

[Freedom]

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[Head] On Lockdown

[Deck] A pilot program through the U.S. Department of Homeland Security aims to prevent immigrants from going into hiding before deportation hearings, but some critics say it unfairly targets upstanding U.S. residents.

[Byline] By Matt Alderton

Wilfrido Cruz has scars on his ankle. They've been there for several months—a reminder of the electronic bracelet he wore for three weeks in October 2004, when he says U.S. immigration officials in Miami gave him an ultimatum: Wear an electronic ankle bracelet, which the government would use to monitor his behavior 24 hours a day, or go to prison.

Cruz, a Mexican national, came to the United States as an undocumented immigrant in 1986. He was detained for deportation in 2003 when he was a graduate student at the University of Vermont, the result of a misdemeanor for which he'd been convicted as an undergraduate at the University of California, Santa Cruz. A federal judge, however, released him and ordered him to report to his local deportation office once a month while he awaited approval for permanent residency.

Upon graduation, Cruz moved to Florida to accept a job as an admissions counselor at Barry University in Miami. Once a month, he stood in line at the Miami immigration office from 4 a.m. until 8 a.m. so that he would be on time to work. In October 2004, he stood in line as usual but was approached by an immigration officer.

"I asked if everything was OK," says Cruz, 28, "and the officer said, very sarcastically, 'Don't worry. It's OK. You're going to be taken care of.'" Cruz panicked, anticipating further detention, or even deportation. Instead, immigration officials offered him the option to wear the ankle bracelet. "I said, 'What if I refuse?' And they said, 'You'll be detained.'"

An Exploited System

The ankle monitor Cruz wore is part of a pilot program being tested by the U.S. Department of Homeland Security (DHS). Known as the Intensive Supervision Appearance Program (ISAP), the project intends to reduce the number of illegal immigrants in detention and increase their appearance rate at deportation hearings.

"Approximately 30 percent of all aliens fail to show up for their immigration hearings," says Manny VanPelt, a spokesman for U.S. Immigration and Customs Enforcement (ICE), a division of DHS. He added that more than 80 percent of undocumented immigrants abscond, or go into hiding. "Absconders do not leave a change of address; the closer they get to their deportation date, the higher the risk of them absconding."

ISAP was launched in June 2004 in eight cities—Baltimore, Denver, Kansas City, Miami, Philadelphia, St. Paul, Minn., San Francisco and Portland, Ore. About 1,400 people participate in the program, which officials insist is voluntary. Approximately 1,700 have already completed it. ICE won't be ready to make a recommendation for or against the program for another six months to a year, VanPelt says. In the meantime, program administrators are just collecting data.

"Right now there are 465,000 fugitive absconders in the United States, and more than 82,000 of them are criminals," VanPelt says. "We want to restore integrity to the nation's immigration system. We have seen that [it] has been exploited, and the United States as a whole does not want to be victimized again. We're trying to strike a balance for respecting individuals' rights while preventing others from exploiting the system. Congress feels that there are alternatives to detention, but they also recognize that the honor system just doesn't work."

Demonstrating Integrity

ISAP comprises three phases. The first intense phase, lasts 30 days, during which the participant must meet with his or her case worker three times per week. The participant must wear an electronic ankle bracelet and is subject to two unscheduled home visits by a case worker. Participants are required to be at home during pre-arranged hours and are not permitted to travel.

"I was scheduled to check in on Mondays, Tuesdays and Thursdays," Cruz says. "I wasn't allowed to leave my house after 8 p.m. or before 7



An officer places an electronic ankle bracelet during a demonstration.

a.m. I was not allowed to leave the Miami area; no exceptions."

In the second phase of the program, the intermediate phase, participants must continue wearing the ankle monitor, check in with their case workers once a week and are subject to one unscheduled home visit.

The third phase, the regular phase, requires just two visits with a case worker every month and one scheduled home visit; the ankle monitor may be removed during this phase. The program is completed when the participant either receives a judicial ruling to stay or is deported.

"The reality is it is a pretty flexible program," VanPelt says. "The purpose of it is to ensure that the person complies with the court's orders. It's about integrity. We want this individual to demonstrate integrity. They're gaining trust as they go through the program."

Critics of ISAP, however, argue that many participants, such as Cruz, who had never missed a court date, already have demonstrated integrity and should not be subject to such intense supervision.

"Since 9/11, the effort to exert monitoring over aliens has increased substantially," says Morton Sklar, executive director of the World Organization for Human Rights USA, a nonprofit immigration advocacy group in Washington, D.C., "and that makes sense for aliens who do represent some sort of threat. But [ISAP] is being applied very broadly to people who represent no threat whatsoever."

VanPelt acknowledges that the program is controversial, but insists it is necessary. "The 9/11 Commission pointed out that the immigration system was broken," he says. "Everyone's going to bring out the granny-in-a-wheelchair argument."

An Uncomfortable Alternative

The ankle monitor that is affixed to participants in the intense phase of ISAP is the size of a pager, attached to a plastic bracelet similar to a watch band. It has a range of approximately 150 feet and reports to a small device the size of a book that is connected through a telephone jack. The box makes random calls to the ankle monitor during scheduled times, at which point it records any violations.



"Your pants leg can go over [the monitor]," VanPelt says. "It's attached to a person and takes about a minute to put on. It's done discretely, with respect to the person's privacy."

Cruz, however, called the device intrusive and painful. "It hurt," he says. "Just by walking, it would rub your skin. It created blisters all around my ankle." Upon seeing the bracelet, strangers looked suspicious. Even his colleagues thought he was a criminal. "Living in Miami in the middle of summer, you can't be wearing sweat pants, so I wrapped a bandana around my ankle. But you could see there was something there. You have to constantly explain it to people. You are treated like a criminal."

Uncomfortable bracelets are not critics' only concern. "There are a number of highly intrusive and possibly abusive reporting and monitoring requirements that can carry beyond the 30 days of the [intense phase of the program]," says Jenny-Brooke Condon, litigation director for the World Organization for Human Rights USA. "There's also a coercive element to the program that concerns us."

The electronic ankle bracelets are uncomfortable and obtrusive, critics say.

Another source of anxiety involves a third-party company, Boulder, Colo.-based Behavioral Interventions, which oversees the program. Condon is concerned that its private employees are making public decisions about whether a person can graduate to the next phase of ISAP.

Better Than Detention

Despite its alleged shortcomings, supporters of the program argue that ISAP provides a desirable alternative to detention. "The immigration service has for too long had a one-size-fits-all sort of detention model," says Christina DeConcini, director of policy for the National Immigration Forum. "It's a step in the right direction to be creating alternatives."

"If anything, [the program] is preserving their rights," VanPelt adds, "because it's ensuring that they're appearing to their court dates and that they're getting their right to due process. If an alien absconds, they forfeit their rights and a judge rules in absentia. This [program] ensures that they get their day in court. Isn't that what everyone who wants rights wants?"

Moreover, DeConcini says, the program allows individuals to continue living their personal and professional lives, while detention puts them on hold. "After 30 days, they're basically free individuals that have to report somewhere. They have the dignity to live their lives."

But even after the first 30 days on ISAP, Cruz says the frustration continues. A federal judge in Hartford, Conn., released him from the program in November, at which point he was granted permanent residency. Immigration officials in Miami, however, dispute the decision, and it may be

another year before they come to their own conclusion about his case.

"I'm in limbo," Cruz says. "The only thing I have in my possession is that court document saying that I am a permanent resident."