

ENF 34

Alternatives to Detention

ENF 34 Alternatives to Detention Program

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1. UPDATES TO CHAPTER

1.1. Listing by date

- 22 June 2018 – Initial version

2. WHAT IS THIS CHAPTER ABOUT?

This chapter describes the elements of the Alternative to Detention (ATD) Program and provides information and guidance on how the tools available under the ATD Program are to be used.

This chapter is meant to be read in conjunction with:

- ENF 3_(Admissibility, Hearings and Detention Review Proceedings)
- ENF 7 (Investigations and Arrests)
- ENF 8_(Deposits and Guarantees)
- ENF 20_(Detentions)
- ENF 22_(Persons serving a sentence)

3. DEFINITIONS AND SPECIFIC TERMINOLOGY

Alternative to Detention	Any condition that may be imposed on an individual to offset a risk they represent to the enforcement objectives and the Agency's mandate.
Deposit	See ENF8
Community Case Management & Supervision (CCMS)	CCMS promotes detention avoidance or detention release for persons that lack a bondsperson, or who require support in addition to a bondsperson to mitigate risk upon release into the community. The CBSA has entered into contracted partnerships with third party Service Providers in order to support individuals in the community.
Review	A review of the available information to determine the circumstances of an individual's failure to comply with conditions. Also called a desk investigation. May involve phoning the individual and other parties as well as system and database searches.
Detention Review	See ENF3
Electronic Monitoring (EM)	Limited to a portion of selected higher risk individuals who are monitored through a GPS and/or Radio Frequency (RF) systems. The EM monitoring system is built upon real-time location data collected and analysed in a central facility and reported to regional staff to pursue for enforcement as appropriate. EM is available in the GTA only.
Case Closure	When an ATD individual no longer requires CCMS or electronic supervision (i.e.: an improvement to their risk level; change in circumstance where an individual has other support mechanisms; individual has been compliant after already being de-escalated; or is removed from the country).

In-person Reporting	A condition imposed on individuals where they are required to physically attend in person to a specified place and make themselves known to an official. Usually this means attending a CBSA Inland Enforcement office and checking in with a CBSA staff member who will verify the individual's identity and record their attendance in the system.
Location Based Service	A service that uses GPS data to identify the location of a cell phone. Location information provided by a third party and is used by the Voice Reporting System to record the location of individuals when they call in as required.
Guarantee	See ENF8
Service Provider	Will provide CCMS services on behalf of the CBSA to eligible individuals and will regularly provide information to the CBSA on CCMS participants.
Voice Reporting	A condition imposed whereby the individual is required to call an automated system at regular intervals. The individual's identity is authenticated on each call by comparing a biometric sample of their voice with a sample given at enrollment. Individuals reporting by cell phone may have their GPS location recorded for each call. Additional conditions such as the time and place from which the call must be made may also be imposed.
Voice Reporting System (VRS)	An automated system that authenticates an individual's identity using voice biometrics during a phone call to an automated system.
Withdrawal of Supervision	A recommendation made by the CCMS service provider to the CBSA when the provider is of the opinion that the individual can no longer be managed in the community (i.e.: The individual is no longer willing to comply with the requirements of the program.)

4. DESCRIPTION OF THE ATD PROGRAM

The ATD program encompasses all conditions that can be imposed to reduce the risk posed by an individual in relation to the enforcement objectives of the IRPA and the Agency's mandate. Prior to the launch of the expanded ATD program, the nationally available conditions that were available were general conditions, deposits and guarantees and in person reporting.

The expanded ATD Program was implemented on June 22, 2018 and is intended to augment the existing options that were available to the CBSA and the IRB to manage individuals subject to immigration detention. It provides officers with an expanded set of tools and programs that enable them to more effectively manage individuals released into the community.

The expanded ATD Program is a mechanism to protect the integrity of Canada's immigration detention system by ensuring individuals are treated fairly and in accordance with the overarching principle that detention is a measure of last resort and the decision to detain or release an individual is based on the risk they present related to the objectives of IRPA and the enforcement mandate of the CBSA.

The expanded ATD Program provides one new community supervision tool and two new electronic supervision tools. To manage the application and administration of these new tools, a new position was created in each Region called the Community Liaison Officer (CLO).

Below is a description of all the conditions that are part of the expanded ATD program as well as the role of the CLO.

4.1. General Conditions

General conditions refers to the conditions that are commonly imposed by IRCC, the CBSA and the IRB for most individuals subject to a removal order. The intent of these conditions is to require individuals to keep the CBSA apprised of events in the individual's life that are relevant to the CBSA's mandate and encourage behavior that supports the objectives of IRPA.

Commonly imposed conditions that are appropriate in a majority of cases are:

Condition	Risk mitigation
Keep the CBSA updated with a current address	A current address allows the CBSA to locate the individual if they fail to comply with conditions or requirements including removal. A current address is likely to provide investigative leads if the individual fails to comply.
Report criminal charges and convictions	Criminal charges and convictions are a good indicator that the individual may be a danger to the public which is the primary concern for the CBSA. Criminal charges might also lead to an inadmissibility investigation as well as to previously unknown risks of being unlikely to appear.
Cooperate with obtaining an identity or travel document	The lack of an identity or a travel document is often the sole impediment to removal for many individuals. Obtaining an identity or travel document can take a long time and the sooner the process begins, the more likely the timely removal of the person will take place if it becomes necessary.
Other conditions	An officer may impose other conditions that address risk specific to each individual.

4.2. Issuance of a Deposit / Guarantee

Deposits and guarantees provided by persons in the community are intended to positively influence an individual to comply and provide support while in the community. Deposits and guarantees are discussed comprehensively in ENF 8.

4.3. In-person Reporting

In person reporting is intended to keep the individual connected with the CBSA through regular face to face interactions. Regular reporting allows the CBSA to obtain updates on information

relevant to the mandate of the CBSA and allows the individual to ask questions of the CBSA in relation to their immigration enforcement proceedings.

4.4. Community Case Management and Supervision

Community Case Management and Supervision (CCMS) provides released individuals with services in the community that will reduce the risk they pose through case management and pro-social treatment options. CCMS will be delivered by existing NGOs and community organizations contracted by the CBSA to provide these services.

The CCMS service providers will perform an initial assessment of the individuals referred to them by the CBSA while they are in detention and provide the results of the assessment to the CBSA. If CCMS is imposed as a condition by either the CBSA or the IRB, the CCMS service provider will enroll the individual into the appropriate programming and services and monitor the individual as they participate in the program.

CCMS services are primarily focused on reducing the risk of non-compliance associated with health, mental health and addiction. Additionally, the CCMS service provider can refer individuals to existing community resources that provide housing/shelter assistance, as well as child and family services.

For a limited number of individuals that present a high flight risk or danger to the public, CCMS service providers have community residential facilities that individuals can be released to under strict conditions and subject to very close monitoring. Individuals released to these facilities would be required to reside in the facility, follow facility rules and participate in any programming deemed necessary to mitigate the risk the individual poses.

CCMS service providers will report any violations of conditions to the CBSA, who will then make a decision, in consultation with the CCMS service provider if appropriate, on the most appropriate response.

4.4.1. Description of CCMS services

CCMS is intended to address factors that are likely to impact the individual's ability to maintain a stable community living situation. The underlying premise is that an individual who is stable in the community is more likely to comply with IRPA requirements and conditions imposed.

The services provided by the CCMS Service Provider that will assist individuals in becoming and remaining stable in the community are:

Service	Description
Case Management	Every individual enrolled in CCMS will receive case management services. The CCMS service provider will perform an assessment to determine the appropriate nature and frequency of case management services. At a minimum, the individual will be required to report to the CCMS Service Provider at regular intervals to update on changes to their living situation, daily activities (work, school, etc.) and any specific issues that could impact compliance with the conditions imposed.

Linkages to Health Support	Individuals who have a serious medical condition that requires significant ongoing treatment may be eligible to receive support from the CCMS service provider in arranging and managing their treatment in the absence of a support system of their own.
Mental Health Assistance	Individuals with mental health issues, that are likely to impact their compliance with conditions, may have treatment options available to them designed to support and encourage compliance with IRPA requirements and imposed conditions. These services may be provided by out-patient treatment program operators available through the CCMS Service Provider or subcontracted by the CCMS Service Provider.
Addiction and Substance Abuse Counselling and Support	Individuals whose ability to comply with conditions is impacted by addiction may be eligible to participate in treatment programs designed to minimize the impact of their addiction and assist with maintaining stability in the community. These outcomes are expected to support the individual's ability to comply with conditions imposed.
Information Regarding Housing and Employment	<p>Individuals who are eligible to work in Canada may be eligible to receive assistance from the CCMS Service Provider in accessing local employment resources. Employment provides stability in the community as well as a legitimate source of funds to live on, both of which contribute the individual being more likely to comply with conditions.</p> <p>Individuals who are, or anticipate, having difficulty finding a stable residence may be eligible to receive assistance from the CCMS Service Provider in accessing local housing resources. A stable residential address provides one of the strongest contributors to an individual complying with conditions.</p>
Information Regarding Child Related or Family Needs	Individuals with child care needs may be eligible to receive assistance from the CCMS Service Provider in accessing local resources. Stability in the community and a stable family situation both contribute to an increased likelihood of compliance.
Mandatory Residency	High risk individuals who require close supervision may be eligible to be placed into residential facilities operated by the CCMS Service Provider. These facilities closely monitor the individual's behavior and report any concerns or violations of curfews or other conditions to the CBSA immediately. Individuals may receive treatment services in some of these facilities and be escorted to appointments and treatment programs by the CCMS Service Provider, when necessary.

4.4.2. Referral to the CCMS Service Provider

At any time from initial contact with an individual through to dealing with individuals who have been detained for a lengthy time, an officer, including the arresting officer, the Hearings Officer and/or the CLO, may form the opinion that the risk the individual presents could be reduced or offset by one of the services available through the CCMS Service Provider. When the officer forms such an opinion, they may send a referral for assessment to the CCMS Service Provider.

The decision to refer an individual for assessment by the CCMS service provider should take into account these factors:

- Expected removal timeline
 - CCMS is intended to provide risk mitigation over a longer time frame as part of a case management process. If the individual is going to be removed within a few weeks or less, CCMS will not likely be appropriate as the assessment and enrollment process may take some time.
- Stability of the individual in detention
 - In the event an individual possesses medical or mental health issues that have contributed to their detention, these issues must be stabilized while in detention to a point that they can effectively participate in the assessment process.
- Risk level of the individual
 - If the risk level of the individual is so high that release on even the strictest conditions is only plausible far into the future, an assessment should not be requested. The relevance of an assessment by the CCMS service provider will diminish over time and should be done only when there is a realistic possibility of release.

In most instances, the decision to refer an individual for assessment rests solely with the CBSA. Referrals to the CCMS program may also be initiated through outside parties, such as the individual himself, counsel, or another party associated with the individual. These may be directed to the CBSA for referral or to the CCMS provider themselves. In most instances, the CBSA, in conjunction with the CCMS service provider, will review the request and take appropriate action. Depending on the particular circumstances of the case, the CCMS provider may undertake an initial assessment of an outside referral following notification to the CBSA. If the IRB requests that an individual be referred for assessment, the CBSA will make the referral, in consultation with the IRB.

In the instance of a CBSA referral, the referral will include all the information the CBSA has available that may be required to assist the CCMS service provider in assessing the individual for services and treatment that could mitigate their risks.

4.4.3. Assessment by the CCMS Service Provider

Upon receipt of a referral, the CCMS Service Provider will perform an initial review of the information and contact the CLO with a plan to complete the assessment. Where relevant, the CLO will assist the CCMS Service Provider in gathering additional information that may be required and in setting up interviews with the individual.

The CCMS Service Provider will interview the individual in person, or remotely if necessary, using the services of an interpreter as required. The Service Provider will provide the results of the assessment to the CBSA as soon as it is completed, and within timelines outlined in the CCMS Contract.

The completed assessment will be reviewed by the CBSA, and used in a subsequent detention review by the Hearings Officer as appropriate. The assessment will provide the CBSA with sufficient information related to a proposed release plan, for presentation to the IRB. If the assessment is undertaken in advance of the 48 hour detention review, the CBSA has the authority to release the individual according to the release plan agreed to with the CCMS service provider.

4.4.4. Enrollment with the CCMS Service Provider

Once enrollment to a CCMS Service Provider has been imposed as a condition of release by the CBSA or the IRB, the CLO will make arrangements with the CCMS Service Provider to enroll the individual. In most cases, the individual will be released from the detention facility with a direction to report to the CCMS Service Provider at a scheduled time.

High risk individuals may be transported to the CCMS service provider office or residential facility by the CBSA or contracted guard service for enrollment, where deemed necessary. The CBSA or the contracted guard service can only transport individuals who have their release conditions explicitly worded that release is contingent upon enrollment.

At the enrollment appointment, the CCMS case worker will review the release conditions imposed and the particulars of the individual's case to develop an appropriate program of reporting and community services, that collectively will mitigate risk factors present. They will further explain what is required of the individual to participate in the CCMS program. The specific services and programs that the individual will be subject to as part of their participation in the CCMS program, will be documented within the Agreement of Supervision or the Supervision Contract initiated between the CCMS service provider and the individual. This document will be sent to the CBSA to be placed on the file, in accordance with the CCMS Contract. Any relevant information will be input to NCMS by the CLO.

4.4.5. Monitoring and Enforcement by CCMS Service Provider and CBSA

Once the individual has been enrolled into the CCMS program, the CCMS service provider has regular and ongoing interactions with the individual to ensure that the individual is abiding by the requirements of the program and their release conditions. Over the course of their participation in the program, the CCMS service provider will provide the CBSA, in accordance with the parameters of the Contract, with any new information received from the individual that may be of interest to the CBSA in the ongoing administration of the program.

On a regular schedule, the CCMS service provider will review the services the individual is enrolled in and provide the CLO with a recommendation to maintain the current services or modify them, in accordance with the CCMS Contract. In general, individuals enrolled with the CCMS service provider, are expected to over time gradually require less support from the CCMS service provider in the community to the point where they can remain stable in the community without support from the CCMS service provider.

If the CCMS service provider becomes aware that the individual is not abiding by the requirements of the CCMS program or other conditions of their release, they will contact the

CBSA with the details. The CBSA, in conjunction with the service provider may have a discussion to determine the appropriate response. Depending on the nature and severity of the violation, the history of the individual and the risk level of the individual, more restrictive conditions may be imposed, withdrawal of supervision may be undertaken, or the case may be referred for investigation and further enforcement action.

4.5. Voice Reporting

Voice reporting (VR) allows individuals to report the CBSA by phoning in to an automated system that verifies their identity using their voice. The results of the voice reporting are recorded into NCMS in real time.

Individuals can enroll and report using a landline or a cellular phone. Recognizing that most individuals possess cellular telephones, it is preferred that enrollment be initiated utilizing the individuals' cellular phone. This will enable more effective management of the individual on the VR program, with the overall objective to promote compliance. Regular reminder notifications and other direct communications are only possible through the use of SMS text messaging. Individuals reporting by landline will have the address from which they are calling recorded by the CBSA. Individuals reporting by cellular phone will have their location captured using GPS which will enable CBSA to confirm the location of the call.

VR most significantly offsets the risk of an individual not appearing by maintaining a relationship with the individual while they are the subject to immigration enforcement proceedings. It is an effective alternative to in-person reporting, particularly for individuals located in remote areas or who reside in an area not easily accessible to a CBSA inland enforcement office.

4.5.1. Cellular phone Reporting

The individual must use a cellular phone from one of the below providers. Any provider outside of those listed below cannot be accepted at this time. This list will be updated when new cellular phone providers are added.

Approved phone providers:

- a. Telus and sub brands – Telus, Koodo
- b. Bell and sub brands – Bell, Virgin Mobile
- c. Rogers and sub brands – Rogers, Fido

Up to date information may also be found on Atlas.

Officers and the IRB can impose additional conditions related to VR if necessary to offset the risk posed by the individual. This is a list of some VR related conditions that may be appropriate for select medium and high risk individuals:

1. Report using the VR System from a specific location and/or at a specific time.
2. Not to be in possession of, or use a cellular phone other than the one used to report to the CBSA.

3. Carry the cellular phone used to report to the CBSA at all times and answer any call from the CBSA or return a call in response to a message left within the timeframe assigned by the officer.

Individuals who report via a cellular phone will be sent a reminder SMS text message on the morning they are required to report. Individuals who fail to report will be sent an SMS text message shortly after midnight the next morning informing them of the violation and directing them to report using the VR System immediately.

4.5.2. Landline

While cellular phone use for VR is preferred, the CBSA may allow individuals to report using a landline phone. Individuals must have a landline phone that is directly connected to the public telephone network. Voice Over Internet Protocol (VOIP) or internet phones are not permitted. Individuals must produce a phone bill from a telephone service provider that lists the name, address and phone number. The name on the telephone bill must match the name of the individual being enrolled in the program, that of a family member, or that of a guarantor. The address on the telephone bill must match the individual's residential address that is registered with the CBSA.

If the individual is moving, they must provide the CBSA with documentary proof of the new address of service for the landline telephone, and the new phone number if it is changing, in advance of moving. This requirement is in addition to any other address notification requirements imposed by the CBSA as per Case Specific Conditions.

In instances where an individual may be subject to other conditions such as mandatory residency, or may reside in a facility that is not a residential address (i.e.: shelter), the CBSA officer may elect to allow the individual to report using the registered telephone of the service provider. Advance consultation with the facility may be necessary.

4.5.3. Location Based Services

Location Based Services is also called geolocation. This refers to the ability to locate the cellular phone the individual has used to enroll and report to the VR System. It is the policy of the CBSA that the location of the cellular phone may only be requested in the following four circumstances.

1. When the individual contacts the CBSA Voice Reporting System (VRS) using their registered phone number.
2. When the VRS contacts the individual using their registered phone number for the purpose of performing a call back as required by program guidelines.
3. When the VRS contacts the individual using their registered phone number for the purpose of sending them an SMS text message notification that they have failed to telephone report as required by program guidelines.
4. When the individual fails to comply with conditions imposed by the CBSA or the IRB and the CBSA has opened an investigation into the individual's failure to comply. In such

instances, an officer may use the VR System to determine the location of the individual's registered cellular phone after obtaining supervisor/manager approval.

To maintain the integrity of the VR program, geolocation should be used for all individuals reporting by cellular phone unless there are unusual circumstances that would make the sharing of their location at the time of their reporting to the CBSA inappropriate.

4.5.4. Enrollment

Once an individual has had the VR condition imposed by the IRB or CBSA, the enrollment process will be initiated by Regional CBSA staff. Enrollment can be done immediately when the condition is imposed, or the individual may be scheduled to return at a later date for enrollment depending on the circumstances.

Enrolling in the VRS takes approximately 30 minutes and is usually done in a CBSA Inland Enforcement office in a quiet interview type setting. Enrollment is possible in alternate sites if necessary due to geographic or other logistical factors.

Officers will use GCMS, NCMS and the VRS to enter information and move the individual through the enrollment process. Individuals will call a toll free number and follow the voice prompts and written instructions provided to them by the CBSA officer, to record five samples of their voice print, repeating the same phrase each time. The phrase is standard for all individuals enrolled in the VRS, and has been translated into 40 languages, enabling individuals to report in their primary language of choice.

Instructions and prompts in the VRS are in English and French only, so an interpreter may be necessary to assist the individual in following enrollment instructions.

When an individual is successfully enrolled, they are provided with detailed written instructions on how to report, tips and troubleshooting and contact information for assistance.

4.5.5. Reporting

Once enrolled, individuals report on a schedule determined by the CBSA or IRB by calling a toll free number and following the voice prompts to enunciate the standard pre-recorded script three times. The VRS will generate a match score, by comparing the individual reporting event to the pre-recorded script captured at enrollment. All results will be recorded in the VRS and transmitted to NCMS for review by a CBSA officer if necessary. The reporting process will take approximately 90 seconds.

To support individuals with compliance with their reporting schedule, a reminder SMS text message is sent to all individuals who report by cellular phone on the morning they are required to report.

4.5.6. Monitoring

The monitoring phase is undertaken with the objective of ensuring that all individuals enrolled on the VRS, are reporting in accordance with their prescribed conditions and time of reporting. It will facilitate early intervention to determine if any violation of reporting using the VRS was intentional on the part of the individual, and if it should be referred to the Region for further investigation.

A new unit called the Alternatives to Detention Monitoring Centre (ATD MC) has been created to conduct an initial case review of any individual that fails to report by phone as directed, or of any file that has been flagged as questionable. To further ensure program integrity and effectiveness of the VR system, the ATD MC may randomly review individual reporting events to ensure consistency of reporting, comparison matching to pre-recorded voice prints, and any other case analysis that they deem necessary to ensure effective program management.

In the event of a failure to report on the part of an individual, the VRS will send the individual a reminder SMS text message shortly after midnight the day after their scheduled reporting event, to remind the individual to report immediately to the CBSA VRS. These files will be flagged for further follow up to the ATD MC. If the file is not resolved following the reminder SMS text, the ATD MC will perform a review of the violation. If the ATD MC is unable to reach the individual or is not satisfied that the individual will report in the future, the case is referred to the Region. If the ATD MC is satisfied the individual will report in the future, they will reactivate the individual in the VRS, enabling reporting to continue. All functions will be undertaken in accordance with ATD Monitoring Centre policies.

In the event of a questionable reporting event, the ATD may undertake an assessment of the reporting event, by comparing the pre-recorded script captured at the time of enrollment to the reporting script recorded at the time of the reporting event. If the ATD MC is not satisfied with their assessment, the file may be referred to the Region.

The ATD MC is located in Ottawa and is staffed by ATD Monitoring Officers. ATD officers will determine the nature and severity of each violation using all available systems and by attempting to contact the individual and/or other persons associated to the individual enrolled in VR, to resolve any issues.

The results of this review are forwarded to the Region on a schedule determined by the priority the Region has assigned to each individual case.

For further information related to the ATD MC, please consult the ATD MC Standard Operating Procedures.

4.5.7. Enforcement

When the Region receives the results of a review from the ATD MC, they will assess and action it as appropriate based on the individual's determined risk level and any case specific factors.

As per program guidelines and policies, for individuals enrolled in VR, officers may request to have the location of an individual's phone determined by the VRS without notifying the individual, only if the individual has violated conditions imposed under IRPA and the CBSA is investigating the violation. Officers may only collect this information if it is necessary for the investigation of the violation of conditions.

Officers are required to confirm that the above requirements have been met and that a supervisor or manager has been briefed on the investigation. The supervisor or manager must provide concurrence with the officer's decision to determine the location of the individual's phone. A written record of the approval including the justification of the necessity is required to be placed on the file. If exigent circumstances only allow for verbal approval, a written record of the approval must be generated as soon as practicable, and placed on the individual's file. Audits of the collection of location information using this method will be performed on a regular basis.

4.6. Electronic Monitoring

Electronic Monitoring (EM) is offered through a relationship with the Correctional Service of Canada (CSC) and is executed in the Greater Toronto Area Region only, as a pilot project until March 31, 2020. The success of the pilot will be assessed prior to March 31, 2020 and a decision to continue, discontinue or expand the program will be made.

EM involves attaching a bracelet type device to the individual's ankle that allows the location of the individual to be continuously monitored while they are released in the community. The bracelet is securely attached and should only be removed in cases of medical necessity, unless otherwise directed by the CBSA or the IRB.

EM is intended to be used in conjunction with CCMS and/or a deposit or guarantee, for individuals that present a high risk if released into the community but where their predicted length of detention favours release. Individuals on EM will usually have restrictions on places and times that they can be in the community. Compliance with these conditions is monitored on a 24/7 basis by staff in the Monitoring Centre operated by the CSC. Any violation of EM conditions is reported immediately to the CBSA for review and action as required.

4.6.1. Enrollment

Once an individual has had an EM condition imposed by the IRB or the CBSA, the enrollment process will be initiated by Regional CBSA staff. EM enrollment is a two-step process: installation of the ankle monitor on the individual, and installation of the Radio Frequency (RF) modem in the individual's residence. The installation of the EM monitoring device takes approximately 60 minutes and is done by a CBSA Inland Enforcement Officer.

Prior to the individual's official release from detention, the officer will perform an assessment of the proposed residence and test the functioning of the RF unit and the ankle monitor at the proposed residence by verifying the operation of the units with the CSC monitoring centre. After verifying the equipment will function correctly, officers will explain to the individual the terms and conditions of their participation on the EM program and install the ankle monitor. The officer will subsequently transport the individual to their residence and release them from detention.

Enrollment in the EM program is undertaken in English and French only, so an interpreter may be necessary to assist the individual in following enrollment instructions.

When an individual is successfully enrolled, they are provided with detailed written instructions on how to remain compliant with EM program requirements and the particular conditions associated with their participation on the program. They are also provided with a handbook that provides tips and troubleshooting, as well as contact information for assistance.

4.6.2. Monitoring and Enforcement

Individuals on EM are monitored by the CSC Monitoring Centre, in conjunction with the CBSA. Any breach or non-compliance is referred to the Region for immediate action. All functions related to monitoring and enforcement will be undertaken in accordance with EM policies and guidelines, and governed by the established Memorandum of Understanding between both departments.

5. ROLES AND RESPONSIBILITIES

5.1. Community Liaison Officer

The Community Liaison Officer (CLO) position was created to manage the ongoing administration and utilization of the VR, CCMS and EM programs in the regions. All CBSA regions have dedicated CLOs to ensure the effective and ongoing use of ATDs in accordance with program objectives, national policies and guidelines. CLOs are the primary point of contact in all regions for ATDs, primarily responsible for advising officers on the effective use of ATD program tools, and providing case management support for individuals released in the community. While the CLOs will not likely be the primary file holder for specific cases, they are a regional point of contact responsible for ensuring that all cases in detention have been considered for ATDs, and ensuring the Inland Enforcement Officer and the Hearings Officer are equipped with the necessary information and tools to make decisions. The CLOs is the sole point of contact in the region for the CCMS service provider.

CLOs are Regional Program Officers with the delegated authorities under IRPA to make decisions. Despite this authority, they are not expected to make decisions on detention, release or the imposition of conditions, but rather support Inland Enforcement Officers, Border Services Officers and Hearings Officers in the management of their cases and the execution of their work. CLOs, in conjunction with Inland Enforcement Officers, will monitor individuals released into the community to assess their continued compliance with the program. CLOs remain the subject matter experts on ATD programming.

5.2. ATD Monitoring Centre

The ATD MC performs monitoring and first-stage review of Voice Reporting violations, including fraud detection and data integrity assessments. The results of the review are forwarded to the Regions for action as appropriate. This function is intended to reduce pressure on regional

inland enforcement offices, to allow for a more focused emphasis on regional desk and road investigations.

5.3. CSC Monitoring Centre

The CSC Monitoring Centre monitors the status of individuals enrolled in EM 24/7 and immediately notifies the CBSA of any violations of EM conditions. The CSC Monitoring Centre also confirms the successful installation and application of EM equipment during enrollment and provides technical support to CBSA officers responsible for managing individuals on EM.

5.4. CCMS Service Provider

The CCMS service provider provides a written assessment of individuals referred to them that describes the services and supports available that are expected to mitigate the individual's risk in the community. Once enrolled in CCMS programming, the CCMS service provider monitors the individual and provides case management services. Information regarding changes in circumstances and violations are reported to the CBSA for review and action if required.

The CCMS service provider must ensure the necessary services and programs are available in the service locations listed in the contract and fulfil the reporting and administrative obligations outlined in the contract. The provider must provide qualified, security cleared staff to perform case management functions as specified in the contract.

6. INSTRUMENTS AND DELEGATIONS

No delegations were added or amended in relation to the ATD Program.

7. AUTHORITY TO IMPOSE CONDITIONS

Designated CBSA and IRCC officers as well as the Immigration Division have authority to impose conditions under section 44(3) of IRPA. In addition, designated CBSA officers are also authorized to arrest and to detain foreign nationals and permanent residents in circumstances prescribed in section 55 of the IRPA and impose conditions under Section 56. The Immigration Division may order the release of an individual from detention in accordance with Section 58 of the IRPA.

Section 44(3) should be used when the conditions are being imposed on an individual who is not detained under IRPA and no grounds for detention are present. Individuals who are not detained usually present a lower level of risk, which means that less intrusive intervention options are most likely appropriate.

8. ASSESSMENT OF ALTERNATIVES TO DETENTION

8.1. Risk Identification

Risk identification requires an evaluation of the information available at the time and includes any pieces of information or evidence available that may help predict future behavior.

Risks are related to the objectives of IRPA and can generally be categorized in one of two ways:

1. Risk to public safety as described in A3(1)(h) and A3(2)(g). Public safety is the top priority for the CBSA. Where the public safety consequences associated with this risk are significant, these risks need to be virtually eliminated prior to release.
2. Risk to program integrity. These risks relate to a negative impact on achieving all other objectives of IRPA. The acceptable degree of risk will depend on the specific circumstances and is discussed further below.

At this stage, the focus is on identifying information that will be analyzed in the next step.

8.2. Conducting the Risk Analysis

Once all the available information on the risks has been gathered, officers must analyze the information to determine the weight to be given to the information. The following factors/questions will assist in determining the weight to be given.

1. How reliable, accurate and comprehensive is the information?
 - a. Greater weight should be given to information that is believed to be unbiased and fully describe the behavior or circumstances.
2. How likely is it that the risk will impact the CBSA's enforcement mandate or IRPA objective?
 - a. Greater weight should be given to information that directly relates to the objectives of the IRPA. For example, a history of failing to appear for immigration proceedings should be given more weight than failure to appear for regulatory (traffic) proceedings.

Using the information gathered, officers will consider the prescribed factors as identified in the IRPR sections 244 to 247 as well as some additional factors discussed below as they relate to the grounds for detention.

8.2.1. Flight Risk:

Individuals who pose a risk of not appearing for proceedings (UTA) should be more likely to appear than not after the imposition of conditions taking into account the factors in R245, R248(b),(c) (d) and any other relevant factors such as:

- Objective assessment of their chances of gaining durable status in Canada.
- The existence of strong ties to a community in Canada
 - Strong ties are a factor in favour of release if the ties are to a person(s) who can influence the person to appear for proceedings. Strong ties are a factor against

release if the person(s) have shown to not have a positive influence and therefore become a strong pull factor motivating the individual to not appear for removal.

- Access to a significant amount of wealth, which may provide an increased ability to abscond.
- Use of false identity documents and aliases to evade detection from the authorities.
- Attempts to hide their presence in Canada.
- Lack of credibility as demonstrated in dealings with immigration or police officials
- Cooperativeness of the individual.
 - If an individual is uncooperative with CBSA, this is a strong indicator that the individual will be unlikely to comply with conditions imposed.

8.2.2. Identity

Individuals detained for identity are rarely appropriate for release on ATDs when the length of detention is anticipated to be short. Establishing the identity of an individual is the cornerstone to all immigration proceedings including the assessment of the risk the individual poses. Every case must be assessed on its individual details and if the length of time in detention, predicted future length of detention or other circumstance warrants the consideration of release on conditions, individuals should be evaluated using the same criteria as danger to the public and flight risk given the information available.

The CBSA must have enough reliable, accurate and comprehensive information to effectively assess the risk posed by an individual if released. If the CBSA does not have sufficient information, release on ATDs will generally not be appropriate until the CBSA is able to, based on a balance of probabilities, feel sufficiently comfortable that the information on file provides enough information to predict risk.

8.2.3. Danger

Individuals detained for danger to the public should have their risk mitigated so that the risk of serious harm to the public is significantly reduced by the conditions being imposed. Factors to be assessed include the below:

- Assessment is related to present or future danger based on prior history.
- Positive danger opinion from the Minister.
- Association with criminal organizations including people smuggling and human trafficking. Membership is not required, just association. A criminal record is not required either.
- Convictions in Canada for offences involving violence or drugs trafficking.
- Charges or convictions outside Canada involving violence or drugs trafficking
- Age of convictions must be considered as the more time that has passed since the convictions the lesser the risk, taking into account efforts by the individual to rehabilitate including any associated factors like substance addiction. More weight should be given to this factor if the individual has been living in the community as opposed to in detention where there is limited opportunity to re-offend.
- Parole and bail decisions are good references when evaluating the level of danger. Both decisions take danger into account but use different criteria.

- The nature of the risk posed.
 - For example, if an individual presents a very likely risk of serious harm to the public, the risk should be significantly reduced by the conditions being imposed. If the risk posed to the public is based on predictive factors and is more general in nature, the conditions imposed should be reasonably expected to reduce the general risk posed.

8.2.4. Mental health concerns

The risk posed by individuals with mental health concerns depends largely on the available treatment options and the individual's ability and willingness to participate in the treatment. The history of the individual's compliance with previous treatment is a good indicator of future compliance.

The National Risk Assessment for Detention (NRAD) form is used to determine the appropriate placement of individuals in detention. Many of the factors identified and analyzed in the NRAD will likely be relevant to a risk analysis for ATDs; however, the analysis of risks for ATD purposes must be done separately from the NRAD decision.

For more information on risk analysis and the use of the NRAD, please consult ENF 20

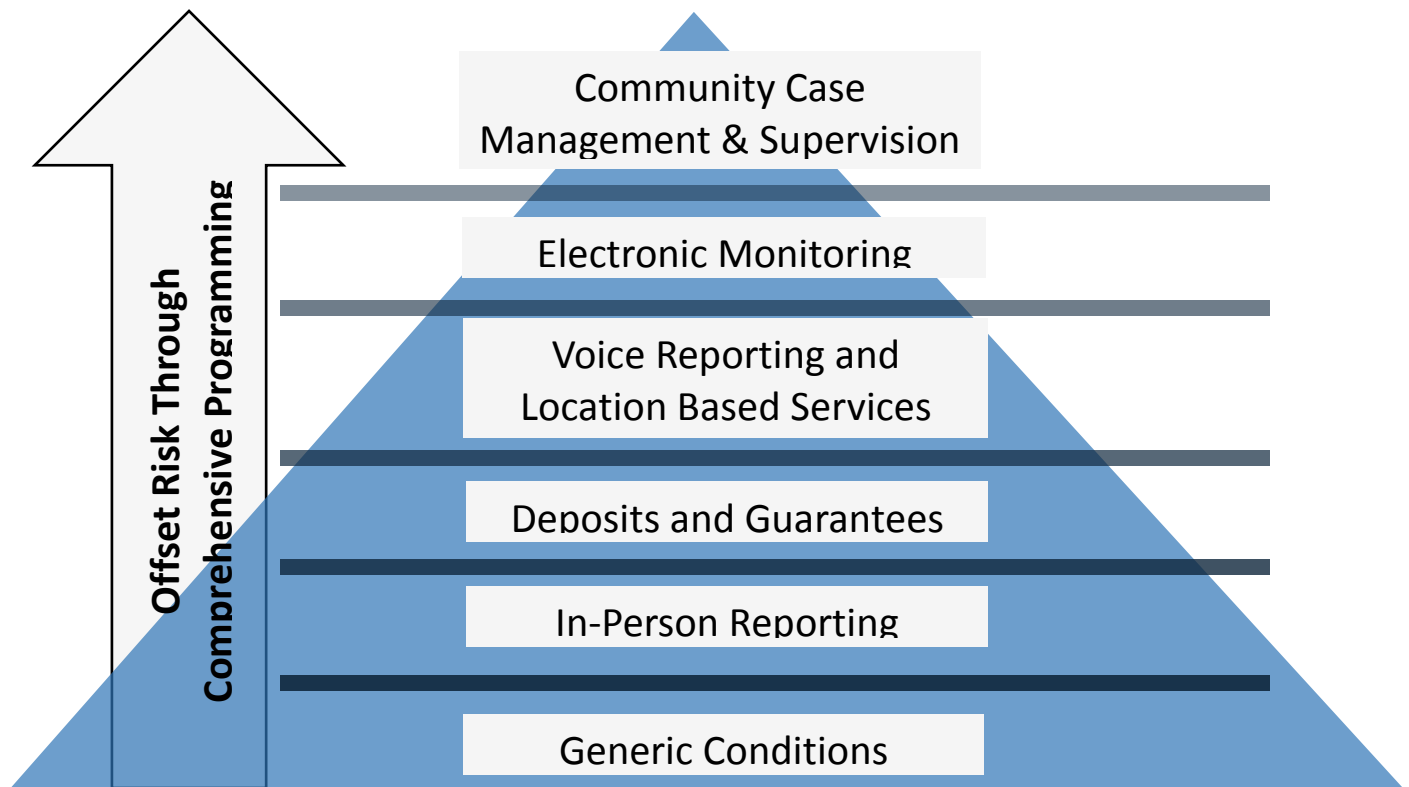
8.3. Risk offset

Risk offset describes the degree to which the condition that is imposed is expected to reduce the risk posed. Identifying conditions that effectively reduce the specific risk or risks posed is the intended outcome of this phase of the ATD assessment.

A condition imposed as a risk offset should:

- Reduce the likelihood of the risk impacting the enforcement outcome,
- Reduce the risk of harm to the public
- Address specific negative behaviours of the individual, and
- Be reasonable and only as intrusive as necessary.

The below graphic depicts the risk offset provided by the tools available in the ATD Program with the least intrusive and least risk mitigation at the bottom and the most intrusive and most risk mitigation at the top. CCMS (Mandatory Residency) and EM are generally too intrusive to be imposed under Section 44(3) or 56(1) by CBSA officers and should be only be imposed under A58(1) by the IRB except in rare circumstances.



Below is a general guide to the risk offset provided by the elements of the ATD Program.

Risk offset	Conditions	Rationale
Minimal risk offset	General conditions, in-person reporting and VR	These conditions maintain a close relationship between the CBSA and individuals under immigration enforcement proceedings. This communication channel supports individuals in voluntarily complying with requirements.
Moderate risk offset	Deposits and guarantee(s), CCMS and VR with location restrictions	These conditions influence individuals to comply with requirements by providing support in the community coupled with closer oversight and monitoring.
High risk offset	CCMS high intervention programming and/or EM (in GTAR)	These conditions provide restrictions on the activities of individuals in the community and constant monitoring of their compliance with these restrictions.

Below is a guide to the specific elements to be considered when determining suitability for the tools provided by the expanded ATD Program.

Elements		Suitability considerations
Level of Cooperation	VR CCMS Low/med intervention	Intended for cooperative individuals, non-cooperative individuals are unsuitable due to high risk of non-compliance.
	VR with location requirements CCMS High Intervention EM (GTA only)	Intended for cooperative individuals, non-cooperative individuals are generally unsuitable unless higher intervention programming can mitigate risk.
Detained for unlikely to appear	VR CCMS Low/medium intervention	Intended for individuals who can remain compliant in community, despite a previous history of failure to comply.
	VR with location requirements CCMS High Intervention EM (GTA only)	Intended for individuals who can remain compliant in the community with very stringent conditions, and for those who could possibly become compliant with mandatory residency to transition into the community.
Detained for Identity	VR CCMS Low/medium intervention	Intended for individuals where identity concerns can be appropriately risk managed in community.
	VR with location requirements CCMS High Intervention EM (GTA only)	Intended for individuals where identity concerns can be appropriately risk managed in community.
Detained for Danger	VR with location requirements CCMS High Intervention EM (GTA only)	Intended to mitigate high levels of risk(i.e. serious criminality A36(1))

8.4. Evaluation of Residual Risk

Residual risk is the level of risk that would remain should it be decided that an individual be placed on conditions. It will either be acceptable residual risk (the risk has been sufficiently mitigated) or unacceptable residual risk (the risk has not been sufficiently mitigated). When an officer is considering release or when a Hearings officer is making submissions on release to the IRB, the residual risk posed by the individual after conditions are imposed is the primary consideration.

What is acceptable or unacceptable in any given case will depend on the unique facts of the case. Hence, a case by case analysis is required. Remember, risk elimination is not possible.

When deciding if the residual risk is acceptable for individuals who are unlikely to appear, officers should be evaluating whether on a balance of probabilities, the individual is more likely to appear than not.

When deciding if the residual risk is acceptable for individuals who are detained for identity, officers must evaluate the risk of the individual not appearing and the possible danger to the public the individual poses, taking into account the risks inherent in not being satisfied as to the individual's identity. Additionally, officers must be satisfied that the ability to continue the investigation into the individual's identity is not negatively impacted by releasing the individual on the conditions available.

For individuals who present a danger to the public, the residual risk must be very low. IRPA prioritizes the safety of the public and as such, any risk posed must be minimal taking into account all the individual circumstances.

If, in the opinion of the officer the residual risk is acceptable, the officer may decide to release (pre-48 hour detention review) or present the release options to the IRB (at a detention review).

If, in the opinion of the officer, the residual risk is unacceptable taking into account the factors in R248(a)-(d), the officer will proceed with making a recommendation for continued detention to the authorized reviewing manager or IRB as appropriate.

ENF 3 provides guidance on evaluating residual risk at detention reviews.

8.5. Documenting the decision

Officers are required to document their assessment of alternatives to detention and the reasons the decision to continue detention or release on ATDs was made. The written assessment of ATDs must include at a minimum:

- The information that was available at the time the assessment was made
- Factors used to determine the weight given to the information
- The risks identified
- For decisions to continue detention, the factors in R248(a)-(d) that weighed in favour of detention when balanced against the risk offset provided by the available ATDs
- For decisions to release on ATDs, the risk offset provided by the ATDs.
- Justification for any decision that is an exception to the guidelines provided in this manual or other operational guidance.

The form and location of the written assessment will depend on the circumstances but must be placed on the physical file in accordance with policies.

9. VULNERABLE PERSONS

Some vulnerable persons will have an increased risk based on their vulnerability. Vulnerable persons may include, but are not limited to individuals with health, mental health and/or addiction issues, the elderly, minors, and victims of trafficking. The nature and severity of the vulnerability need to be taken in account when determining an acceptable residual risk for a vulnerable person.

It is recognized that detention has a greater impact on vulnerable persons, and detention should be minimized to the extent possible for such groups. Risk tolerance may be influenced by vulnerability factors. Each case will need to be assessed on its case specific factors to determine if release is a viable option.

See ENF 20 for more information regarding vulnerable persons.

10. MINORS

See ENF 20 for guidance on the factors to be considered when a case involves a minor child. This includes detention decisions related to parents and legal guardians of minors where the minor is affected.

11. USE OF ATD PROGRAM TOOLS AT PORTS OF ENTRY

The assessment process for ATDs is the same at Ports of Entry (POE) as it is for Inland cases, however, most POE cases will have factors under R248(a) to (e) that may make the residual risk too high for release to be appropriate when those factors are taken into account.

Most POE detentions are for a very short amount of time and the grounds for detention are usually related to a high or unknown risk. These factors will usually weigh heavily in favor of detention, however this does not preclude the officer's responsibility to assess and consider Alternatives to Detention in all cases where detention may be continued. Consideration for an ATD may be limited by time constraints that are present at a POE. In instances where an individual may be considered for release on an ATD but where the ATD is not available at the time of detention, notes to file must be documented to refer the individual for further consideration within the first 48 hours by an Inland Enforcement Officer or a CLO.

If an officer working at a POE is of the opinion that the imposition of CCMS, VR or EM maybe appropriate, they will need to consult with the CLO or local Inland Enforcement Office in their respective region. The CLO will review the case and provide guidance on the best course of action.

12. PRESENTING THE ATD ASSESSMENT AT DETENTION REVIEWS

The results of an ATD assessment will be used by Hearings Officers when making submissions to the IRB on the residual risk posed by an individual if released. This may include the assessment by the CCMS service provider, if enrollment on CCMS is being proposed. In general, Hearings Officers will make submissions on whether the factors in R248(a) – (d) weigh in favour of detention or release, taking into account the residual risk after the available ATDs are considered.

See ENF 3 for more information on the factors for consideration and procedures at detention reviews.

If the CBSA has not referred the case to the CCMS service provider and does not intend to in the foreseeable future, Hearings Officers should provide a brief explanation of that decision. If the IRB requests the individual be referred to the CCMS service provider for assessment, the CBSA will do so.

When making submissions on the wording of the conditions for VR, CCMS and EM, Hearings Officers should propose language that allow the CCMS service provider and the CBSA the latitude necessary to effectively manage the person while released. The proposed wording of the conditions should authorize the CBSA to modify or cancel the conditions imposed by the IRB related to VR, CCMS and EM.

13. PRIVACY AND INFORMATION SHARING

Information collected under the ATD Program can only be disclosed under the provisions of the Privacy Act. See CBSA guidelines of information sharing for details.

In general, information collected can be shared under paragraph 8(2)(a) of the Privacy Act if it is shared for a use consistent with the purpose it was collected for. ATD information is collected for the purpose of administering and enforcing the IRPA.

13.1. Privacy and Geolocation information

Individuals who have their location shared with the CBSA when enrolled in the VRS must provide written consent for the third party service provider to obtain their location from their cellular phone service provider and provide it to the CBSA.

Due to the sensitivity of the location information collected as a part of the Voice Reporting program, it is the policy of the CBSA to not share this information under Sections 8(2)(e) and 8(2)(f) of the Privacy Act. If this information is requested by outside parties such as law enforcement partners, another authority must be used to share the information.

Location information is collected for the purposes of monitoring and enforcing compliance with conditions imposed under the IRPA. Location information may only be viewed and used by CBSA officers for these purposes.

13.2. CCMS Privacy Notice

The CBSA is authorized to share information necessary for assessment and participation in CCMS with the CCMS service provider without the consent of the individual as prescribed in Section 8(2)(a) of the Privacy Act however, the individual must be notified that their information is being shared. The CCMS Privacy Notice Form notifies the individual that their information may be provided to the CCMS Service Provider to start the assessment process and as needed if enrolled. The sharing and use of information must be conveyed to the individual by the officer, using an interpreter if required, prior to the individual's information being shared outside the CBSA.

13.3. Requesting sensitive information from the CCMS Service Provider

While enrolled in CCMS, individuals may provide sensitive information like health and mental health information to the CCMS Service Provider. The CBSA will not have routine access to this information. The CBSA will only request sensitive information from the CCMS Service Provider if it is required to protect the health and/or safety of the individual, CBSA staff or the public.

All requests for information from the CCMS Service Provider must be submitted by a CLO. The CLO will ensure that the requested information meets the requirements of the above policy and other applicable policies, Regulations and legislation.

APPENDIX A

13.3.1. Forms

The forms below are specific to the ATD Program. The forms necessary for the imposition of conditions and administering Deposits and Guarantees are found in ENF 8

CCMS Privacy Notice (BSF803)	Notice to be provided to all individuals being considered for CCMS prior to their information being shared outside CBSA.
CCMS Referral Form (BSF801)	Used by the officer, the Community Liaison Officer (CLO) and/or the Community Case Management and Supervision (CCMS) Service Provider to document the proposed release plan.
CCMS Supervision Agreement (BSF802)	Documents the detailed programming and associated requirements specific to an individual's release plan with a CCMS Service Provider.
ATD Change of Conditions form (BSF806)	Used by the CCMS Service Provider to recommend and justify a change of conditions.
CCMS Case summary Form (BSF805)	Used by the CCMS Service Provider to convey new, pertinent information regarding an individual enrolled in a community supervision program, to the CBSA.
CCMS Report of Non-Compliance (BSF807)	Used by the CCMS Service Provider to provide the CBSA with details of an individual's failure to comply with a requirement of the CCMS Supervision Agreement.
EM Client Set Up (BSF808)	Used to provide the Correctional Service of Canada (CSC) with the details necessary to set up a CBSA individual on Electronic Monitoring (EM) in the CSC monitoring software.
EM Instructions (BSF809)	Provides details and instructions on what is required of an individual enrolled on an EM program.
VR consent form (BSF804)	Explains the collection of geolocation information and records the individual's consent to be participant to the Voice Reporting program. Also confirms that the individual is the account holder or has the permission of the account holder and has exclusive use of the cellular phone. Only required if reporting by cellular phone.
TBP Bail Supervision Contract	Used by the Toronto Bail Program (TBP) to outline the rules of supervision including reporting frequency and ability of TBP to share information with the CBSA.
TBP Interview Results Sheet	Used by the TBP to record outcome of assessment interview and provided to the CBSA for information and recording purposes.
TBP Agreement of Supervision	Used by the TBP to confirm that the individual has agreed to abide by conditions required for release.
TBP Withdrawal of Supervision Letter	Used by the TBP to advise the CBSA that supervision must be terminated and supervision services are withdrawn.
TBP Graduation Request	Used by the TBP to advise the CBSA that supervision may no longer be required and request that the individual be graduated from TBP programming.

