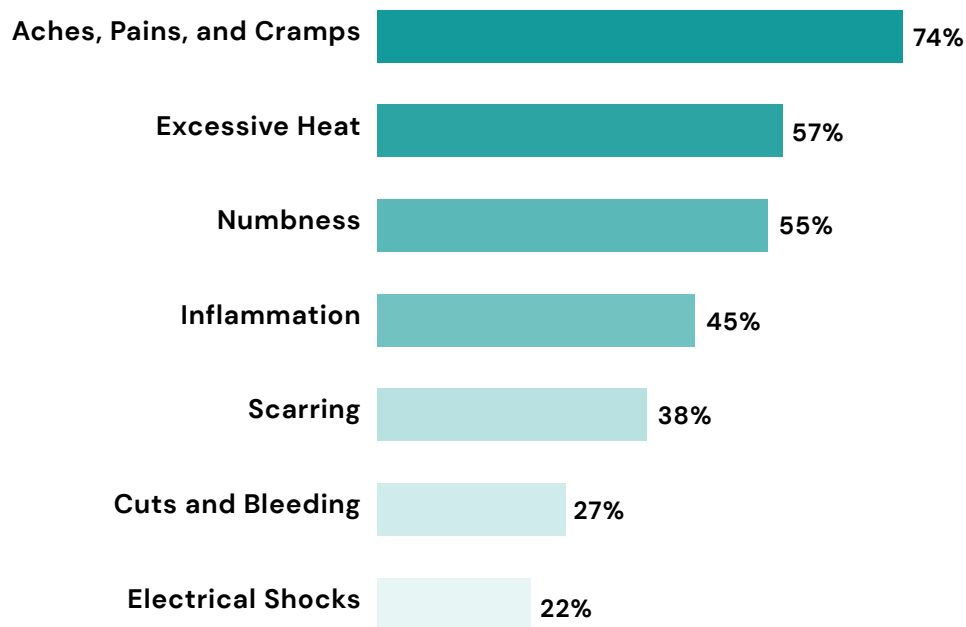
An overwhelming majority of individuals surveyed (90%) experienced harm to their physical health due to the electronic ankle shackle, ranging from discomfort to life-threatening symptoms. An alarming 58% of surveyed individuals reported that their ankle shackle's physical impact was "severe" or "very severe." In the most serious cases reported, the ankle shackle aggravated participants' pre-existing, sometimes life-threatening conditions, such as diabetes and leukemia. One in five surveyed individuals experienced electric shocks from the ankle shackle, a type of injury that has been documented in previous studies on ankle shackles; for example, one study describes an individual suffering "a strong electric shock and a sharp pain in her chest" from wearing the ankle shackle, causing her to be rushed to the emergency room.⁷³

"I am diabetic. My leg is swelling and the ankle strap is cutting off my circulation. I got a doctor's note and ICE said it was not sufficient evidence to remove the ankle shackle."⁷⁴

"MB" has leukemia. When his doctor saw that MB had the ankle shackle, the doctor told him that it was not good for his leukemia and that it needed to come off. While his doctor tried to talk to the ICE officers, the process of getting the ankle shackle removed was drawn out over almost three months.

A majority (65%) of individuals experienced a “constant” negative impact on their physical health while shackled. Ankle shackles caused survey participants to suffer a wide range of symptoms including aches, pains, and cramps; numbness due to impaired circulation; discomfort related to excessive heat; and sustained swelling/inflammation (Figure 1). Others developed vertigo, experienced electric shocks, or reported bleeding cuts from ongoing chafing of the plastic on the skin exposed to the device, causing permanent scarring for some (Figure 1). One surveyed individual noted that the device felt like it “crushes the bones in the front of his foot.”⁷⁵ Over a third of surveyed individuals (34%) reported that they believed the ankle shackle’s effect on their physical health would be “permanent.”

Figure 1: Types of physical health symptoms reported by survey participants



A majority (65%) of survey participants developed physical symptoms associated with increased stress, which was attributed to being forced to wear the ankle shackle. For example, one person explained that they suffer from “constant migraines” and require medication to lower their blood pressure due to “too much anxiety” and “sleeplessness.”⁷⁶

Harm to Mental Health

Disturbingly, **88%** of survey participants reported that the ankle shackle negatively impacted their mental health. A significant majority (**80%**) reported thinking about their shackle “constantly.” One participant observed, “every time I look at my ankle I feel scared and stressed and that is all I think about every day.”⁷⁷ Other individuals explained that thinking about the device created a “constant nagging effect”⁷⁸ and a sense of “constant anxiety.”⁷⁹

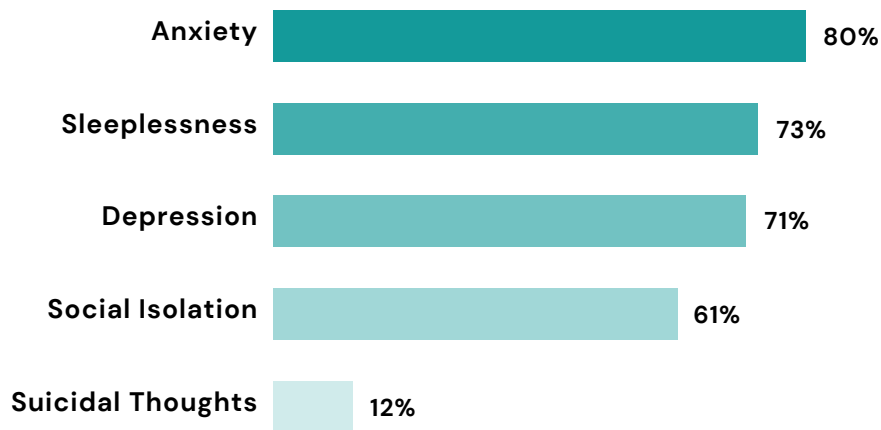
Though the severity of the ankle shackle’s impact on mental health varied across individuals, a significant majority of people (**73%**) believed that the impact on their mental health was “severe” or “very severe.” An alarming **12%** of survey participants said wearing the ankle shackle caused them to have suicidal thoughts. Those survey participants attributed a variety of causes, ranging from associated depression to feelings of humiliation associated with wearing the ankle shackle.

For many individuals, the psychological harms caused by shackling persisted even after the device was removed from their ankle. Over a third (**38%**) of survey participants believed that the impact of shackling on their mental health was permanent. Many others were unsure about whether they would fully recover psychologically from the experience of being shackled.

One person whose ankle shackle had been taken off reported “waking up in cold sweats when my phone alarm rings because I still think the alarm on my shackle is going off.”⁸⁰

Survey participants reported a wide range of impacts on their mental health, including anxiety, sleep disruption, social isolation, depression, and thoughts of suicide (Figure 2).

Figure 2: Types of psychological symptoms reported by survey participants



Anxiety was the most common psychological symptom reported, experienced by **80%** of survey participants. Individuals attributed their feelings of anxiety to the stigma associated with the device, preoccupation with hiding their ankle shackle so that others could not see it, triggering of past trauma, feelings of being surveilled, and/or fear of re-detention. As has been documented elsewhere, the anxiety related to both ICE policing and shackling can be particularly acute for people fleeing persecution—as is true for many asylum-seeking immigrants—and can cause survivors of torture to re-experience traumatic events.⁸¹

“When I was in prison in my country, I was attacked and beaten. The ankle shackle reminds me of this, and makes me feel constantly stressed, afraid and despairing. It reminds me of my torture and I cannot stop thinking about it, as if I am still in prison. This ankle shackle is the worst thing for my health right now. I feel desperate.”⁸²

Unsurprisingly, many immigrants forced to wear a shackle reported heightened anxiety related to feelings of being watched, monitored, and surveilled. This anxiety, unfortunately, is well-founded: ICE receives an automatic alert if an ankle shackle sends a GPS location from an area outside the geographical boundaries of where the individual is allowed to be, or if the GPS location tracking goes offline due to a technical malfunction. It is not uncommon for individuals subject to ankle shackles to experience malfunctions with the shackle itself. A substantial majority of survey participants (80%) reported experiencing technical difficulties with the ankle shackle. Many individuals explained that these prevalent technical malfunctions cause anxiety and fear of being detained or re-detained, even when they meticulously adhere to ISAP restrictions.

“Since I had the shackle I have become paranoid when I go outside, I feel like they are watching me and I want to go home quickly.”⁸³

Disrupted sleep or insomnia was also reported by nearly three-quarters of survey participants (73%). Some people attributed this to anxiety, while others found that physical discomfort from the device impaired their sleep. Still others reported difficulty with sleep at night while charging the device attached to their ankle or due to the sounds, lights, and vibrations associated with the shackle’s battery.

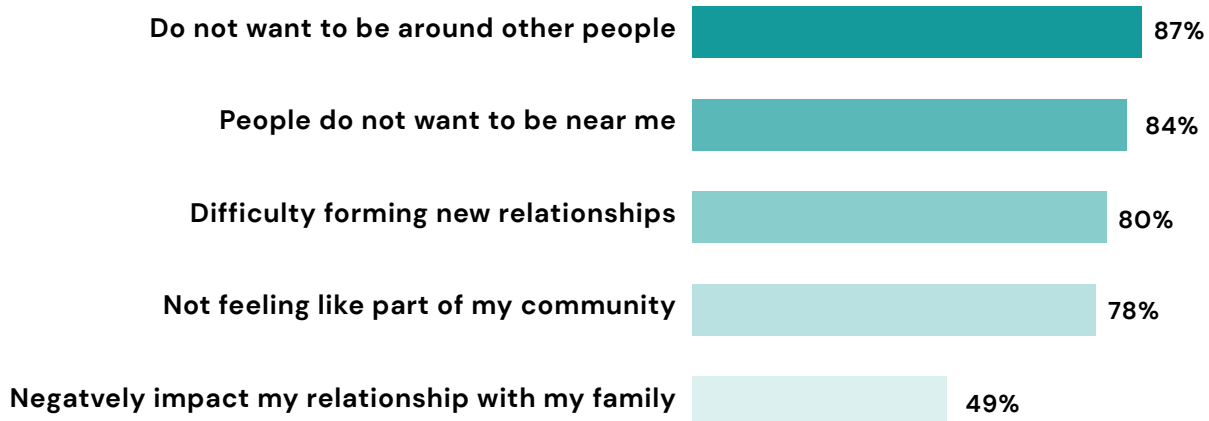
“The shackle beeps during the night, and significantly worsens my already serious insomnia. I have no control over the time the battery beeps, and it wakes me up every night in the middle of the night. This has a very serious impact on my physical health – I am only able to have a few hours of rest due to the shackle.”⁸⁴

A majority of participants (71%) also experienced high rates of depression because of the ankle shackle. Depression was, in part, attributed to a feeling of loneliness; a majority of people surveyed said that they felt alone, and that the ankle shackle caused social isolation (further discussed below). Many individuals shared that wearing an ankle shackle was a dehumanizing experience. One participant described immigration authorities involved in the shackling as “treating me like a dog-like scum.”⁸⁵

Social Isolation

Social isolation was the most prevalent form of harm reported; virtually all participants (97%) reported that the shackles led to some form of social isolation. Figure 3 demonstrates the different types of social isolation experienced by participants.

Figure 3: Types of social harm reported by survey participants



Several themes emerged from survey responses related to social isolation. The vast majority of participants (87%) reported withdrawing from social contacts because they felt embarrassed or worried about being judged. Individuals also felt the need to withdraw from social contacts because of fear that their ankle shackle will unexpectedly make noises and beep loudly in public.

“The noises the ankle shackle makes is very embarrassing so it’s hard to even just go to outings with friends.”⁸⁶

Additionally, many impacted individuals disclosed that they avoided going out in public due to their ankle shackle’s severe restraint on the clothing they could wear. For example, one participant avoided going outside in the winter because she could not find warm boots that fit over her ankle shackle.

Even for those who sought out social connection, **84%** of surveyed individuals reported that the stigma associated with the shackles caused others to shun them. Several survey responses demonstrate that participants experienced the same unjust stigma faced by individuals in the criminal legal system. Individuals reported that other people avoided contact with them due to fear that being around them would put the person at risk of ICE arrest. As one survey participant explained, “I couldn’t go out to see people I know as they were scared that they’d be discovered by ICE for being close to me.”⁸⁷ In fact, ICE has used GPS data from ankle shackles to locate and arrest other individuals before.⁸⁸

Several participants also reported that the geographic restrictions imposed alongside the ankle shackle prevented them from spending time with their loved ones and participating in social activities. These geographic restrictions varied on a case-by-case basis; for example, one survey participant was prohibited from going further than 75 miles from his home,⁸⁹ while another participant was prohibited from leaving the state of Florida.⁹⁰

“I have missed out on important family events because of the monitor.”⁹¹

Ultimately, more than three-quarters of survey participants (**78%**) reported that the shackles made them feel isolated from their larger communities (Figure 3). The impact of isolation from the community can create a barrier to accessing supportive networks, building trust, and a sense of belonging.⁹²

Financial Hardship

Over three-quarters of participants (78%) said the ankle shackle caused them and their family financial hardship. This struggle was in large part due to the fact that the ankle shackle is a significant impediment to finding and keeping a job. Indeed, over two-thirds of participants (67%) reported that they lost or had difficulty obtaining work because of their electronic ankle shackle.

One prevalent issue reported was the impact of geographic limits imposed by ISAP on people's ability to obtain work. Some individuals were unable to leave their homes to work out of fear that the device would run out of battery if they left the house for too long and were without reliable access to an outlet to charge the device; if the ankle shackle were to turn off, it would trigger ICE's attention. Based on survey participants' experiences, the battery life of an ICE-issued electronic ankle shackle lasted, on average, just under eight hours. That is significantly less than the common workday for many workers, even excluding transportation.

Immigrants with ankle shackles also faced discrimination from employers due to the stigma associated with the device. Participants experienced hurdles in finding work because employers wanted to know why they had an ankle shackle, and upon learning that it was immigration-related, became concerned about attracting the attention of immigration authorities. Employers' fears of ICE are not unfounded, given that ICE has indeed used GPS data gathered from ankle shackles to raid workplaces.⁹³

"No one wants to give me a job because they fear I might get them in trouble with the law."⁹⁴

Participants who had employment faced additional work-related difficulties due to the ankle shackles. Survey participants reported that the unpredictable beeping, vibrating, and flashing of the device was distracting to themselves and to co-workers. The ankle shackle also made certain physical jobs less safe because the bulky monitor got caught on the wearer's surroundings or caused them to trip.

"I cannot do my job safely with the ankle monitor. I do construction and almost fell off of a roof once because of the ankle monitor. Another time my bracelet got caught on a ladder and I fell."⁹⁵

Impact on Family and Community

Ankle shackles do not only affect people who are forced to wear the devices; they create a domino effect that destabilizes entire families and communities. Nearly three-quarters of survey participants (74%) reported that the ankle shackle hindered their ability to care for their family or community members. A majority of participants (61%) said the ankle shackle made it difficult to financially provide for their family.

“My family and I suffered a lot because of the shackle, and we could never find a job or eat. Sometimes we went to bed without eating, we were underweight.”⁹⁶

Approximately a quarter of individuals (24%) reported that they were unable to take care of a minor or an elderly or disabled family member while they wore the ankle shackle. For example, a parent who wanted to engage in their child’s education could not “go to graduation or parent teacher meetings.”⁹⁷ A concerned sibling whose brother was sick “could not visit him because the distance did not permit it.”⁹⁸ Over a quarter of individuals (27%) reported that they were unable to care for a community member outside of their household who relied on their help. Thus, the geographic restrictions accompanying the device are also detrimental to the people who rely on individuals who are forced to wear electronic ankle shackles.

Ankle shackles cause ruptures at every level of the familial unit. Of the individuals surveyed, at least a third of participants reported that the ankle shackle negatively impacted their relationship with their spouse or partner (39%), children (33%), and/or other family members (49%).

“Sometimes I think my wife can’t endure my situation and sometimes I think that she will eventually move on.”⁹⁹

JAS, a father who lives with his wife and his six children, says his entire personality changed because of the constant discomfort of the ankle shackle. “I could not play with my children. I did not get along with them. I would go to my room as soon as I got home from work.”

The social stigma and anxieties associated with ankle shackles can also transfer onto family members. One individual explained that the fear of ICE's surveillance not only caused people to distance themselves from her, but also from her children: "the parents of my daughter's friends were afraid to meet with her" because "they were afraid of being discovered by ICE due to being close to me."¹⁰⁰ Another parent detailed how her experience being shackled "greatly impacted the mental and emotional health of my 9-year-old daughter who is still undergoing psychological therapy."¹⁰¹

Electronic Ankle Shackling Is Experienced as an Alternative Form of Detention

Prior research has demonstrated that the harms suffered by the individuals forced to wear ankle shackles, as well as their families and communities, are similar to the known harms of physical detention.¹⁰² Responses from those interviewed and surveyed for this report confirm this finding. Physical detention, like shackling, also damages one's physical and psychological health, creates social isolation, inflicts financial hardships, and undermines the security of families and entire communities. Accordingly, it is unsurprising that the experience of shackling as another form of detention was a consistent theme from both survey participants and interviewees.

"Even though I am no longer detained, I feel like I am in jail still because I have this device on me and people constantly calling me."¹⁰³

Many individuals explained that, while no longer inside a physical jail cell, they continued to feel subject to detention because of the electronic ankle shackle and surveillance.

"Even though I was released, I still feel caged in a cyber prison."¹⁰⁴

"I'm happy for my freedom, but I don't feel free. I want to be free, free."¹⁰⁵

Detention, in all of its forms, dehumanizes those who are subjected to it. Survey participants expressed the unique trauma and degradation that the electronic ankle shackle inflicted on their bodies and their lives.

“Shackles are completely inhumane and both physically and emotionally degrading. You cry all the time because you feel as if you were in a prison as you have no liberty to do things as basic as exercise or participate in activities that require brisk movements because of the fear of injuring the shackle—perhaps by accidentally tripping on it—and you think that you want to flee. The psychological pressure is very strong for this reason, without even going into the feeling of being observed and without privacy. In my experience it is horrible to have to carry an alien object on your body that beeps and vibrates at times without knowing for what.”¹⁰⁶

Disproportionate Shackling of Black Immigrants

“After seven years of imprisonment by Immigration Criminals Enterprise (ICE) who have done nothing but destroy my civil and human rights, I feel like I’ve worn more chains than a slave.”¹⁰⁷

This section explores the data on race provided by three large legal service providers. In this sample population, Black immigrants were subject to shackling at statistically significant higher rates than other groups of immigrants in the sample. The limited scope of the collected data does not allow for a comprehensive assessment of the influence of race in ICE’s shackling program. However, the disparities found in the collected data mirror the disparate detention and deportation of Black immigrants, well-rooted in the racist hierarchy that has shaped U.S. immigration policy from its inception.

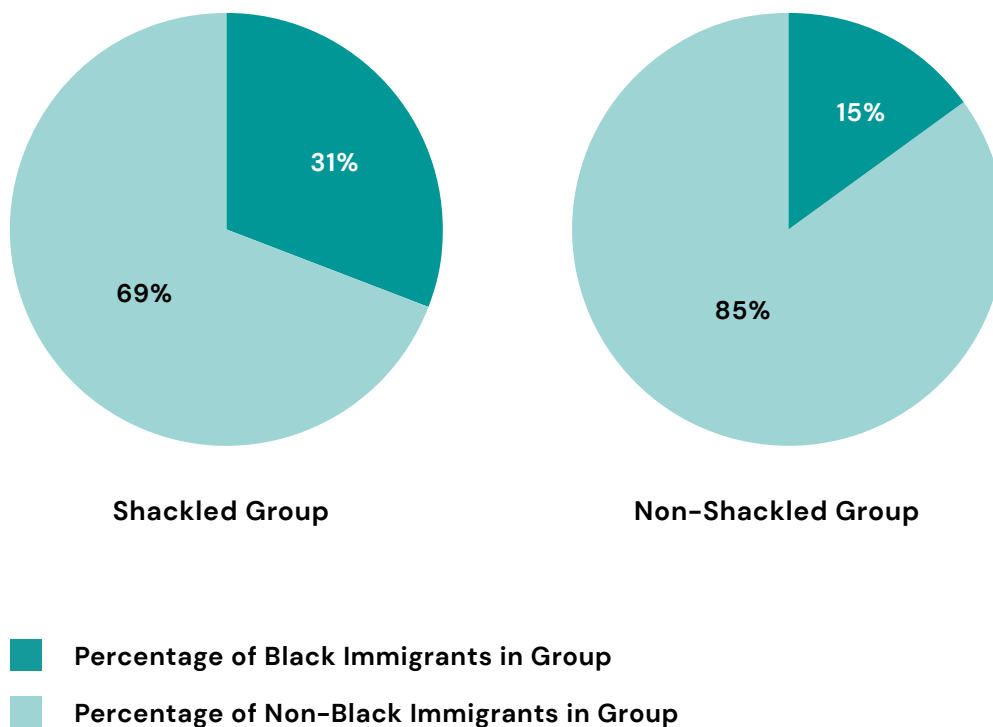
Scholars have shown how immigration regulation cannot be separated from attempts to exclude specific racial and ethnic groups.¹⁰⁸ Federal laws regulating migration began with racial exclusion laws and, early on, instituted formal racial quotas intentionally limiting immigration from countries beyond western Europe.¹⁰⁹ While explicit racial quotas ended in 1965, immigration laws and policies have continued to criminalize, detain, and deport immigrants of color disproportionately.¹¹⁰

Tellingly, the use of mass imprisonment as a tool for deterrence began in the early 1980s as a way to deter Haitian refugees, who were overwhelmingly Black, fleeing from the brutal U.S.-backed Duvalier dictatorship.¹¹¹ Today, Black immigrants from all countries and nationalities continue to experience disparate treatment throughout the immigration system, including in various aspects of detention. For example, a recent study concluded that Haitian immigrants at a detention facility in Texas were required to pay higher bond amounts than other immigrants, typically meaning they stayed locked up longer.¹¹² Another study concluded that immigrants from African and Caribbean countries were overrepresented among immigrants subjected to solitary confinement while detained.¹¹³ In light of this history, this report sought to analyze potential racial disparities with regard to ankle shackling decisions.

For this assessment, anonymized client data was collected from the case management systems of three legal service organizations. Aggregate data from clients of the three organizations were broken down into two groups: those who were subject to electronic ankle shackles and those who were not. All individuals in both groups were either arrested but never detained or released from detention during the relevant period, and thus all were potentially subject to shackling.

Within the data collected for this report, Black immigrants¹⁴ were significantly overrepresented among those in the sample population who were subject to shackling by ICE. While Black immigrants made up only **15%** of the sample population, **31%** of the population subjected to ankle shackling were Black immigrants.¹⁵

Figure 4: Percentage of Sample Population Subject to Shackling



Exploring Non-Coercive Community-Based Support

This section evaluates provider data regarding appearance rates for clients with and without shackles and surveys existing data regarding legal representation and community support programs. As detailed below, many programs that do not rely on any form of detention or tracking devices have a proven track record of supporting individuals in meeting their appearance obligations at similar, if not higher rates than ISAP.

Appearance Rate Findings

Systemic roadblocks prevent compliance with immigration obligations and thus set many immigrants up for failure. For example, people released from detention may lack the legal means to become self-sufficient because they are denied work authorization, are unable to obtain lawyers, are not afforded adequate due process by the government,¹¹⁶ and lack adequate mental health care support.¹¹⁷ For the authors of this report, the success of a community-based program cannot be measured solely by how many people show up to their court hearings; nor can high appearance rates alone justify the deep harm inflicted by shackling. This report addresses data on appearance rates for the purpose of challenging ICE's justification for its use of electronic ankle shackles.

ICE touts high appearance rates at court hearings of ISAP participants to justify the billions of dollars spent on the program, relying on flawed compliance metrics.¹¹⁸ There is reason to question the reliability of ICE's figures, due to inconsistent and incomplete data collection.¹¹⁹ But even assuming the figures are accurate, they do not establish that electronic ankle shackles result in higher appearance rates than programs offering legal or social support.

The data collected for this study from the LSPs provide a useful example of ICE's false narrative regarding the unique efficacy of ISAP. Each of the LSPs participating in this study provided **100%** of clients with free legal counsel as well as referrals to social services or social services within the organization, like support with housing, transportation, and/or health care. Each LSP identified all of their clients who, as of January 2018, were either never detained or were released from detention during their removal proceedings. Some such clients were subject to ICE's ankle shackling program, but many were not. The LSPs then utilized their case management systems to determine the appearance rates at court hearings and ICE appointments for each of these groups.

The LSP data shows a high appearance rate for both groups. Collectively, the providers reported that **98%** of their clients who were released without electronic ankle shackles attended all their court hearings and ICE check-ins, and **93%** of their clients required to wear electronic ankle shackles attended all of their court hearings and ICE check-ins.

There are two notable observations from the provider data: First, the non-shackled group had an extraordinarily high appearance rate. Second, that same group appeared for their court hearings at higher rates than those who were subject to ankle shackling by ICE. Because the two groups were not randomly assigned, firm conclusions about the impact of the electronic ankle shackles cannot be drawn. Given the destabilizing impact of shackles these data at minimum raise the possibility that shackling may, in some circumstances, inhibit rather than promote appearance.

“Removing the ankle monitor would help me greatly. I am seeking asylum and protection in the United States, and am completely motivated to follow all rules and guidelines for my immigration case. I will not try to escape, as I need the support of the United States to recover from my torture and trauma. The ankle monitor does not in any way increase my compliance with the regulations, it simply makes me feel more traumatized and depressed, and less able to adjust to my situation in this new country.”¹²⁰

Previous studies of the impact of legal representation and community support services on appearance rates, discussed below, have yielded similar results and confirm our finding that individuals who had access to legal and community support services had high rates of appearance.

Legal Representation

There is no constitutionally recognized right to the appointment of counsel in removal proceedings. As a result, more than half of immigrants in removal proceedings are forced to navigate the complex process alone, against trained government prosecutors and often in a language they cannot understand.¹²¹ For detained immigrants, the representation crisis is even worse, with over **80%** of detained immigrants lacking representation over the past two decades.¹²² The legal and moral imperative to provide counsel to such individuals facing potentially permanent separation and exile from the U.S., stands separate and apart from the role that counsel plays in ensuring appearance. In this report, however, we restrict our analysis to the impact of representation on appearance in immigration court.

Various recent studies have documented the impact of legal representation on appearance rates. One study found that more than **95%** of children represented by lawyers appeared for their immigration court proceedings.¹²³ Another study of families and unaccompanied children seeking asylum who had access to legal representation reported a **98%** appearance rate with immigration court obligations.¹²⁴ The conclusion of these smaller scale studies—that representation has a powerful and positive impact on appearance rates—has recently been confirmed by a large scale analysis of 2.8 million cases over a ten-year period.¹²⁵ This study concluded that from 2008 to 2018, **96%** of non-detained immigrants represented by a lawyer attended all of their hearings.¹²⁶ The powerful impact that access to legal representation has on appearance rate helps explain the high appearance rate exhibited by all clients of the LSPs.

Community-Based Supportive Services

Community-based supportive service programs have also been demonstrated to have a similarly powerful impact on appearance rates, without heavy-handed liberty intrusions. A variety of non-profits have run small-scale true alternative to detention programs centered around community-based supportive services. For example, Lutheran Immigration and Refugee Service (LIRS) has successfully run several programs. From May to October of 2015, LIRS assisted ten families through a program called Family Placement Alternatives, which offered individualized care plans to each family based on need in order to create stability to facilitate court appearance; **100%** of participants appeared for all court hearings.¹²⁷ In 1999, LIRS assisted 23 refugees released from a detention facility in Ullin, Illinois, all of whom were considered by ICE to have a high risk of flight.¹²⁸ LIRS provided those individuals with legal assistance, connected them to a community network, provided referrals to medical and mental health services, and assisted with securing employment; **96%** of participants appeared for all court hearings.¹²⁹ Other similar programs run by Refugee Immigration Ministries and International Friendship House, which collectively involved nearly 150 individuals, also reported appearance rates of **100%**.¹³⁰ While these programs are small, they demonstrate that with proper funding, non-profit organizations could provide services to support individuals, including helping people to meet court obligations at very high rates, with similar success to previous government-funded programs, like the AAP and FCMP, but without coercion and without the involvement of for-profit contractors like BI.¹³¹

In sum, in stark contrast to the acute harms inflicted by ICE and ISAP, there already are trusted and capable community-based organizations ready to provide services and support to address the needs of those individuals. Notably, these findings mirror the recommendations of several survey participants, whose vision for a country without immigration detention would include a number of support services. Participants not only decried the inhumanity and lack of necessity of detention (virtual or physical), but also explained they would want increased support systems such as representation by an attorney, access to a therapist or counseling, transportation assistance, housing support, and/or childcare.

The demand for such services buttresses the need for an approach, independent of ICE, that ensures the legal representation and social support individuals and families need to successfully navigate the immigration system.¹³² Critically, the infrastructure to provide this support already exists. In late 2020, the American Immigration Council and Women's Refugee Commission conducted a nationwide survey and convening of 244 organizations providing services to immigrants in 39 states and Washington, DC. The survey found that nationwide, there is critical expertise and capacity to provide a broad range of necessary services—such as legal, housing, transportation, social, and medical services—to those in immigration proceedings, and there is widespread interest in expanding services if provided appropriate funding.¹³³

Conclusion and Recommendations

Driven by profit motives, a failed enforcement-only approach, and systemic racism, the immigration detention system thrives under the assumption that detaining immigrants is necessary. The use of electronic ankle shackles—and e-carceration at large—thrives under the same rationale. This false assumption, as detailed in this report, causes immense harm to individuals caught up in these programs.

However, there is another way. We can divest from detention and redirect funding to effective and compassionate community programming. In fact, there is a range of viable community programs that have a proven track record of helping individuals achieve stability and navigate the immigration system. These programs offer an individualized approach to supporting both recent asylum seekers and people with longstanding community ties, many of whom actively desire supportive programming. Particularly when viewed in light of the extraordinary harms documented in the Findings Section (Part A), it is apparent that ICE's electronic ankle shackles, like the chain gangs of past eras, are not an alternative to detention but rather an alternative form of detention.

Immigrants and advocates have increasingly called to defund ICE and DHS, with the goal of ending deportation.¹³⁴ A core component of the mass deportation system they aim to dismantle is the immigration detention system—both physical and virtual. We strongly urge the Biden-Harris administration to exercise the full extent of its authority to enact a plan to end the use of immigration detention completely including electronic shackling. This includes releasing immigrants who are detained and phasing out federal contracts with private prison companies, states, and localities for the purposes of immigration detention. Members of Congress, including Representative Ilhan Omar, have already petitioned the administration to issue an Executive Order announcing a plan to phase out contracts between ICE and state, county, and local jails and prisons.¹³⁵ And advocates have continued to push the administration to live up to its campaign promise and end private prisons, not just in the criminal legal system, but also in the civil immigration detention context.¹³⁶

The following list of policy options would move away from the failed and inhumane immigration e-carceration system:

- **The administration should mandate that ICE immediately wind down ISAP**, ensuring that the program and the use of electronic ankle shackles are completely eliminated expeditiously.
- **ICE should remove the electronic ankle shackles of all individuals enrolled in ISAP** without initiating re-detention, and cease to utilize electronic ankle shackles moving forward.
- To the extent ankle shackles continue being used while phasing out ISAP, **the administration should require ICE to track and monitor race, ethnicity, and national origin data** related to the use of the electronic ankle shackles to guard against discriminatory practices.
- To the extent ankle shackles continue to be used while phasing out ISAP, **the administration should mandate ICE to preference the least restrictive form of compliance and to conduct regular reviews of the propriety of compliance obligations**, with a preference toward de-escalation. **ICE should be required to provide written justification for placing an individual under ankle monitor surveillance** or other forms of electronic surveillance, and establish a clear process for the individual to seek review of a decision.
- Immediately, and in the interim, **ICE should permit individuals wearing ankle shackles to seek and maintain work, participate in family and community activities, and seek medical treatment**. ICE should also **eliminate in-person check-in requirements** for individuals subject to ankle shackles.
- **Congress should sever the link between immigration enforcement and service provision** by allocating funding to a government agency outside the purview of DHS that provides for legal and community support services for immigrants facing removal. **Legal representation should be fully funded for all immigrants in removal proceedings**.
- **The federal government, through an agency outside the purview of DHS, should allocate government contracts for service provision to qualified non-profit organizations with the trust of their communities**. Programs should include a range of services, including holistic medical and mental health care, housing, and language access support. 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.

Building a country—and ultimately, a world—without immigration detention is within reach. All people should be free from detention, in all its forms, including e-carceration. Programs like ISAP and electronic ankle shackles are not necessary, are extensions of detention, and should not be used.

The data gathered by this report and numerous other studies powerfully demonstrate the urgent need to drastically shift our policies to divest from and end all forms of detention. ▲

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- 30 Much of the programmatic data about ISAP we found through documents released by ICE following a FOIA request made by Stanford Law School at Stanford University. Throughout these endnotes we have cited to these documents as published by the government, and also included the FOIA page number and linked to where the documents are available online. *Alternatives to Detention Handbook – Intensive Supervision Appearance Program*. (2017, August 16). U.S. Immigration and Customs Enforcement. [FOIA p. 102-107]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>
- 31 Rutgers School of Law–Newark & American Friends Service Committee. (2012, July). *Freed but not Free*. <https://perma.cc/9XTV-WTUW>
- 32 *Section C– Statement of Work*. (n.d.). [FOIA p. 242]. [Contract]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>
- 33 *Section C– Statement of Work, supra; Alternatives to Detention Handbook – Intensive Supervision Appearance Program*. (2017, August 16). U.S. Immigration and Customs Enforcement. [FOIA p. 105]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>

- 34 *Alternatives to Detention Handbook – Intensive Supervision Appearance Program*. (2017, August 16). U.S. Immigration and Customs Enforcement. [FOIA p. 103–105]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>
- 35 *Alternatives to Detention (ATD)* (2021). TRAC Immigration. <https://perma.cc/4KSQ-6H3Y>
- 36 *Alternatives to Detention, supra.* (noting average number of days individuals were subjected to ISAP as of April 24, 2021 was 848, though in Denver it was 1,348 days, in St. Paul 1,171 days, in San Francisco 1,119 days, in Chicago 1,067 days, and in Newark 1,050 days)
- 37 *Alternatives to Detention*. (n.d.). Freedom for Immigrants. <https://perma.cc/9H3D-86TB>
- 38 Immigration and Customs Enforcement. (2008). *ICE Fiscal Year 2008 Annual Report*. <https://perma.cc/3X8S-QX7X>; *Alternatives to Detention (ATD)* (2021). TRAC Immigration. <https://perma.cc/4KSQ-6H3Y>
- 39 Ryo, E. & Peacock, I. (2018, December). *The Landscape of Immigration Detention in the United States*. The American Immigration Council. <https://perma.cc/TL9N-SVTP>; U.S. Immigration and Customs Enforcement *Fiscal Year 2019 Enforcement and Removal Operations Report*. (2019). Immigration and Customs Enforcement. <https://perma.cc/GK8M-3M7S>
- 40 *Alternatives to Detention Program Guidance*. (2015, June 08). Enforcement and Removal Operations. [Memo]. [FOIA p. 139–140]. <https://law.stanford.edu/immigrants-rights-clinic-stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>
- 41 See generally *Who’s Behind ICE*. (n.d.) Mijente. <https://perma.cc/SW52-KJFX>
- 42 Aizeki, M. (2021, March 16). *ICE Raids Toolkit: Defend Against ICE Raids and Community Arrests*. Immigrant Defense Project. <https://www.immigrantdefenseproject.org/raids-toolkit/>
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- 44 Aizeki, M, *supra*.
- 45 Funk, M. (2021, May 1). *How ICE Picks Its Targets in the Surveillance Age*. The New York Times. <https://perma.cc/H6CA-2XW8>
- 46 *Stingray Tracking Devices: Who’s Got Them?* (2018, November). American Civil Liberties Union. <https://perma.cc/Z773-H9RC>
- 47 Just Futures Law & Mijente. (2021, June). *ICE Digital Prisons: The Expansion of Mass Surveillance as ICE’s Alternative to Detention*. <https://www.flipsnack.com/JustFutures/ice-digital-prisons-1u8w3fnd1j.html>
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- 49 See, e.g., *AILA ICE Liaison Committee Meeting Notes* (pp. 5–6) (Oct. 19, 2015). AILA Doc. No. 16030760; *AILA ICE Liaison Committee Notes* (pp. 7–8) (Dec. 1, 2016). AILA Doc. No. 17030732.
- 50 *Alternatives to Detention (ATD)* (2021). TRAC Immigration. <https://perma.cc/4KSQ-6H3Y> (compare on 5/28/2021, Detroit FO: 446 ISAP enrollees on shackles / 7801 ISAP enrollees = 6%; Salt Lake City FO: 282 ISAP enrollees on shackles / 3018 ISAP enrollees = 9%; with, Boston FO: 723 ISAP enrollees on shackles / 1598 ISAP enrollees = 45%; Houston FO: 2107 ISAP enrollees on shackles / 2750 ISAP enrollees = 77%). Significant disparities in ISAP shackling also exist among similarly situated field offices). *Id.* (compare 31% shackling rate in the San Diego FO, with 83% shackling rate in the Phoenix FO); *id.* (compare 44% shackling rate in New York FO with 16% shackling rate in Newark FO).

- 51 Just Futures Law & Mijente. (2021, June). *ICE Digital Prisons: The Expansion of Mass Surveillance as ICE's Alternative to Detention*. <https://www.flipsnack.com/JustFutures/ice-digital-prisons-1u8w3fnd1j.html>
- 52 ISAP IV Contract. (2020, March 31). [Memo]. [FOIA p. 1905]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>. For example, some electronic ankle shackles utilized in the criminal system have even been equipped with a cell-phone feature that allows police, prosecutors, and prison supervisors to eavesdrop on conversations; other shackles analyze a person's perspiration to monitor their blood alcohol content once every hour. Williams, P. (2019, April 29). *Why Everyone Should Care About Mass E-carceration*. The Nation. <https://perma.cc/5BAK-TLTL>; Lacambra, S. (2018, March 24). *The New Frontier of E-Carceration: Trading Physical for Virtual*. Electronic Frontier Foundation. <https://perma.cc/442U-3SS7>
- 53 *How for-profit prison corporations shape immigrant detention and deportation policies*. (2015, December 7). American Friends Service Committee. <https://perma.cc/PJD4-9P8J>; ICE ATD PowerPoint [FOIA p. 1202] <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention/>; BI Incorporated. (n.d.). *BI LOC8 XT*. <https://perma.cc/A38J-SAXS>
- 54 Rutgers School of Law-Newark & American Friends Service Committee. (2012, July). *Freed But Not Free: A Report Examining the Current Use of Alternatives to Detention*. <https://perma.cc/9XTV-WTUW>
- 55 Lartey, J. (2020, November 17). *Think Private Prison Companies Are Going Away Under Biden? They Have Other Plans*. The Marshall Project. <https://perma.cc/MHY4-BGNE>; Lartey, J. (2020, November 17). *Private Prison Companies Are Pivoting for the Biden Presidency*. Slate Magazine. <https://perma.cc/4GFW-YEZ2>
- 56 The 2020 contract for \$2.2 billion is an increase from 62 million in 2008 and 90 million in 2014. U.S. Office Inspector General (2015, February 4). *Immigration and Customs Enforcement's Alternatives to Detention (Revised)*. <https://perma.cc/3PKS-R6Z7>
- 57 Edwards, J. (2020, June 19). *BI Awarded \$2.2B ICE Intensive Supervision Appearance Program IV Support IDIQ*. GovCon Wire. <https://perma.cc/B363-4G3Y>
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- 60 *Immigration Services*. (n.d.). BI Incorporated. <https://perma.cc/PY9W-RPRD>
- 61 *Geo Group Inc Revenue 2006-2021*. (n.d.). Macrotrends. <https://perma.cc/HDF8-96R6> (noting the Geo Group's annual profits in 2005 were 613 million dollars and in 2020 were 2,350 million dollars); Gruberg, S. (2015, December 18). *How For-Profit Companies Are Driving Immigration Detention Policies*. Center for American Progress. <https://perma.cc/ZZR5-CKQS> (noting the percentage of private immigration detentions increased from 25% of all immigration detentions in 2005 to 62% of all immigration detentions in 2014)
- 62 Women's Refugee Commission. (2019). *The Family Case Management Program: Why Case Management Can and Must Be Part of the US Approach to Immigration*. (p. 1). <https://perma.cc/T9M4-QFV8>
- 63 Women's Refugee Commission, *supra* (p. 5).
- 64 Women's Refugee Commission, *supra*. (pp. 6-7).
- 65 *But see* Exploring Non-Coercive Community-Based Support Section, *infra*. (discussing how non-coercive programs can achieve similarly high appearance rates) (pp. 23-25).
- 66 Women's Refugee Commission, *supra*. (p. 5).
- 67 Women's Refugee Commission, *supra*. (pp. 10-12).
- 68 James, N. (2019). *The First Step Act of 2018: An Overview* (CRS Repot No. R45558). Congressional Research Service. <https://perma.cc/67LT-98S3>; Evers-Hillstrom, K. (2018, December 20). *For-profit prisons strongly approve of bipartisan criminal justice reform bill*. OpenSecrets News. <https://perma.cc/Q5SF-XN5V>

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- 70 Clients with an electronic ankle shackle did not include clients who were placed on an ankle monitor as a requirement of a for-profit bond company such as Libre by Nexus. It did include any client placed on an ankle monitor by ICE and/or as the result of a court order issued related to immigration or habeas proceedings (i.e. clients ordered released from detention by a habeas court due to the risk of COVID-19).
- 71 Clients in removal proceedings included clients who were in removal proceedings or withholding-only proceedings at any point from January 1, 2018 to March of 2021, even if the client received a removal order during the time period.
- 72 The two cooperating experts who generously donated their time to this report are David Keyes, Ph.D., CEO of R for the Rest of Us and Dana Linnell Wanzer, Ph.D. Assistant Professor of Psychology at the University of Wisconsin, Stout.
- 73 Pittman, J. (2020). Released into Shackles: The Rise of Immigrant E-Carceration. *California Law Review*, 108(2). <https://perma.cc/6WFX-XB7T>
- 74 S.P.16.
- 75 S.P.140.
- 76 S.P.9.
- 77 S.P.47.
- 78 S.P.8.
- 79 S.P.14.
- 80 S.P.2.
- 81 Rutgers School of Law-Newark & American Friends Service Committee. (2012, July). *Freed But Not Free: A Report Examining the Current Use of Alternatives to Detention*. <https://perma.cc/9XTV-WTUW>; Gogolak, E. C. (2015, November 16). *Ankle Monitors Weigh on Immigrant Mothers Released From Detention*. The New York Times. <https://perma.cc/8UHK-4368>
- 82 S.P.44.
- 83 S.P.142.
- 84 S.P.44.
- 85 S.P.71.
- 86 S.P.8.
- 87 S.P.77.
- 88 See *Monthly BI Report* (2017, April) ISAP Connections. [FOIA p. 1247]. <https://law.stanford.edu/immigrants-rights-clinic/stanford-immigrants-rights-clinic-uncovers-new-details-about-the-governments-use-of-ankle-monitors-and-other-alternatives-to-detention>
- 89 S.P. 23.
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- 99 S.P.1.
- 100 S.P.77.
- 101 S.P.135.
- 102 Kilgore, J. (October 2015). *Electronic Monitoring Is Not the Answer*. <https://perma.cc/WV6P-NSG3>; Shenwar, M. & Law, V. (2020). *Prison By Another Name*. The New Press.
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- 105 S.P.6.
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- 107 S.P.24.
- 108 See generally Das A. (2020). *No Justice in the Shadows: How America Criminalizes Immigrants* (pp. 27–58). Bold Type Books.; Kanstroom, D. (2010). *Deportation Nation: Outsiders in American History*. Harvard University Press; Escobar, M. (2016). *Captivity Beyond Prisons: Criminalization Experiences of Latina (Im)migrants* (pp. 25–61) University of Texas Press.
- 109 Chishti, M., Hipsman, F., & Ball, I. (2015, October 15). *Fifty Years On, the 1965 Immigration and Nationality Act Continues to Reshape the United States*. Migration Policy Institute. <https://perma.cc/XCX3-V2FQ>
- 110 See generally Das A. (2020). *No Justice in the Shadows: How America Criminalizes Immigrants* (pp. 27–58). Bold Type Books.
- 111 While race is generally understood to be a significant factor in the treatment of Haitian immigrants, there are of course other factors at play, including an extremely complex socio-political context that is outside the scope of this report. See Lindskoog, C. (2018). *Detain and Punish: Haitian Refugees and the Rise of the World's Largest Immigration Detention System*. University of Florida Press.
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- 114 Black immigrants can hail from any region or country. In the United States, the largest groups of Black immigrants are from Haiti and Jamaica. See Morgan–Trostle and Zheng. (2016, Jan. 22). *The State of Black Immigrants* (pp.11–12). New York, NY: Immigrant Rights Clinic. <https://perma.cc/BM4E-T6SL>
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- 119 Singer, A. (2019). *Alternatives to Detention (ATD) Programs* (CRS Report No. R45804). Congressional Research Service. <https://perma.cc/54A4-GTL4> (noting that “data collection limitations hampered its ability to fully evaluate ISAP” and that data was “inconsistent and incomplete for over one-third of program participants” making it “impossible” to fully and accurately assess ISAP’s impact on appearance rates).
- 120 S.P.44.
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- 122 See *State and County Details on Deportation Proceedings in Immigration Court*. (n.d.). TRAC Immigration. Retrieved May 17, 2021, from <https://perma.cc/QE9X-4DZ4> (reporting that 300,543 detained immigrants were represented out of the 1,592,085 detained immigrants in removal proceedings since Oct. 2000). EOIR has stopped reporting representation status for IJ case completion in their annual statistical yearbook but, in FY2016, the last year it reported such data, 61% of IJ case completions involved detained respondents. *FY 2016 Statistics Yearbook*. (2017, March). Department of Justice. <https://perma.cc/CU3Q-AJ24>
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- 129 Field, O., *supra* (p. 236).
- 130 Field, O., *supra* (pp. 242-243).
- 131 See Background Section, *supra*. (describing the FCMP and AAP programs) (pp. 5, 8).
- 132 American Immigration Council & Women’s Refugee Commission. (2021, March 1). *Community Support for Migrants Navigating the U.S. Immigration System*. <https://perma.cc/KXA8-DJ4R>
- 133 For example, 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 and our mass incarceration system as a whole. Freedom for Immigrants and its movement partners have collectively capacitated a growing movement of thousands of volunteers providing 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, last year providing temporary and safe sanctuary to well over 200 people.
- 134 Aizeki, M. (2021, March 16). *ICE Raids Toolkit: Defend Against ICE Raids and Community Arrests*. Immigrant Defense Project. <https://www.immigrantdefenseproject.org/raids-toolkit/>; Mijente (2018, June). *Free Our Future: An Immigration Policy Platform for Beyond the Trump Era*. <https://mijente.net/freeourfuture/>.
- 135 *Rep. Omar Leads Letter Urging Executive Action on ICE Detention*. (2021, March 15). Representative Ilhan Omar. <https://perma.cc/WE3N-YJBT>
- 136 Gamboa, S. (2021, January 30). *Can immigrant rights advocates get Biden to end for-profit ICE detention?* NBC News. <https://perma.cc/SJ7U-QCD3>