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**The Appearance  
Assistance Program**

Attaining Compliance with  
Immigration Laws  
Through Community Supervision

# The Appearance Assistance Program

Attaining Compliance with  
Immigration Laws  
Through Community Supervision

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**When people violate immigration laws, the Immigration and Naturalization Service (INS) has the formidable task of trying to locate, charge, and prosecute them.** It also faces a less discussed but equally important challenge: overseeing those it apprehends while immigration courts decide whether or not to order them deported.

The INS does not have enough beds to detain all or even most of the roughly 125,000 people in removal proceedings at any given time. Yet many of those it releases fail to show up in court, and most fail to comply with removal orders. To ensure compliance, the INS could continue to obtain more detention space, perhaps even enough to hold all the people in proceedings. This program brief describes a different approach – an alternative to detention that, if successful, will allow the INS to increase the integrity of the system without resorting to lengthy detention in every contested case.

In September 1996, the INS contracted with the Vera Institute of Justice to design, implement, and evaluate a three-year demonstration program of supervision for people in removal proceedings. The Appearance Assistance Program (AAP), which began operations in February 1997, screens noncitizens at INS facilities in the New York and Newark districts. It is testing different methods and levels of supervision to learn how to increase rates of court appearance and compliance with adverse rulings.

Drawing on interviews with AAP staff, participants, and people who work in the immigration system, this brief highlights strategies that the AAP has devised in its multifaceted approach. It contains information and lessons for policymakers and practitioners who are interested in developing alternatives to detention. Only a year old at this writing, the program is a work in progress; it has already changed and will continue to evolve as it attempts to fashion a nationally replicable model, one that makes the immigration court process more humane and efficient.

### **Seeking Compliance**

On a typical day, about 125,000 noncitizens are in removal proceedings. Many are recent arrivals seeking political asylum. Others are long-standing illegal residents who had eluded the system. And some entered the country legally but are deportable because they committed crimes. The number of people in proceedings will likely grow because the INS is apprehending more noncitizens and new laws subject more noncitizens to removal. Although the INS has doubled its detention capacity over the last three years, it has fewer than 14,000 beds, some of which are occupied by people whose countries of origin will not accept them back (see graph 1).

The lack of detention space would not pose a problem if people released by the INS met their obligations. But about one third do not show up for hearings, and the vast majority do not comply with removal orders. A recent study by the Department of Justice Inspector General found that 90 percent of people ordered deported do not surrender. The reasons why noncitizens fail to obey the law vary: They are never notified of their court dates; they misunderstand the process; they are hindered by personal crises; they believe that the INS lacks the capacity to punish them. Whatever the reason, noncompliance prevents the INS from fulfilling its mission.

Across the country, detention centers are filled with people awaiting their day in court, including many who would comply if they were released and supervised effectively. People in detention lose not only their freedom but also opportunities to prepare strong cases because they lack sufficient access to attorneys, interpreters, and documentary evidence to present to the immigration court.

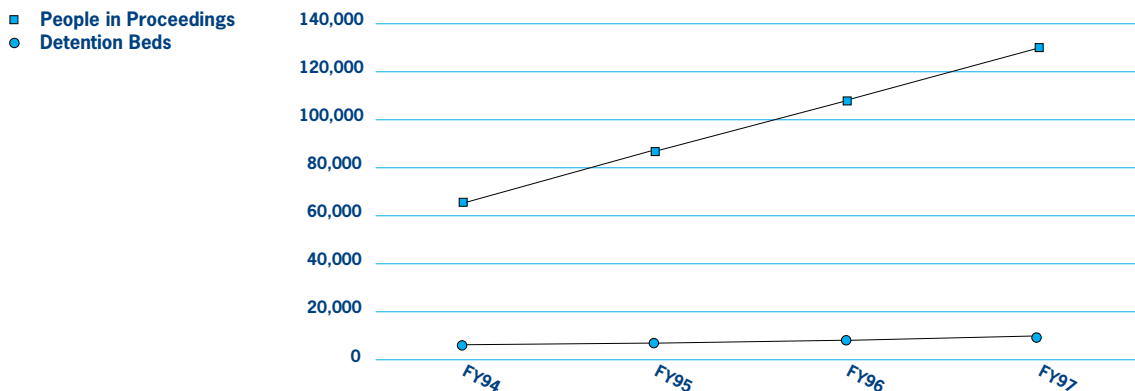
What should the INS do? It could decide that detention is the only way to attain compliance and continue to build more detention centers. It might even be able to summon the political will and financial resources needed to detain most, if not all, people in proceedings. Indeed, some policymakers advocate such an approach. Under this scenario, tens of thousands more people would endure detention.

Alternatively, the INS could accomplish its mission by using detention in conjunction with supervised release. Under such a system, people likely to comply would be released and supervised, leaving detention space for those who are dangerous or likely to abscond. To determine if this scenario could become reality, the INS asked the Vera Institute to develop the Appearance Assistance Program.

Graph 1

### The Need for Voluntary Compliance

The gap between the number of noncitizens in proceedings on a given day and the number of detention beds available to the INS continues to grow. An effective supervision program would significantly help bridge that gap.



Sources:

Executive Office for Immigration Review and the Immigration and Naturalization Service.

**“It takes experimentation to develop a pretrial services program. You need to identify the segment of the population who are likely to appear, figure out how to get them to appear, and put the program in place. That takes time. It did in the criminal justice system, and it will in the immigration system as well. There are differences between the two systems, but I have confidence that under the right set of circumstances, people will show up for their immigration hearings.”** Jerome McElroy, director, Criminal Justice Agency (New York City’s pretrial services agency)

### The Appearance Assistance Program

In designing the AAP, planners drew on past Vera projects, especially those focusing on pretrial services. Over the last 30 years, pretrial services programs in the criminal justice system have demonstrated that people with strong community ties who are released from jail will show up in court. The practice has spared countless defendants the pain, and government the expense, of pretrial incarceration.

Although the Vera planners learned important lessons from the criminal justice experience, the immigration system presented its own questions. Do many people arriving in the United States have what can be considered strong community ties? Will noncitizens show up in court when the penalty for losing is not a jail sentence but deportation? Will a system of supervised release be able to overcome linguistic and cultural barriers? To help answer these and other questions, planners observed INS operations for several months and consulted with immigration officials. They also formed a national advisory board of experts in immigration, pretrial services, and research methodology.

In February 1997, Vera put in place a program that screens noncitizens shortly after they are apprehended by the INS and supervises

them until they win the right to stay in the country or are deported. Intake staff screen potential participants at INS facilities. Supervision officers meet regularly with participants and urge them to show up in court. Field officers verify addresses, make home visits, and locate absconders. The AAP has developed a computer software package that enables staff to work together and access up-to-date information about each participant.

The AAP offers two levels of supervision. One, intensive supervision, is for people the INS would have detained but instead releases on the condition that they comply with the AAP's requirements. The other, regular supervision, is for people the INS would not have detained even without the AAP's intervention.

AAP intake staff recommend for intensive supervision individuals who meet public safety and compliance criteria and have a verified address and a community sponsor, known as a guarantor. The guarantor promises to maintain regular contact with both the participant and the AAP. Participants under intensive supervision must report regularly to the AAP office in lower Manhattan, where staff stress the importance of compliance, inform them about the immigration court process, and provide referrals for legal counsel. When participants under intensive supervision violate conditions of release or are ordered deported, the AAP recommends to the INS that they be detained.

Noncitizens who are released by the INS and who have a verified address qualify for regular supervision. To remain in the program, they must attend an orientation session, keep the AAP informed of their address and phone number, appear in court, and comply with the judge's decision. Throughout their proceedings, AAP staff remind them about their court dates and urge them to show up for hearings. Staff also provide information and referrals that help people navigate the system, which can be daunting.

Through both levels of supervision, the AAP seeks to increase court appearance rates and compliance with removal orders and to make more rational use of detention space by reserving beds for people who are dangerous or unlikely to comply. To pursue those goals, the AAP has devised several promising strategies.

### **Identifying People Likely To Comply**

The AAP screens potential participants at John F. Kennedy Airport; at the INS's principal office in New York City, where people seized at work sites are processed; and at the Varick Street detention center, which houses people in proceedings who have been convicted of

## **SCREENING**

**Planners had to devise a system to determine eligibility for intensive supervision. Some pretrial services programs use strict criteria, while others allow discretion. Strict criteria may include some “bad risks” and exclude some “good risks.” On the other hand, a system allowing discretion requires higher-level staff, is subject to bias, and is more difficult to replicate. The AAP opted for strict criteria that may be adjusted as the demonstration progresses. Staff review the criteria frequently to ensure, for example, that they are not so strict that the AAPis “creaming” – taking only people who would comply without the program. “The only way to test whether criteria are right is to try them,” says Megan Golden, the AAP’s director. “That means we will make some mistakes as we learn to distinguish the good risks from the bad.”**

crimes. During the screening, staff collect information that the AAP can use to gauge people's potential for compliance and to track them once they are released.

To qualify for intensive supervision, individuals must meet criteria relating to their community ties, their record of compliance in previous proceedings, and their threat to public safety. After compiling information from INS files, interviews, and follow-up investigation, AAP staff use a point scale to determine if the person is eligible for the program. If so, staff make a release recommendation, which INS officials consider. Screeners at the Varick Street detention center usually have the most information on which to make a recommendation because potential participants customarily have been in the country for some time and often have had prior cases in the immigration or criminal justice systems.

AAP staff interview for regular supervision people whom the INS intends to release or has already released. Screeners collect information about community ties and set up an appointment for an orientation session at the office. Because people arrive around the clock, staff cannot interview everyone who qualifies for regular supervision at the airport. They send individuals whom they do not interview a letter describing the AAP and follow up with phone calls. Many people first contacted by a letter have enrolled in the program. But the AAP prefers to interview potential participants; face-to-face, screeners can better explain the program's purpose, and an interview eliminates the chance that the AAP will miss a participant because of an incorrect address or phone number.

### **Requiring and Verifying Community Ties**

Pretrial release programs in the criminal justice system – and common sense – suggest that people with a verified address near the site of their hearings are more likely to show up. People who are released by the INS, however, often settle far from the court that will hear their case. Moreover, many are never notified of their court dates because they provide the INS with incorrect addresses or move around during their proceedings.

By contrast, all participants in the AAP must have verified addresses and inform the AAP of any address changes. Those under intensive supervision must have a place to live in the New York area and a guarantor. The AAP verifies information about community ties, giving the program the capacity to reach participants and find them, if necessary. The process seems to work: After learning that their



#### VALUABLE INFORMATION

The AAP collects an array of information that could be used in bond determination and review. Ultimately, the AAP's screening procedures and the bond setting process could be integrated. Steven Abrams, an immigration judge and former INS attorney, says, "The AAP could really play an important role in bond hearings, because there are a lot of cases that are gray areas, where the judge has to rely only on the word of attorneys. It would be useful to have a third body that could conclusively verify or refute the information."

addresses will be verified, many people apprehended at work sites give AAP staff an address different from the one they had given the INS just an hour before.

The verification process often requires considerable investigation. Many people arrive in the country with nothing more to go on than the name or phone number of an acquaintance or distant relative. Staff stationed at the AAP office often help verify information. While intake screeners finish interviewing potential participants, field officers pursue leads on community ties, using computerized directories and making home visits, if necessary.

An INS official at the airport removed Mergim, a 24-year-old Albanian, from a holding cell and directed him to Hema Sareen, an AAP intake screener. With the help of an interpreter, Sareen asked Mergim if he had any contacts in the country. Mergim gave her the phone number of his cousin Frederick, who lived in Philadelphia. Mergim said that he thought he also had relatives in the New York City area. Over the phone, Frederick referred Sareen to another cousin, Merc, who lived in the Bronx. After a few hours, an AAP field officer reached Merc, who agreed to house Mergim and to serve as his guarantor.

#### Enlisting the Help of Community-Based Organizations

Some people arriving in the United States do not have strong enough community ties to qualify for the AAP's intensive supervision. Either they know no one in the country or the people they know live outside the New York area or are not legal residents. The AAP recruits representatives of community-based organizations to serve as guarantors, who in effect provide participants with community ties. The AAP began with four guarantor organizations and has since added two more. "First we look for organizations that represent populations that the AAP serves. Among those, we look for ones that provide legal and social services," says Stacey Jordan, the AAP's resource coordinator, who is responsible for outreach to immigrant organizations.

These organizations keep in contact with participants and reinforce the AAP's reminders of their court dates. They also help participants enroll in English-as-a-second-language classes and find attorneys. This is a new role for these groups, one that enables them to serve their constituents while contributing to a fairer and more efficient immigration system.

Although some immigrant groups disagree with INS policies, those that work with the AAP view the support of the INS as a plus. K.C. Williams, education coordinator for Travelers Aid, says, "Working with the AAP is an opportunity to be involved with a good project that gives people much-needed help, one that could develop into an alternative to building all sorts of detention centers. And most important, it has a chance to go somewhere. The fact that it has INS backing means it could have wide implications."

### **Educating People About the Legal Process**

The immigration system can be inaccessible and removal proceedings can be confusing, especially to people who speak little English or who cannot read. As a result, myths about the process pervade immigrant populations. "There's an astonishing amount of misinformation out there," says Lynn Neugebauer, an immigration attorney with Travelers Aid in New York City. "Many people even think that if they don't show up in court, the charges will just go away." Others think that they cannot go to court without a lawyer or are afraid to do so.

The AAP gives participants information that helps them understand the process and make informed decisions. Ron Cerreta, a supervision officer, says, "We can't tell people what to do. Nor would we want to. But we can make them aware of their options, because too often these people have little knowledge or resources." To be sure, not all people who understand the process and their options will comply; the AAP is testing whether more people, given sufficient knowledge and support, will choose to fulfill their obligations.

Rosa called the AAP office in a frenzy. Supervision assistant Kyra Sanin quickly set up a three-way call with an interpreter. Rosa told Sanin that she had spoken to a lawyer who had told her that she would lose her case because she had entered the country with false documents. Frightened, Rosa said she was planning to skip her hearing. Sanin encouraged her to show up in court and referred her to another attorney, who explained her options and agreed to take her case. "If the AAP didn't exist, she probably would have gone into hiding," says Sanin. "Now she's back on the right track."

Because participants under intensive supervision keep in close contact with the AAP, staff have numerous opportunities to answer their questions and stress the importance of compliance. They are generally required to report to the AAP office every other week and to

check in by phone every week. Field officers make regular home visits to ensure that supervision participants have not fled or moved and to attend to any pressing needs.

The AAP provides similar services to participants under regular supervision. Originally, outreach to this group consisted mainly of sending them reminder notices, a procedure that has been successful in the criminal justice system. Staff quickly learned, however, that they needed to develop more effective methods of disseminating information. "A process that relies on reminder notices presumes a basic knowledge – that people understand the system, that they know the consequences of not complying, and that they have a lawyer telling them these things," says Megan Golden, the AAP's New York City director. "But we've found that many of our participants lack even basic knowledge. It's just not enough to give them a piece of paper."

**"We explain to immigrants what is happening and going to happen. But it's difficult for us to figure out what they don't know. The AAP is providing a vital service by educating people about the process before they get to their hearings."**

Philip Morace, Immigration Judge

AAP staff have developed a range of informational resources, such as pamphlets and videos answering frequently asked questions. People have traveled from as far away as Rhode Island to attend orientation sessions, at which supervision staff explain the immigration court process. One of the AAP's most popular resources is the legal information session, at which immigration lawyers unaffiliated with the AAP answer basic questions about the court process and immigration law.

A group of participants gathered in the AAP conference room. Visibly agitated, several had urgent questions. Derek wanted to return to Haiti to attend his sister's funeral but the INS had seized his passport. Could he get it back? Mariana came to the United States from the Dominican Republic in 1972. Why was she placed in proceedings for a crime she had committed 11 years ago? Ivan, a new arrival from Russia via Israel, wanted to move up the date of his hearing. Was that possible? Nancy Chin, a private immigration lawyer, calmly answered their questions and explained what to expect over the next few months. "The session was very helpful," says Derek. "It's scary to not understand what's going on. Now, at least I know what's going to happen and how I can prepare."

### **Removing Barriers to Compliance**

Even after participants decide that they want to comply, they still face obstacles that may deter them from showing up in court. An Ecuadorian woman does not want to go to court because her daughter is sick. An elderly Chinese woman living in Queens does not have a ride to the courthouse. A young man from the Ukraine makes it to

the courthouse but gets lost in its labyrinthine hallways. A Mexican woman granted voluntary departure does not realize she needs to see a deportation clerk before she leaves. The AAP helps participants overcome such barriers.

In addition to providing information, the AAP assists people in three primary ways, all designed to increase compliance. First, it helps people find free or low-cost lawyers because experience in the immigration and criminal justice systems shows that people with legal representation are more likely to appear in court. Retaining an attorney can be difficult, however, especially for people with little chance of winning legal status. Staff provide names of attorneys and contact them if necessary. Second, the AAP helps participants negotiate the actual court experience. Staff help participants get to the courthouse, find their names on court calendars, and deal with any number of difficulties that may arise. Third, the AAP provides referrals to service organizations that can address a variety of needs; a person whose life is in chaos is less likely to fulfill his or her obligations.

Some noncitizens in proceedings decide to return home before their hearings. They usually depart without informing the INS, which records them as absconders, and then face more difficulties later should they attempt to immigrate legally to the United States. The AAP has developed services for participants who want to leave the country before their scheduled court appearances. Several participants have informed the AAP that they wished to depart as soon as possible. Staff help them find attorneys, who advance and resolve their cases. Some are allowed to withdraw their applications for admission while others obtain voluntary departure or accept orders of removal. In any case, when they leave the country, the INS knows of their departure. Cases that would have been viewed as unresolved are closed.

**"The AAP helped guide me through the process and deal with any problems that came up. Whether it was calling me to remind me about my court date or going with me to the courthouse, I always knew they were there."** Veronique  
former AAP participant

AAP supervision officers called 17 participants to remind them of their master calendar hearings two days later. They told the participants to meet Carrie Flintoft, AAP's supervision director, at the immigration court before their hearings. Fifteen people showed up. Several were overcome with anxiety. A Mexican woman and her daughter, fearful of the process, were so glad to see Flintoft that they broke into tears. Flintoft explained what to expect and answered questions. Then Flintoft helped them find their courtrooms. It turned out that one participant had purchased a plane ticket in anticipation of asking for voluntary departure, which was granted by the judge. After the hearing, Flintoft helped her obtain the forms she

needed to prove she had left the country, allowing the INS to close her case. When Flintoft returned to the office, one of the two participants who had not shown up was on the phone. He was headed for the courthouse several hours after his scheduled hearing. After AAP staff walked him through the process, he managed to locate the correct courtroom and obtain an adjournment.

### **Monitoring Participants**

To get participants to appear in court and comply with orders, AAP staff monitor them, keeping track of their whereabouts and activities during the months or years of proceedings. Through phone calls and face-to-face meetings, staff stress the importance of compliance and, more important, develop a relationship with the participants, who come to trust the program. Staff learn about circumstances that threaten to prevent participants from fulfilling their obligations and work to mitigate them. At the same time, they discover factors that may encourage compliance and work to capitalize on those. If problems arise with participants under intensive supervision, AAP staff respond immediately, recommending, when necessary, that the INS detain them.

Irma and her two children, who had arrived at JFK Airport, moved to Detroit but remained participants in the AAP's regular supervision program. She told Ron Cerreta, an AAP supervision officer, that she was not going to attend her hearing because she could not afford airfare. Cerreta urged Irma to find another way to get to New York so that she would not be ordered removed in absentia. A friend agreed to drive her and her two children, and Irma showed up for her hearing, having traveled more than 600 miles by car.

As the AAP works with participants, it learns what conditions correlate with compliance and noncompliance. Staff use this information to develop supervision strategies. In addition, they report court appearance data to INS officials charged with making detention decisions, who previously did not know if the people they had released showed up in court. The INS can use this information to develop criteria on which to base future release decisions.

### **Using Detention Strategically**

The AAP does not propose to eliminate detention; it aims to change how it is used. The INS usually detains noncitizens at the beginning

**“They’re very nice here [at the AAP]. We have a relationship based on mutual respect and confidence. They helped me get out of detention because they thought I would not take off. And I know that if I don’t do what I’m supposed to do, they will send me back there. That’s all part of the deal.”** Carlos, AAP participant

of proceedings; it virtually never revisits decisions to release people even when they lose their cases. By contrast, the AAP seeks to develop a system in which most people are detained only after they are ordered deported or after their performance under supervision suggests that they might abscond.

The AAP uses supervision as an early warning system. Through conversations with participants and their contacts, staff usually know who is in danger of not showing up in court. One participant under intensive supervision, for example, missed her reporting appointments at the AAP. Because they had verified her contacts, AAP staff were able to locate her in the Midwest. Aware that the AAP was trying to contact her, she retained a lawyer, who changed her venue to Detroit. The INS, informed of her whereabouts by the AAP, had the option of redetaining her.

Because the risk of flight increases when the court issues an order of deportation, that is a logical point at which to detain someone. Under an agreement between the AAP and the INS, deportation officials apprehend participants under intensive supervision at the courthouse if they are ordered deported.

Pierre, a Haitian immigrant, lost his case and was taken into custody by INS officials in the hallway of the courthouse. Shortly after, AAP Intake Director Mary Jane Camejo screened Pierre to determine if he should be released to AAP’s supervision while his appeal is pending. She reverified Pierre’s address and guarantor and checked his record of compliance with the AAP supervision staff. She submitted a release recommendation, which two days later was approved by the INS. After his release, he returned to his house in Queens, where he awaits a ruling on his appeal. He is reporting regularly to his supervision officer, and the AAP is monitoring him closely.

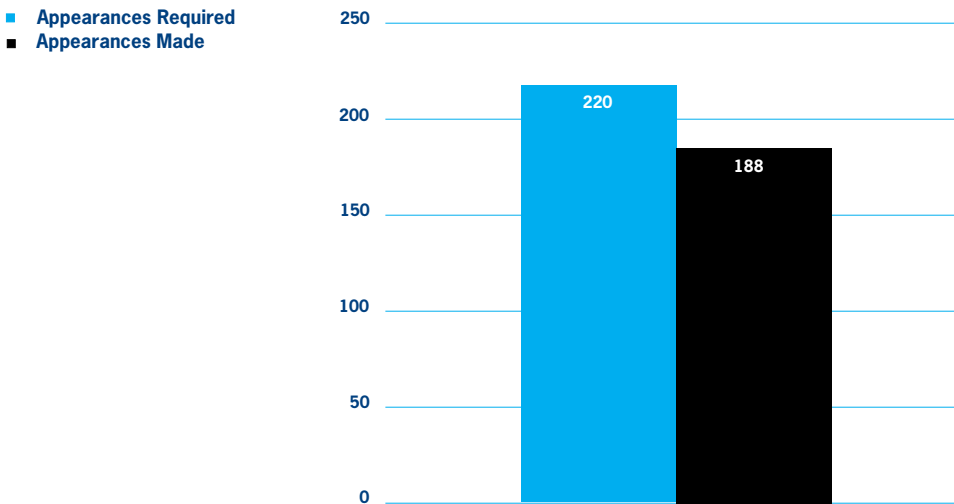
### **Signs of Success**

The AAP continues to evolve as staff devise new ways to serve participants and to increase their chances of complying. They aim to create not a one-size-fits-all program, but one that uses various degrees and methods of supervision to achieve compliance. A team of researchers is gathering data to assess the AAP’s efficacy and cost-effectiveness, which will help staff refine the program and develop a model that can be replicated across the country.

Initial evidence suggests that the AAP gives the INS an effective alternative to detention. More than 80 percent of the AAP’s partici-

pants are showing up for their master calendar and individual hearings (see graph 2). Although conventional wisdom holds that people will not appear in court if they know they might be detained, so far the threat of detention has not deterred AAP participants from showing up. In short, it seems that many people – given the right combination of information, support, and oversight – will choose to comply.

**Graph 2**  
**AAP Immigration Court Appearance Rates**  
February 3—December 31, 1997



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