



Alternatives to detention: CCR comments regarding the Toronto Bail Program

The Toronto Bail Program has attracted significant attention both nationally and internationally as an alternative to detention. In this context it may be useful to make some comments on the advantages presented by such a program, as well as the concerns that may be raised.

The CCR has developed a Framework of principles for Alternatives to Detention¹. The following are particularly relevant:

- **Alternatives to detention must not extend enforcement measures against people** who otherwise would be released.
- **Alternatives should not be drawn from criminal models.**
- The most effective way to ensure compliance with immigration rules is to provide **comprehensive case support**, including giving individuals good information and presenting them all the options. Support should include good access to legal representation.

Advantages of Toronto Bail Program (or similar programs)

1. A well-established, credible program can secure release for people who would otherwise remain detained. The Immigration Division (ID) will take very seriously the undertaking from such a program in deciding whether to release.
2. Such a program can provide significant support to individuals post-release (with housing, addiction programs, mental health resources, applying for work permits and health coverage, accompaniment to appointments, Canada Border Services Agency (CBSA) reporting, etc).
3. Such a program is able to develop specialization and community connections in relevant areas such as addiction and mental health that can be extremely valuable for individuals with those needs.

Concerns

4. The Toronto Bail Program is a program designed along a criminal justice system model. The name itself and some aspects of the program, such as overly demanding reporting requirements, reflect the criminal model and are inappropriate in the area of immigration detention. Release models for those detained on immigration grounds must not contribute to real or perceived criminalization of migrants.
5. There is a tendency for a program such as Toronto Bail Program to become normative, rather than being seen as exceptional. Such a program should be available as a last resort for people who have no other options for release.

¹ <http://ccrweb.ca/en/alternatives-detention-framework-principles>

6. In practice, it seems that the Immigration Division in Toronto looks for supervision by the program when considering release. This can mean that it is more difficult for people who do not meet the program's criteria to be released. The fact that the program has considered and refused a person may count against the person being released despite other assurances being offered.
7. Similarly, alternative proposals for individual bondspersons or organizational programs may be judged against the standards set by the resources and capacity of the Toronto Bail Program (which include access to CBSA data and a signed agreement with CBSA). There are reports of alternative offers being found inadequate in Toronto because they don't provide the same guarantees or level of supervision of the Toronto Bail Program.
8. Any program necessarily has criteria which exclude some people. Some criteria of the Toronto Bail Program, which exercises a degree of discretion, is not always clear and transparent, and may seem somewhat arbitrary.
9. Even if someone is accepted in the program, that person may spend longer in detention because of delays in the selection process.
10. The existence of the program in only one region increases inconsistency. People in detention are treated differently depending on where they are detained. For those in regions where the program is not available this may mean they spend longer in detention. Conversely, in some regions, it may mean individuals are released sooner because the Immigration Division does not expect supervision by the program in order for detainees to be considered for release.
11. There are issues of independence when a program is funded by CBSA. These may include questions relating to sharing of the person's private information and CBSA involvement in decisions about who enters into the Program.

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