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Vera - non-profit

Early 1970s, govt, criminal justice but broader

Bail system successful

INS asked to help

(1) Detention space

(2) Better voluntary option for those released

Feb 1997 demo - 3 yr. E.

2 levels of supervision

- Intensive - ~~no~~ supervision - likely detained depends on INS will ~~do~~

- Regular - Voluntary - INS want going to detain anyway.

Intensive

Screening first - not a safety risk + low risk of flight

Report requirement - by phone + in person

Home visit - once a month

Shale

Monitoring -

Ultimate sanction is detain

Completely voluntary - currently.

Regular

Intensive - if should remain, then re-detained

Regular - in reports, no threat of detain

cannot

Give people assistance - industry process, help people get lawyer

Social service provider - referral. Important - build a personal

relationship, builds obligation

(2)

Groups of people

Intensive

- newly arrived asylum 76%
- Criminal alien ended in Oct 22%
- Welfare improvement 60%
- Very varied demographics

Regular

~~- newly arrived asylum 76%~~

- Status offenders - already residing - came in at the airport, in last of countries - 90%

Appearance -

- 93% of Intensive
- 70% of Show up.
- 99% part only

Regular

more ~~data~~ can also 90% rate

Compliance

All day obligations (legal)

In removed in absence = not comply

Intensive - 63% comply - really doubled the comparison

29% comparison get

50% abscond

21% - unknown - probably abscond.

} Comparison 1 bit hard to tell
↳ maths. behind

Why successful? -

Big show up in Ct + get better judgment re - voluntary equal make
to removal. Walk of the on 120 days even

Voluntary Departure - watch ~~at airport~~ them leave to
Failure to do - make ~~tests~~ INS look worse

Abandoning - Visa - have lots of info about the people.

LPA arm alone - show up + win their cases. Not public safety
USK, non-violent offender.
INS discretion legislation -

next steps

- March FY2000
- Evaluation done in July 2000
- want ~~the~~ other district office.

Hope that INS will respond this program, using the
debt rigger. - no INS, non-profit, Sr. profit
\$10/day - same \$150/debt
~~from the~~ Visa - not long-term.

INS

Can do -
asylum seekers
work site

travel system doesn't work - 92% abscons - NYC. no mention the 1009
collected

The Appearance Assistance Program

**Report to the
Immigration and Naturalization Service
On the Second Operational Year**

April 1, 1998 – March 31, 1999

**Prepared under INS Contract #COW-6-C-0038
for an Appearance Assistance Program**

The Appearance Assistance Program
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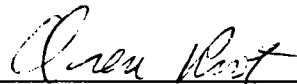
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**Oren Root
Project Director**

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Introduction

In September 1996, the Immigration and Naturalization Service contracted with the Vera Institute of Justice to implement a three-year demonstration program – the Appearance Assistance Program – to increase appearance in immigration court and compliance with the law among aliens in removal proceedings. The program aims to address a combination of problems facing the INS: the INS's detention facilities can hold only a fraction of individuals in removal proceedings; yet those who are not detained often do not appear in court and rarely comply with removal orders. The INS asked Vera to develop and validate with research a supervision program that would increase compliance with the legal process among those not detained, while ensuring efficient use of available detention space.

Vera is testing different levels of supervision in the New York District to determine which groups are most amenable to supervision, and what levels and strategies of supervision can attain compliance in a cost-effective way. The components of the supervision program have been modified over the course of the demonstration as AAP staff have learned what works; the populations included in the demonstration and the procedures for identifying them have also evolved. Vera staff have visited INS districts around the country to determine whether and how the innovation developed in New York can be used elsewhere and to develop a plan for using supervision to get greater compliance with the law nationwide. A research team will assess the impact of supervision on appearance rates and compliance and the program's cost effectiveness. Promising research results will support implementation of supervision programs in other parts of the country.

Status of Accomplishments

Two years into the demonstration, the AAP is showing that supervision can help the government get nondetained aliens in removal proceedings to comply with their legal obligations. AAP intensive participants are appearing in immigration court at significantly higher rates than the comparison groups, which are comprised of aliens who were either paroled or released on bond. Through the fifth immigration court hearing, 93 percent of AAP intensive participants had appeared for all of their required hearings, compared to 70 percent for the comparison groups. AAP intensive participants who completed their cases at the immigration court level were more likely to receive voluntary departure and less likely to be ordered removed in absentia than comparison groups. The AAP is having particular success supervising criminal aliens who were released to the program prior to the expiration of the Transition Period Custody Rules (TPCR). The high rate of appearance at immigration court hearings for this population suggests that the mandatory detention of all criminal aliens is not required. The AAP's experience supervising criminal aliens is discussed in greater detail below.

The AAP is also meeting its goal of increasing compliance with the ultimate outcomes of its participants' immigration proceedings. Roughly two thirds (26 of 40) of AAP intensive participants who have reached the conclusion of all of their legal obligations are in full compliance with those obligations – including leaving the United States if ordered to do so. The AAP continues to confirm and document departures from the United States using a variety of

verification methods, including in-person observations in cases where participants depart on international flights.

Participants under regular supervision – drawn from JFK Airport and 26 Federal Plaza – are slightly more likely than the comparison groups to attend their hearings and to receive voluntary departure, and slightly less likely to be ordered removed in absentia. None of these differences, however, is statistically significant.

There are some early indications, however, that regular supervision has different impacts on specific subgroups of participants. Regular program participants from Federal Plaza do not seem to benefit from the minimum intervention of regular supervision. They achieved only a 63 percent appearance rate, not significantly different from the rate achieved by the controls, but much lower than the 91 percent rate the Federal Plaza group achieved in the intensive program. Since we have been unable to find any differences between those apprehended in work-site enforcement who are detained (and become intensive participants) and those who are ROR'd (and become regular participants), this suggests that most of those apprehended at work sites require an intensive program of supervision to achieve high compliance rates.

On the other hand, some groups seem to benefit from regular supervision. In particular, those who already have strong reasons to comply, such as lawful permanent residents from the JFK Airport, both criminal and noncriminal, seem to receive an additional incentive from supervision and increase their compliance relative to the controls. Our participant interviews are providing early indications that the simplest, least costly elements of the regular program are the most valuable from the participants' point of view. When regular participants were asked what they found helpful about the program, they mentioned providing information, explaining things, and relieving anxiety. The AAP has developed and recently implemented new operational strategies designed to increase the effectiveness of regular supervision. These strategies include a variety of opportunities to increase contact with regular supervision participants, including legal information sessions and the distribution of an AAP newsletter.

When the current operational year began on April 1, 1998, the INS was making limited use of the AAP's intensive supervision capacity. Intake of arriving asylum seekers had been put on hold when expedited removal procedures went into effect in April 1997. Furthermore, as of one year ago, the INS had denied approximately 50 percent of the AAP's recommendations for intensive supervision. Over the past year, these problems have been ameliorated. Most significantly, in August, the INS decided to allow the AAP to screen asylum seekers detained at the Wackenhut detention facility near JFK Airport. This was an important breakthrough after 17 months during which the AAP had been unable to test the suitability of new-arrived asylum seekers for supervision in the community. Screening operations began at Wackenhut on August 27 and have generally progressed smoothly since. Asylum seekers released from the Wackenhut detention center are now the AAP's largest current source of intensive participants. Moreover, INS officials at the Wackenhut intake site have approved more than 90 percent of the AAP's recommendations for intensive supervision. These positive, albeit long-in-coming, changes have helped to ensure that the AAP will work with enough intensive participants to allow Vera researchers to evaluate the effectiveness of this intervention.

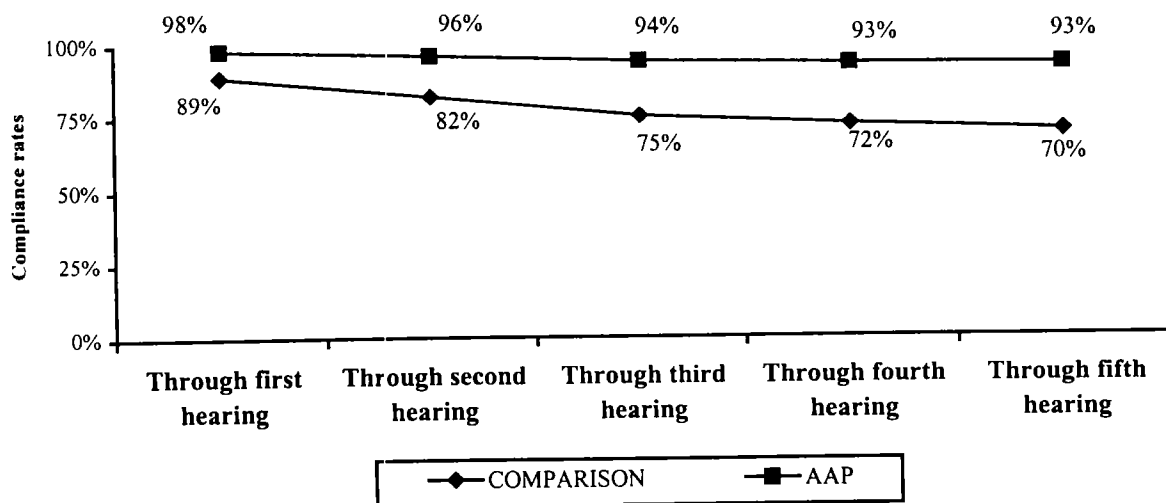
The AAP has had success supervising criminal aliens, including lawful permanent residents facing removal proceedings because of criminal convictions. With the expiration of the TPCR on October 8, 1998, virtually all criminal aliens are now required to be detained throughout their removal proceedings. Prior to October 9, the INS had discretion to release some of these aliens and the AAP was thus able to supervise many criminal aliens – these include 11 intensive participants who were screened at the Varick Street Service Processing Center (SPC) where they were being detained and 111 regular participants who were apprehended by the INS at JFK Airport and subsequently released on recognizance. The overwhelming majority have complied with their appearance requirements and the ultimate outcomes in immigration court. The court appearance rate for the 11 intensive participants who were released to the program from the Varick SPC intake site is 100 percent. Of the 111 criminal aliens who have entered the regular program from the JFK intake site, 101 (91%) have appeared for all of their required hearings thus far. Of the 42 participants who have reached the point of compliance, 35 (83%) have fully complied with their legal obligations. These preliminary data show that criminal aliens who do not pose a threat to public safety and who have a good history of compliance with prior legal proceedings are particularly amenable to supervision.

Preliminary Results of Impact Evaluation of Intensive Supervision

Vera's Research Department analyzed data on court hearings and outcomes for the AAP intensive supervision participants and comparison groups through the end of March 1999. Of a total of 131 AAP participants, 94 met the criteria for analysis. They had one or more hearings, with verifiable attendance, by the cut-off date. Of a total of 423 individuals in the comparison groups, who had initially been detained by the INS and later released on bond or parole, 174 met the criteria (see Appendix A).

The AAP participants come from three types of intake sites – 26 Federal Plaza, Varick Street, and airports. Participants enrolled from 26 Federal Plaza, currently the largest group, are primarily undocumented individuals apprehended at work-site enforcement actions. Individuals from Varick Street are those placed in proceedings based on criminal convictions. The airport group includes respondents from JFK and Newark airports and the Wackenhut detention facility. This group has grown rapidly in the last two quarters since the INS agreed to release asylum seekers detained at Wackenhut to the AAP.

Figure 1
**Continuous Compliance with Hearing Requirements by 3/31/99
 Intensive AAP and Comparison Groups**



N=95 AAP participants; 174 comparison group members

As Figure 1 demonstrates, 93 percent of the AAP participants complied with all their hearing requirements. By contrast, 70 percent of individuals in the comparison groups attended all their required hearings. After the fifth round of hearings, it is 99 percent certain that the 23-percentage-point spread between the AAP and the comparison groups is not due to chance. The differences through the first four rounds of hearings are also statistically significant.¹

The attendance rates for the comparison groups have improved from 65 percent since the last reporting period. The change reflects the inclusion of a new comparison group for the AAP airport participants. In the past, no such group was available but the INS has provided us with data on asylum seekers released on parole from the detention facility in Elizabeth, New Jersey. This group has a compliance rate at the fifth hearing of 81 percent, which accounts for the overall increase in the compliance rates for the comparison groups.

Results by Intake Site

Each of the AAP participant groups has demonstrated a high rate of compliance with hearing requirements. Through all hearings to-date, the rates of appearance are 100 percent for Varick Street, 93 percent for the airports, and 91 percent for Federal Plaza.

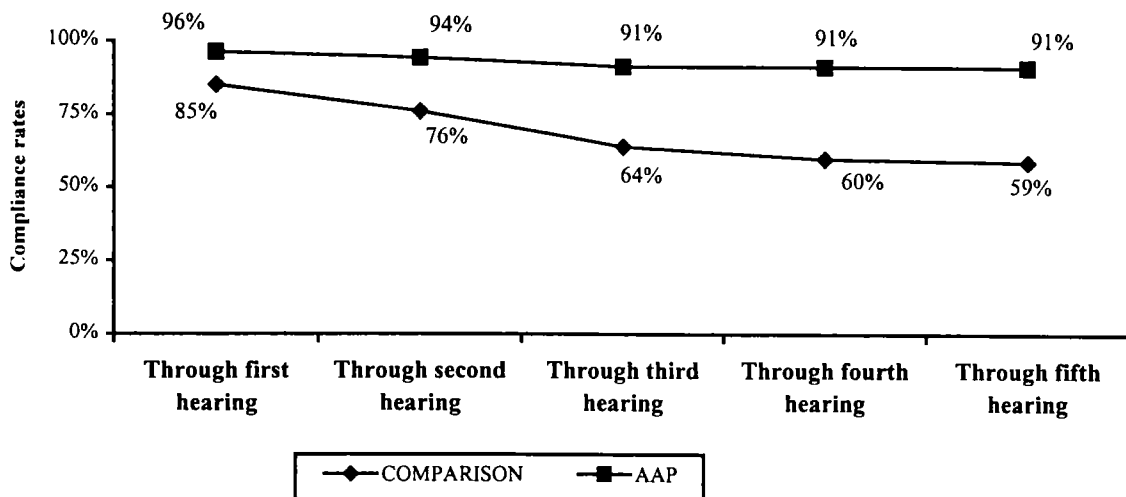
These rates are higher than those achieved by the comparison groups at all three sites (Figures 2, 3, and 4). The differences are greatest at Federal Plaza where they are statistically significant at each hearing point.² Three different comparison groups are combined for the analysis of Federal Plaza shown in Figure 2. The AAP participants complied at significantly

¹ Significance at the .01 level was determined using the Fisher's Exact right tail test.

² Using the Fisher's Exact right tail test, differences are statistically significant at the .05 level for the first hearing and at the .01 level for the second through the fifth hearing.

higher rates than each of the three groups.³ (See Appendix A for a description of the comparison groups.)

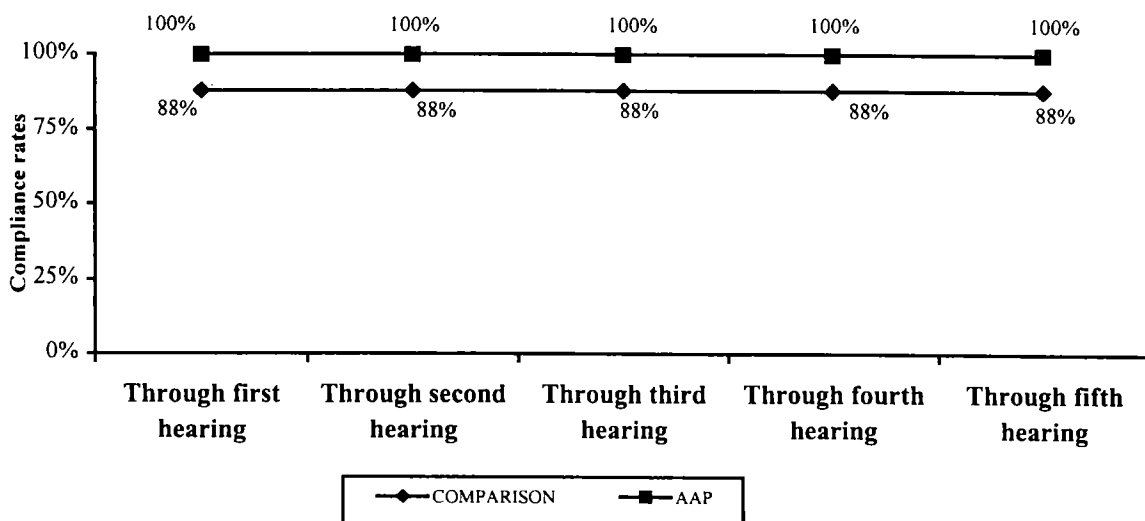
Figure 2
Continuous Compliance with Hearing Requirements by 3/31/99
Intensive AAP and Comparison Groups: 26 Federal Plaza



N=52 AAP participants; 95 comparison group members

The AAP participants from Varick Street and the airports also complied with hearing requirements at higher rates than their comparison groups (Figures 3 and 4). At the fifth hearing, the appearance rate for the airport comparison group drops to 81 percent. There is as yet no fifth hearing for any of the AAP airport participants. The differences are not statistically significant at either site.

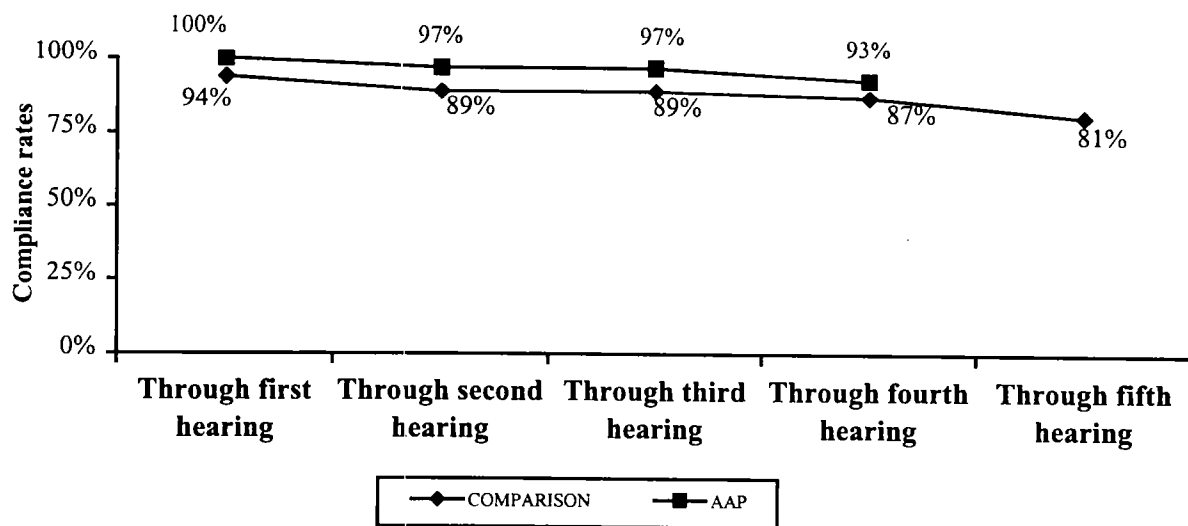
Figure 3
Continuous Compliance with Hearing Requirements by 3/31/99
Intensive AAP and Comparison Groups: Varick Street



N=14 AAP participants; 26 comparison group members

³ By the final hearing, the differences between AAP and each of the groups was significant at the .01 or .05 level, using the Fisher's Exact right tail test.

Figure 4
Continuous Compliance with Hearing Requirements by 3/31/99
Intensive AAP and Comparison Groups: Airport



N=29 AAP participants; 53 comparison group members

Immigration Court Outcomes

According to EOIR data, 57 AAP participants have completed their cases at the immigration court level, as have 141 individuals in the comparison groups. The proportion of individuals granted relief is higher for the comparison group (15%) than for AAP (8%) primarily because relief is more likely among the airport cases than among cases from the other sites, and the comparison group currently includes a higher proportion of completed cases from the airports. The AAP participants were significantly more likely than the comparison individuals to receive voluntary departure, and less likely to be ordered removed from the United States in absentia.⁴ The differences in ordered removed in absentia were apparent for both the criminal alien group at Varick Street and the work-site group at 26 Federal Plaza.

⁴ A test was conducted for all completions that require the person to leave the United States through voluntary departure, orders of removal, and orders of removal in absentia. The proportion granted voluntary departure was compared to the proportion of ordered removed combined with ordered removed in absentia. Differences in proportions of voluntary departure between AAP and comparison groups were statistically significant at the .01 level according to the Fisher's Exact right tail test. The differences in orders of removal in absentia were not statistically significant.

**Table 5: Outcomes of Cases Completed in Immigration Court:
Intensive AAP and Comparison Groups**

IMMIGRATION COURT COMPLETIONS	AAP PARTICIPANTS				CONTROL/COMPARISON GROUPS			
	Airport (N=10)	Varick (N=8)	26 Federal Plaza (N=41)	Total (N=59)	Airport (N=36)	Varick (N=17)	26 Federal Plaza (N=88)	Total (N=141)
Relief	2 (20%)	2 (25%)	1 (2%)	5 (8%)	20 (56%)	1 (6%)	0	21 (15%)
Other ⁵	1 (10%)	1 (13%)	1 (2%)	3 (5%)	4 (11%)	2 (12%)	1 (1%)	7 (5%)
Voluntary Departure	0	1 (13%)	34 (83%)	35 (59%)	0	1 (6%)	48 (55%)	49 (35%)
Ordered Removed	5 (50%)	4 (50%)	0	9 (15%)	2 (6%)	9 (53%)	1 (1%)	12 (9%)
Ordered Removed in Absentia	2 (20%)	0	5 (12%)	7 (12%)	10 (28%)	4 (24%)	38 (43%)	52 (37%)

Compliance with Final Court Orders

The Research Department analyzed data on compliance with final court orders for 27 AAP intensive program participants and 104 individuals in the comparison groups.⁶ We included in the analysis individuals who were allowed to stay in the U.S. or were ordered to leave the country if their cases were completed at the Immigration Judge or Board of Immigration Appeals levels by December 31, 1998. The cut-off date for those granted voluntary departure was November 30, 1998 because they are given 120 days to leave the U.S. For a more detailed description of those eligible for the analysis, see Appendix A.

We considered individuals to be in compliance if they were allowed to stay in the U.S. or actually departed when required to do so. We considered individuals to be absconders if they were ordered removed in absentia or failed to comply with orders of voluntary departure or removal. Finally, we considered compliance as unknown if we did not have evidence from INS databases or files that individuals required to depart the country had actually departed or failed to do so.

The problem we face in analyzing compliance is the difficulty of obtaining INS data. The great majority of INS A-files on AAP participants and comparison groups members are in the New York and Newark districts. Nevertheless, the INS has not been able to provide us with about half the A-files we have requested and those we have received often lack critical information. If we relied only on INS and EOIR sources for the analysis of compliance, the

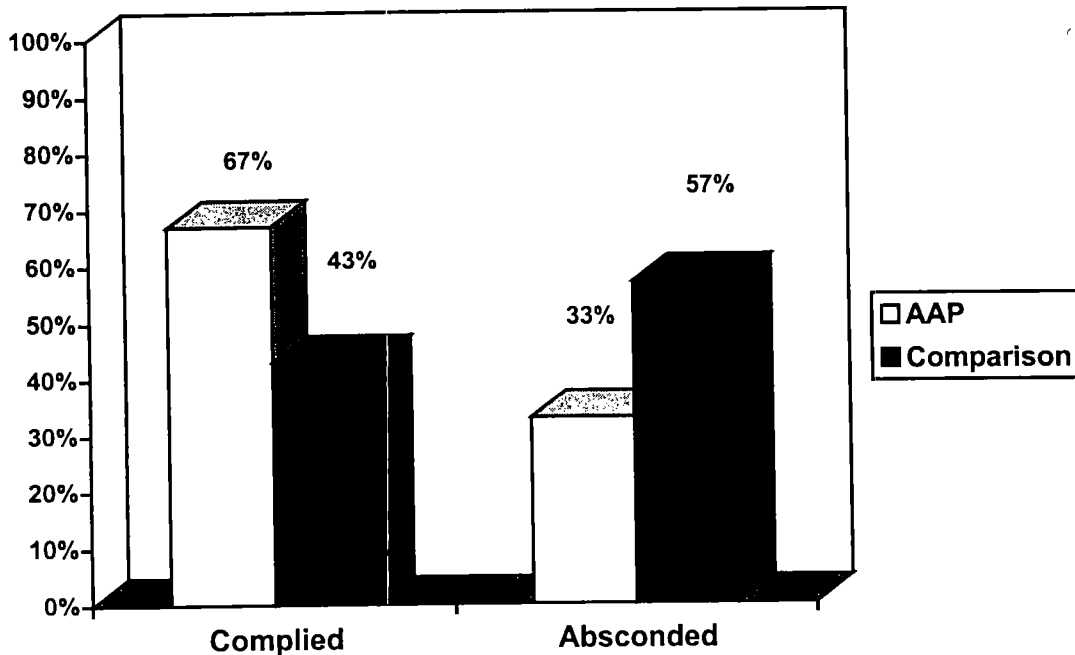
⁵ The "Other" category includes termination, administrative closure, failure to prosecute, and other decisions that do not require the respondent to leave the U.S.

⁶ 30 AAP participants met the criteria for the analysis but three were excluded because they received assistance in leaving the U.S. that was not available to comparison groups.

status of more than half the AAP participants and a fifth of the comparison groups would be unknown at this point.⁷

Consequently, we have analyzed compliance with final orders in two ways. For both methods we used EOIR data for the dispositions in the court process. The first method involved the use of AAP data for its participants and INS data for comparison groups and assumed that the proportions of comparison group members who complied and absconded among the “unknowns” matches the proportions among the known.⁸ Figure 6 shows the results of this method.

Figure 6
Compliance with Final Court Orders Using AAP Data for AAP
Participants: Intensive AAP and Comparison Groups



N=27 AAP Participants; 104 Comparison Groups
Data Sources: AAP for participants; INS for comparison groups, with redistribution of unknown outcomes

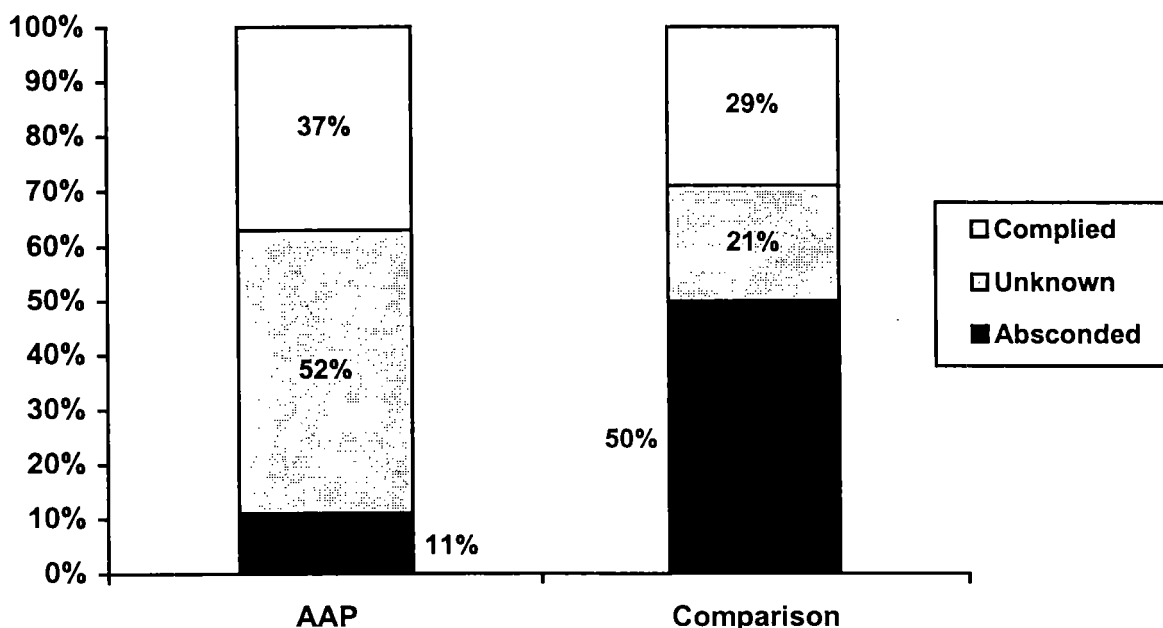
⁷ There are no gaps in the EOIR data concerning court completion information, but the EOIR data do not purport to show whether a respondent has complied with a court order. The only Government tracking of such compliance is done by the INS.

⁸ We used the proportion of compliers and absconders among those ordered removed and granted voluntary departure. This assumption most likely overstates the compliance of the comparison group because the INS data collection procedures on actual departure from the U.S. are more effective than on failures to depart. We expect that as the data is recorded, a higher portion of the unknowns will be absconders.

AAP participants were over one and a half times more likely to comply with final court orders than the comparison groups, and almost half as likely to abscond. Both differences are statistically significant.⁹

The second method we employed uses only EOIR and INS data to determine the compliance of both the AAP and the comparison groups. Figure 7 shows the results of this method.

Figure 7
Compliance With Final Orders: AAP and Comparison Groups



N=27 AAP Participants; 104 Comparison Groups
Data Sources: INS and EOIR

AAP participants were slightly more likely than the comparison groups to comply with final court orders and more than four times less likely to abscond. Differences in absconding between AAP and the comparison groups were statistically significant.¹⁰ However, the compliance status of 52 percent of the AAP participants and 21 percent of the comparison groups remains unknown.

A higher proportion of the AAP participants is in the unknown category for two reasons. Among those required to leave the country, participants are much less likely than the comparison groups to be ordered removed in absentia – this means that we must rely on INS rather than EOIR records to determine their status. In addition, AAP participants in general have completed

⁹ Differences between AAP and the comparison groups are statistically significant at the .01 level according to the Fisher’s Exact right tail test.

¹⁰ Differences between AAP and comparison groups were tested using only known outcomes and were found to be statistically significant at the .01 level according to the Fisher’s Exact right tail test.

their cases more recently than the comparison groups, which makes it less likely that the compliance data will be complete because of INS data collection delays.

Discussion

Operations: Screening

Wackenhut Detention Facility

In August 1998, the INS asked the AAP to begin supervising arriving asylum seekers detained at the Wackenhut detention facility near JFK Airport. The AAP's efforts to screen asylum seekers arriving at JFK Airport had been on hold since April 1, 1997 when expedited removal procedures were put into effect. Asylum seekers originally detained at Wackenhut constitute the largest current source of AAP intensive participants.

Table 8: Wackenhut Intensive Supervision Intake

August 27, 1998-March 31, 1999

	TOTAL SCREENED	SCREENED INELIGIBLE	DECLINED PARTICIPATION	RECOMMENDED AND DENIED	RECOMMENDED AND APPROVED
8/27/98 – 3/31/99	168	118* (70%)	2 (1%)	3 (2%)	45 (27%)

* One of these individuals was disqualified after an asylum officer found that he had not established a credible fear of persecution. The AAP withdrew its recommendation for release on the basis of the negative credible fear finding.

Since the AAP began intake operations at the Wackenhut detention facility, 168 detainees have been eligible for AAP consideration and consented to screening.¹¹ Of the 168, 48 were recommended for AAP intensive supervision. The INS approved all but three of these recommendations. Two aliens declined participation after having the program explained to them by AAP intake screeners. The remaining 118 detainees were deemed ineligible for the program primarily because they were unable to provide sufficient community contacts (including a place to live) in the New York City area. However, almost 40 percent of these aliens (47) had sufficient contacts elsewhere in the United States and would have thus been eligible for supervision in a nationwide supervision program.

The proportion of recommendations made by intake staff has significantly increased since the AAP began intake operations at the Wackenhut detention facility. As of September 30, 1998, the AAP had recommended just three of the 26 (12%) detainees it had screened at the Wackenhut facility. This relatively low recommendation rate was attributed to the fact that at that time, the AAP had been screening at the Wackenhut facility for a just over a month. The AAP is now able to recommend approximately one third of the detainees it screens at the facility. An additional 28 percent (47) would have been eligible for release, if a nationwide supervision program existed, because these individuals had community contacts elsewhere in the

¹¹ In addition to the 170 aliens who were screened by AAP intake staff, 32 detainees were deemed ineligible for AAP consideration because they had either already withdrawn their applications for admission or were expeditiously removed by the time the AAP attempted to interview them. Another 12 detainees asked not to be considered for the program.

United States. Based on these figures, the AAP estimates that a nationwide supervision program could expect to recommend at least 50 percent of the arriving asylum seekers it screened.

DISCUSSION:

The following discussion describes the basic procedures followed by intake screeners at the Wackenhut detention facility.

Intake staff are informed of new arrivals via reports faxed by the INS on Wednesdays and Fridays. These reports indicate the detainee's name, alien number, date of arrival at the facility, date of the credible fear interview and the language the detainee speaks. Using this information, intake staff secure interpreters in preparation for interviews that take place every Monday and Thursday. Intake staff interview some detainees before and some after their credible fear screens, with most interviews occurring before the asylum officer files the credible fear determination report. To be recommended for AAP supervision a detainee must be found to have a credible fear of persecution. When the AAP screened asylum seekers at JFK Airport before the advent of expedited removal, intake staff routinely applied an "asylum screen," the purpose of which was to make a cursory assessment of the alien's eligibility to apply for asylum. Now that the INS has institutionalized expedited removal procedures, AAP screeners at Wackenhut rely on the asylum officer's credible fear finding in making a determination of eligibility to apply for relief.

During the interview, each detainee is asked about his/her community contacts in the United States. If the candidate has no contacts in the U.S. or family only outside of the New York City area, s/he is no longer considered for the program. Because we are aware that some detainees come through JFK Airport en route to Canada, we inquire into the candidate's family in Canada and his/her intention to join them upon release. If the detainee expresses an interest in travel to Canada, s/he is not recommended for supervision because of the high risk of flight.

If the candidate supplies an address in the New York City area, intake staff complete the interview. On the following day, intake staff conduct a phone verification of the address given and secure an individual or agency guarantor. Once the phone verification is complete, intake staff ask the potential guarantor and/or the person with whom the participant intends to live to meet with an intake screener at the AAP. The staff ask each attendee to bring proof of immigration status (e.g., green card or U.S. passport), proof of address (utility bills, copy of lease) and, when possible, proof of relationship to the potential participant in the form of photographs, correspondence, or telephone bills with documented calls to the potential participant's phone number in his or her home country. Recognizing that proof of relationship is the most difficult evidence for people to produce and is not necessarily conclusive, failure to furnish such proof is not disqualifying in itself.

During the verification meeting, intake staff explain the roles and responsibilities of the guarantor, the requirements that the potential participant will have to meet and discuss the consequences of noncompliance. Intake staff also make inquiries about the living conditions of the home where the potential participant will live, and how family members intend to support the potential participant throughout the court process. Upon successful completion of these

verification requirements, intake staff submit a recommendation for supervision. The recommendations are faxed to the Officer in Charge (OIC) at Wackenhut for review.

The OIC reviews only those cases for which an asylum officer's credible fear report has been filed. It typically takes the INS a week to rule on the credible fear issue. We are then notified of a decision, and if the recommendation is approved, intake staff inform the detainee's family and make preparations to conduct an exit interview. During the exit interview, the new participant is explained, in detail, the conditions of his/her release and is asked to sign the *Agreement To Participate*. After the exit interview, the participant is released from the facility.

The following brief anecdote describes a typical Wackenhut intake:

Arsajmin arrived at JFK Airport with a fraudulent Slovenian passport. Upon being referred to secondary inspection, he explained that the passport did not in fact belong to him, but he had obtained it in the hopes of seeking asylum in the United States from his homeland, the province of Kosovo. During questioning, Arsajmin stated that because they are ethnic Albanians, he and his father were arrested three times by the Serbian police. Further, he and his family were continually harassed in public. After completing his statement, Arsajmin was put in a holding cell and, later that evening, transported to the Wackenhut detention facility.

A few days after his arrival at the facility, he met with an asylum officer for a credible fear interview. During this process, Arsajmin's case was referred to the AAP Intake staff for screening. An intake screener reviewed his file and then arranged to interview him with the help of an Albanian interpreter. Arsajmin informed the screener that he has a brother who is a lawful permanent resident and several cousins who are United States citizens, all of whom live in the Bronx. In the days that followed, intake staff verified the address, secured Arsajmin's brother as the guarantor and explained the rules and regulations of the program to the prospective guarantor at an in-house verification held at the AAP main office. Having satisfied the criteria for release, Arsajmin was recommended for supervision. Two weeks later, the INS approved his release from the facility. To date, Arsajmin continues to fulfill all of his reporting requirements. He and his attorney are currently preparing for his upcoming master calendar hearing.

If Arsajmin is granted asylum, the AAP will have saved the government significant costs that would have otherwise been incurred in detaining him for the entire length of his proceedings (it costs the INS more than \$100 per day to detain an alien at the Wackenhut facility). If Arsajmin is denied asylum, he will be re-detained in court immediately after the judge's decision has been rendered. If he loses his claim and appeals, he will be subject to rescreening for possible supervised release during his appeal.

Work-Site Enforcement Operations - 26 Federal Plaza

AAP intake staff continue to screen individuals arrested in work-site enforcement actions. The AAP considers those whom the INS intends to detain for intensive supervision and those the INS has decided to release for regular supervision.

During the first year of operations, work-site enforcement constituted the largest source of AAP intensive participants (82% of the total number of participants under intensive supervision). During this operational year, however, the intake volume at 26 Federal Plaza has diminished greatly. Over the past year, the AAP has taken in only five intensive participants compared to a total of 61 that were placed under intensive supervision in the first year. In early 1998, the peak of AAP screening operations at 26 Federal Plaza, Investigations in the New York District was asking the AAP to screen at approximately two work-site enforcement actions a week. In comparison, the AAP was notified of only two enforcement actions in the first three months of 1999.

Several factors have contributed to the decrease in the number of screening opportunities at 26 Federal Plaza. The INS has decreased its work-site enforcement efforts both in New York and nationally. Moreover, when INS investigators do conduct a work-site action, the AAP is not always notified – often because the Mexican consulate is being notified and sometimes for another (or no apparent) reason. In cases where ten or more Mexican workers are apprehended in a work-site enforcement action, the INS invites the New York Mexican consulate to counsel the detainees. The AAP has been told that because of logistical concerns, it will not be allowed to screen on days when the Mexican consulate is present. The AAP has spoken to representatives of the Mexican consulate about this arrangement and they have indicated that they are not opposed to the AAP screening at enforcement actions at which they are present. We have asked the INS to reconsider its exclusion of the AAP when the Mexican consulate is present, and are awaiting a response. Other reasons for the decline include an increase in the number of work-site detainees who accept voluntary return in lieu of being placed in removal proceedings and the detention of work-site arrestees in York, Pennsylvania. The AAP is only permitted to screen those work-site detainees that are detained in Elizabeth, New Jersey. We have also requested the INS for a change in this restriction. See the several recommendations related to work-site intake procedures on page 32.

DATA:

Table 9: 26 Federal Plaza Intensive Supervision Intake
October 30, 1997-March 31, 1999

	TOTAL SCREENED	SCREENED INELIGIBLE	DECLINED PARTICIPATION	PLACED IN CONTROL GROUP	RECOMMENDED AND DENIED	RECOMMENDED AND APPROVED
4/1/98-3/31/99	45	22 (49%)	3 (7%)	6 (13%)	9 (20%)	5 (11%)
1 st year	150	26 (17%)	9 (6%)	16 (11%)	38 (25%)	61 (41%)
Total	195	48 (25%)	12 (6%)	22 (11%)	47 (24%)	66 (34%)

* Due to rounding, percentages may not add up to 100.

Table 10: 26 Federal Plaza Regular Supervision Intake
May 1, 1997-March 31, 1999

	TOTAL SCREENED	SCREENED INELIGIBLE	DECLINED PARTICIPATION	PLACED IN CONTROL GROUP	ACCEPTED
4/1/98-3/31/99	113	1 (1%)	35 (31%)	39 (35%)	38 (34%)
1 st year	210	0 (0%)	13 (6%)	92 (44%)	105 (50%)
Total	323	1 (<1%)	48 (15%)	131 (41%)	143 (44%)

* Due to rounding, percentages may not add up to 100.

Since April 1, 1998 the AAP has recommended fourteen individuals apprehended in work-site enforcement for intensive supervision. The INS has approved only five and rejected nine of these recommendations for supervision. The 36-percent rate of approval is substantially lower than the 53-percent rate of approval of recommendations for work-site candidates during the first year of operations. Intake staff continue to apply a randomization method to apportion those who are found eligible into experimental and control groups – during this year, six aliens were assigned to the control group. Twenty-two detainees were deemed ineligible for supervision, primarily because they failed to produce a verifiable address in the New York City area or they because they failed the AAP's equities screen which is applied in cases where a potential participant is ineligible for any legal remedy other than voluntary departure. An additional three aliens declined participation after having the program explained to them.¹²

One hundred thirteen aliens whom the INS had decided to release on recognizance were screened for regular supervision. Of the 113, 38 eventually became AAP participants. Thirty-five declined participation after having been interviewed by an AAP screener.¹³ Thirty-nine aliens were randomly assigned to the control group.

JFK Airport

Prior to April 1, 1997 when expedited removal procedures were put into effect, the AAP screened arriving asylum seekers slated for detention. When the new laws went into effect, intake screeners focused their efforts on those whom the INS released on recognizance. Candidates included lawful permanent residents who were charged with low-level criminal convictions or with abandoning their residency and other status offenders. Another significant change occurred in October 1998 with the expiration of the Transition Period Custody Rules. As of October 9, the law requires the INS to detain virtually all criminal aliens. The few exceptions that do exist do not apply to those charged as criminal aliens upon their seeking admission to the United States. As a result of these detention mandates, the AAP is unable to consider any noncitizens arriving at JFK Airport who are charged as criminal aliens for program participation.

Although the pool of potential regular participants from JFK has been significantly diminished, intake staff continue to screen those who are not subject to mandatory detention. Intake staff complete the screening process by letter and by phone. Those who voluntarily agree to participate in the program are placed under regular supervision.

¹² Those apprehended in work-site enforcement actions who decline AAP participation usually do so because they have sufficient resources to pay bond.

¹³ Fifteen of those who declined AAP participation were apprehended in the same work-site action. AAP intake staff who were present observed that among this group, there was an individual who persuaded the 14 others to decline the AAP's help.

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Table 11: JFK Regular Supervision Intake
April 1, 1997-March 31, 1999

	TOTAL SCREENED FOR REGULAR PROGRAM	DECLINED PARTICIPATION	NO CONTACT	PLACED IN CONTROL GROUP	PENDING	ACCEPTED
4/1/98-3/31/99	285	94 (33%)	56 (20%)	76 (27%)	13 (5%)	46 (16%)
1 st year	405	81 (20%)	101 (25%)	59 (15%)	N/A	164 (40%)
Total	690	175 (25%)	157 (23%)	135 (20%)	13 (2%)	210 (30%)

Over the past year, the AAP has screened the A-files of 285 potential regular supervision participants. Intake staff randomly selected 76 of these, whom they did not contact, to be assigned to the control group. The AAP attempted to secure the participation of 196 aliens, 132 of whom either declined participation or could not be reached. Forty-six noncitizens were accepted into the program.

Varick Street Service Processing Center

From February 3, 1997 to December 1, 1998 the AAP screened potential intensive supervision candidates at the Varick Street Service Processing Center (SPC) which houses aliens who have been convicted of crimes. Those who were subject to mandatory detention, had a final order of removal, or who began their cases in the Institutional Removal Program (IRP) were deemed ineligible for AAP consideration.

With the expiration of the TPCR on October 8, virtually all criminal aliens are now required to be detained throughout the entirety of their removal proceedings. Prior to October 9, the INS had discretion to release many of those charged as criminal aliens during the pendency of their removal proceedings. From October 9 through December 1, 1998 intake screeners did not find a single criminal case in which release was legally permitted. In fact, New York Detention and Deportation officials have informed us that the INS will be using the Varick Street facility to detain only those persons subject to mandatory detention. In light of the fact that under the SPC's current admission policies, no detainees are legally eligible for release, the AAP suspended its screening activities at the facility as of last December.

If the admission policies at Varick Street or the law change, the AAP is prepared to resume screening. In the meantime, AAP staff continue to collect Varick Street inventory reports for research purposes.

DATA:

Table 12: Varick Intensive Supervision Intake
February 3, 1997-December 1, 1998

	TOTAL COMPLETED SCREENS	SCREENED INELIGIBLE	DECLINED PARTICIPATION	RECOMMENDED AND DENIED	RECOMMENDED AND APPROVED
4/1/98-12/1/98	261	243 (93%)	1 (<1%)	10 (4%)	7 (3%)
1 st year	518	452 (87%)	37 (7%)	20 (4%)	9 (2%)
Total	779	695 (89%)	38 (5%)	30 (4%)	16 (2%)

Table 13: Varick Intensive Screening: Noncitizens Potentially Eligible for AAP Participation
February 3, 1997-December 1, 1998

	TOTAL ARRIVALS AT FACILITY	NOT ELIGIBLE FOR SCREENING	DECLINED SCREENING	SCREENING INCOMPLETE DUE TO TRANSFER OR RELEASE	COMPLETED SCREENS
4/1/98-12/1/98	1458	870 (60%)	56 (4%)	271 (19%)	261 (18%)
1 st year	2019	1201 (59%)	35 (2%)	265 (13%)	518 (26%)
Total	3477	2071 (60%)	91 (3%)	536 (15%)	779 (22%)

* Due to rounding, percentages may not add up to 100.

Over the past year, the AAP recommended 17 persons detained at Varick Street for intensive supervision. The INS approved seven and denied ten of those recommendations. A large majority of those screened – 93 percent – were found to be ineligible for AAP supervision. The principal reasons for their ineligibility – prior to the sunset of TPCR – were poor history of compliance and insufficient community ties. An additional 870 detainees were not eligible for AAP consideration for one or more of the following reasons: they were subject to mandatory detention, their processing began while in the IRP, or because they had a final order of removal. Two hundred seventy-one detainees were transferred or released on bond before the intake process was completed and one alien asked not to be considered for the program.

Operations: Supervision

Since it began operations in February 1997, the AAP has supervised 514 noncitizens in removal proceedings, 131 under intensive supervision and 353 under regular supervision. The supervision/field staff includes a director, a resource coordinator, two field officers and two supervision teams, each consisting of a supervision officer and an assistant. The supervision teams monitor the progress of participants as they move through the removal process, and seek to keep participants in compliance with their obligations to the INS, the immigration court and the AAP.

Table 14: Number of Regular and Intensive Participants by Intake Site
February 3, 1997-March 31, 1999

SUPERVISION LEVEL	26 FEDERAL PLAZA	JFK AIRPORT	NEWARK AIRPORT	VARICK	WACKENHUT	TOTAL
Regular Supervision	143 (41%)	210 (59%)	0	0	0	353
Intensive Supervision	66 (50%)	3 (2%)	1 (1%)	16 (12%)	45 (34%)	131
Total	209 (41%)	213 (41%)	1 (<1%)	16 (3%)	45 (9%)	514

* Due to rounding, percentages may not add up to 100.

DATA:

The following tables and charts show what happened to each of the AAP's participants from the beginning of the program through March 31, 1999.

Appearance Rates and Proceeding Completions by Intake Site

Table 15: Overall Appearance Rates for Intensive Participants by Number of Appearances Required
February 3, 1997-March 31, 1999

INTAKE SITE	APPEARANCES REQUIRED	APPEARED	FAILED TO APPEAR	APPEARANCE RATE
26 Federal	161	156	5 *	97%
JFK	5	5	0	100%
Varick	65	65	0	100%
Newark	2	2	0	100%
Wackenhut	78	76	2	97%
TOTAL	311	304	7	98%

* Includes 2 participants who self-deported prior to the completion of their cases at the IJ level. The AAP verified that both participants had left the United States. In one case, an AAP field officer verified the departure in person. In the other case, the AAP has confirmed the participant's departure with airline personnel as well having contacted the participant in his home country.

Table 16: Overall Appearance Rates for Regular Participants by Number of Appearances Required
February 3, 1997-March 31, 1999

INTAKE SITE	APPEARANCES REQUIRED	APPEARED	FAILED TO APPEAR	APPEARANCE RATE
26 Federal	318	265	53	83%
JFK	673	647	26	96%
TOTAL	991	912	79	92%

Table 17: Summary of Proceedings Completed at the IJ Level for AAP Participants

February 3, 1997-March 31, 1999

SUPERVISION LEVEL	TOTAL PARTICIPANTS	PENDING IJ PROCEEDINGS	IJ PROCEEDINGS COMPLETED		ORDER OF REMOVAL		VOLUNTARY DEPARTURE GRANTED	WITHDRAWAL OF APPLICATION	FAILURE TO PROSECUTE		RELIEF GRANTED OR CASE TERMINATED	OTHER COMPLETION *	
			App.	In Abs.	App.	In Abs.			App.	In Abs.		App.	In Abs.
Intensive	130 ***	62	59	7	9	7	36	0	6**	0	8	0	0
Regular	353	127	148	78	17	66	50	11	18	10	34	18	2
Total	483	189	207	85	26	73	86	11	24	10	42	18	2

* These completions are coded as either an "administrative closure," "other decision," or "other completion" in the ANSIR database.

** Five of these cases were closed by the INS prior to hearings due to lost A-files. The AAP terminated supervision of a sixth participant, whose case is excluded this table, after the INS had informed us that her A-file had been lost. This participant's case was closed by the INS and subsequently reopened without notification to the AAP. Unbeknownst to the AAP, this participant was granted voluntary departure several months after supervision was terminated.

*** Includes one intensive participant who began supervision while on appeal and another whose case was closed by the INS, prior to the commencement of hearings, after the AAP verified his departure from the United States.

Table 18: Proceedings Completed at the IJ Level by Intake Site

February 3, 1997-March 31, 1999

INTAKE SITE AND SUPERVISION LEVEL	TOTAL PARTICIPANTS	PENDING IJ PROCEEDINGS	IJ PROCEEDINGS COMPLETED		ORDER OF REMOVAL		VOLUNTARY DEPARTURE GRANTED	WITHDRAWAL OF APPLICATION	FAILURE TO PROSECUTE		RELIEF GRANTED OR CASE TERMINATED	OTHER COMPLETION	
			App.	In Abs.	App.	In Abs.			App.	In Abs.		App.	In Abs.
26 Federal - Intensive	65	17	43	3	0	5**	35	0	5*	0	2	0	0
JFK - Intensive	3	0	3	0	1	0	0	0	1	0	1	0	0
Varick - Intensive	16***	7	8	0	4	0	1	0	0	0	3	0	0
Newark - Intensive	1	0	1	0	1	0	0	0	0	0	0	0	0
Wackenhut - Intensive	45	38	5	2	3	2	0	0	0	0	2	0	0
26 Federal - Regular	143	30	61	52	2	48	47	0	7	4	2	3	0
JFK - Regular	210	97	87	26	15	18	3	11	11	6	32	15	2

* These five cases were closed by the INS prior to hearings due to lost A-files.

** Two of these participants self-deported prior to the completion of their proceedings. The AAP has verified their departures and notified the INS.

*** Includes one intensive participant who began supervision while on appeal.

Final Compliance Data

Table 19: Intensive Supervision: Compliance Rates by Disposition, February 3, 1997-March 31, 1999

	RELIEF GRANTED OR CASE TERMINATED	FAILURE TO PROSECUTE	VOLUNTARY DEPARTURE	INS CLOSED CASE – PARTICIPANT SELF-DEPORTED	ORDER OF REMOVAL – PRESENT	ORDERED REMOVED – IN ABSENTIA	TOTAL
Number of Participants with Disposition	6	6*	33**	1	9	7	62
Number of Participants Who Have Reached Point of Compliance	6	6	19	1	1	7	40
Complied	6	6	10	1	1	2***	26
Failed To Comply	0	0	9	0	0	5	14
Percent Complied	100%	100%	53%	100%	100%	33%	65%

* Five of these cases were closed by the INS prior to their hearings because the INS lost their A-files.

** An additional three participants complied with voluntary departure but are not included in this table because they were provided with assistance in travel costs unlikely to be replicated by the government.

*** Both of these participants self-deported prior to the completion of their removal proceedings. The AAP verified their departures from the United States and notified the INS.

Table 20: Regular Supervision: Compliance Rates by Disposition, February 3, 1997-March 31, 1999

	RELIEF GRANTED OR CASE TERMINATED	OTHER COMPLETION	FAILURE TO PROSECUTE	WITHDREW APPLICATION	VOLUNTARY DEPARTURE	ORDER OF REMOVAL – PRESENT	SUBTOTAL	ORDERED REMOVED – IN ABSENTIA	TOTAL
Number of Participants with Disposition	34	20	28	11	50	17	160	66	226
Number of Participants Who Have Reached Point of Compliance	34	20	28	10	46	0	138	66*	204
Complied	34	20	28	10	10	0	102	0	102
Failed To Comply	0	0	0	0	36**	0	36	66	102
Percent Complied	100%	100%	100%	100%	22%	N/A	74%	0%	50%

* It is likely that most of these participants have not yet been directed to surrender. Nonetheless, for the purpose of calculating compliance rates, we are assuming that they have, in fact, been issued a surrender notice and that they have failed to appear for removal.

** The majority of these are participants with whom the AAP has lost contact. It is virtually impossible for the AAP to verify departure for participants who are no longer under active supervision. For the purpose of calculating compliance rates, we are assuming that they have failed to depart the United States as required.

FIGURE 21: AAP PARTICIPANT APPEARANCES/DISPOSITIONS THROUGH MARCH 31, 1999

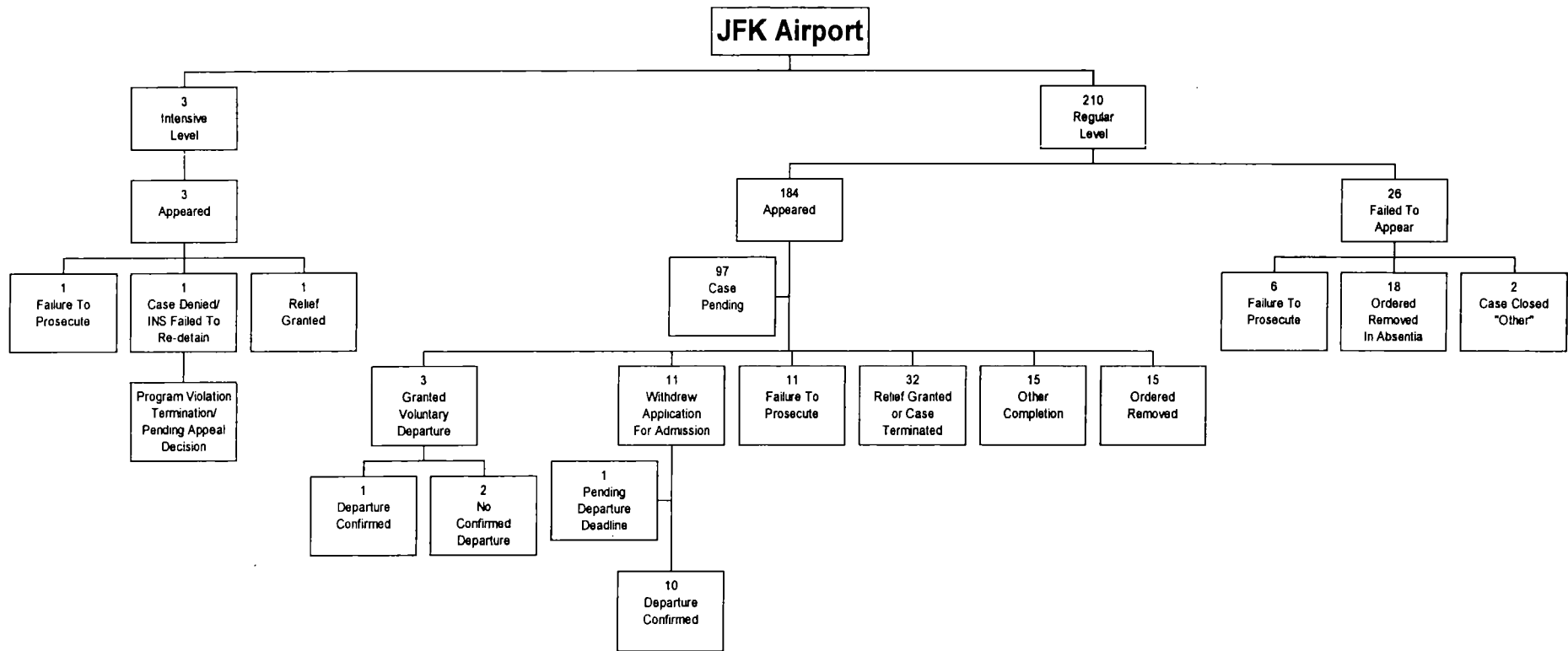


FIGURE 22: AAP PARTICIPANT APPEARANCES/DISPOSITIONS THROUGH MARCH 31, 1999

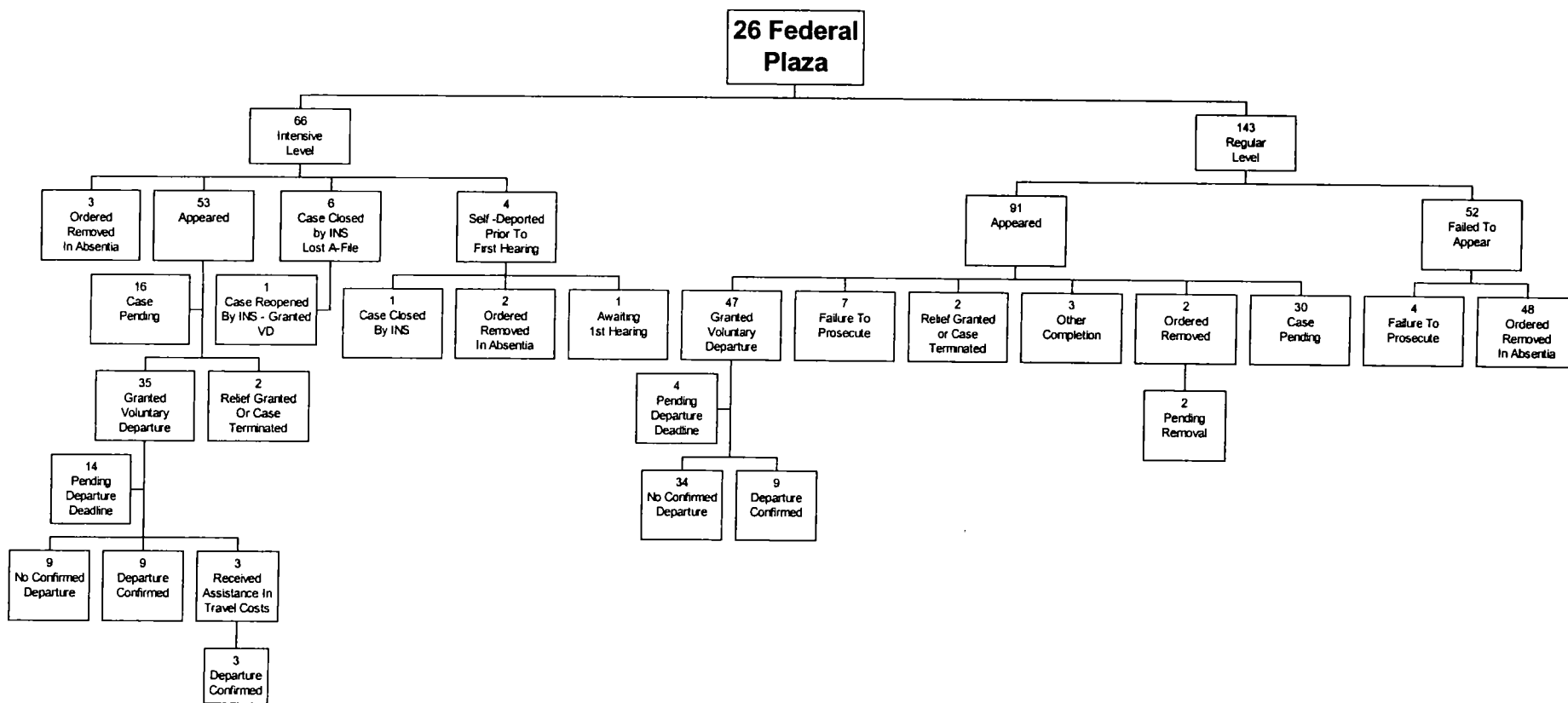
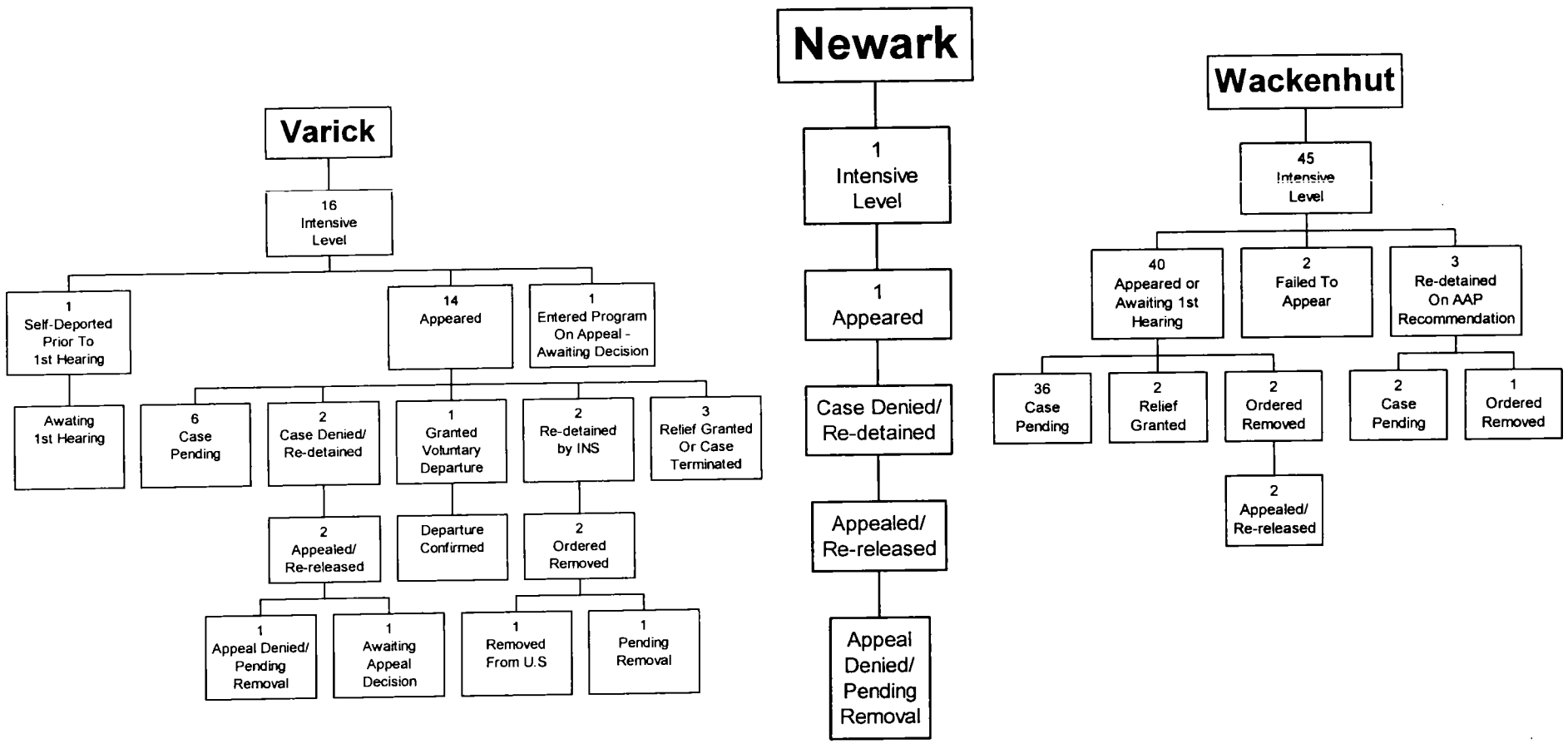


FIGURE 23: AAP PARTICIPANT APPEARANCES/DISPOSITIONS THROUGH MARCH 31, 1999



DISCUSSION:

When participants are accepted into the program, their main contact with the AAP is through communication with supervision and field staff. The supervision contacts and interventions are structured to encourage compliance with participants' legal obligations as well as the conditions of their supervision. The first contact participants have with supervision is the orientation, which takes place soon after the individual is released from custody. During the orientation, supervision staff review the rules of the program, gather additional information from participants as to where they spend their time, and set a reporting schedule. Typically, intensive participants have to report to the office once every two weeks and call twice every week. In addition, participants are told that field staff will periodically make unannounced home visits to confirm that they do in fact live where they say they do. During the orientation, participants are introduced to the removal process and given the opportunity to ask questions. If individual guarantors are involved, they must also attend the orientation to ensure that they understand their role and the participants obligations.

Once supervision staff have established a relationship with participants, routine supervision meetings and call-ins serve to remind them of their obligations, including court appointments and keeping the AAP informed of home addresses and telephone numbers, as well as other places where the participant can be contacted. If the participant is required to leave the United States as a result of a final court order, supervision staff rely on these contacts to encourage participants to plan for their eventual departure. Because participants are monitored so closely, supervision staff are able to know promptly if and when participants fall out of compliance and can act accordingly. If the AAP's attempts to restore them to compliance are not successful, supervision staff recommend re-detention.

Although it was originally thought that it would difficult to supervise aliens who are not eligible to apply for a legal remedy, the AAP has had success supervising participants who are apprehended in work-site enforcement actions. Virtually none of the work-site intakes is eligible to apply for any kind of relief other than voluntary departure. However, AAP supervision staff have developed techniques to facilitate participants' compliance with the voluntary departure process. When a participant is granted voluntary departure by an Immigration Judge, the focus of the supervision relationship shifts to planning for that participant's eventual departure from the United States. Supervision staff set strict deadlines for the various requirements of the process including purchase of a ticket and obtaining the consular letter for departure verification purposes. Eventually, an AAP field or supervision staff member escorts the participant to the airport to confirm their departure from the United States. The following is good example of a work-site participant who, with the encouragement and assistance of supervision staff, is in full compliance with his legal obligations and is prepared to voluntarily return to his home country.

Inder is an intensive participant from India who was apprehended by the INS at a car wash where he was working without appropriate authorization. Inder entered the United States without inspection and has been living here illegally for more than nine years. His four children are living in India. Since Inder speaks very little English, the AAP uses Punjabi interpreters at his supervision meetings. A friend

initially served as Inder's guarantor. Supervision staff soon determined, however, that Inder's friend was not an ideal guarantor because he traveled often, at times remaining in India for several months. Supervision staff were then able to find a non-profit agency with a Punjabi speaker on staff to serve as guarantor.

Three weeks after Inder was released from detention he received a call-in letter from INS Detention and Deportation. Rosie, Inder's supervision officer, accompanied him to the INS for this appointment. However, they were told that the person who was supposed to interview Inder was not in that day. Inder was given another appointment – which took place as scheduled.

The AAP made several attempts to help Inder find a lawyer to represent him in immigration court. Eventually, Zaire, another supervision officer, took Inder to the Immigration Representation Project (IRP) to see if he could get an appointment with an agency lawyer. The IRP, however, was unable to accommodate him. At this point, Inder might have given up his search to find a lawyer had it not been for the assistance of supervision staff. The AAP was able to get Inder an appointment to see Father Kelly, a Catholic priest who as an accredited representative provides free and low-cost assistance to many immigrants.

After meeting with Father Kelly, Inder decided that he wanted to pursue voluntary departure. Inder was eventually granted voluntary departure by the Immigration Judge and was given four months to leave the United States. At his next supervision meeting, Rosie discussed the voluntary departure process and the importance of obtaining a consular letter, which Inder needs to submit to an American consulate when he arrives in India. Rosie and Inder also discussed his specific travel plans, including his planned departure date and the costs of an airline ticket.

Inder has continued to comply with all of his obligations to the AAP, including attending his supervision meetings and calling in several times a week. At one of these supervision meetings, Inder brought in his airline ticket just as he had promised supervision staff. Upon inspection of the ticket, Diana, a supervision assistant, noticed that the ticket was dated five days after his voluntary departure deadline. She explained to Inder that he would be in violation of his voluntary departure order if he remained in the United States beyond his departure deadline. Diana contacted the travel agency and was told that a \$250 penalty would be applied to the ticket if the travel date was changed. She then called Air India and successfully requested a waiver of the penalty.

Inder is scheduled to leave in May and all indications are that he will comply with his voluntary departure order. AAP supervision staff will closely monitor Inder until he leaves and provide further assistance as his departure date approaches.

Supervision staff continue to provide a variety of resources to AAP participants. These resources often take the form of educational materials that help participants navigate the legal process, understand the legal consequences of noncompliance, and make informed decisions about their legal situations. The AAP produced its second video, "Choosing a Lawyer", which is

shown to participants as part of their orientation to the program. The video provides AAP participants basic advice about how to find legal representation. The video is designed to assist participants in finding counsel not by simply describing and informing but by modeling behavior and arming viewers to be prepared, assertive, and forceful in locating, interviewing and working with legal representatives.

Participants continue to benefit from access to the AAP Resource Center, either through doing their own research or by receiving referrals from supervision staff. Referrals are made to food pantries, health clinics, English classes, and other social service agencies, all of which address potential obstacles to compliance. Continued outreach to legal service providers has increased participants' ability to obtain legal counsel. In addition, with an increasing number of asylum seekers in the program, participants (on their own) are making greater use of the Center's materials on country conditions, a resource that helps participants actively prepare for their immigration cases. Access to resources has the added benefit of increasing participants' connection to the AAP and their resulting desire to accommodate the program's requirements to comply with all legal obligations.

One aspect of the program – re-detentions for serious program violations and absconding – has largely failed to function because of the failure of the INS to authorize and implement the necessary lines of authority and responsibility. As increasing numbers of intensive supervision cases approach their conclusions – when the risk of absconding increases – the failure of the INS to create effective procedures, agreed upon at the headquarters, regional and district levels, for effectuating re-detentions is having increasingly deleterious effects. The failure to have a credible re-detention capability not only undermines the ability of AAP staff to supervise participants, with negative consequences on our appearance and compliance measures of performance, but it also defeats a significant part of the purpose of this demonstration project – i.e., to determine whether the techniques we are testing in fact work. From the planning stages of more than three years ago until the present, Vera has consistently maintained that a credible, functioning re-detention capability is essential to this, or any other, supervision program. At earlier stages the representatives of the INS have agreed with our position and have assured Vera staff that the INS would create the necessary mechanisms to accomplish re-detentions when they become necessary. To date, those assurances have been honored more in the breach than in the observance.

Since the AAP began operations, 23 recommendations for re-detention have been forwarded to INS. Of these, only three have resulted in re-detention of the participant. In the first case, INS re-detained the participant in court after his master calendar hearing. The re-detention of the other two participants, brothers, occurred only after the AAP had initiated and pursued conversations with INS officials at both the regional and headquarters levels. Such ad hoc procedures are not a practical method for effecting future re-detentions.

Describing several recent cases in which our requests for re-detention have resulted in ineffectual responses should illustrate the seriousness of this problem.

James, a middle-aged participant who had been released to the AAP from Varick Street, was recommended for re-detention for persistent failure to comply with program directives to obtain documentation showing his eligibility for continued release on appeal. James lived in the same building in the Bronx with his aged mother and brother. Even after he was recommended for re-detention, the AAP kept in daily telephone contact with James at his residence. During this time the AAP received information that James was using drugs. The INS was informed of that fact and that James was present most of every day at his residence in the Bronx.

Two months later, the assigned investigator received authorization from his superiors to go to James' Bronx address to try to re-detain him, but was subsequently asked to defer that effort because of a bedspace shortage. In these two months the investigator had discovered what was believed to be an active criminal warrant. The plan then became to request the New York City police to arrest James on the warrant, after which the INS would lodge a detainer. Another two weeks have passed and it is unknown to the AAP what, if anything, the INS has done to try to apprehend this program violator, who probably has spent most of the last several months at his known address.

** * * * **

Vincent, who had been released to the AAP from Wackenhut, was recommended for re-detention, based upon multiple program violations: moving without permission or informing AAP staff, and missing both a call-in and a supervision visit. The afternoon the recommendation was made, Vincent failed to appear for his scheduled immigration court hearing and the court ordered him removed in absentia. Later that day, AAP field staff discovered the address to which Vincent had moved without permission. The AAP then submitted an addendum to the recommendation for re-detention, providing the name of the person Vincent was living with, her address and telephone number.

Despite actual knowledge of Vincent's whereabouts and despite his having absconded from the AAP and having been ordered removed in absentia, the INS informed us that it had to follow lengthy call-in, warrant-drafting, and case assignment procedures before any effort could be made to effect a re-detention. It was explained that the removal order meant that pursuing these procedures, which would take at least a few weeks, was mandatory. It did not matter that the AAP knew exactly where Vincent was staying, nor that there was a good chance that he would have moved again before anyone went to look for him.

It is unknown a month later whether the INS has made any effort to apprehend Vincent. But based on the explanation of the required “mandatory” procedures, it seems quite unlikely that any such effort has been made.

* * * * *

Jorge, who was released to AAP supervision after being apprehended in a work-site enforcement action, was expected to receive a voluntary departure order at his next master calendar hearing. The day before Jorge was due in court the AAP discovered that he had moved without informing his supervision officer and without permission from the AAP, serious program violations. After unsuccessfully trying to locate Jorge, the AAP made a recommendation for re-detention during the morning of the day when Jorge was supposed to appear in court in the afternoon. The AAP urged his re-detention if he appeared for court because it had concluded that Jorge presented a high risk of absconding rather than leaving the country if he received voluntary departure.

The INS, however, informed the AAP that it would not re-detain Jorge if he appeared for court, principally because he was expected to receive voluntary departure. The AAP’s conclusion that Jorge was likely to abscond if he received voluntary departure was of no consequence. Nor did there seem to be any awareness that the facts presented by the AAP would support a strong argument against the granting of voluntary departure.

In fact, Jorge did not appear for court, leading to his being ordered removed in absentia. Had he appeared, we were told he would not have been re-detained.

These three examples demonstrate how the failure to re-detain program violators and absconders is undermining the AAP’s effectiveness – and not only with the participants directly involved. We have anecdotal evidence that a number of participants have learned about the AAP’s lack of a credible re-detention sanction from their interaction with other participants and the immigrant “grapevine.” Some of these participants have become markedly less compliant as a result.

James, after persistently refusing to comply with his program obligations and forcing the AAP to invoke the ultimate sanction, has found that there are no consequences. He does not even have to hide; he can simply remain living openly at his long-term address. For Vincent, the ability of AAP field staff to track him down – one of the reasons to supervise a person in proceedings rather than to release him without supervision – was nullified by the insistence on pursuing lengthy procedures that precluded any attempts to find Vincent until the trail is cold, assuming any attempts are made at all. And with Jorge, to argue against re-detention and to insist on voluntary departure in the face of documented facts that he was in the process of absconding serves solely to force failure upon the AAP.

It should be noted that some recommendations for re-detention present uncertainty concerning the whereabouts of the participant. But even with such recommendations, the one case on which we know investigators went into the field seeking an absconded participant resulted in the participant re-establishing contact with the AAP. All of our recommendations contain contact information. Experience shows that law enforcement status – a badge – elicits some information that is not available to our non-law enforcement staff. There thus is every reason to believe that, with the leads provided by the AAP, efforts to locate program violators would lead to some positive results. It, therefore, is particularly frustrating to have no system in place for the cases where the greenest investigator could locate the violator within an hour or two. The reality is that even the easy cases, where the location of the participant is virtually certain, currently involve a process that seems calculated to frustrate even a reasonable chance of success.

The AAP can identify some persons who are about to abscond. We can seek to have them re-detained to try to ensure their compliance with their legal obligations. As a program involving voluntary compliance, however, we are powerless to stop a person who has decided to abscond unless the INS acts on our request for re-detention. That has not been happening. With increasing numbers of participants reaching the later stages of their cases, this problem has become increasingly urgent.

Plan for the Cost Effectiveness Analysis of Supervision

Introduction

Vera's final report on the AAP demonstration will include an analysis of the cost effectiveness of intensive supervision.¹⁴ The plan is to estimate what it would cost the INS to establish a national supervision program and at the same time to estimate what that cost would 'buy' in achieving INS policy goals. The goals, or measures of supervision's effectiveness, are rates of compliance with required court hearings and with final court orders. The analysis will yield estimates of what INS supervision costs would be for each individual who attends all hearings, and for each individual who complies with court orders.

The cost effectiveness of supervision on each measure will be compared with that of the principal strategies currently used by the INS: detaining individuals throughout their proceedings, and detaining them for a period and then releasing them on bond. The three strategies will be compared for their cost effectiveness both overall and with reference to the subgroups of individuals in removal proceedings – asylum seekers, criminal aliens, and undocumented workers apprehended at work sites. The analysis will yield estimates of the comparative cost of detention, release on bond, and supervision for each individual who attends

¹⁴ The literature on cost analysis distinguishes between cost effectiveness and cost benefit analysis. The research plan calls for an analysis of cost effectiveness because the benefit that the INS strategies are designed to achieve – compliance with legal requirements – is difficult to quantify in monetary terms. Rather than assign a dollar value to costs and benefits and arrive at a net figure for alternative strategies, cost effectiveness analysis compares strategies on the basis of their costs and a single quantified benefit or effectiveness measure.

all hearings and for each individual who complies with court orders. It will yield the same comparative estimates for each asylum seeker's or criminal alien's attendance and compliance.

Two effectiveness measures – attendance at hearings and compliance with court orders – are used because each is relevant for a different INS policy. The INS may decide to fully detain some respondents and release others who would be re-detained if the court decision required their departure from the country. In this case, the comparative costs per individual complying with all hearing requirements would be the appropriate measure of cost effectiveness. The subsequent costs of re-detention and removal would be the same for all strategies. If, on the other hand, the INS continues its current policy of detaining some respondents and releasing most others without any provision for re-detention, then the cost per individual complying with final court orders is the appropriate measure.

Data on the effectiveness of the three strategies will be developed from our impact evaluation of AAP where we have analyzed compliance rates of program participants, comparison groups released on bond, and individuals detained throughout their proceedings. In estimating relative costs, we will include only those to the INS and exclude consideration of costs to other levels and agencies of government, the taxpayers and the individuals in proceedings.¹⁵ We can, of course, only include INS costs to which a dollar value can be assigned. For example, we cannot consider the cost of detaining individuals who are ultimately granted relief, beyond the cost of the detention itself. Nor can we assign a monetary value to the damage caused to INS and system credibility when a large proportion of aliens in removal proceedings abscond either during proceedings or after they receive an order to leave the country.

The INS costs that can be assigned a dollar value – and that are described in more detail below – are average costs of detention; average amounts recovered from breached bonds; average costs to investigate, locate, detain and deport absconders; and estimated costs of establishing a national intensive supervision program.

The basic cost effectiveness estimates will permit us to consider the cost implications of current INS strategies and of the options for change that are available as the INS seeks to allocate its scarce resources to advance its policy goals. For example:

What proportion of individuals detained throughout their proceedings are ultimately granted relief and how much does their detention cost the INS?

How much does it cost the INS to detain or process individuals who ultimately fail to comply with hearing or court order requirements?

Since the compliance rates achieved by detention exceed those of supervision, what is the added cost to the INS of the compliance secured by full detention?

¹⁵ There is no consensus in the research on the net cost of illegal immigrants to the government and taxpayer. See for example, *Fiscal Impacts of Undocumented Aliens: Selected Estimates For Seven States*, The Urban Institute, 1994.

The compliance rates of individuals released on bond are much lower than those of individuals in supervision; even if the INS could reapprehend a significant proportion of absconders, what would it cost to do so?

Do the savings from reduced detention or reapprehension costs offset the costs of operating a supervision program?

The purpose of the analysis, then, is to develop comparative estimates of the cost effectiveness of detention, release on bond, and supervision and to consider which strategy, or which combination of strategies, would allow the INS to achieve the highest levels of compliance with a given level of expenditure.

The sections that follow describe the population to be included in the study and the methods of deriving costs for the detention, release on bond, and supervision strategies.

Population

The analysis will include all AAP intensive supervision participants who have had at least one hearing (expected N= 140), and all who have completed their cases and reached the point of compliance (expected N= 80). Participants include asylum seekers, criminal aliens and undocumented workers.

One comparison group will consist of about 100 individuals who were detained throughout their proceedings. We expect this group to be about 70 percent asylum seekers from the airports, 25 percent from work-site enforcement actions, and 5 percent from the criminal alien population.

The second comparison group will consist of individuals who were detained by the INS and later released on bond. We have used this population in our impact evaluation and expect over 300 of them to have had hearings and over 200 to have completed their cases. Their composition, by site, will match that of the AAP participants.

Cost

Detention

Removing aliens who were detained and deported from detention involves three separate costs: detention, transfer(s), and deportation. Estimates of the national average cost of detention per person per day range fairly widely. For example, in an October 1998 report to the House of Representatives, the U.S. General Accounting¹⁶ Office used an estimate of \$66 a person a day;

¹⁶ Criminal Aliens: INS' Effort to Remove Imprisoned Aliens Needs Improvement.

the accounting firm KPMG estimated \$88 a day.¹⁷ We plan at this point to use the lower figure although KPMG provided the more detailed explanation of the method used to reach the cost estimate. The number of days spent in detention, as well as the costs of transfers and deportation, can be retrieved from INS databases.

Release on Bond

The costs of initially detaining this group and of deporting those ordered removed will be calculated in the same manner as for the fully detained group. The average bond amounts and the proportion actually retrieved from absconders can be obtained from INS databases and publications. However, this group has a much lower rate of compliance than the detention and supervision options, which means that the net cost of this strategy includes INS costs to investigate and re-apprehend absconders. The problem is that the INS does not publish or provide direct estimates of the amount it spends on this function or on the proportion of absconders it re-apprehends.

In the absence of official INS figures, we propose to obtain from the INS budget the amount spent annually for the agency units that investigate and locate absconders. Since the units are also responsible for other functions, we have to rely on INS officials to estimate the proportion of the total that is spent locating absconders. From INS databases and publications, we can estimate for a given year, the number of absconders, the number of absconders who are re-detained and removed, and the average number of days they spend in detention.¹⁸ This should allow us to estimate the INS costs per reapprehended absconder, apply the proportions to the absconders in the released-on-bond group, and include them in its cost per compliant individual. If, however, we are not able to obtain the necessary information from the INS, we will not include this cost in our estimates and we will consider that the costs of the release on bond and supervision options are about equally affected by INS re-apprehension costs.

Since the INS has publicly declared its dissatisfaction with the compliance rates achieved by the release on bond strategy, we will also estimate what the agency would have to spend in re-apprehending and re-detaining absconders to approach the compliance rates of the other options.

Supervision

We will use the AAP experience to estimate what it would cost the INS to implement a supervision program nationally. We will assume a given number of supervised participants based on the average capacity of INS detention centers and on an estimate of the proportion of detainees who can be released to supervision.

¹⁷Cost-Benefit Analysis of Detention Consolidation Options, Department of Justice Management and Planning Staff, March 25, 1998.

¹⁸ See for example, Monthly Removals Report, FY 1998 and Third Report on Detention and Release of Criminal and Other Aliens, 1998.

The cost of the supervision option includes some of the same costs as apply to the comparison groups. Participants are initially detained before release to the program and some abscond and would require re-apprehension. Using the amount of time that AAP participants spent in detention and the proportions who have absconded, we will adopt the same methodologies as outlined above to estimate the costs and any increased compliance that is achieved. We would, however, make some downward adjustment in INS re-apprehension and re-detention costs to account for the superior information that a supervision program would have on the whereabouts of former participants.

The costs specific to supervision include staff, rent/utilities, equipment and other non-personnel costs. Using AAP's current budget and interviews with its line staff, we will estimate the amount of time they spend supervising for the intensive as opposed to the regular program. On that basis we can estimate the number of line staff needed to supervise a given number of participants. Again based on AAP's experience, an estimate can be developed of the number of supervisors and managers that this line staff would need. Similarly, to estimate the costs of facilities, utilities, equipment and other items, we will develop the AAP ratios between them and the number and level of staff. Once the amounts of personnel and other items have been developed, we can use cost of living adjustments published and used by the federal government to estimate the national average costs.

Recommendations

- *The INS – at the Headquarters and Regional levels, in conjunction with the New York District – should formulate effective procedures so that District personnel can re-detain AAP participants who have fallen out of compliance. Clear lines of authority and responsibility need to be established. These procedures adopted should permit swift action when required and should be sufficiently flexible that re-detentions will be able to be accomplished when and where appropriate. Two-way communication between the INS and the AAP on re-detention efforts should be built in so as to increase the likelihood of locating absconders. The need to forthrightly address this problem is compelling. The continuing failure to do so is undermining the effectiveness of the AAP and the ability to determine the usefulness of the community supervision model.*
- *Inform the AAP of which newly-arrived asylum seekers at Wackenhut are being excluded from the INS referrals to the AAP and the basis for such exclusions. Without such information, Vera cannot know how the Wackenhut population eligible for the AAP is defined and how the INS exclusions may skew the results of the demonstration. The AAP also cannot know, and appropriately recommend, how asylum seekers should be selected for a future alternative to detention program without acquiring profiles of those who were excluded from this experiment and the rationales for such exclusions.*
- *Notify the AAP of all work-site enforcement actions that occur within the New York District so that the program may screen potential participants for AAP supervision, and modify*

current procedures to allow screening of individuals whom the INS plans to detain at facilities other than Elizabeth, New Jersey. We also request that the AAP be given notice the day before a work-site action is scheduled to occur so that we can properly deploy our intake staff for the following day.

- *Establish more efficient procedures at Detention and Deportation offices for serving noncitizens who are granted voluntary departure. Although the previously discussed problems encountered by AAP participants (see AAP October 1-December 31, 1998 quarterly report, pages 24-25) have been ameliorated by the intervention of the COTR, that improved service benefits only AAP participants. These delays generally deter aliens from complying with voluntary departure procedures. If noncitizens ordered to depart are unable to obtain the proper verification paperwork, they are less likely to comply with the voluntary departure order.*
- *Establish procedures for officially recognizing the validity of confirmations by AAP staff of departures from the United States of AAP participants.*
- *Establish procedures for resolving the cases of participants who self-deport from the United States and for whom the AAP has confirmed their departure. In general, the AAP recommends that the INS develop and implement Service-wide procedures for documenting the identities of aliens who depart the United States during the course of their removal proceedings, but who fail to resolve those proceedings in immigration court prior to their departure.*
- *Create channels through which interested parties can access information about the Appearance Assistance Program and its preliminary findings. In March, a representative of the Women's Commission on Refugee Women and Children contacted the AAP and requested information about court appearance rates of asylum seekers supervised by the program. The Commission had a favorable impression of the AAP and had been citing it as an effective alternative to detention for asylum seekers. In accordance with the procedures the INS has asked us to follow when we are asked for information by an outside organization, we contacted the public affairs department of the INS, which requested that the AAP not provide this information. We believe that it is in the interest of the INS to allow the AAP to provide interested parties with information about the program's results – particularly when they demonstrate the ability to achieve voluntary compliance through community supervision of noncitizens in removal proceedings.*
- *To ensure that Vera's cost effectiveness analysis of intensive supervision in the final report is as useful as possible to the INS, promptly communicate to the Research Department any suggestions or concerns about, or any disagreements with, the plan for conducting the analysis (see pages 28-32). Also, provide to the Research Department the budgetary and operational information required to make the cost estimates as comprehensive as possible, for example the data on the costs of locating and re-apprehending absconders outlined in the plan.*

- *To ensure that Vera's analysis of compliance with final orders to leave the United States is as useful as possible to the INS, promptly communicate to the Research Department any suggestions or concerns about, or disagreements with, the plan for measuring compliance (see AAP July 1-September 30, 1998 quarterly report, pages 22-26). Also, promptly communicate to the Research Department any suggestions or concerns about the analysis of compliance included in the last quarterly report and in this annual report.*

Appearance Assistance Program

**Report to the
Immigration and Naturalization Service
On the Second Operational Year**

April 1, 1998 – March 31, 1999

APPENDIX A

Research Methodology

Rejected” sub-group is small and a better comparison group, since it consists of persons screened, deemed eligible, and recommended for the AAP. The eligibility status of the “Not Screened Possibly Eligible, Later Released” sub-group, on the other hand, is unknown.

To achieve the desired number of 16 from the “Not Screened Possibly Eligible, Later Released” sub-group, we drew a stratified random sample based on the proportion of Appeared/Failed to Appear in the full sub-group of 89 individuals.

<u>Original sub-group:</u>	<u>Desired number:</u>
Failed to Appear=17	3
TOTAL=89	16

The Elizabeth comparison group which originally contained 206 people meeting the criteria for analysis, was reduced to reflect the same proportion between Airport and Federal Plaza in the comparison groups as in the AAP. The total number of the AAP participants in intensive supervision at the airports and at 26 Federal Plaza who met the criteria was 81. The ratio of the airport AAP participants to the total is 29:81 or about 36 percent. The comparison group from Federal Plaza had 95 individuals. To keep the same approximate ratio, the Elizabeth group was reduced to 53. We drew a stratified random sample based on the proportion of Appeared/Failed to Appear in the full sub-group of 206 individuals.

<u>Original sub-group:</u>	<u>Desired number:</u>
Failed to Appear= 39	10
TOTAL=206	53

Regular Supervision

AAP Participants

Of the 353 AAP participants, 321 were included in the analysis. The 32 participants excluded:

- (a) did not have records in EOIR/ANSIR (11),
- (b) did not yet have a first hearing (6), and
- (c) did not have verifiable attendance in EOIR/ANSIR (15).

Comparison Groups

Of the 660 individuals from the comparison groups, 602 were included in the analysis and 58 were excluded. They:

- (a) did not yet have a first hearing (22), and
- (b) did not have verifiable attendance in EOIR/ANSIR (36).

Analysis of Immigration Court Completions

Intensive Supervision

AAP Participants

For the intensive AAP participants, 59 have records of completion in EOIR. One AAP participant, who was excluded from the analysis of continuous compliance for non-verifiable attendance at court hearings, was included here because the case was completed in court.

Comparison Groups

For the comparison groups, 141 individuals have completed cases recorded in EOIR. One individual, excluded from the analysis of continuous compliance for non-verifiable attendance at court hearings, was included here as a completed case.

Regular Supervision

AAP Participants

For the intensive AAP participants, 214 have records of completion in EOIR. Fifteen AAP participants, who were excluded from the continuous compliance analysis because we could not verify their attendance at court hearings, were included here as completed cases.

Regular Comparison Groups

For the comparison groups, 414 individuals have completed cases recorded in EOIR. Thirty-six individuals who were excluded from the continuous compliance analysis for non-verifiable attendance were included here as completed cases.

26 Federal Plaza Intensive Control and Comparison Groups

In virtually all sites at both levels of supervision, there is more than one control or comparison group. (See previous annual report for a full description.) Here we refer specifically to the three different groups used for comparison purposes at the 26 Federal Plaza site for AAP intensive participants. For the “control” group, eligible individuals who have agreed to participate are randomly assigned to the program and control group. In addition, alternatives – called comparison groups were formed in response to the small numbers involved and the possibility that some of the information and services that form the AAP “treatment” could be shared between participants and their friends assigned to be controls. Undocumented workers are apprehended in “clusters” all at one time from a particular workplace and are assigned to the experimental or control groups. They are likely to have some group identity and communication networks extending beyond the workplace. To measure, and hence allow for, this unwanted influence, we formed an “unscreened” comparison group consisting of all persons apprehended

from selected enforcement actions that were not screened by the AAP. This group, which has had no contact with the program, is expected to be free of "second-hand" influence of the AAP's treatment. The second comparison group is a population of people whose recommendations for release to the AAP were rejected by the INS.

Airport Intensive Comparison Group

Prior to this report, there was no comparison group available for AAP intensive participants from the airport. Recently, the INS provided us with data on newly-arrived asylum seekers detained after the commencement of expedited removal on April 1, 1999 and released on parole from the detention facility in Elizabeth, New Jersey for use as a comparison group.

Analysis of Compliance with Final Court Orders

In evaluating the compliance of AAP participants and comparison groups with final court orders, we considered individuals to be in compliance if they were allowed to stay in the U.S. or actually departed when required to do so. The evidence that they were allowed to stay in the U.S. was the record of their final court order in the EOIR database. The evidence of departure consisted of an INS record of departure either in its databases or in the individual's A-file. In our original plan for measuring compliance, included in the AAP July 1 - September 30 quarterly report to the INS, we outlined sources of departure verification in addition to those available from the INS; we included, for example, letters from airlines confirming that the alien was on any of the specified flights on the specified dates. However, the INS has said that it does not accept airline letters as adequate verification. To increase the usefulness of our analysis to the agency, we are now using only INS data to verify the departure or failure to depart of those granted voluntary departure and ordered removed.

We considered individuals to be absconders if they were ordered removed in absentia or failed to comply with orders of voluntary departure or removal. The evidence that individuals were ordered removed in absentia was the EOIR database; the evidence of failure to depart consisted of notices of failure to surrender or breached bond or conversion of a voluntary departure order to an order of removal in the INS A-files.

Finally, we considered compliance as unknown if we did not have evidence from INS databases or files that individuals required to depart the country had actually departed or failed to do so.

We are no longer relying on airline confirmations of departure, as originally stated in our plan as well as on all the other confirmations outside INS and EOIR data. We received feedback from the INS that it did not consider such confirmations valid. The change would classify many who have left the country as absconders; nevertheless we have modified our methodology to eliminate doubts by the INS as to the validity of the results.

Derivation of Numbers for the Analysis

AAP participants and comparison group members met the criteria for analysis if their cases had been completed at the immigration court or appellate levels by December 31, 1998, or by November 30, 1998 for voluntary departure cases, and they were:

permitted to stay in the U.S.,
ordered removed in absentia, or
required to leave the U.S. by orders of voluntary departure or removal for those
present in court.

Twenty-seven AAP participants and 217 individuals in the comparison groups met these criteria. The AAP participants come from three sites: three asylum seekers from JFK and Newark airports (11% of the total), four criminal aliens from the Varick Street SPC (15%), and 20 individuals apprehended during work-site enforcement actions from 26 Federal Plaza (74%). The population eligible for the analysis in the comparison groups consists of 11 individuals from Varick Street, 125 people released on parole from the Elizabeth detention center, and 81 individuals from 26 Federal Plaza. The Elizabeth detention center holds asylum seekers from JFK and Newark airports who are comparable to the AAP airport group. To ensure that the proportions from each site were the same in the participant and comparison groups, we had to reduce the number of individuals released from the Elizabeth detention center to 11 percent of the total population or 12 people. To obtain that number, we stratified the sample based on the proportion of three outcomes: allowed to stay in the U.S., ordered removed, and ordered removed in absentia.

	Original Population	Sample
Total	125	12
Allowed to stay in the U.S.	70	7
Ordered removed	22	2
Ordered removed in absentia	33	3

Since the proportions of the comparison groups from Varick Street and 26 Federal Plaza were similar to the proportions of AAP participants in the analysis, all of those eligible from those two sites were included in the analysis.

**Status of INS Contract with the Vera Institute
for an Appearance Assistance Program
April 21, 1997**

Summary

The INS needs a capacity to supervise aliens in removal proceedings who are not detained so that detention beds can be used more efficiently and effectively and so that the removal process gains integrity. In September 1996, the INS contracted with Vera to design and implement a pilot supervision program in the New York and Newark districts and to assess its value to the Service as a national model. Persons subject to Vera supervision should appear for hearings more often than those released without supervision, more Vera supervisees ordered removed should actually be removed, more of those entitled to relief from removal should win that relief, and the number ordered removed who remain in the U.S. illegally should be reduced. Most important, the INS will be able to demonstrate that it can operate a removal system with integrity without having to build a detention space for every person in removal proceedings.

The INS contracted with Vera in part because of Vera's expertise in the implementation of innovative programs in law enforcement agencies, but this kind of innovation requires management by both Vera and the INS. Since January, the INS has allowed management of this innovation within its own operations to slip. Although the Commissioner told Vera in January that the role played by the Executive Associate Commissioner for Programs would be continued by another senior official after the departure of Mr. Aleinikoff, senior management of the innovation on the INS side has not continued outside of the contracts office. The result is that the logistical and procedural adjustments necessary in any innovation have lost their priority, and the reluctance of busy staff to adopt new procedures has been allowed to stop progress on some parts of the project.

Despite the lapse in national management, program implementation has moved forward at a slow but steady pace, and the program is already yielding benefits. With the good will and hard work of front line INS staff, the INS contracting officer, and the COTR, the INS now has a community supervision capacity that it has lacked for decades. The logistical obstacles to the intake operation at Varick Street SPC have been resolved. The innovation has also won the support of, and continues to interest, several partners of the INS, including the EOIR, the National Institute of Justice, and the Commission on Immigration Reform.

The INS can realize the full benefit of this innovation if it now resolves the logistical difficulties preventing Vera from providing supervision to the most promising group covered by the project--aliens in removal proceedings who have been found by an asylum officer to have a credible fear of persecution—as well as to aliens apprehended in work site enforcement actions. Without the Vera project, the INS must either detain these persons throughout their proceedings or release them with little expectation that most will comply with future proceedings and orders.

THE INS NEEDS A SUPERVISION CAPACITY SO IT CAN USE ITS LIMITED DETENTION SPACE EFFICIENTLY AND ATTAIN COMPLIANCE WITH THE REMOVAL PROCESS

The INS asked the Vera Institute to create a supervision capacity because of a series of problems that persist today:

- **INS front line staff continue to tell us that the people they don't detain do not comply with the legal process.** *"We all know that an Immigration Judge's order of deportation means nothing; nobody who's ordered deported who is not in detention actually leaves the country."* (INS Trial Attorney, March 1997) *"Eighty to 90% of aliens apprehended in work site enforcement actions do not show up to immigration court."* (INS Investigations Agent, April 1997)
- **The vast majority of aliens in proceedings can not be detained and therefore do not comply.** Currently, the INS does not have the capacity to detain approximately 90% of aliens in proceedings. Of 25,036 aliens who completed proceedings on the New York City, Varick SPC, Buffalo, and Newark EOIR dockets in 1996, 21,441 (86%) were never detained; 1,869 (7%) were detained, then released before the completion of their proceedings; 1,726 (7%) were detained throughout their proceedings. Although the number of detention beds is rising, the number of aliens in proceedings is rising faster.
- **Getting compliance by detaining all aliens in proceedings is not a viable option.** Without a supervision option like the one Vera is creating, detention appears to be the only way the INS can attain compliance. Indeed, the new immigration law requires the Attorney General to report to Congress on the number of beds that would be required to detain all aliens in proceedings. This number is likely to be well over 100,000—more than 10 times the size of the current INS detention system and larger than the entire federal prison system.
- **Acquiescence in noncompliance under new laws could impact the federal courts and the Justice Department.** Even for groups that appear to be a low priority today for detention, acquiescence in noncompliance under new immigration laws can create bigger problems later for the Justice Department. New laws make failure to comply with a removal order a federal crime, with penalties of up to 10 years of imprisonment. In 4 New York area districts alone, about 17,500 aliens failed to comply with removal orders in 1996 and therefore would be subject to federal prosecution and imprisonment. The Vera project is designed to increase compliance among this group.

Through its contract with Vera, the INS now has what it has never had before: a community supervision capacity called the Appearance Assistance Program (AAP) that can help the INS address these problems on a national scale. While the project is only in its infancy, and its intake has been slowed by a series of logistical problems (see below), at the most recent meeting of the project's national advisory board, there was consensus that the program fills an important gap in the enforcement of immigration laws, its start-up is in keeping with the implementation of innovations in other branches of the justice system, and it appears to be of value to the INS from a national perspective.¹

- **The AAP helps the INS use limited detention space efficiently and justly.**
Currently, INS detention decisions are based on available bed space. In contrast, the AAP identifies aliens who are good candidates for supervision, allowing the INS to reserve space for more urgent detention needs. To determine which aliens, if released to supervision, are likely to comply with the process, the AAP evaluates community ties (availability of a verifiable address and cooperation of a "guarantor"), eligibility to apply for a legal remedy, history of compliance with the criminal justice system and past supervision terms, and risk to public safety. With this information, the INS can make more informed and consistent decisions about how to use valuable bed space. Further, even when detention space is available, the AAP allows the INS to use that space only when it is necessary to produce compliance by the alien. Before April 1st, officials at Kennedy Airport used the information Vera screeners provided about asylum seekers' verified ties to the New York area and the option of supervision to decide whether specific aliens should be detained.
- **The AAP helps the INS improve the appearance rates of aliens not detained.**
The INS now has its first community-based reporting center at 80 Broad Street in downtown Manhattan. The purpose of this center is to ensure that aliens under supervision comply with INS removal proceedings. AAP supervision staff monitor participants' whereabouts and detect lapses in compliance before it's too late. When participants report to the center, they get access to resources and referrals. Supervision staff also provide information about the importance of compliance and reminders of upcoming court dates.

Even in the first few weeks, there are already indications of the value of a supervision program for those released. One concern has been that aliens released,

¹ Vera forms a national advisory board for each of its demonstration projects. The AAP advisory board consists of: Christopher Nuttall, Director of Research and Statistics, British Home Office; Kathleen Roberts, Director of Professional Services, JAMS/Endispute; John Schoenberger, Chief Pretrial Services Officer, U.S. District Court, SDNY; Paul Shechtman, Stillman & Friedman, P.C.; Peter Schuck, Yale Law School; Daniel J. Freed, Yale Law School; Stephanie Marks, Assadi Rahmanan & Marks; Alan Henry, Director, Pretrial Services Resources Center; Rebecca A. Maynard, University of Pennsylvania; Margaret Taylor, Wake Forest School of Law; Walter Stafford, Robert F. Wagner School of Public Service, New York University; Donald P. Lay, Senior Judge, Eighth Circuit United States Court of Appeals. Other regular attendees include senior officials of the National Institute of Justice, the Executive Office for Immigration Review, the U.S. Commission on Immigration Reform, and the INS.

particularly asylum seekers, would move several times and the INS would lose track of them. It is therefore encouraging that those released to the AAP have maintained contact with their supervision officer, notifying him of several changes of address. Supervision staff have made sure these participants fill out official change of address forms. The AAP has also enlisted immigrant-serving organizations to encourage participants to comply with the INS/EOIR process.

- **The AAP helps the INS plan to use detention space strategically to attain compliance.** Vera has also built a capacity to collect and analyze information about individuals in proceedings from several sources--something else the INS has not had before. Vera has integrated data from the INS's DACS database and EOIR's database, enabling researchers to analyze the characteristics, behavior, and outcomes of proceedings for detained and nondetained aliens. With these data, Vera could help the INS predict detention needs, assess "bag and baggage" operations and improve bond practices.

LAPSE OF MANAGEMENT OF THIS INNOVATION WITHIN THE INS

The INS contracted with Vera in part because of Vera's expertise in the implementation of innovative programs in law enforcement agencies. Management of innovation entails both strong working relationships with local operational staff and leadership by officials responsible for local and national policy. The INS recognized the need for such a management structure throughout the planning phase and during the start-up period of this project, when Vera personnel met regularly with the Executive Associate Commissioner for Programs and other officials at INS Headquarters, as well as with the New York District Director. Though different from the management of a typical INS contract for goods or services, such a management structure is legally permissible and has worked with several other government agencies. Vera would be happy to work with INS contract and legal officials to ensure a workable administration mechanism.

Since January, however, the INS has allowed its policy-level management of this innovation to lapse. All innovations in large organizations meet logistical objections and resistance, but this one has also been slowed by the fact that after Mr. Aleinikoff's departure there is no one now responsible for the system-wide development of a coherent, efficient process for assuring that aliens comply with removal proceedings. Fortunately, the AAP produces other benefits to front line staff. Trial attorneys gain some confidence that when they persuade a judge to order an alien removed, it will actually happen; asylum officers gain some confidence that when they determine an alien has a credible fear of persecution, the asylum seeker can be safely supervised rather than detained throughout their proceedings.

For the local managers of detention facilities, however, the AAP appears beneficial only when detention space is full. They do not see the importance of managing detention space nationally. For example, if they can move detainees quickly to Oakdale, Louisiana from New York before bond is set, those detainees become someone else's

problem. If these detainees then make bond in Oakdale and come back to New York, they will likely fail to attend their hearings and add to the numbers of persons ordered removed who failed to depart. The AAP can solve this problem for the INS, but only with guidance from a national perspective.

DESPITE THE LAPSE IN NATIONAL MANAGEMENT, PROGRAM IMPLEMENTATION HAS MOVED FORWARD AND INS AND VERA STAFF TOGETHER HAVE DEVELOPED PROCEDURES THAT WORK SMOOTHLY AND ARE USEFUL TO INS OFFICIALS

Despite the fact that the INS has not provided access to the full set of information or facilities for screening required by the contract, Vera has tried to put the program into operation and has succeeded in establishing a small caseload. Indeed, the program is already yielding benefits for the INS.

With the good will and hard work of front line INS staff, the INS Contracting Officer, and the COTR, program implementation has moved forward at a slow but steady pace. For example, working with the Contracting Officer and our COTR, we have been able to resolve virtually all of the operational issues at the Varick Street SPC. Although the INS did not provide timely access to files or install the required phone and computer lines during the first two months, we have worked through and around these problems, making 3 recommendations for supervision in the last few weeks, 2 of which were granted.

Although the JFK airport staff initially thought that Vera could not operate there because there was no available space (sometimes there are several INS Inspectors to a desk), Vera and INS staff were able to work out a way for Vera intake screeners to work there with minimal disruption. Vera provided INS Inspectors with information they would not otherwise have had about aliens' verified community ties and gave them an additional option between detention and release: supervision. In its first 10 weeks, Vera recommended 13 aliens—more than one third of those screened—for supervision.

As INS staff got used to having Vera staff at the airports and began to see what assistance they could offer, Immigration officials saw that the Appearance Assistance Program might help them keep track of aliens they release from the airports for humanitarian reasons. They suggested that Vera put these aliens in its notification program. Vera and INS staff developed procedures; after 2 weeks there are 5 notification program participants.

The INS now has a supervision capacity that did not exist only 3 months ago. The innovation has also won the support of, and continues to interest, several partners of the INS, including the EOIR, the National Institute of Justice, and the Commission on Immigration Reform. Vera and INS staff working together developed procedures and overcame logistical obstacles to make the Appearance Assistance Program work at Varick Street and at the airports; they can also make it work in the Wackenhut and CCA facilities and at 26 Federal Plaza.

THE INS CAN REALIZE THE FULL BENEFIT OF THIS INNOVATION IF IT RESOLVES THE LOGISTICAL DIFFICULTIES PREVENTING VERA FROM SUPERVISING POLITICAL ASYLUM APPLICANTS WHO PASS THE CREDIBLE FEAR SCREEN AND ALIENS APPREHENDED IN WORK SITE ENFORCEMENT EFFORTS

The AAP's continued screening of asylum seekers is important and feasible. The INS continues to need a supervision capacity for asylum seekers under the expedited removal procedures implemented April 1st. By releasing to supervision aliens who have passed a credible fear screening and who thus have a good chance of winning their cases, the INS will be able to use those beds for aliens in expedited removal with no claim to relief. At the same time, it will be able to track those released and increase the likelihood of their compliance with the legal process. Government treatment of asylum seekers is also an area of great national and international scrutiny. Once someone has passed the Credible Fear standard, release to a supervision program that can ensure attendance at hearings is a better option than ongoing detention. Finally, the AAP's community ties investigation can relieve Asylum Officers, whose expertise is in assessing asylum claims, of responsibility for evaluating suitability for release.

Operating the AAP in the Wackenhut and CCA detention facilities will not pose a substantial or unexpected burden on INS facilities or staff, despite the fact that some district staff would prefer to proceed without the AAP. The original contract provided that the AAP would conduct screening of asylum applicants in the Wackenhut and CCA facilities; screening was to take place at JFK and Newark Airports as an interim measure until those detention facilities were operational. Screening aliens either before or after they pass the Credible Fear standard will require minimal AAP presence at the detention facilities. An initial community ties interview will take approximately 15 minutes. In a few morning session per week, we can interview all aliens who have passed the credible fear screen. We will then verify the information and secure the cooperation of a guarantor from our offices and be able to make recommendations within 24 hours of the interview. At the next scheduled session we will come to the facility to do an exit interview, and the person will be released at that time. We will not need any permanent space at the facilities. We will only need storage space and a place to meet with the detainees privately. We have seen at the Elizabeth facility attorney-client meeting rooms which could easily serve as our interview space. We have also seen that there are unoccupied offices near the asylum officers where we could at least make necessary phone calls or wait between interviews. We estimate that our screeners will not be at the facility more than six hours per week. Logistical concerns that have been raised are easily overcome.

Continuing asylum screening after April 1st does not require any change in Vera's contract with the INS. It will only require the following:

--The INS officials responsible for making release decisions in the CCA facility in Elizabeth and in the Wackenhut facility should be identified and communicated to Vera through the COTR. Those officials should be instructed to consider AAP recommendations in his or her release decisions and to approve those recommended for supervised release unless inappropriate for public safety or other reasons.

--Arrangements must be made for AAP screeners to enter the CCA and Wackenhut detention facilities to conduct initial screening interviews and exit interviews for those accepted into the supervision program.

--Contact with the Asylum Division in Washington must be authorized to coordinate the screening process and the recommendation forms.

With the New York Assistant District Director for Investigations, we have developed preliminary procedures for screening aliens apprehended in work site enforcement actions. We are scheduled to observe work site enforcement processing this coming Thursday and to begin screening shortly thereafter. However, screening for this group has been postponed several times before. Identifying those among this group who will comply with the legal process if supervised in their community could have a large benefit for the INS, since their appearance and compliance rates are exceptionally low.

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