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When the State Promotes "Alternatives to Immigration Detention": Institutional Co-optation and Condition-Based Carcerality

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Abstract

The penal landscape is expanding in many ways, one of which is through the spread of immigration detention. In Canada, while detention is legally justified as an administrative measure to control the presence of people deemed to represent a security risk, a flight risk, or whose identity could not be confirmed, it is often experienced as a form of punishment. The impact of immigration detention on mental health, families and children have led some advocates to promote alternatives to detention as a positive reformist project while also calling for an end to immigration detention. As part of the Canadian government's reform of immigration detention, the Canada Border Services Agency (CBSA) started rolling out its Alternatives to Detention (ATD) program in July 2018. While decarceration strategies are important, I argue that we should be concerned when electronic monitoring, voice reporting, and community supervision are presented as alternatives. In this article, I draw on Access to Information (ATI) and public records to review the CBSA's new ATD program, analyze it as a co-optation strategy premised on a form of condition-based carcerality that further expands the penal/carceral landscape, and argue that we should support practical decarceration strategies while at the same time refusing an expansion of the penal landscape disguised as a humane alternative.

Keywords: alternatives to detention; CBSA; mobility; carcerality; conditionality; abolitionism

Introduction

The negative impact of immigration detention on detainees is well documented in Canada and in various countries. To alleviate this suffering, some activists and researchers have been actively promoting alternatives to detention as a positive reformist project (Mitchell, 2017). The 2011 report "There are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention" published by the International Detention Coalition — a coalition of some 250 organizations from fifty countries — is a good early example of this type of work (Sampson et al., 2011). In a pragmatic fashion, these calls have often focused on children, families, asylum seekers, or detainees deemed to represent a "low risk" (e.g., Sampson et al., 2011; De Bruycker, 2015; Mitchell, 2017; Bosworth, 2018).

While I acknowledge that these alternatives are in many cases better than detention (Bosworth, 2018), I argue that states' adoption and co-optation of the language and practice of alternatives should lead us to move away from supporting this strategy. As Missbach (2020, p. 1) recently argued, alternatives to detention are part of "the continuum of unfreedom." In this article, I review the CBSA's new Alternatives to Detention (ATD) program, analyze it as a co-optation strategy premised on a form of condition-based carcerality that further expands the penal/carceral landscape, and propose that we can support practical decarceration strategies while at the same time refusing an expansion of the penal landscape disguised as a humane alternative.

This article is based on an exploratory project, drawing on publicly available information, documents obtained through an Access to Information (ATI) request to the Ministry of Public Safety and Emergency Preparedness, as well as pre-released ATI records obtained from the CBSA.[1] The program is recent and there is still limited information about the ways that it functions in practice. Indeed, the program launched in July 2018, and official statistics on

[1]Records obtained through Access to Information requests are not listed in the reference list. In the text, I cite them using this format: Name of Institution, ATI, Request number, page number. For example: Public Safety ATI A-2019-00311, p. 000059. Using this information, one can request copies of the records using the "Completed Access to Information Requests" of the Open Government portal at https://open.canada.ca/en/search/ati.

detention for the recent years have been skewed by responses to the COVID-19 pandemic (Silverman, 2020; CBSA, 2021, table 1.1), making it difficult to assess whether the program contributed to decarceration. Similarly, the initial Electronic Monitoring two-year pilot project (2018–2020) has been extended, and data will not be available until 2022. While ATI is a useful source of data for social science research, it is also limited by unintentional bureaucratic delays and intentional stalking strategies, making the process of data collection slow (Walby & Larsen, 2011). This article thus provides an early analysis of a program that is expanding and changing. I believe that the potential consequences of the program warrant such an early intervention, and hope that this article can be useful to colleagues engaged in more time-consuming interview-based research on this emerging program as well as to activists concerned about the implications of these forms of carceral surveillance.

Alternatives to Detention: Same Logics, Alternative Formats

The Canadian immigration detention system has received sustained criticism over the last decade, with charges led by activists, the media, researchers, and even an Immigration and Refugee Board external audit (e.g., Cleveland & Rousseau, 2013; Hussan, 2013; Nakache, 2013, Gros & van Groll, 2015; Silverman & Molnar, 2016; Immigration and Refugee Board, 2018). This pressure led former Minister of Public Safety and Emergency Preparedness Ralph Goodale to announce the National Immigration Detention Framework in 2016, including the so-called ATD initiative, as well as directions to limit the detention of children in 2017 (CBC, 2016; CBSA, 2017; Public Safety, 2017).

These initiatives appear to be a response to mounting public pressure. Indeed, in an internal brief prepared for the deputy minister of Public Safety when the issue of provincial jails being used for immigration detention was brought up in the 2018 Ontario election campaign, the Law Enforcement and Border Strategies Directorate of the ministry introduced the context by stating that:

> In recent years, CBSA immigration detention has been the subject of extensive media coverage, particularly with regard to deaths in custody, mental health of detainees, the detention

> of children and families, indefinite detention, and the use of provincial correctional facilities, where administrative immigration detainees are held alongside convicted criminals and accused persons awaiting trial. (Public Safety ATI A-2019-00311, p. 000059)

This brief goes on to provide the deputy minister with a spiel about how the National Immigration Detention Framework will reduce the reliance on provincial facilities. Similarly, Goodale's speech at the 2017 National Fall Convention of the Canadian Council for Refugees was aimed at convincing the audience that the ATD program would solve problems raised by advocates:

> I'm pleased to be able to give you a solid update on what you heard from around this time last year. The government has since made clear its commitment to transform Canada's immigration detention system. The overarching goal is to make it better and fairer, supporting humane and dignified treatment, while still protecting public safety. We are committed to avoiding the holding of children in immigration detention as much as possible. […] More broadly, our $138 million plan to improve immigration detention is making progress since we announced it two summers ago. […] Expanded Alternatives to Detention will be phased in starting in spring 2018 […] I know the detention of children has long been a key issue for the CCR. And I welcome your continued input and engagement on children's rights, writ large. (Public Safety ATI A-2019-00311, p. 000054-000055)

Together, the National Immigration Detention Framework and the ministerial directives on the detention of minors — followed by the CBSA's own National Directive for the Detention or Housing of Minors (CBSA, 2019a) — responded to years of political pressure and officially purport to mark a shift in the approach to detention.

CBSA and Public Safety present the framework as being organized around four virtuous pillars (partnerships, alternatives to detention, mental health, and transparency). The construction of new detention centres in Surrey and Laval (to replace and expand the older ones), renovation in Toronto, and other measures were presented as a way to

create "safe, secure and humane detention conditions; improved detainee well-being; consistent risk-based national programming [and] a sustainable and affordable system" (CBSA, 2020a, n.p.). Developed by the CBSA since 2014, the expanded ATD program was officially launched in July 2018 as a central piece of this National Immigration Detention Framework (Public Safety ATI A-2019-00311). It is a three-prong program: in 2018, voice reporting (VR) and community case management and supervision (CCMS) were deployed at a national level, and electronic monitoring (EM) was launched in the Greater Toronto Area (GTA) as a two-year pilot project (since then extended for two more years). The launch was announced through a CBSA press release that included hopeful quotes by then-Minister Goodale, representatives of the three organizations in charge of community monitoring (the Salvation Army, the John Howard Society of Canada, and the Toronto Bail Program), as well as from the UNHCR representative in Canada and the president of the Canadian Council for Refugees (CBSA, 2018). There are many reasons to be less hopeful than the tone of the press release suggested.

The first reason to be doubtful is that these "alternatives" are unlikely to produce a substantial change. Indeed, in a review of the existing literature, Bosworth (2018, p. 216) found that "[t]here is no consistent evidence that 'alternatives to detention' decrease the use of immigration detention other than in instances where there has been a prohibition on detention for specific populations, e.g. with children." Stated expectations also suggest that the Canadian ATD program does not seem to represent a marked improvement from previous practices. Indeed, speaking notes prepared for a technical briefing in July 2018 by Carl Desmarais, CBSA's Director of Detention Transformation and Program Management, explain that "CBSA officers have always used Alternatives to Detention. In fact, thousands of individuals are released on Alternatives to Detention on an annual basis, however programming has historically been directed to lower risk individuals" (Public Safety ATI A-2019-00311, p.000063). Indeed, cash bonds, financial guarantees and in-person reporting already existed as alternatives to detention (for a critique, see Benslimane & Moffette, 2019). This figure of "thousands of individuals" having been released yearly prior to 2018 also appears in

briefing notes for the minister (Public Safety ATI A-2019-00311, p.000031). While making this claim, Desmarais also explained that when launching the program in 2018, "the CBSA anticipate[d] that over time up to 10% of individuals in detention may be released to an ATD" (Public Safety ATI A-2019-00311, p.000065). If both claims are true, this is not a statistical improvement. Indeed, an average 7,412 people were detained annually between the 2012–13 and the 2017–18 fiscal years (CBSA, 2020b, table 1.1). If the figure of "thousands of individuals" being released through alternatives before the launch of the program in 2018 is true, the rate was already much higher than 10 percent (13.5 percent if only one thousand people were released, 27 percent if two thousand people were released annually). Both of these estimates are very vague, and statements prepared by the CBSA media team may well be inaccurate, but even the numbers shared by the CBSA in 2018 suggest continuity over drastic change. Early results seem to confirm this. Indeed, ATI records show that only 5,570 individuals were released on ATD between January 1, 2018 and December 13, 2020, and the vast majority were released on previously used conditions such as in-person reporting (3,900) while new or expanded alternatives such as VR, EM and CCMS account for only 400 of the releases (CBSA ATI A-2020-1880, part 2, p. 000001).

There is still not enough data to assess whether the ATD program contributes to decarceration, but at this point it seems that continuity is a more likely outcome. While there has been a sharp decrease in the number of children in detention, and a reduction in the length of detention in recent years, the model has hardly changed (CBSA, 2020b, tables 1.2, 2.1 and 2.5). Excepting the fiscal year 2020–21, which saw a decrease in detention resulting from a drastic reduction of the number of non-citizens allowed to enter the country as a result of border closures (CBSA, 2021, table 1.1), as well as hunger strikes and pressure from detainees worried about the dangers of detention during a pandemic (Silverman, 2020), the number of people who are detained has remained more or less constant over the last decade, including for the year following the launch of the ATD program (CBSA, 2020b, table 1.1; Moffette, 2019).

This is not surprising considering that ATD are understood primarily

as tools of immigration enforcement. As Desmarais explained:

> Alternatives are to be considered in every case, however only individuals whose risk can be effectively mitigated in the community and who are cooperative with the immigration process are deemed suitable for programming. Cooperative individuals are those who are willing to accept the conditions imposed upon them, which may include regular reporting, and do not attempt to thwart progress in the immigration continuum. The CBSA continues to hold public safety as one of the most important considerations. (Public Safety ATI A-2019-00311, p. 000062)

But what does this mean if the main reason for detention over at least the last decade is an assumed flight risk? Indeed, during the 2018–19 fiscal year, 83.7 percent (7,476 of a total of 8,931) of those who spent time in detention were detained because the officer had reasonable grounds to believe that they "will not appear," a proportion similar to previous years (CBSA, 2020b, table 1.4). This suggests that in over 80 percent of the cases, the officer believes the detainees are not "cooperative individuals" and they may "attempt to thwart progress in the immigration continuum." It is therefore hard to see how new alternatives would alter this trend for the vast majority of those detained. Silverman and Kayatz's (2020) article on the newly implemented two-page "National Risk Assessment for Detention" tool, developed as part of the National Detention Strategy and used by the CBSA to assess "dangerousness," also suggests a continuity in the risk logic informing decisions to detain or recommend specific conditional release measures. Unless there are clear directives that release is always the default option, and unless there is a thorough restructuring of this risk-based logic, we are unlikely to see a meaningful change.

The second reason to be concerned is that the program introduced new and controversial surveillance technologies, justified in the name of enhanced freedom, when less invasive alternatives already existed. In justifying them, the CBSA cites the high rate of compliance these technologies produce in the criminal justice system in Canada and in immigration enforcement in other settings — that is, comparing it to detention and taking it as a reference point, not comparing it with

unconditional release (or release with very limited conditions). Considering the use of these technologies as alternatives to release, as opposed to alternatives to detention, would draw a very different picture. In 2012, when the Canadian Parliament's Standing Committee on Public Safety and National Security first explored the possibility of using electronic monitoring for immigration enforcement, CBSA's director of case management had warned:

> I'd just like to add that normally for refugee claimants, or for other inadmissible people as well, they're very compliant, up until the end, okay? It's at the end that we lose that 90% of the people. It may not always be the best solution when someone has been compliant all along to use a heavy-handed approach, because you have no reason to do so. The person has been compliant all along, at every stage. It's at the end, when it's time to go, that people abscond. (cited in Sorensen, 2012, p. 7)

If, on the one hand, the vast majority of people comply and leave when they are forced to, and if, on the other hand, those who do not end up leaving actually comply until the very last moment when they know they will be deported, then these new technologies are hard to justify — even by CBSA's own enforcement logic. They are not needed to increase compliance for those who leave, or until the very last moment for those who don't, and they do not prevent people from absconding.

As such, these measures are being justified for the conditional release of "higher risk individuals" or people in remote locations who would not be released under previously existing conditions, and are presented as a response to long-term detention. These new measures all draw from logics and practices designed in and for correctional institutions, are focused on maintaining as much control as possible, and raise specific concerns. The following sections feature short overviews of these "alternatives."

Electronic Monitoring

While it is the least common and it is officially designed for individuals who are deemed to represent a "high risk," electronic monitoring (EM) through constant geolocation of an ankle bracelet is

also the most intrusive. It draws from the technology and expertise of the Correctional Service of Canada (CSC), a clear and unambiguous case of the incorporation of criminal justice technologies and logics into the immigration field (Legomsky, 2007; Sklansky, 2012). This program is administered by CSC on behalf of the CBSA. As the CBSA (2019b, n.p.) explains:

> The EM system is built upon real-time location data collected and analysed in a central facility and reported to regional staff to investigate for enforcement purposes as appropriate. The CBSA is utilizing the services of Correctional Service of Canada (CSC), who currently maintains a successful, national EM program. A Memorandum of Understanding (MOU) with CSC has been signed to address the details related to policies, procedures, privacy, information sharing and financial arrangements. […] EM enrollment requires the collection of name, address, telephone numbers, and other biographical information which has already been collected. To enroll a participant in EM, the CBSA provides the telephone number and address information to CSC, but not the name of the individual. Within the CSC EM software application, the CBSA participants will be uniquely identified so as to differentiate them from the CSC EM participants.

The impact of such technologies is well documented and does not require an extensive presentation here. There is now decades of research on the psychological pain, economic burden, and social stigmatization associated with the imposition of EM bracelets in the criminal justice system (e.g., Mair & Nee, 1990; Payne & Gayney, 1998; Gibbs & King, 2003; Kilgore, 2013; Payne et al., 2014; Vanhaelemeesch et al., 2014; McNeill, 2017). Recent literature on the use of EM bracelets in the racialized surveillance of migrants in the United States (Marouf, 2017; Boe, 2020; Martinez-Aranda, 2022), England and Wales (Bhatia, 2021), and Canada (Gidaris, 2020) also highlight the harm of this electronic surveillance creep, while its use for those detained under security certificates in Canada has received attention for some time (e.g., Larsen et al., 2008). In a review of EM for the purpose of immigration enforcement in the United States,

Marouf (2017, p. 2163) explains:

> Although electronic monitoring is a cost-effective alternative, it is also more restrictive, more invasive of privacy, and a greater affront to dignity than any of the other alternatives discussed above. The GPS device must be charged for several hours a day, which means that participants in the program have to plug themselves into the wall, constraining their movement for hours at a time. This can be a degrading and dehumanizing experience. For participants who are pregnant or have young children, having to stay in one place for hours is especially difficult. Another drawback of the GPS device is that it is heavy and can become painful. Wearing an ankle bracelet is also stigmatizing, since society often assumes that individuals wearing ankle bracelets are criminals, which can lead to discrimination and create problems at work or in school.

The context is important, and the use of EM in Canada may lead to different outcomes. It is nonetheless clear that this technology is the most intrusive and problematic.

One concern that is specific to its use in the Canadian ATD program is the way the CBSA used the COVID-19 pandemic to expand its use. Indeed, EM was deployed in July 2018 as a two-year pilot project "with strict program parameters" only in the GTA region, to "acquire quantitative and qualitative data about the effectiveness of EM monitoring in the immigration context" and was going to be rolled out nationally only if the project was deemed successful (CBSA, 2019b, n.p.). And yet, advocates have reported the use of EM bracelets to release detainees at the Laval Immigration Holding Centre in the summer of 2020 after detainees staged a hunger strike demanding to be released because of the risk associated with COVID-19 — and this, before the end of the pilot project (Cabrera, 2020; Ross, 2020; Silverman, 2020; Solidarity Across Borders, 2020). As feared by activists, this extension to the Québec CBSA enforcement region has now been normalized. Responding by email to my request for clarifications, CBSA's national program lead for EM recently explained:

> The EM pilot was originally extended into [the] Quebec region as per contingency planning based on assessed needs related to the pandemic. Operations have since been maintained in the region as an additional Alternative to Detention (ATD) community supervision measure for detained individuals, not solely on Covid requirements. Application of EM in the Quebec region strengthens our data capture for final program evaluation purposes. As such, it will be kept in place for [the] remainder of [the] pilot phase up until March 31st, 2022. (Personal communication, 28 April 2021)

As he explained, the pilot project now includes the GTA and Québec regions and has been extended to March 31, 2022. While it was urgent to release detainees, the use of an invasive technology that is still officially in its testing phase, while no report on the GTA pilot project had been released, is concerning.

Voice Reporting

A second, and much more common approach is the use of remote voice reporting (VR). The July 2018 CBSA press release presented this "alternative" stating:

> The VR system will use biometric voiceprint technology to enable as many as 10,000 individuals to report to the CBSA at agreed upon intervals, using either cellphones or landlines. This will provide more equitable treatment for people in remote locations or those who would otherwise need to travel long distances to fulfill CBSA reporting requirements, thus enhancing compliance. (CBSA, 2020a, n.p.)

The CBSA website lists as people who are eligible to this new program, "individuals that present a low risk of not appearing," "individuals that present a medium risk of not appearing as required and are also subject to other conditions," that is essentially, "individuals who would previously have been suitable for in person reporting to CBSA" (CBSA, 2020a, n.p.). However, this new reporting system has been criticized for being unreliable (Gidaris,

2020). It appears that the CBSA also expects problems with voice identification. Indeed, the "statement of work" in the 2018 contract granted to Connex Telecommunications Inc. to develop this program states that "the system must be able to accommodate a minimum of 1,400 telephones calls per day," "must be able to handle an aggregate of 50 simultaneous incoming and outgoing calls," and that "the Voice biometric engine must be able to identify the voice of an individual with an accuracy of 60% or more with a pre-registered voice print" (CBSA ATI A-2019-06107; contract 2BNW30100, p. 23). Furthermore, while it may be less stigmatizing and intrusive than an EM ankle bracelet that provides constant geolocation, the new system also provides for the geolocation of calls through the tracking of the person's cell phone (CBSA, 2020a). Similarly, while VR imposes less of a burden than in-person reporting (Benslimane & Moffette, 2019), documented psychological impacts of mandatory reporting may not be eased (Rutgers School of Law — Newark Immigrant Rights Clinic, 2012).

Community Case Management and Supervision

This third expanded "alternative" may appear as the least problematic evolution from previous practices as it provides access to conditional release to individuals who would have been eligible for release on a cash bond but who "may lack a bondsperson, or who require social service support in addition to a bondsperson to mitigate risk" (CBSA, 2019b, n.p.). The program relies mainly on the Toronto Bail Program (TBP) for management and supervision in the GTA and the John Howard Society in other cities across Canada, with the Salvation Army providing this service for people released but in mandatory residency at the Bunton Lodge in Toronto, or the Belkin House in Vancouver (CBSA, 2018). Again, this is not entirely new, as the TBP's immigration bail program has existed since 1996 (Edwards, 2011). What is new is the expansion of this model to other locations.

While the TBP has helped provide bail to criminalized individuals for years, often helping them avoid being detained while awaiting trials, and while its immigration program has been generally well-received, it also faces criticism (Edwards, 2011; Costello & Kaytaz, 2013; Canadian Council for Refugees, 2015). The first concern is that it is once again designed on the model of a criminal justice program that

is inadequate in the context of immigration (Edwards, 2011). The second concern is that this community supervision tool poses a risk of surveillance creep. Indeed, the TBP bond program is based on a CBSA-TBP agreement that transfers some of the surveillance responsibilities to the TBP, and the two organizations work closely together. As Edwards (2011, p. 58) explained of the program as it has been operating in previous years:

> Persons released to TBP are initially required to report twice weekly to the offices of TBP in downtown Toronto. Reporting requirements are softened as trust develops between the two parties and there are no lapses in reporting. Phone reporting can be later instituted, rather than reporting in person. The TBP requires proof that an individual has participated in any assigned programmes, such as receipts from English language courses, or pay stubs if working, or agreement to a treatment plan, if required, etc. Clients are also required to reside at an address approved by TBP, and must inform TBP if they change address. TBP assists with the finding of accommodation, often in conjunction with local shelters, and conducts spot checks. Furthermore, individuals must be doing 'something productive' that is permitted under the IRPA (e.g. some are not permitted to work). There is also a requirement that they cooperate with the TBP and with any immigration procedures, including, for example, the attainment of documents to facilitate their removal. Failure to report or otherwise comply with conditions of release will lead to TBP informing the authorities, which in turn sets in enforcement action.

This is a form of intensive supervision that often exceeds the level of surveillance imposed through in-person or VR reporting at the CBSA offices, even though similar programing and residence conditions may also apply. There is also no firewall between the CBSA and the TBP, which limits the advantages of having to report to a third party instead of the CBSA.

Even the Canadian Council for Refugees — an organization that is supportive of the ATD program and provided a quote for the press release announcing it — had first raised concerns about the use of the

TBP. Among them, it identified a risk that community supervision — which increases surveillance beyond previous conditional release — may "become normative, rather than being seen as exceptional" and lead to an overall decrease in less invasive options (Canadian Council for Refugees, 2015, n.p). Again, it is too early to assess whether the expansion of community surveillance under the new ATD program will become normative. But scholars studying the US context have shown how, in this country, "alternatives to detention has become 'alternatives to release', given that it has operated to [surveil] people who did not present a danger or flight risk" (Holper, 2020, p. 3; see also Noferi & Koulish, 2014; Gilman, 2016; García Hernández, 2019; Pittman, 2020).

Discussion: These Are Not Alternatives

The ATD program is really a strategy to improve immigration enforcement, respond to mounting criticism, and attempt to neutralize calls for abolition. It aims to achieve the same objectives of control through means that make the pain and violence of detention less visible and prone to critiques by international institutions.

Indeed, while organizing efforts inside and outside detention centres, advocacy work, and research should be recognized for forcing a governmental response, the call to end immigration detention has clearly been silenced. I read this political response as a form of co-optation of the children's rights and human rights discourse, a key example of what penal abolitionist Thomas Mathiesen (1990) called neutralization techniques. Mathiesen conceptualized neutralization techniques as "techniques by those responsible for maintaining system interests, which neutralize fresh ideas and initiatives" (p. 44). Among his typology of neutralization techniques, we can see that calls to end immigration detention are brushed off as "*impossible to implement*" (p. 44, emphasis in original). But the most obvious neutralizing technique concerns serious calls for alternatives to detention, which can be read as having been punctured. Mathiesen states that the "*puncturing* of ideas and initiatives is a technique whereby the practical significance of the new idea is diminished, while a front of understanding, interest, and perhaps even enthusiasm for the idea is maintained" (p. 45, emphasis in original). Concerns for the well-being of detainees have been translated into new and bigger

detention centres, and alternatives to detention into broad in-community surveillance.

This should not surprise us. Indeed, much of the policy-oriented literature and governmental reports assessing alternatives to detention focus on how these alternatives compare as immigration enforcement strategies (for a review, see Bosworth, 2018). State-promoted alternatives to detention are an attempt to control borders, surveil non-citizens, and enforce interdiction measures at a cheaper financial, mediatic, and human cost. As such, they contribute to what Morris (2016, p. 51) calls the "immigration detention 'improvement' complex" and should not be understood as alternatives. Instead, they represent a displacement of borderwork that contributes to expanding and transforming the penal and carceral landscape as it provides for a more diffuse form of carcerality and control beyond the walls of detention centres and provincial jails.

Alternatives to detention that are based on conditions of release can be analyzed as a form of condition-based punishment (Benslimane & Moffette, 2019), or what Martinez-Aranda (2022, p. 74) would call "extended punishment." As Benslimane and I explained elsewhere:

> Although being released while awaiting removal might seem like a gift offered by the state, when we look critically at the lived realities of people awaiting deportation in the community, we find that the freedom of conditional release is in fact a form of broader in-community immigration detention. The streets become the jail and the shelter becomes the cell. Surveillance and control are at the heart of state apparatuses of conditional release, and the carceral logic and punitive nature of imprisonment, parole and bail operate within a continuum of control. (Benslimane & Moffette, 2019, p. 53)

Far from representing real alternatives, these practices expand the carceral net (Jiwani, 2011; Gacek, 2020; Axter et al., 2021). The spillover may also directly or indirectly impact family members. In cases involving very intrusive surveillance (such as house arrest for people under security certificates), the pressure of constant state surveillance on family members has been documented (Larsen et al.,

2008). But family members are also enrolled as bondspersons, who become tools of state surveillance as sureties, a role that can be experienced negatively. Release without access to authorized work can also contribute to former detainees staying in abusive relationships for lack of alternative living situations (Bhuyan, 2012; Abji, 2016).

While community supervision may contribute to addressing the classed dimension of access to release on bond, it also represents a partial externalization of control, from the CBSA to community organizations. In his study of parole in the US, Simon (1993, p. 11) presented parole as located "at the border between prisons and the community." Community supervision as an alternative to immigration detention also extends this border between expulsion and presence, but it maintains enforcement (and in many cases expulsion) as its primary objective.

Following the same logic, the normalization of surveillance technologies can be analyzed, as Gidaris (2020, p. 1) has recently done convincingly, as a form of "techno-carcerality" (see also Gill, 2013). Analyzing EM and VR, Gidaris (2020, p. 5) argued that these practices of "techno-carcerality can be understood as both an obfuscation of carceral space and as an extension of it, using the range of its technological capacities to limit the mobility of detainees while influencing or controlling their behavior outside of detention." Similarly, in a recent forum article, Goldstein and Mahmoudi argued that "e-carceration is fast becoming the most widespread form of global carcerality, where penal barriers to access to social rights can be maintained without the cumbersome costs of facilities, staffing, or duties of care" (in Axster et al., 2021, p. 429; see also Gill 2013; Gacek 2020; Pittman, 2020). The community- and technology-based carceral strategies that form the basis of the ATD program have more in common with detention than with freedom, and should therefore be conceptualized as alternatives to release, not as alternatives to detention.

Conclusion

In this article, I offered an analysis of the logics that informed the development and implementation of the ATD program in Canada, as

well as a critique of EM, VR and CCMS as means of surveilling non-citizens and controlling their presence. I argued that the ATD program is unlikely to lead to meaningful change regarding the use of *intra muros* detention, and that it may in fact contribute to an increase of the coercive control of non-citizens *extra muros*.

A few years ago, calling for "alternatives to detention" as a reformist approach to reducing the pains of incarceration might have appeared as a logical pragmatic strategy. It helped make immigration detention seem like an extreme aberration by providing alternatives that do not directly challenge the security and enforcement logic that inform border control and detention. But it also provided state actors with an avenue to make cosmetic changes and develop what scholars have started to critically analyze as "humane immigration enforcement" (Gómez Cervantes et al., 2017, p. 269). This, I argue, is how the Liberal government's 2016 National Immigration Framework and 2018 ATD program should be understood. Now that various states promote VR, EM, and CCMS as alternatives to detention, it is time that activists and scholars make clear that these are not alternatives, and sketch out practical decarceration strategies grounded in an abolitionist project (Escobar, 2008; García Hernández, 2017; Loyd, 2019; Benslimane et al., 2020).

While it can be understood as a neutralizing technique, this co-optation strategy can also represent a political opportunity. As I explained, the ATD program has been put in place as a result of political pressure. This highly mediatized political commitment to reducing the reliance on detention can now be used as leverage when the program inevitably fails to substantially reduce or end immigration detention. Indeed, the availability of state-sanctioned *extra muros* surveillance can be mobilized as a strategy to further delegitimize detention for anyone, the existence of less-invasive forms of conditional release can be used to challenge the use of EM, and bail programs can provide bond to people who would otherwise not have the financial resources to be released. Short-term pragmatic decarceration strategies such as these — or the call for a ninety-day maximum length of detention put forth in 2012 by immigration detainees during the hunger strike at the Central East Correctional Centre in Lindsay, Ontario, and echoed by the End Immigration

Detention Network (Hussan, 2013; Lloyd, 2020) — are an essential part of the struggle. It is important, however, to stress that they are a part of the enforcement, and reveal how practices based on racial surveillance (Bhatia, 2021), immigration enforcement, and border imperialism (Walia, 2013) can in no way be understood as alternatives to detention.

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