

The problems On any given day, more than 100,000 immigrants are in removal proceedings. The Immigration and Naturalization Service detains as many of them as it can, inevitably including many who eventually win the right to remain in the United States. But with fewer than 10,000 detention spaces, the majority are released into the community, where many fail to attend their immigration court hearings or comply with deportation orders. In short, the INS faces two problems: choosing whom to detain in order to use detention justly and efficiently, and enforcing the law among people it releases.

A promising solution Beginning in February 1997, the Vera Institute of Justice and the Immigration and Naturalization Service are testing the merits of community supervision for immigrants in removal proceedings. The Appearance Assistance Program supervises selected individuals in the community while their immigration cases are pending. The program aims to increase compliance with the law among those not detained, while reserving detention beds for people who have been ordered deported or who cannot be supervised.



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Appearance Assistance Program for Immigrants in Removal Proceedings

A project of the Vera Institute of Justice
in partnership with the
Immigration and Naturalization Service

Who's eligible? The program screens immigrants upon their arrival at INS detention facilities in the New York metropolitan area as well as others entering removal proceedings who are not detained. All applicants must be eligible to apply for a legal remedy and pose no apparent threat to public safety. Applicants released from detention must have a verified address and community sponsor, or guarantor, who agrees to maintain regular contact with them and the program. Guarantors can be relatives, friends, employers, or representatives of community-based agencies, but they must be citizens or legal permanent residents of the United States, at least 18 years old, and residents of New York City or the surrounding metropolitan area. Guarantors are not legally or financially responsible to the participant, the program, or the INS.

How does the program operate? At detention centers, intake staff recommend eligible immigrants for release by the INS into program supervision. Participants released from detention are required to check in regularly at the program's Reporting and Assistance Center, where staff remind them about upcoming court dates. Supervision in the community, including random home visits, ensures a quick response to a missed court appearance or an attempt to flee the program or the area. Those who violate the rules of supervision or lose their court case are reported to the INS and may be detained pending deportation. Participants who were never detained receive notification of upcoming court dates and have access to the center's resources, but are not otherwise supervised.

Does the program advocate on behalf of participants? The Appearance Assistance Program does not provide legal assistance or representation, but offers information about organizations that represent the interests of individual immigrants. The program maintains a library of immigration materials and self-help guides produced by nonprofit and government organizations experienced in serving the needs of immigrants and knowledgeable about current U.S. immigration law and policy. Program staff can help participants access these materials and contact professionals who can offer advice and services.

How does the program benefit government? Consistent screening at detention centers enhances the fairness of the entire process. Reserving detention space for immigrants without legal remedies decreases the average length of stay and makes more efficient use of a limited resource. At the same time, effective community supervision increases compliance with the law among immigrants not detained.

How does the program help immigrants? Fewer immigrants entitled to apply for legal remedies suffer the pain of extended stays in detention facilities. More of them may be granted the right to remain in the United States, because it is easier to prepare a strong case while living in the community.

How will the program be evaluated? Vera will operate the Appearance Assistance Program as a demonstration project for up to three years. A team of researchers is evaluating how the program affects INS detention practices and compliance with the law. If the program proves successful, the INS plans to adapt the model to meet the needs of other districts across the country.

Will the research reveal other useful information? A grant from the Ford Foundation supports supplemental research intended to study immigrants and the removal process, and help refine the Appearance Assistance Program. The principal study examines whether having legal representation and involving community-based organizations affects compliance with the law and case outcomes. Vera is also undertaking a small-scale ethnographic study in order to document the firsthand experiences of several program participants. Additional research focuses on the family and employment histories of program participants apprehended during workplace enforcement actions.

What is the Vera Institute of Justice? Vera is a private nonprofit organization dedicated to making government policies and practices more fair, humane, and efficient for all people. Working in collaboration with government and local communities, Vera designs and implements innovative programs that encourage just practices in public services and improve the quality of urban life. For more than 35 years, Vera's pioneering projects and research in criminal justice and social reform have provided practical solutions to urban problems throughout the country and around the world.

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Megan R. Golden

New York City Director

May 12, 1997

Jose,

While we're playing phone tag I thought I'd send you some information about Vera and our project with the INS. (The status report was not widely distributed.) I hope Chris Stone and I can meet you on Thursday.

Megan

The Appearance Assistance Program

**First Quarterly Report to the
Immigration and Naturalization Service
for the First Operational Year**

July 1997

(DRAFT)

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

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Abstract

The Immigration and Naturalization Service (INS) and the Vera Institute of Justice have created a pilot program—the Appearance Assistance Program (AAP)—to supervise individuals in removal proceedings. Over the three-year demonstration period, Vera and the INS aim to develop and validate with formal research a supervision program that will increase appearances at immigration court proceedings and compliance with the legal process among those not detained, while ensuring efficient use of detention space. The last quarterly report described the process of getting the program off the ground. It documented the successful establishment of a screening and supervision mechanism for asylum seekers arriving at New York area airports and progress made toward establishing workable procedures for screening aliens in the Varick Street detention facility.

This quarterly report describes the evolution of the program in the first months of its first operational year, during a particularly turbulent time for the whole immigration system. On April 1, new legal procedures for processing and removal of aliens seeking entry went into effect. INS officials focused on implementing these and other massive changes in the law. Nonetheless, the INS's shortage of detention space and nondetained aliens' failure to comply persisted, and the AAP's effort to address these problems continued. Although consideration of asylum seekers for supervision was halted, screening of aliens apprehended in work-site enforcement actions began. The number of program participants grew to 100. The program continued to develop techniques for effective supervision and to identify ways in which the screening and supervision capacity can be more useful to the INS in its efforts to attain compliance with the immigration laws.

The results of the AAP's effort to improve appearance and compliance rates will not become apparent for several more quarters because of the lag time between the beginning of program supervision and participants' master calendar dates, not to mention the conclusion of their proceedings. However, the basis for success at this stage of the program's development has been established: the number of participants exceeds the contractual targets and compliance with supervision requirements has been excellent.

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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 project—the Appearance Assistance Program—to supervise 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 formal research a supervision program that would increase compliance with the legal process among those not detained, while ensuring efficient use of available detention space.

The program screens individuals upon their arrival at INS facilities in the New York and Newark Districts. The AAP provides two levels of supervision, one for aliens released from detention (the “supervision program”) and a less intensive version for those the INS will not detain (the “notification program”).

AAP staff recommend for release to the supervision program individuals who meet public safety and compliance criteria and have a verified address and a community sponsor, or guarantor, who agrees to maintain regular contact with them and with the program. Once released, participants are required to check in regularly with their supervision team at the program's reporting center. There, staff give participants clear information about the requirements of supervised release and the immigration court process. The program also builds participants' incentives to comply by providing referrals to organizations that can help them prepare their cases. The AAP's field staff make home visits and ensure a quick response to a missed hearing or an attempt to escape deportation. Participants who do not comply with the conditions of supervision and participants who are ordered removed are reported to the INS with a recommendation that they be detained pending hearing or removal.

Participants in the notification program receive information about the immigration court process and the importance of compliance, reminders of upcoming court dates, and referrals from the program's resource center, but are not otherwise supervised. Through analyzing this nondetained group and their responses to supervision, Vera hopes to determine the characteristics of aliens who will appear in court and comply with court orders without detention and to discover what information and incentives are necessary to attain compliance.

Vera staff will analyze lessons learned from the program's implementation and identify ways in which the program might be modified or improved over the course of the demonstration. If the program succeeds, it will make the immigration court process more accessible and increase compliance with the law among non-detained aliens. It will also make more efficient use of detention space by reserving beds for people who pose a danger to the community or who are extremely unlikely to comply, such as those who have already been ordered to leave the country. As the demonstration proceeds, Vera

staff will engage in a dialogue with INS districts across the country to ensure that the innovation developed in New York can be useful elsewhere and to develop a plan for national replication.

A research team will conduct an impact evaluation to assess, in quantitative terms, the net contribution of the AAP model of supervised release to the achievement of program goals and a cost evaluation to investigate the program's cost-effectiveness. Promising research results will support replication in other parts of the country.

Discussion

In the last three and a half months,¹ the INS implemented massive changes in the immigration law. New expedited removal procedures for aliens arriving without proper documents and credible fear screening procedures for asylum seekers took effect. The Service worked to clarify new detention rules, which went into effect last fall. Despite these changes, the problems that led the INS to ask Vera to create a supervision capacity persist. The INS has the capacity to detain only a small percentage of aliens throughout their proceedings. Detaining all aliens in proceedings is neither financially feasible nor practical, especially since the number of aliens in proceedings will continue to grow. Yet aliens who are not detained throughout their proceedings do not comply. The efforts of INS trial attorneys, investigations agents, and other front line staff continue to be frustrated by this lack of compliance.

The Appearance Assistance Program is developing a mechanism to attain compliance with the removal process that does not require detaining aliens throughout their proceedings. Five months after the AAP began operations, the INS has a community supervision capacity for aliens in removal proceedings. The INS now has:

- A reporting center in lower Manhattan where aliens in proceedings check in regularly;
- An effective process for interviewing aliens and verifying their addresses and community ties to see if they are good candidates for supervision and a staff trained to conduct this screening process;
- Staff who meet with participants to emphasize the importance of compliance, monitor participants whereabouts, and enforce conditions of supervision;
- A database that tracks aliens from the time they enter INS custody, through AAP screening and supervision, and through the immigration court process, recording violations and other pertinent events;

¹ The last report contained statistics through March 18, 1997. This report covers March 19 through June 30.

- The capacity to retrieve and organize data from the DACS and EOIR databases to produce analyses of appearance rates and compliance;
- The capacity to analyze the INS's needs and the program's operations and impact to identify ways to make the supervision capacity more effective and useful to the INS.

In addition, the AAP is beginning to assess the practical impact of the changes in the law on detention practices and compliance, the situations and needs of other districts, and the experience of the AAP in New York and New Jersey to determine whether supervision is viable and cost-effective on a national scale, the populations for which it would be most useful, and how it can be more widely implemented in a way that is practical, affordable and effective for the government.

Early indications from the AAP's experience are promising. All seven of the program's current supervision participants are in compliance.² The supervisees report to the AAP reporting center regularly. There, they meet with their supervision officer, who stresses the importance of appearing for court and helps them understand the court process. The AAP has arranged with several immigrant-serving organizations in the New York City area to serve as "guarantors," who take responsibility for maintaining regular contact with participants and for reinforcing their obligations to the court. These organizations often provide services to participants, while at the same time emphasizing the benefits of being out of detention and the importance of compliance.

In March, a young Albanian man arrived at Newark Airport without proper travel documents. He was placed in removal proceedings and released into the AAP supervision program. AAP staff verified that he would reside in the Bronx with his cousins, and he agreed to report to the program regularly. The resource staff referred him to the Albanian American Civic Association in the Bronx, which understands the role of the AAP and the importance of compliance with the legal process. Upon his release from Newark, his court date was not yet fixed. His AAP supervision officer determined his court date, and made sure the participant knew when it was and how to get to the courthouse in Newark. After nearly four months in the Appearance Assistance Program, this young man has appeared in court when required and has secured legal representation. At this point, the participant is complying with his supervision obligations and is actively preparing his case for his individual hearing in late July. The AAP is seeking to make arrangements with the INS and EOIR to have him detained in court at the conclusion of his hearing in the event that his claim for relief is denied.

If he appears and relief is denied, the only detention that would have been required to secure compliance would be after the order of removal—a juncture at

² One former participant, discussed in the last report, changed venue. Her whereabouts are known through counsel, who indicated that she intends to appear for her hearing.

which voluntary compliance becomes quite unlikely. If relief is granted, no scarce detention space would have been unnecessarily used for this alien.

A 24-year-old participant who arrived in the U.S. with an immigrant visa when he was two years old was placed in removal proceedings by the INS after he was convicted of petit larceny. His mother is a U.S. citizen and is serving as his guarantor. Since he was released from the Varick Street SPC to the AAP supervision program, he has reported to his supervision officer regularly. The participant is working part-time while he pursues his GED so he can get a better job. He is constructively using the period of his release to support his planned application for cancellation of removal.

Through its program for aliens in removal proceedings who would not otherwise be detained, the AAP aims to determine the characteristics of aliens who will comply with the legal process without detention and the kinds of information or other incentives that are necessary to produce compliance. This group, principally consisting of aliens apprehended in work-site enforcement actions, is extremely challenging. Failure to appear rates for this group are thought to be about 90% (Vera's research will provide an actual figure). In the initial two months of working with this population, we have observed a great deal of misunderstanding and misinformation about the removal process. It appears that a limited number of aliens, given a greater understanding of the process and of their options, might comply.

An English-speaking friend of a woman in our notification program called to speak to Ron, the AAP's supervision officer. The friend said the participant was concerned about her case and wanted to make sure we had her correct address. The participant had moved out of state and contacted an immigration lawyer whom she felt was not paying enough attention to her case. Ron got the new address and immediately mailed out INS and EOIR change of address forms. He told the friend that the participant must attend her hearing in New York, unless she gets permission from the court to move the case. He suggested the participant consult with her lawyer about this. Ron got the name and number of the caller, who said he would call back if the participant had any questions.

A participant from Colombia was apprehended by the INS at the factory where he was working "off the books." After he attended an orientation at the AAP he indicated that he planned to attend his court hearing but was worried about whether he could get representation. About six weeks later, he called to say that he had been to several lawyers and could not afford any of them. What would happen if he did not find an attorney? AAP supervision staff explained that he should still go to court. There, he will likely be referred to the Immigration Representation Project, which provides free legal services. The participant said he would call again before his court date.

At its April meeting, the AAP's Advisory Board³ concluded that, although the program is still in its infancy and has been slowed by logistical problems and changes in the law, the pace of its start-up is in keeping with the implementation of innovations in other parts of the justice system and it fills an important gap in the enforcement of immigration laws.

Operations: Screening

Varick Street Service Processing Center

At the Varick Street Service Processing Center, AAP intake staff interview new arrivals from local jails and review A-files to identify detainees who are appropriate for supervision. The AAP recommends supervised release for those who appear to be eligible to apply for relief from deportation, have community ties in the New York City area, pass a public safety screen, and have records of sufficient compliance in prior proceedings.

The AAP had originally planned to review the A-files of arriving detainees before interviewing them. Because of the difficulties in arranging for prompt access to the files, (which sometimes were not even present at the SPC), AAP and INS staff modified the procedure. In April, AAP screeners began to interview all arrivals from Riker's Island, New York City's main jail, immediately after they arrive, before their files are available for review. The screeners focused on aliens arriving from Riker's because they generally have been convicted of less serious offenses and thus are more likely to be eligible to apply for a legal remedy. They also generally have not had immigration court proceedings while serving their criminal sentence (through the Institutional Hearing Program), as many aliens arriving from New York State prison have.

In the interview, intake staff learn where the detainee will live if released and verify the address. They also identify U.S. citizen or legal permanent resident family members who would be willing to serve as a guarantor if the alien were placed under supervision. They then prepare a community ties summary, and give a copy to the assigned Deportation Officer and one to the Supervisory Deportation Officer. The community ties summary is submitted to give the Deportation Officer more information to use in the bond determination and to let the Supervisory Deportation Officer, who

³ Vera forms a national advisory board for each of its demonstration projects. The AAP Advisory Board consists of: Daniel J. Freed, Yale Law School; D. Alan Henry, Director, Pretrial Services Resources Center; Donald P. Lay, Senior Judge, United States Court of Appeals for the Eighth Circuit; Stephanie Marks, Assadi, Rahmanan & Marks; Rebecca A. Maynard, University of Pennsylvania; 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; Peter Schuck, Yale Law School; Paul Shechtman, Stillman & Friedman, P.C. (former Commissioner of Criminal Justice Services for the State of New York); Walter Stafford, Robert F. Wagner School of Public Service, New York University; Margaret Taylor, Wake Forest School of Law. 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.

oversees the AAP screening process and approves AAP recommendations, know that the person meets two of the AAP's criteria and is a priority for file review.

For those whose community ties have been verified, the screeners then review the file, if it is available, to determine apparent eligibility to apply for relief, apparent public safety risk, and the alien's record of compliance in prior proceedings. AAP staff recommend for supervised release those aliens who meet the program's criteria. If the recommendation is approved, the alien is released (usually at night), and an AAP staff member accompanies the new participant home and schedules an orientation at the AAP reporting center the next day.

AAP intake staff at Varick Street now have a permanent data hook-up with the AAP office. They perform most interviewing and file reviews while connected to the main AAP computer system, making the information entered immediately available, which allows the intake director to monitor the screening process and supervision staff to have access to relevant information about participants before they arrive for orientation.

DATA: (See Table 1.) Since March 19, intake staff have interviewed and/or reviewed the files of 295 detainees. Twenty-five of those individuals were found to be ineligible for AAP screening after the interview, because they already had final orders of deportation or they were ineligible for release. Seventeen declined to be interviewed or did not want to be considered for the program. Another 22, although interviewed, were transferred from the SPC before the AAP was given the opportunity to review their files. AAP screeners are still waiting for the files of an additional eight who were interviewed upon arrival. Of the remaining 223, nine were recommended for release. The INS approved four and denied five of those recommendations—three were denied because the INS concluded that the aliens were inappropriate for supervision (two of the three had bonds set), and two were not considered because the aliens were scheduled to be transferred to other districts the next day.

The AAP found that 214 of those screened did not meet the program's criteria. Of those, 210 were found not to be entitled to apply for a legal remedy. Two aliens who were eligible to apply for legal remedies failed the AAP's public safety screen and another two failed the compliance risk screen. Of the 210 who were rejected for lack of a remedy, 37 also failed the compliance risk screen.

Table 1: Aliens Screened at Varick Street SPC, March 19 - June 30, 1997

Files Reviewed and/or Interviews:	Not Eligible for Screening	Participant Declined Screening	Screening Incomplete due to Transfer	Screening in Progress	Ineligible for AAP	Recommended for Supervision
295	25	17	22	8	214	9
100%	8.5%	5.5%	7.5%	3%	72.5%	3%

On April 16, the AAP began submitting community ties summaries for aliens whose addresses and guarantors have been verified but whose files have not been reviewed. From April 16 through June 30, AAP screeners submitted 56 community ties summaries to Deportation Officers to consider in setting release conditions.

DISCUSSION: Although AAP staff were able to make nine supervision recommendations after the screening procedures had been changed—after having made none in the prior reporting period—the number of detainees who meet the AAP’s intake criteria is low. As indicated above, this is primarily because few of those screened appear eligible to apply for legal remedies. However, the INS releases on bond many aliens who have no apparent grounds for relief. Some of these aliens have other “equities,” such as U.S. citizen or LPR family members. Accordingly, the AAP has recently proposed accepting detainees who do not appear to be eligible to apply for a legal remedy but who have other indicators of likelihood to appear. (The INS had originally suggested including this group in the program, but Vera wanted to focus first on those eligible to apply for remedies.) If the AAP were successful with this type of supervision, it would allow the INS to save valuable detention space, while increasing compliance with removal orders.

Vera would appreciate suggestions from local INS officials about how the screening process could be improved—including, but not limited to, suggestions of modifications to the supervision program eligibility criteria so as to increase acceptance into the program—and how the AAP’s screening and supervision capacities could be more useful to INS officials.

The physical space and equipment issues at Varick Street have improved significantly since the last report. The greatest need now is for an outlet for the Vera computer line to be placed at the desk in the INS processing area where the screeners sit, so they can conduct screening in this more convenient and comfortable area.

Work-Site Enforcement Operations - 26 Federal Plaza

In May, the AAP began screening aliens apprehended in work-site enforcement operations. Since then, about once a week, intake staff have gone to 26 Federal Plaza—where apprehended groups are brought for processing—to interview and offer participation to a selected number of individuals. Sixty-three of these aliens have been enrolled in the notification program.

The individuals apprehended at work sites are usually brought to 26 Federal Plaza in the late morning or early afternoon. There, INS staff interview each person (to establish deportability and create the A-file), and then issue a Notice to Appear, which specifies the date of the apprehended individual’s court hearings. AAP staff conduct screening interviews while the INS is completing processing paperwork. Aliens who are not going to be detained are considered for the notification program. During the

interview, screeners obtain their addresses and their consent to participate. AAP staff then verify the addresses supplied, clarifying inconsistencies if needed. The released work-site participants are usually brought to the AAP's reporting center the same day for an orientation.

In June, the INS began to detain a significant number of aliens apprehended in work-site actions in the contract facility in Elizabeth, New Jersey. AAP staff has begun to interview those aliens for the supervision program. The COTR has developed a workable process, which we hope will be implemented soon, for the AAP to recommend for supervision appropriate individuals seized in work-site actions.

DATA: Since May 1, the AAP has accepted 63 individuals from work site actions into the notification program, an average of about 8 per week. Thirty-nine (62%) of those participants are female. Seventy-four individuals were assigned to a control group.

DISCUSSION: Aliens seized at work sites now constitute the largest group of AAP participants. Through working with this group, Vera hopes to learn whether there are aliens who will comply with the removal process without the threat of detention, what characteristics these aliens share, and what information or resources are required to attain compliance. Since virtually none of these aliens are eligible to apply for legal remedies, and few are even eligible for voluntary departure, this will be a difficult task. However, if the program shows that it is possible to get an appreciable number of people to appear in court and, if ordered removed, to surrender voluntarily without any detention, the INS will be able to increase its compliance rates significantly.

JFK and Newark Airports

AAP airport screening priorities and procedures have changed significantly since April 1 because of the changes in the law and the suspension of AAP screening of asylum seekers for supervised release. Nonetheless, through the cooperation of INS officials at JFK, we have continued considering for our notification program arriving aliens who are placed in proceedings and released. As mentioned in our last report, we were asked by the Newark District before April 1 to implement our notification program for those released for humanitarian reasons. However, because virtually no aliens are released from Newark Airport, we have implemented procedures and maintained a consistent intake flow only at JFK. Newark has agreed to refer people to us on a case by case basis.⁴

One or two intake screeners are present at JFK from 9:00 a.m. to 5:00 p.m. on Monday, Tuesday, and Thursday, and on Saturday morning. Screeners are stationed at the AAP's main office Wednesday and Friday from 9:00 a.m. to 5:00 p.m. and are on call to go to the airport for screening. During those hours, the INS has agreed to refer anyone who is to be released pending proceedings to the AAP for an interview. A screener reviews the A-file and interviews the person for the program. Although we do not have

⁴ Newark has informed us that only one person (who was not referred for AAP screening) has been released since April 1.

any eligibility criteria for the notification program (anyone who is released is offered the opportunity to participate), we do collect for research and program purposes the same information as is collected for supervision screening, focusing especially on verifiable addresses and other contact information. Once the interview and file review are complete and the person has agreed to participate, the screener schedules an orientation session at the AAP's reporting center.

If a person is released after screening hours, the INS should give the person an introductory AAP notification letter which informs them that they have been referred to us, describes the program, and encourages them to contact us for assistance. At the next possible opportunity, the INS should inform the AAP that the individual was released and make the A-file available for review. From the A-file, screeners gather information regarding the person's immigration status, scheduled court hearing, and community ties. The AAP follows up on all files that are referred to us for review, sending letters and information about the program and attempting to contact the individuals by phone. Once contact is established and the person agrees to participate, the person is scheduled for an orientation and enrolled in the program. We allow a 30-day follow-up period in which we try to establish that contact, during which participation is "pending." If that time expires and no contact has been made, we officially end the intake process.

DATA: (See Table 2.) Since March 19, 138 aliens placed in removal proceedings were released from JFK pending their court dates. We screened, either by interview and file review or by only file review, 79 of those cases. (We did not screen the other 59 because 35 of them came before we started notification intake at JFK on March 31 and 24 arrived before referral procedures were fully developed.) Thirty of those 79 have either responded to our letters and agreed to participate or were accepted into the program at the airport. Another 31 (21 of whom were screened after June 25) were pending on June 30. We were not able to contact 13, while the remaining five were contacted but declined participation.

Table 2: JFK Notification Intake, March 19 - June 30, 1997

Screened for Notification	Declined Participation	Unable to Contact	Pending	Accepted by AAP
79	5	13	31	30
100%	6.5%	16.5%	39%	38%

Of those released, 34 were identified by the INS as potential political asylum applicants (22 of those arrived after April 1). These asylum seekers were released for humanitarian reasons (e.g., pregnant women, women with children, and people who are ill or disabled). The other 104 people released were returning LPRs, the majority with criminal convictions. Since April 1, 118 asylum seekers have been detained at the Wackenhut detention facility for a credible fear interview.

In addition, between March 19 and the time the AAP's screening of detention seekers was fully halted (April 8), the AAP screened nine asylum seekers who were going to be detained at JFK and Newark and recommended four of them for supervision. The two recommendations that occurred before April 1 were denied, and the other two were not considered because no INS official had been designated to consider AAP recommendations for aliens detained at the Wackenhut or CCA facilities.

DISCUSSION: INS personnel have been very cooperative in providing AAP screeners A-files for review, particularly since we met on May 22 to improve procedures. Since then all files have been made available for review. Although the file review procedures are going exceptionally well, we have not always been given the opportunity to interview people who are being processed during the hours when we are available at the airport. It is important for AAP screeners to interview potential participants when possible (rather than initially communicating by letter), because they can communicate the purpose and services of the program more clearly in person. Moreover, an interview eliminates the chance that we will miss a potential participant because of an incorrect address.

With new expedited removal procedures and local contract detention facilities fully operational, we are hopeful that we will again be given access to the pool of political asylum applicants who are placed in removal proceedings after a credible fear screening. Before April 1, the AAP successfully screened this group. This group includes some of the aliens most amenable to effective supervision, and supervising them will allow the INS to preserve detention space for those less likely to comply with their legal obligations. We have proposed procedures for continuing to screen this population in a way that does not interfere with INS operations and that produces useful information for INS officers.

Operations: Supervision

At the close of the quarter, the AAP had 100 participants. Supervision staff have maintained reporting schedules for those released from detention to AAP, kept close watch of court dates and reminded participants of their legal obligations.

DATA:

Number of participating aliens at the close of the quarter:	100
Number of participating aliens removed/deported during reporting period:	0
Number of absconders during reporting period:	0
Number of aliens granted administrative relief:	0
Number of completed cases:	0

The supervision program has seven participants (4 from Varick, 2 from JFK, and 1 from Newark Airport). Six have attorneys, and the other is actively searching. One participant had his master calendar hearing; he appeared and was scheduled for an individual hearing. At the end of the quarter, the AAP had 93 notification participants.

Thirty of them were referred to the AAP from JFK Airport and 63 were enrolled from INS work-site enforcement operations. None has had a court date.

DISCUSSION: The supervision program for aliens released from detention continues to operate smoothly. The participants report in person and by phone to the AAP's reporting center. Field staff make random home visits to verify addresses. Resource center staff help participants obtain legal counsel and address problems that might interfere with their compliance. The "guarantor agencies" continue to work exceedingly well for the few participants assigned to them, maintaining regular contact with the participants and with the program. These organizations are very conscious of the participants' legal obligations and make extra efforts to encourage compliance. Before the AAP's supervision of arriving asylum seekers was halted, the program recruited four additional organizations to serve as guarantors. In total, eight organizations are prepared to serve as guarantors for asylum seekers who have passed the credible fear screening when supervision of this group is resumed.

Detention of participants who are ordered removed at the time of the removal order—when the risk of flight escalates—is key to increasing compliance among aliens under supervision. Indeed, when the mandatory detention of all aliens with final orders of removal required by IIRIRA takes effect, the INS will in all likelihood have to begin detaining aliens ordered removed in the courthouse, since finding and arresting them after they learn they have been ordered removed and they leave the courthouse is not practical. The AAP will provide an opportunity to test procedures for the redetention of those ordered removed on a small scale. The first possible occasion for such detention of an AAP program participant will occur at the end of July. The AAP is working with the COTR to develop procedures that are consistent with the 1996 Memorandum of Understanding between the INS and the EOIR describing conditions under which INS agents may be present in courtrooms and take aliens into custody in courthouses.

The principal challenge for the AAP supervision staff is determining how to increase court appearance rates and compliance among aliens who are never detained. Reminder notice programs found to be effective in criminal justice systems can not be simply adapted to the removal system, since they presume that the person being reminded has a basic understanding of the process and the consequences of noncompliance, or at least has a lawyer who explains the process and counsels compliance. The AAP's first months of experience with aliens apprehended in work-site enforcement actions and aliens released for humanitarian reasons indicate that many aliens placed in proceedings do not understand the process at all and believe their best course is to ignore it. The AAP is able to educate people about the legal requirements and encourage compliance, and, in some cases, refer them to lawyers who fully explain their options. Initial efforts to obtain valid addresses and provide information have been successful: supervision staff have been able to correct the addresses of all notification letters that have been returned, mostly by contacting the participants or their family members by phone.

Yet many of these people have no hope of staying in the U.S. legally. The AAP will seek to identify the characteristics of aliens who, with an understanding of their options and the consequences of noncompliance, will comply and the types and intensity of assistance that are required to attain compliance.

Staffing

Additional supervision and intake staff were slated to be hired when the number of participants grew sufficiently. We plan to hire additional staff in the coming months. However, since one planned intake site is not currently operational, and since the large number of nondetained aliens in the program has changed the nature of the supervision work, the roles of the new staff may be somewhat different from what was initially planned. After determining what staffing is needed, Vera will discuss the plan for new hires with the COTR.

Data Retrieval from the INS and the EIOR

In April, Vera staff met with INS statistician John Bjerke to clarify the meaning of some of the data fields in DACS and to try to determine which fields will allow us to measure relevant factors, such as time in detention and rates of compliance with removal orders. As a result of that meeting, Vera identified additional fields that will be needed to assess program impact, and requested that these additional fields be provided for pending data requests. Vera received these data sets just before this report was issued and is beginning to analyze them. It appears that measuring time in detention for aliens who are in control or comparison groups will be a challenge, since that information is not entered into DACS in that form. Vera appreciates the cooperation of the INS Statistics and Planning staff and hopes to continue to have discussions about possible other sources for detention data, particularly for aliens who transfer from one facility to another.

Vera staff also met in April with EOIR officials Lynn Petersburg and John Rich to discuss questions about EOIR data. They were extremely helpful in assisting our staff to further define terms and processes. As a result, our data request was expanded to include newly identified data. EOIR has been very responsive and provided virtually all requested data; the only information we have yet to obtain is subsequent records of cases that change venue, which are necessary for us to be able to measure results for those aliens.

In general, data sharing is working, but it is not a smooth or timely operation yet. Information processes need to be made more routine and there should be more direct contact between research and statistics staff on both sides. If we continue to improve this exchange of data and knowledge, our ability to map the complete case flow process using INS, EOIR and Vera data should result in information that will be significant and useful for both operational and research purposes.

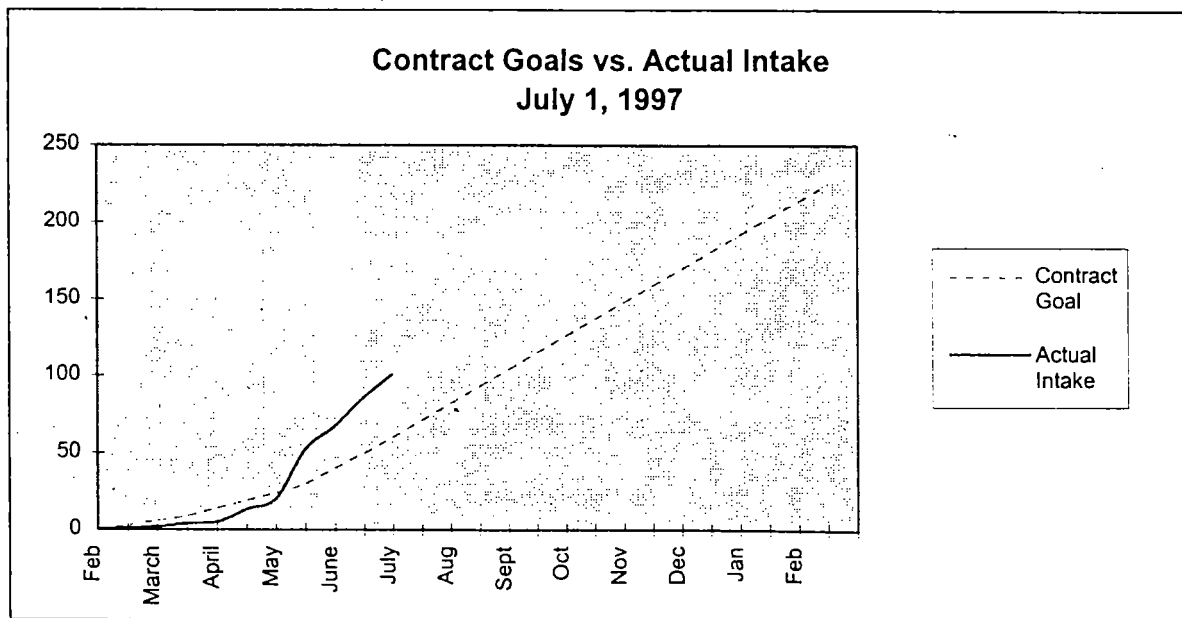
National Planning

In June, Oren Root joined the AAP as its National Director (described in the contract as the program specialist). He joins AAP after five years of directing the Court Employment Project, a former Vera program founded in the 1960's. In his former position, Mr. Root was responsible for managing the Court Employment Project's supervision of 900 indicted felony offenders annually referred by judges in New York City's four largest counties.

Mr. Root will be responsible for gathering detention information and having discussions with District Directors around the nation to determine which elements of the screening and supervision mechanisms developed in New York would be useful and feasible for other districts. Through this work, he will develop the analysis to be included in the final report of how a model appearance assistance program might be applied on a nationwide basis, in a way that will serve the government's cost-effectiveness and other interests.

Status of Accomplishments

As of June 30, only one program participant had had a court appearance. Although that one participant did appear, the sample is too small to draw even preliminary conclusions. Program implementation is proceeding quite well though, especially considering the INS's focus on implementing changes in the immigration law over the last several months. Intake rates are above contractual goals, as demonstrated below.



The proportion of nondetained participants is higher, however, than initially expected. Aliens apprehended at work sites are among the least compliant in the removal system and increasing appearance rates and compliance among this group without detention will be difficult. Nonetheless, the Appearance Assistance Program continues to progress toward its goal of designing and field testing a program that will help the INS increase compliance with the removal process while making efficient use of detention space.

Although it is too early to analyze the program's impact, preliminary descriptions of the groups of aliens the program has encountered can be gleaned from the data. At the end of June, the AAP data base contained 482 records, including three main categories of persons in removal proceedings: criminal aliens screened at the Varick Street SPC; undocumented aliens apprehended at JFK and Newark Airports; and undocumented workers apprehended in work-site enforcement actions. (This number does not include screens conducted at Varick Street prior to April 1 since the connection to the AAP database had not been established there.)

More than half of the records are from persons contacted at the Varick Street SPC. Of those with a recorded nationality, over 40% come from the Dominican Republic or Jamaica. Mexico and Colombia add another 17% toward the total of more than 85% from the Caribbean and Latin America. Nearly 70% of those screened at Varick entered the country legally, with a green card in two cases out of three. Less than 10% are women. The average age is 32, with 25% younger than 23 and 25% over 38. The median level of schooling is 11 years, with about 16% of those with education level recorded⁵ showing more than 12 years of education. Nearly half of those interviewed indicate a spouse or child in this country. Most of the persons asked indicate an intention to get legal counsel, but very few of them say they have funds to pay for such services.

The persons apprehended at the airports are much less concentrated in origin and more diverse in several dimensions. From the information that is available for this group, only 40% are nationals of Latin American and Caribbean countries. Half of the persons screened required an interpreter. The median level of schooling among those interviewed is 12 years, and 35% indicate more than 12 years of education. The median age is 33, and half the group is between 23 and 39 years old. Asylum is the most common remedy being sought in removal proceedings. Forty percent of this group are legal permanent residents, most of whom are placed in proceedings because of prior criminal convictions.

There are some clear differences between those in the work-site group and the other intake groups. Most prominently, 65% are women, compared to 6% of the Varick Street intakes and 40% of the airport intakes. While all are from Latin America or the Caribbean, none is from the Dominican Republic or Jamaica, the most common countries among the Varick Street group, but nearly 90% of them come from Ecuador or Mexico. The worker group is also somewhat younger with a median age of 27 and the middle half

⁵ Education level is asked in the screening interview for research purposes. Accordingly, individuals who are not interviewed or who do not complete the interview process do not have this information recorded.

ranging from 22 to 32 years old. The median schooling is only six years among those asked, but more than one out of eight has more than 12 years of education. The undocumented workers have a median residence in the U.S. of 36 months; only 25% have been here more than five years. This contrasts with the Varick Street group who have a median of more than 10 years. Most of this work-site group cannot communicate in English. It is necessary to bear in mind that undocumented workers who are apprehended by the INS may not be representative of the population of undocumented workers as a whole.

None of these contrasts is particularly surprising, and they are perhaps reassuring for that reason. But it is useful to keep in mind the differences among groups in removal proceedings when designing a supervision program for one of them.

The research staff has completed an evaluation—using a pre/post program experience design—of the AAP's training program for new staff, conducted in January 1997. A researcher obtained feedback during the training period from the trainees, enabling the research staff to suggest improvements which program managers then incorporated for the remainder of the training program. Then, after four months of program implementation, program staff were asked to assess the training they had received in light of their actual program experiences, enabling research staff to determine which parts of the training were most useful to actual job requirements. The responses were overwhelmingly positive, although comments and suggestions emerged that will be useful in designing training for new AAP staff members or, more generally, for a program supervising aliens in removal proceedings. The training evaluation is available for review.

Summary

The INS now has a capacity to screen and supervise aliens in removal proceedings. The AAP's focus now is on ensuring that the program is effective at increasing appearance rates and compliance and on determining how the INS can most effectively use that capacity both locally and nationally to enforce the immigration laws. Vera looks forward to discussing the AAP's findings and detention and compliance issues with INS officials as the demonstration evolves.

Recommendations

The following is a summary of recommended INS actions discussed in earlier sections of this report:

- *Allow aliens who do not appear to be eligible to apply for a legal remedy but who have other equities to be considered for the AAP (page 7). This will require eliminating prima facie eligibility to apply for a legal remedy from the screening criteria listed in the contract.*
- *Reconsider continuing screening and supervision of asylum seekers who pass the credible fear screen (page 10). Authorize discussions with Asylum Office about how screening could be implemented in a way that assists the credible fear screening process and does not interfere with INS operations.*
- *Work with Vera and the EOIR to arrange for redetention of AAP participants ordered removed, including the one participant with an individual calendar hearing July 30 (page 11).*
- *Establish routine procedures for the AAP to receive requested data reports from DACS in a timely manner (page 12).*

The problems On any given day, more than 100,000 immigrants are in removal proceedings. The Immigration and Naturalization Service detains as many of them as it can, inevitably including many who eventually win the right to remain in the United States. But with fewer than 10,000 detention spaces, the majority are released into the community, where many fail to attend their immigration court hearings or comply with deportation orders. In short, the INS faces two problems: choosing whom to detain in order to use detention justly and efficiently, and enforcing the law among people it releases.

A promising solution Beginning in February 1997, the Vera Institute of Justice and the Immigration and Naturalization Service are testing the merits of community supervision for immigrants in removal proceedings. The Appearance Assistance Program supervises selected individuals in the community while their immigration cases are pending. The program aims to increase compliance with the law among those not detained, while reserving detention beds for people who have been ordered deported or who cannot be supervised.



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Appearance Assistance Program for Immigrants in Removal Proceedings

A project of the Vera Institute of Justice
in partnership with the
Immigration and Naturalization Service

Who's eligible? The program screens immigrants upon their arrival at INS detention facilities in the New York metropolitan area as well as others entering removal proceedings who are not detained. All applicants must be eligible to apply for a legal remedy and pose no apparent threat to public safety. Applicants released from detention must have a verified address and community sponsor, or guarantor, who agrees to maintain regular contact with them and the program. Guarantors can be relatives, friends, employers, or representatives of community-based agencies, but they must be citizens or legal permanent residents of the United States, at least 18 years old, and residents of New York City or the surrounding metropolitan area. Guarantors are not legally or financially responsible to the participant, the program, or the INS.

How does the program operate? At detention centers, intake staff recommend eligible immigrants for release by the INS into program supervision. Participants released from detention are required to check in regularly at the program's Reporting and Assistance Center, where staff remind them about upcoming court dates. Supervision in the community, including random home visits, ensures a quick response to a missed court appearance or an attempt to flee the program or the area. Those who violate the rules of supervision or lose their court case are reported to the INS and may be detained pending deportation. Participants who were never detained receive notification of upcoming court dates and have access to the center's resources, but are not otherwise supervised.

Does the program advocate on behalf of participants?

The Appearance Assistance Program does not provide legal assistance or representation, but offers information about organizations that represent the interests of individual immigrants. The program maintains a library of immigration materials and self-help guides produced by nonprofit and government organizations experienced in serving the needs of immigrants and knowledgeable about current U.S. immigration law and policy. Program staff can help participants access these materials and contact professionals who can offer advice and services.

How does the program benefit government? Consistent screening at detention centers enhances the fairness of the entire process. Reserving detention space for immigrants without legal remedies decreases the average length of stay and makes more efficient use of a limited resource. At the same time, effective community supervision increases compliance with the law among immigrants not detained.

How does the program help immigrants? Fewer immigrants entitled to apply for legal remedies suffer the pain of extended stays in detention facilities. More of them may be granted the right to remain in the United States, because it is easier to prepare a strong case while living in the community.

How will the program be evaluated? Vera will operate the Appearance Assistance Program as a demonstration project for up to three years. A team of researchers is evaluating how the program affects INS detention practices and compliance with the law. If the program proves successful, the INS plans to adapt the model to meet the needs of other districts across the country.

Will the research reveal other useful information?

A grant from the Ford Foundation supports supplemental research intended to study immigrants and the removal process, and help refine the Appearance Assistance Program. The principal study examines whether having legal representation and involving community-based organizations affects compliance with the law and case outcomes. Vera is also undertaking a small-scale ethnographic study in order to document the firsthand experiences of several program participants. Additional research focuses on the family and employment histories of program participants apprehended during workplace enforcement actions.

What is the Vera Institute of Justice? Vera is a private nonprofit organization dedicated to making government policies and practices more fair, humane, and efficient for all people. Working in collaboration with government and local communities, Vera designs and implements innovative programs that encourage just practices in public services and improve the quality of urban life. For more than 35 years, Vera's pioneering projects and research in criminal justice and social reform have provided practical solutions to urban problems throughout the country and around the world.

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Megan R. Golden

New York City Director

LeAnn Shimabukuro
Domestic Policy Council
The White House
Washington, DC

June 2, 1997

Dear Ms. Shimabukuro,

To give you some background on the Appearance Assistance Program I have enclosed a brochure and the copy of an April 21st memo sent to the INS outlining the program's status. I hope you find them informative.

I look forward to meeting you on Thursday. If you have any questions please call.

Sincerely,

Megan Golden

**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.

The problems On any given day, more than 100,000 immigrants are in removal proceedings. The Immigration and Naturalization Service detains as many of them as it can, inevitably including many who eventually win the right to remain in the United States. But with fewer than 10,000 detention spaces, the majority are released into the community, where many fail to attend their immigration court hearings or comply with deportation orders. In short, the INS faces two problems: choosing whom to detain in order to use detention justly and efficiently, and enforcing the law among people it releases.

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Appearance Assistance Program for Immigrants in Removal Proceedings

A project of the Vera Institute of Justice
in partnership with the
Immigration and Naturalization Service

Who's eligible? The program screens immigrants upon their arrival at INS detention facilities in the New York metropolitan area as well as others entering removal proceedings who are not detained. All applicants must be eligible to apply for a legal remedy and pose no apparent threat to public safety. Applicants released from detention must have a verified address and community sponsor, or guarantor, who agrees to maintain regular contact with them and the program. Guarantors can be relatives, friends, employers, or representatives of community-based agencies, but they must be citizens or legal permanent residents of the United States, at least 18 years old, and residents of New York City or the surrounding metropolitan area. Guarantors are not legally or financially responsible to the participant, the program, or the INS.

How does the program operate? At detention centers, intake staff recommend eligible immigrants for release by the INS into program supervision. Participants released from detention are required to check in regularly at the program's Reporting and Assistance Center, where staff remind them about upcoming court dates. Supervision in the community, including random home visits, ensures a quick response to a missed court appearance or an attempt to flee the program or the area. Those who violate the rules of supervision or lose their court case are reported to the INS and may be detained pending deportation. Participants who were never detained receive notification of upcoming court dates and have access to the center's resources, but are not otherwise supervised.

Does the program advocate on behalf of participants?

The Appearance Assistance Program does not provide legal assistance or representation, but offers information about organizations that represent the interests of individual immigrants. The program maintains a library of immigration materials and self-help guides produced by nonprofit and government organizations experienced in serving the needs of immigrants and knowledgeable about current U.S. immigration law and policy. Program staff can help participants access these materials and contact professionals who can offer advice and services.

How does the program benefit government? Consistent screening at detention centers enhances the fairness of the entire process. Reserving detention space for immigrants without legal remedies decreases the average length of stay and makes more efficient use of a limited resource. At the same time, effective community supervision increases compliance with the law among immigrants not detained.

How does the program help immigrants? Fewer immigrants entitled to apply for legal remedies suffer the pain of extended stays in detention facilities. More of them may be granted the right to remain in the United States, because it is easier to prepare a strong case while living in the community.

How will the program be evaluated? Vera will operate the Appearance Assistance Program as a demonstration project for up to three years. A team of researchers is evaluating how the program affects INS detention practices and compliance with the law. If the program proves successful, the INS plans to adapt the model to meet the needs of other districts across the country.

Will the research reveal other useful information?

A grant from the Ford Foundation supports supplemental research intended to study immigrants and the removal process, and help refine the Appearance Assistance Program. The principal study examines whether having legal representation and involving community-based organizations affects compliance with the law and case outcomes. Vera is also undertaking a small-scale ethnographic study in order to document the firsthand experiences of several program participants. Additional research focuses on the family and employment histories of program participants apprehended during workplace enforcement actions.

What is the Vera Institute of Justice? Vera is a private nonprofit organization dedicated to making government policies and practices more fair, humane, and efficient for all people. Working in collaboration with government and local communities, Vera designs and implements innovative programs that encourage just practices in public services and improve the quality of urban life. For more than 35 years, Vera's pioneering projects and research in criminal justice and social reform have provided practical solutions to urban problems throughout the country and around the world.

The Appearance Assistance Program

**Second Quarterly Report to the
Immigration and Naturalization Service
for the First Operational Year**

July 1 - September 30, 1997

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

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Abstract

The Immigration and Naturalization Service (INS) and the Vera Institute of Justice have created a pilot program—the Appearance Assistance Program (AAP)—to supervise individuals in removal proceedings. Over the three-year demonstration period, Vera and the INS aim to develop and validate with research a supervision program that will increase appearance at immigration court proceedings and compliance with the legal process among those not detained, while ensuring efficient use of detention space. The last quarterly report described the evolution of the program in the first three months of its first operational year. This quarter included the first court dates for AAP participants and the first opportunity to see results. Appearance rates exceeded expectations. This report details the program’s early successes, lessons learned, and continuing efforts to determine how the INS can most efficiently and effectively get aliens who are not detained to comply with the law.

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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.

In the New York and Newark Districts, Vera is testing different levels of supervision 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 will be modified over the course of the demonstration as AAP staff learn what works; the populations included in the demonstration and the procedures for identifying them will also evolve. As the demonstration proceeds, Vera staff will engage in a dialogue with 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

After the first quarter during which a significant number of initial court appearances by participants were scheduled, it appears that supervision of aliens in removal proceedings can produce reasonably high rates of appearance and compliance. Although the majority of program participants were still awaiting their first court dates at the end of the quarter, and Vera is engaged in obtaining comparative data and in preparing an evaluation of the impact of AAP that will rigorously assess whether the concept works and whether it is cost-effective, the data currently available suggest that a combination of appropriate selection, monitoring, and provision of information and assistance can serve as a cost-effective alternative that will avoid unnecessary use of detention while producing the removals of those whom the law requires removed. After only eight months of operations, it appears that the model the AAP is developing will help the government maintain a credible and fair immigration enforcement program.

Initial appearance rates of AAP participants indicate that the program can get large percentages of nondetained aliens to appear at their court hearings. Overall, program participants—both active participants and those terminated because of violations of program conditions—appeared for 82 percent of scheduled court appearances. Looked at another way

(since some participants had more than one court appearance), 80 percent of all participants appeared for all their court appearances. (Charts on pages 15-17 provide appearance rates, subdivided by intake site, for all AAP participants.) Notably:

- The two intensive supervision participants whose merits hearings occurred during the quarter appeared despite knowing that they would be detained, if they were ordered removed (as they in fact were).
- Six participants who otherwise would have left the country without complying with the appropriate procedures had their court dates accelerated and arranged to leave the country in a fully legal manner.

At the end of the quarter, very few AAP participants had completed their removal proceedings. Out of 192 aliens who had entered the AAP since the program began operations in February, 22 had completed their cases by September 30. Thirteen of those appeared and successfully fulfilled their legal obligations. Three had their cases closed for failure to prosecute despite the alien's failure to appear. Six were ordered removed *in absentia* and had not, to the AAP's knowledge, surrendered for removal by the end of the quarter. This is too small a data sample to draw even preliminary conclusions. However, there are indications from the AAP's early experience that some of those required to leave the country will do so voluntarily, and that the INS can use detention at the moment of a removal order (rather than throughout the proceeding) to get those who will not depart voluntarily to comply.

The AAP has discovered, for example, that a small, but not insignificant, number of nondetained persons in proceedings will decide to leave the United States, but cannot or will not wait until after their scheduled court date to depart. Factors that impel such a decision include pessimism about the chance of ultimately prevailing, a belief that things in the U.S. are not as good as expected, lack of income, and compelling personal business in one's home country. Six participants this quarter decided on their own, and then informed the AAP, that they wished to depart virtually immediately. Because their court dates were months in the future and because there is no accessible procedure for accelerating one's court date, all six—in the absence of the AAP—would simply have departed the country without regard for their legal obligations.

Once informed of the participants' decisions, AAP supervision staff helped arrange for the six cases to be advanced on the court calendar and resolved.¹ Three were allowed to withdraw their applications for admission, one obtained voluntary departure, and two accepted orders of removal. All six departed the country. Without a supervision program, all six would have ended up being ordered removed *in absentia*. The INS, and anyone scrutinizing the agency's performance, would have assumed that all six were absconders who were underground

¹ Advancing and resolving a case proved to be no easy task. Immigration Judges were reluctant to resolve cases immediately without counsel, yet it is difficult to secure counsel simply to help someone leave the country. The AAP is seeking ways to facilitate this process. See recommendation section of this report.

somewhere in the United States. Through the AAP's intervention, what would have been perceived as six failures for INS were turned into six successes for the agency.

Though these participants, and perhaps some others, will willingly leave the country, the AAP program design recognizes that a participant who wants to stay in the U.S. but has lost his effort to avoid removal is unlikely to continue to comply voluntarily. At that point of little or no hope, the AAP model requires detention. Through the successful redetention of the first two intensive supervision participants to be ordered removed, the AAP has started to demonstrate that, contrary to prevailing views, properly supervised aliens will appear even when they know that they face a significant possibility of detention, and that the INS and the EOIR can coordinate return to detention from the courthouse in a way that does not disrupt other court proceedings. By using detention only for the time necessary to effectuate the removal, the INS will be able to realize its goal of removing that alien without having him occupy a detention bed throughout the court proceedings.

The techniques AAP has used that appear to be successful in getting aliens to appear in court 82 percent of the time and to comply with the legal process include:

- Verifying addresses. Before a participant is accepted into the program, the AAP verifies—through telephone calls and/or computerized address directories—that the individual in fact lives or will be living at the stated address. The importance of verification is demonstrated by the significant percentage of aliens apprehended during work-site enforcement actions who, after having the program explained to them and being told that address information will be verified, provide AAP staff with different addresses than they provided an hour earlier to the Investigations agents.² At some point, the INS may find it valuable to adopt or adapt some of the address verification procedures used by the AAP.
- Updating addresses. Maintaining accurate residence and contact information is as important as obtaining good address information initially. Throughout the supervision process, AAP staff consistently inquire about address changes; if participants move (and many do), we remind them to file change of address forms, which the AAP provides, with the INS and the EOIR. Through the supervision process we also learn of other locations at which the participants spend time and of friends and relatives who may be helpful in finding the participant, if that ever becomes necessary.
- Providing information. Immigration court proceedings are mysterious and frightening to most AAP participants. “Street wisdom,” which is often inaccurate, certainly does not foster appearances in court or compliance with removal orders. Thus, much of the AAP's supervision involves providing information about what will

² More accurate disclosure may also be prompted by the greater trust that aliens have in a non-law-enforcement agency.

happen in the legal process and what will happen if a participant does *not* go to court. The AAP constantly reinforces the message that a participant will almost inevitably end up with the poorest result, and may face criminal and civil penalties, if he fails to appear in court. Beyond providing information about the consequences of non-appearance, the AAP arranges information sessions with lawyers—both in Spanish and English (with participants who speak other languages invited to bring their own interpreters)—so that participants will understand what will happen in court. (AAP staff cannot and will not provide legal advice.) The AAP staff also address participants' fears and lack of sophistication about the court process, answering innumerable questions, which often are as much about seeking reassurance as they are about obtaining information. The desire for information among those placed in proceedings is strong: one participant even drove from Rhode Island to New York to attend an orientation session. Providing information strengthens noncitizens' ability to make rational decisions to comply with the law, based upon a clear understanding of the advantages of compliance versus the consequences of noncompliance.

- Providing assistance. In addition to information, the AAP provides assistance in at least three ways. First, it helps participants who want and need such assistance to find low-cost or free lawyers. Because of a variety of barriers, including language and a very limited pool of attorneys, finding an affordable lawyer is a daunting task, particularly for those with little chance of relief. AAP staff provide attorney names and make introductory contacts when needed. The AAP makes these efforts because experience—both inside and outside the AAP—shows that legal representation is positively correlated with appearing for one's proceedings. The second type of assistance the AAP provides is helping participants negotiate the actual court appearance. AAP staff help participants find their names on court calendars (not infrequently, names do not appear), find courtrooms that are spread out on three different floors, and deal with a multitude of circumstances that impede a participant's appearance or the timely resolution of his case. The AAP also helps get court dates advanced if there is a good reason to do so (see pages 2-3). Third, the AAP provides referrals to medical and other services to address obstacles in the participant's life that might tend to decrease the likelihood of appearing when required. A person whose life is in chaos is less likely to fulfill his obligations.
- Monitoring/tracking. Through frequent interaction with a participant, supervision staff is able to learn what factors encourage that participant to comply with his legal obligations and what factors push him not to comply. The supervision officer can then try to reinforce the factors that support compliance and to mitigate the factors that discourage it. For instance, notwithstanding the difficulty (there being no money for airfare) of a 1,300-mile round trip from Detroit for a mother and two children in proceedings, the advice of our supervision staff convinced the family to prevail upon a friend to drive them to New York to avoid their being ordered removed *in absentia*. If it becomes clear that a participant has decided not to comply and that increased supervision will not rectify the problem, the supervision officer is in a position to arrange for detention *before* the participant absconds. In the broader scheme, the

AAP learns what factors indicate likely compliance or noncompliance. The INS can use this information to develop criteria for release that are correlated to appearance risk and to develop appropriate responses for participants who show indications of likely noncompliance.³

To increase the number and types of aliens on whom these techniques—and the AAP model in general—will be tested, the INS and Vera agreed in September to modify the contractual language concerning eligibility criteria to allow participation by people with equities who satisfy all the other criteria required for admission to the program. The change allowed the AAP to substitute a finding of equities for the prior requirement that the alien be eligible to apply for relief. The modification broadens the intake pool at the Varick Street SPC and among those apprehended in work-site enforcement whom the Service intends to detain. In addition, through the joint efforts of the New York and Newark Districts, facilitated in particular by the New York District Director and the AAP's COTR, arrangements have been made for the AAP to interview and recommend for supervision aliens apprehended in work-site enforcement efforts whom INS has decided to detain.

The AAP's initial data indicate that supervision can help the government salvage currently wasted resources. A recent report from the Department of Justice Inspector General found that only 10 percent of those nondetained aliens who are ordered removed surrender for removal. This means that for the average nondetained case (and nondetained cases comprise the majority of immigration proceedings), 90 percent of the efforts of Investigations staff in putting together a case and apprehending an alien, of the Deportation Officers in managing the docket, of District Counsel staff in litigating the case through the trial (and possibly the appellate) process, of the Immigration Judge and court staff, and of the Board of Immigration Appeals is wasted because no removal results. The AAP's early experience suggests that it will be able to achieve many times the current rate of compliance for nondetained aliens, making the INS's and the immigration court's efforts to enforce the law for those not detained during their proceedings pay off.⁴

The recent changes in the law have made it more crucial that the INS come up with an effective way to get those it does not detain to comply with the law. More than 200,000 aliens are put into proceedings each year, but the INS has only 12,000 beds (to grow to 15,000 by the end of the fiscal year), some significant portion of which are dedicated to the growing number of non-removables (*i.e.*, those with final orders whose native countries will not accept their return).

³ Currently, INS officers charged with making release decisions never find out whether the people they release show up for court. The AAP has started reporting its participants' court appearance information back to the INS officers who initially made the release decisions so their future decisions can be informed by past results.

⁴ AAP can also be employed to supervise special populations or aliens whose particular circumstances make detention undesirable. To take an example from the quarter being reported upon, shortly after the approximately 60 deaf Mexican peddlers were apprehended in July, INS followed up on AAP's expression of willingness to supervise the victimized members of that group. Although, thus far, other arrangements have been made in that highly sensitive matter, the AAP did locate and recommend several possible housing sites for the group.

When the Transition Period Custody Rules elapse, it is safe to assume that the Service will be stretched to the limit detaining the approximately 50 percent of the 200,000 that will be subject to mandatory detention. The other 50 percent will have to be put through proceedings without much of a possibility of being detained during the process. Unless a sizable portion of those aliens is induced to comply with the process, the immigration enforcement system will lack credibility.

Vera has created a viable supervision program for the INS. Although the program is still in its early stages, all indications are that AAP will help the government obtain a consistently high level of appearances in court by the aliens it is supervising. Moreover, it is encouraging those who must leave the country to do so voluntarily, and is developing efficient ways of ensuring compliance with the legal process. By the end of the demonstration, the government will have practical tools with which to enforce the immigration law in a cost-effective⁵ way.

Discussion

Operations: Screening

Work-Site Enforcement Operations - 26 Federal Plaza

Intake screeners continued to screen individuals arrested in work-site enforcement operations, focusing on undocumented workers who were not slated for detention. Screening procedures remain as described in the last quarterly report, and have been working smoothly.

No intake from this group occurred during much of July and August because Investigations staff who normally conduct work-site operations were assigned to work on the case of the deaf Mexican trinket sellers.

DATA:

Table 1: Work-Site Regular Supervision Intake, July 1 - September 30, 1997

Eligible for AAP	Declined participation	Screening not completed	Placed in control group	Accepted by AAP
53	2	2	20	29
100%	3.5%	3.5%	38%	55%

⁵ The federal pretrial services offices, which screen and supervise defendants charged with federal criminal offenses, provide a useful analogy. Excluding the electronic monitoring cases and the contracts for social services that are not likely elements of an immigration proceedings supervision program, the per-supervisee costs incurred by the Pretrial Services Office of the Southern District of New York are \$4.65 per day. Even if this figure ultimately turns out to be somewhat on the low side, it will always be a small fraction of the cost of detention—currently at least \$63 per day.

Of a total of 53 aliens who were eligible for the regular supervision program, 29 became AAP participants. Twenty were placed in the control group. Two declined participation after having the program explained to them and two were only partially screened, due to time constraints, and, therefore, not accepted into the program.

DISCUSSION:

With the ongoing cooperation of the Investigations Branch, screening ran smoothly and efficiently. Over the last quarter, AAP staff worked with the COTR to establish procedures for screening those undocumented workers who are detained. As part of the process, intake staff conducted a number of trial screenings (without making recommendations) of aliens who were to be detained.⁶ In September, the COTR outlined procedures for the screening of this group and the AAP intake staff is preparing to implement the process at the end of October.

The procedures will be very similar to those currently in place for the nondetained group, but will include a more rigorous community ties verification process and the identification of a guarantor. Candidates must demonstrate equities indicating a likelihood to appear, and the few detained workers who are identified as having criminal records in the U.S. must also pass the public safety and compliance screens before being recommended for intensive supervision.

Intake staff will have nine business hours from the end of interview and file review to make recommendations for the release of those who are determined to be appropriate for intensive supervision. The recommendation will be made to the Detention and Deportation Branch of the New York District; if it is approved, the aliens will be released from the Corrections Corporation of America contract detention facility in Elizabeth, New Jersey and placed under AAP supervision. The tight time deadline for making recommendations exists so that aliens released to AAP supervision can have their charging documents filed—and venue established—in the New York District, where the AAP's COTR is located.

JFK Airport

Over the last quarter, intake staff maintained a presence at JFK Airport two to three days a week. Together with their counterparts in INS Inspections, AAP staff were able to establish an efficient system for reviewing the files of all those who are placed in removal proceedings but not detained. For the most part, the procedures outlined in the last quarterly report to identify program participants remain in force.

In addition to initial contact by the AAP, immigration inspectors at the airport have been asked to provide all nondetained cases with the AAP's introductory letter, which describes the program, urges the recipient to appear in court on the date given in the notice to appear, and explains the consequences of not appearing. In addition, the AAP mails a copy of the letter in

⁶ These screenings are not included in the quarterly figures since they were conducted on a trial basis only.

case they do not get it at the airport. Some contact the AAP in response to the letter. For the rest, AAP staff make at least three attempts to contact them to see if they are willing to participate in the program.

DATA:

Table 2: JFK Regular Supervision Intake, July 1 - September 30, 1997

Screened	Declined participation	Unable to contact	Pending	Accepted by AAP*
106	19	24	8	55
100%	18%	22.5%	7.5%	52%

*In addition to these 55 new participants, 11 aliens whose cases were pending at the end of the last quarter became AAP participants, for a total of 66 new participants from JFK.

JFK Inspections placed 337 aliens in proceedings during this period. Of those, 149 were asylum seekers detained for a credible fear interview. One hundred and nineteen people were placed in removal proceedings at JFK but not detained. Eight of the 119 were individuals with asylum claims who were released for humanitarian reasons. Most of the other 111 were LPR's charged with abandoning residency or with having convictions for crimes involving moral turpitude (mostly theft-related offenses). The top three nationalities of those placed in proceedings at JFK but not detained were Dominican, Israeli and Indian.

This quarter, the AAP took in 66 new participants from the JFK nondetained population—55 were aliens who arrived in the country this quarter and 11 arrived last quarter but were only accepted into the program this quarter because of the time lag between their arrival and the completion of the screening process. Of the 106 aliens screened for possible participation this quarter,⁷ eight were pending at the end of the quarter. Nineteen individuals declined participation in the program. Intake screeners were unable to contact 24 individuals whose files they reviewed. In most of these cases, screeners were unable to make contact because of incorrect or incomplete addresses and telephone numbers.

DISCUSSION:

INS Inspections officials continue to support the program's efforts to increase appearance rates and compliance among aliens placed in proceedings at JFK. The AAP was able to screen almost all those who were released from JFK Inspections because when original A-files were unavailable, port copies were made available for review. The number of participants from this site increased as compared to the last quarter and constituted the largest group of new AAP participants during this period.

The AAP remains hopeful that the program will once again be allowed to supervise political asylum applicants who are placed in removal proceedings after credible fear screening

⁷ The number of screens conducted does not match the number of nondetained individuals placed in proceedings for the quarter because of the time lapse between arrival and the commencement of the screening process.

in local detention facilities, and requests meetings with appropriate INS officials to discuss how supervising this group might work and how it could benefit the INS.

Varick Street Service Processing Center

AAP intake staff continue to interview new arrivals from local jails—primarily Rikers Island—and to review A-files of aliens eligible for bond to identify detainees who are appropriate for supervision. Only detainees who have final orders of removal, are subject to mandatory detention, or began their hearings while in the Institutional Hearing Program (IHP) are ineligible for AAP screening.

The AAP recommends supervised release for those who appear to be eligible to apply for relief from deportation, have community ties in the New York City area, pass a public safety screen, and have records of sufficient compliance in prior proceedings. Many of those detained at Varick Street, however, are ineligible for any form of legal relief; yet many have extensive local community ties, including family members who are permanent residents or U.S. citizens. Some have lived in the New York City area for many years and some have long work histories. These aliens are eligible for bond, and the INS often sets low bonds because of their equities.

In September, in response to this problem, the INS and the AAP agreed to revise the eligibility criteria in order to expand the pool of potential participants available for the program. The AAP then began to recommend for supervision those who may not be eligible to apply for relief from deportation, but whose community ties and other equities, both in the U.S. and in their home countries, indicate an incentive to comply with the supervision program and with the immigration process.

Using a new screen and point scale designed specifically for this group, AAP intake staff seek to identify those who are likely to appear in immigration court and likely to comply with an ultimate removal order. The goal is to find the right balance of factors—ties here and in the home country—that would suggest that these people will comply with the process even if they are likely to lose their cases. Accordingly, screeners look for people who have ties to their home country—family with homes, previous employment, an ability to speak the language—and who feel can resettle there without too much difficulty. Of course, these candidates also have to pass the same public safety and compliance screens applied to everyone AAP recommends for release. A copy of the AAP's criteria for this population is available for review and comment.

DATA:

Table 3: Screens Completed at Varick Street SPC, July 1 - September 30, 1997

Total completed screens	Ineligible for AAP	Recommendations for supervision	Recommendations for supervision approved
115	107	8	2
100%	93%	7%	N/A

Table 4: Partial Screens at Varick Street SPC, July 1 - September 30, 1997

Total partial screens	Not eligible for screening	Detainee declined screening	Screening incomplete due to transfer or release	Screening in progress
129	45	13	66	5
100%	35%	10%	51%	4%

This quarter, intake staff reviewed the files of and/or interviewed 244 detainees.⁸ Of those, 45 were determined to be ineligible for screening during the course of the interview.⁹ Of the remaining 199 who were eligible to be screened, 115 screens—*i.e.*, interviews and file reviews—were completed. Of the 115 completed screens, 107 aliens did not meet the program criteria and eight were recommended for release to supervision. One of those recommendations was for the re-release pending appeal of an AAP participant who had been ordered removed and had been re-detained immediately following his individual hearing. The INS approved that recommendation and one of the seven others.

Of the 84 cases in which the participant was eligible for the program but screening was not completed, 13 detainees asked not to be considered by the program after a full or partial interview had been conducted, 66 were transferred to other detention facilities or were released before the completion of the screening process,¹⁰ and five were pending at the end of the quarter. For the AAP participant recommended for re-release pending appeal, the screening process included a review of a copy of the notice of intent to appeal to determine whether the appeal was patently frivolous, as well as a review of the participant's compliance record with the AAP.

DISCUSSION:

After the contract was modified to allow the AAP to consider aliens with equities other than legal relief, the AAP made five new participant recommendations in three weeks, after making only two such recommendations in the preceding two months. However, the small number of supervision recommendations remains of concern to the AAP. Since the number of aliens placed in removal proceedings because of criminal convictions is likely to increase

⁸ An additional 21 detainees declined even to be interviewed and no review of their files was undertaken. These 21 are not included in the screening numbers.

⁹ Monday through Friday, AAP intake screeners review the SPC's daily inventory report, which indicates the stage of proceedings against the alien. If this report indicates that a newly-arrived alien already has a final order of removal or is subject to mandatory detention, intake staff eliminate the person from consideration for the AAP. They then request interviews with the group most likely to be appropriate for supervision: aliens arriving from Rikers Island (New York City's main jail). However, the inventory report is not always up-to-date. In the case of the 45 detainees categorized as ineligible for screening, screeners learned during the interview that they were either subject to mandatory detention or had a final order against them.

¹⁰ The number of incomplete screens can be attributed in part to the difficulties AAP staff encountered in obtaining A-files during July and August, when many SPC staff members were detailed to the motel housing the deaf Mexicans.

substantially as the INS identifies noncitizens who are deportable but who are not currently detected by INS Investigations because they are not incarcerated, it is important to test whether supervision can be used to get this group to comply with the law. Early indications from the AAP pilot are promising. Vera would welcome suggestions from local INS officials about how to improve the AAP screening process at Varick Street, including how screening and supervision capacities could be more useful to INS officials.

One reason the AAP is not as useful to INS staff as it could be is because the information AAP intake screeners gather and verify about an alien's community ties and other equities and the supervision recommendation are considered only *after* the deportation officer has reviewed the file and determined bond, rather than as part of the initial release decision process. This means that an INS officer who has already made an assessment of the appropriate conditions of release must *change his mind* to agree to supervision. Thus far, AAP screening has not been able to be completed earlier in the process because INS officers at the SPC are under such severe time pressure to make bond determinations that detainees' A-files cannot be made available for AAP review until after the bond determination has been made. This logistical problem could be solved, however, by giving AAP access to detainees' computerized rap sheets and to three screens of information from the DACS database. This change in procedure would also minimize the number of screenings that are incomplete because the detainee is transferred or released. Vera has begun working on these issues with the AAP's COTR.

The INS approved two of the AAP's eight supervision recommendations this quarter. It is instructive to look at what has happened to the six cases where AAP recommendations were denied.¹¹ Two have been released. One was first transferred to York County, Pennsylvania, then released on his own recognizance five weeks after the AAP recommended him. The other individual bonded out of Varick on a \$2,000 bond two weeks after the AAP recommendation. Had AAP's recommendations been approved, INS would have saved approximately 50 bed-days, which did not result in removals, and the criminal aliens involved would have been under supervision, which could have increased their likelihood of compliance. Of the other four, one, who was transferred to Oakdale, was removed. Three are still in detention—all for longer than five weeks after the AAP recommendation. Two of them have bonds set at \$5,000 and \$1,500, respectively; the EOIR records do not reflect the third person's bond conditions. If any of these aliens bonds out, the elapsed detention time will not only fail to result in a removal, but also will have deprived the Service of the use of that bed space for aliens whose detention would have resulted in removals.

Newark Airport

The AAP is still prepared to supervise aliens who are placed in proceedings at Newark Airport but are not detained. Although the program has maintained contact with INS Inspections

¹¹ This quarter, 53 detainees were released from Varick under conditions other than release to the AAP: 38 were released on bond; eight were paroled; three were granted relief; three were released on orders of recognizance and one on an order of supervision.

officials there, it is our understanding that no aliens were released from Newark Airport during this quarter. (We were unable to get data on aliens placed in proceedings at Newark Airport.)

Vera and our COTR worked with Newark District officials to arrange for re-detention of the intensive supervision participant who had his merits hearing in Newark this quarter. He was detained in the Elizabeth detention facility, and, after he filed a notice of intent to appeal, the AAP recommended that he be re-released to supervision. The recommendation was approved.

Operations: Supervision

During the past quarter, the AAP supervised 191 people.¹² Although the vast majority of those cases are still pending, the quarterly statistics indicate that a significant number of aliens will voluntarily comply with the legal process if given information and assistance. AAP is beginning to determine what resources are needed to attain compliance and how they can be provided effectively and efficiently. The program's experience is that ongoing monitoring makes it possible to identify those who are likely to abscond so the INS can apprehend them before it is too late. With such an early warning system, supervision can give the government an effective option between detention and unmonitored release. And in the first two cases to reach merits hearings, we have seen that people will show up for court even if they know they may well be detained and that the INS can use detention in the courthouse to attain compliance.

Levels of supervision and parameters of participation

The AAP provides two levels of supervision: regular and intensive. The level of supervision is determined by the priority the INS has placed on detaining the prospective participant: intensive for those detained and regular for those not detained. These levels—and what it means to be a “participant”—are defined below. Since the purpose of the AAP is to determine what type of supervision is necessary to produce appearance and compliance, these definitions may evolve over time.

Intensive Supervision

The AAP screens aliens the INS has decided to detain for intensive supervision. To be recommended for release, they must meet the intake criteria—satisfactory scores on screens relating to public safety and compliance with prior reporting requirements, a verified address and a community sponsor, or guarantor, who agrees to maintain regular contact with the alien and the AAP—and agree to the terms of intensive supervision. Intensive supervision entails regular reporting requirements, random and scheduled home visits, and sanctions for violating the terms of release. Sanctions may include increased monitoring and reporting requirements and, ultimately, recommended return to detention. In addition to the monitoring and sanctions, the AAP obtains compliance by re-detaining the alien at the moment the IJ orders removal, when the

¹² Since it began operations, the AAP has supervised 192 aliens. One alien's participation was terminated during the quarter ending June 30, 1997.

risk of flight greatly increases. Once an alien is re-detained, participation ends, pending possible screening for intensive supervision on appeal.

As long as the alien complies with the conditions of supervision, participation continues. It is terminated when the proceeding is completed and the person is either ordered removed and re-detained or is not ordered removed and has fulfilled all obligations. Participation may also be terminated when the person violates the terms of release and is recommended for re-detention.

End of participation scenarios:

- The removal proceeding is completed and the alien has no further obligations to the INS or the EOIR (and is not required to leave the country). *Examples: (1) The IJ grants relief or closes the case for another reason. (2) The IJ denies an application for relief, the alien appeals and is re-released on appeal, and relief is granted on appeal.*
- The removal proceeding is completed and the alien is required to depart the country, or report for removal, and does. *Examples: (1) The alien is granted voluntary departure and departs. (2) The alien is ordered removed, there is no appeal or the appeal is denied, and the order becomes final. The alien is re-detained at the time of the IJ's or BIA's decision.*
- The alien violates the conditions of the program, demonstrating an increased risk of flight, and cannot be brought back into compliance by supervision efforts. The AAP recommends return to detention and assists the INS in locating the violator.
- The alien fails to appear at a hearing or otherwise fails to comply with the legal process and cannot be brought back into compliance by supervision efforts. The AAP recommends return to detention and assists the INS in locating the absconder.

Regular Supervision

Those aliens the INS does not detain are considered for the regular supervision program. From the interview and review of the A-file, the AAP gathers information about the alien's address, community ties and immigration status. Aliens must provide a verifiable address and agree to abide by the rules of the program, which include: having an orientation session with supervision staff; keeping the AAP informed of a current and verifiable mailing address and telephone number; and appearing in court and complying with the decision of the Immigration Judge.

The AAP monitors these participants throughout the legal process, addresses obstacles to compliance, and provides written and oral reminders of court dates and legal obligations. The program provides information and materials about the court and removal process, referrals to legal and other relevant services, and assistance navigating the court system and complying with

the legal process. Participation continues as long as the obligations are met, until the conclusion of proceedings.

If supervision staff cannot contact a person or detects that a person may not comply with the proceeding or the IJ's order, they attempt—in the field and through available community ties—to locate the person and reinforce the importance of complying and of staying in contact with the AAP. If this increased supervision is effective and the person returns to compliance, participation is continued. If these efforts do not produce results, participation is terminated.

Because the INS has already determined that those participants in this level of supervision are a low detention priority, we cannot respond to violations of supervision as strongly as we do in the intensive supervision program, *i.e.*, by recommending return to detention. Some of those whom we cannot contact or who fail to appear may not be amenable to any supervision or may be responsive only to intensive supervision. Others may appear in court despite their failure to comply with the AAP. By collecting information about the characteristics of this nondetained population and the variations in likelihood to comply, we hope to be able to project what level of supervision (if any) will be effective for different groups of aliens in proceedings.

End of participation scenarios:

- The removal proceeding is completed and the alien has no further obligations to the INS or the EOIR (and is not required to leave the country). *Examples: (1) The IJ grants relief or closes the case for another reason. (2) The IJ denies an application for relief, the alien appeals, and relief is granted on appeal.*
- The removal proceeding is completed and the alien is required to depart the country, or report for removal, and does. *Examples: The alien is granted voluntary departure or ordered removed (there is no appeal or the appeal is denied) and the order becomes final. The alien departs or is removed.*
- The alien violates the conditions of the program by not providing a current and verifiable address and cannot be brought back into compliance by supervision efforts. The AAP terminates participation.
- The alien violates the conditions of the program by not appearing at a court hearing or for departure/removal and cannot be brought back into compliance by supervision efforts. The AAP terminates participation.
- The alien withdraws from participation.

DATA:

The following tables and charts show what happened to each of the AAP's participants from the beginning of the program through September 30, 1997. They include the one court appearance and the one program termination that occurred in the quarter ending June 30, 1997.

**Tables 5-11: Court Appearances, Proceeding Completions,
and Program Status by Intake Site**

Table 5: Appearances Required for All Participants Feb. 3, 1997 - Sept. 30, 1997

INTAKE SITE	Number of Participants	Awaiting First Court Appearance	First Court Appearance Required	Second Court Appearance Required	Total Appearances Required
Varick	5	4	1	1	2
JFK	100	74	26	5	31
26 Federal	86	70	16	0	16
Newark	1	0	1*	1	2
TOTAL	192	148	44	7	51

*Court appearance occurred and reported in quarter ending 6/30/97

Table 6: Overall Appearance Rates Feb. 3, 1997 - Sept. 30, 1997

INTAKE SITE	Appearances Required	Appeared	Failed to Appear	Appearance Rate
Varick	2	2	0	100%
JFK	31	27	4	87%
26 Federal	16	11	5	69%
Newark	2	2	0	100%
TOTAL	51	42	9	82%

Table 7: Appearance Rates for Participants in Compliance Feb. 3, 1997 - Sept. 30, 1997

INTAKE SITE	First Court Appearance	Appeared	Failed to Appear	Appearance Rate at 1st Hearing	Second Court Appearance	Appeared	Failed to Appear	Appearance Rate at 2nd Hearing
Varick	1	1	0	100%	1	1	0	100%
JFK	26	22	4	85%	5	5	0	100%
26 Federal	16	11	5	69%	0	0	0	N/A
Newark	1	1	0	100%	1	1	0	100%
TOTAL	44	35	9	80%	7	7	0	100%

Table 8: Appearance Rates for Participants Terminated from Program Before Hearing due to Program Violations Feb. 3, 1997 - Sept. 30, 1997*

INTAKE SITE	First Court Appearance	Appeared	Failed to Appear	Appearance Rate at 1st Hearing	Second Court Appearance	Appeared	Failed to Appear	Appearance Rate at 2nd Hearing
Varick	0	0	0	N/A	0	0	0	N/A
JFK	0	0	0	N/A	0	0	0	N/A
26 Federal	0	0	0	N/A	0	0	0	N/A
Newark	0	0	0	N/A	0	0	0	N/A
TOTAL	0	0	0	N/A	0	0	0	N/A

* All participants terminated due to program violations are still awaiting their first court appearance.

Table 9: Proceedings Completed at IJ Level for Participants in Compliance Feb. 3, 1997 - Sept. 30, 1997

INTAKE SITE	Number of Proceedings Completed		Application for Relief Denied, Case on Appeal		Order of Removal/ Exclusion		Voluntary Departure		Withdrawal of Application for Admission Granted		Case Closed Due to Failure to Prosecute		Other Completion	
	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA
Varick	1	0	1	0	0	0	0	0	0	0	0	0	0	0
JFK	13	4	0	0	2	2	1	0	3	0	6	2	1	0
26 Federal	0	5	0	0	0	4	0	0	0	0	0	1	0	0
Newark	1	0	1	0	0	0	0	0	0	0	0	0	0	0
TOTAL	15	9	2	0	2	6	1	0	3	0	6	3	1	0

Table 10: Proceedings Completed at IJ level for Participants Terminated from Program Before Hearing due to Program Violations Feb. 3, 1997 - Sept. 30, 1997*

INTAKE SITE	Number of Proceedings Completed		Application for Relief Denied, Case on Appeal		Order of Removal/ Exclusion		Voluntary Departure		Withdrawal of Application for Admission Granted		Case Closed Due to Failure to Prosecute		Other Completion	
	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA	App'd	FTA
Varick	0	0	0	0	0	0	0	0	0	0	0	0	0	0
JFK	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26 Federal	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Newark	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*All participants terminated due to program violations are still awaiting their first court appearance.

Table 11: Program Participation Status by Intake Site Feb. 3, 1997 - Sept. 30, 1997

INTAKE SITE	Total AAP Intakes	Active Participants on 9/30	Program Completions	Successful Completion	FTA Termination	Program Violation Termination
Varick	5	5	0	0	0	0
JFK	100	78	22	13	4	5*
26 Federal	86	78	8	0	5	3
Newark	1	1	0	0	0	0
TOTAL	192	162	30	13	9	8

*This includes one program violation termination which occurred and was reported in the quarter ending 6/30/97.

All of the program violation terminations this quarter were because participants failed to keep the AAP informed of their current addresses.

Table 12: AAP Participant Appearances/Dispositions Through September 30, 1997 - JFK Airport

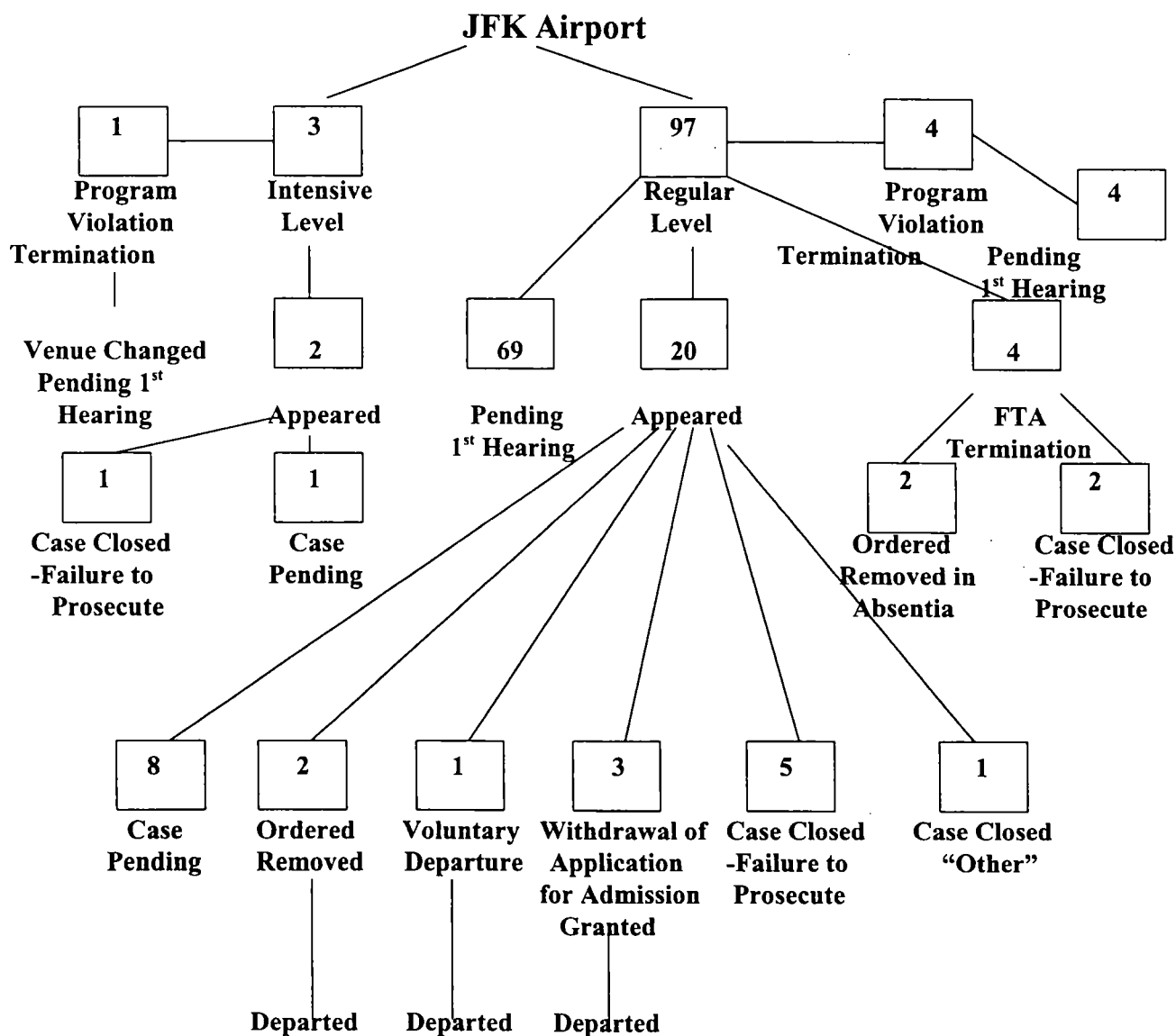


Table 13: AAP Participant Appearances/Dispositions Through September 30, 1997 - 26 Federal Plaza

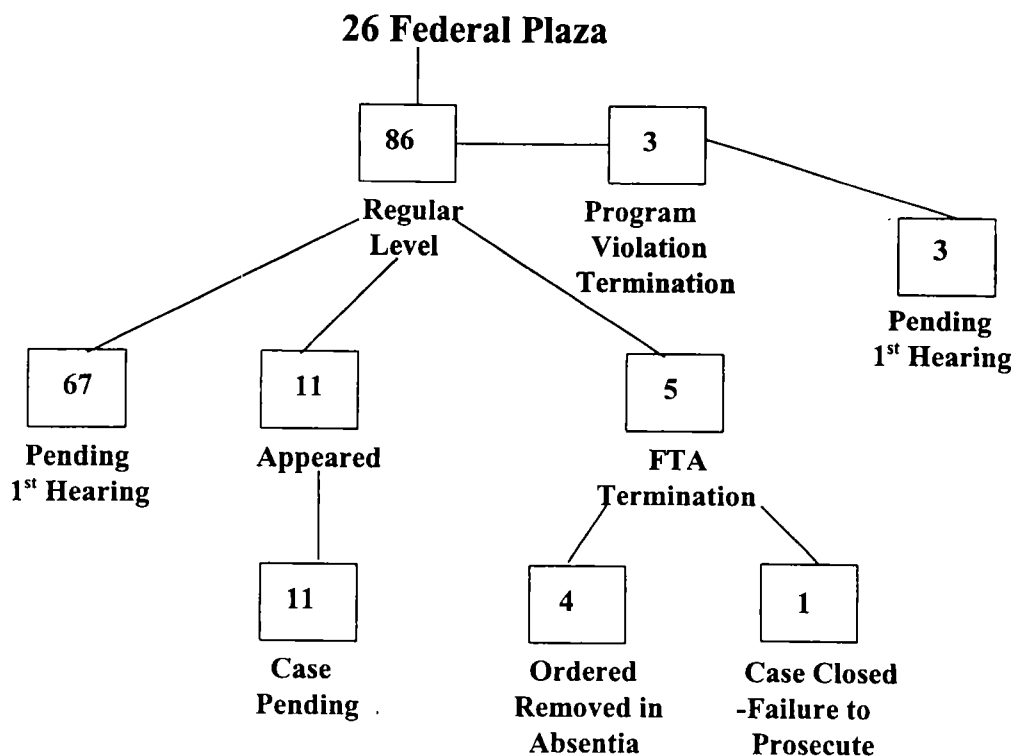
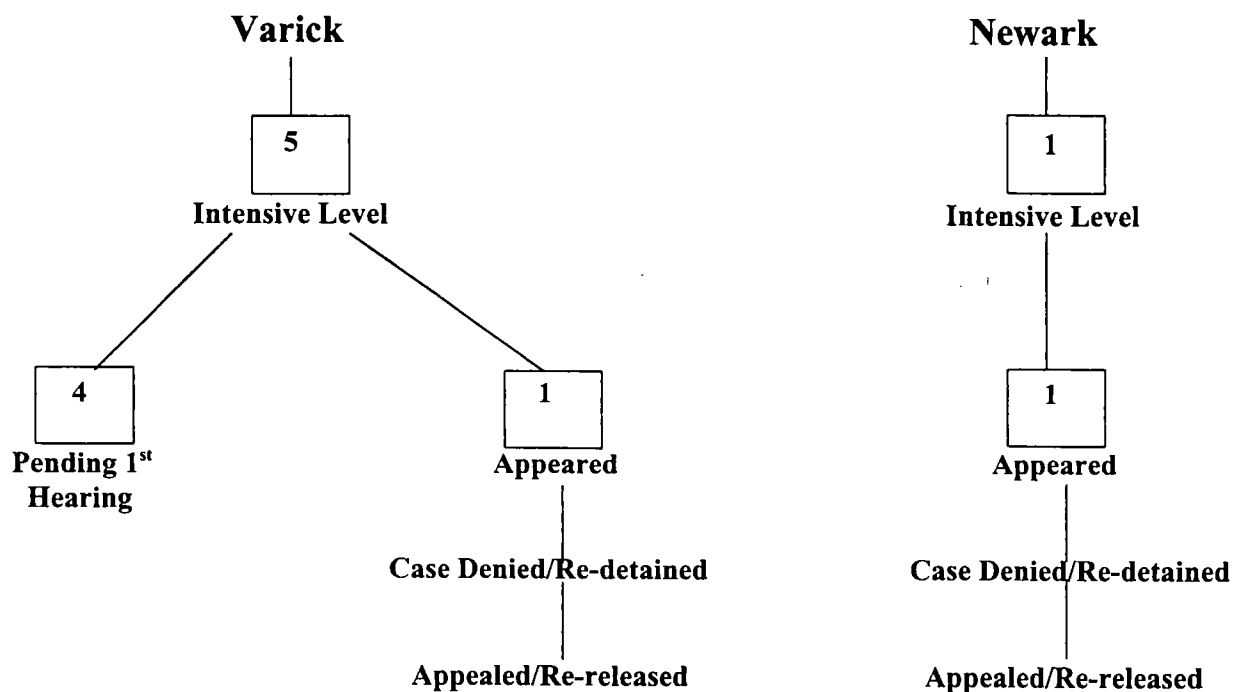


Table 14: AAP Participant Appearances/Dispositions Through September 30, 1997 - Varick Street Service Processing Center and Newark Airport



From February 3 (the beginning of operations) through September 30, 1997, 192 aliens entered AAP supervision. Twenty-four participants' immigration court cases were completed at the IJ level and two of those appealed the decision and were re-released to supervision for a total of 22 completed cases. The remaining 170 cases were pending before the immigration court at the end of the quarter.

At the close of the quarter, 162 participants were active and in compliance with the program. Of the 22 completed immigration court cases, 13 were participants who remained compliant with the program throughout the proceeding and nine were participants who failed to appear and were terminated from the program.¹³ In addition to the 22 who completed the program when their cases were resolved (by either complying fully with the program and the

¹³The cases of three of these nine were closed for failure to prosecute. With respect to the other six who were ordered removed *in absentia*, the AAP is working with the INS to develop a mechanism for getting copies of participants' surrender notices (discussed later in this section). It is conceivable that AAP will be able to locate some of these aliens and encourage them to surrender voluntarily.

immigration court process or by failing to appear), an additional eight participants violated the terms of the program by failing to provide the AAP a current, verifiable address and were terminated from participation. None of these eight had had their court dates by the end of the quarter, so their final dispositions remain to be seen.

AAP participants (including those terminated for failure to comply) appeared at 42 of 51 required court appearances through September 30, for an overall appearance rate of 82 percent. Discounting cases where a participant appeared more than once, 80 percent of AAP participants appeared in court when required.

DISCUSSION:

From the program's early experience, it appears that people without any real chance of staying in the U.S. legally can be effectively supervised. However, their situations—and the level and type of supervision needed to get them to comply with the legal process—are somewhat different from the needs of people seeking relief from removal. For example, several participants, after the AAP explained the legal process, stated that they wanted to return to their home countries as soon as possible. The AAP helped them expedite the process so they appear on INS records as a successful removal rather than an unexecuted *in absentia* removal order.

Other participants needed assistance complying with voluntary departure orders. One participant, after getting the voluntary departure order, planned to leave the country without any further interaction with the INS until the AAP informed her that to document compliance with the order, she had to go to an INS clerk with her travel documents, her ticket, and the judge's order to get a letter to bring to the American consulate in her home country. The AAP helped her complete these steps. If she had not done so, the INS would not have known she left and her voluntary departure order would have turned into a removal order. This would have subjected her to legal penalties and she would have been classified in INS records as an absconder rather than a departed alien.

AAP supervision staff have also observed that aliens who move to other parts of the country—particularly those who move shortly after arrival at the airport—do not appreciate that they are still obliged to appear in court in New York as stated on their NTA unless the court grants them a change of venue. AAP staff have informed them of their obligations, and have provided change of address forms so they can inform the EOIR of their new addresses.

The program's main procedural challenge now is how to ensure compliance at the end of the appeal period, when there is no court appearance scheduled. Although it is always possible for INS agents to send a surrender notice and then "bag and baggage" the person when he fails to surrender, the AAP hopes to find a way of placing the person back in detention that involves detaining the alien when he is in court or at an INS office, rather than expending the resources to locate and arrest him. We are discussing this issue with the EOIR and working with our COTR to identify options for accomplishing this critical task.

In addition, the AAP is working with the COTR on how to encourage participants who fail to appear at their hearings and are ordered removed *in absentia* to comply with the removal order. The AAP has drafted materials explaining that the person has been ordered removed and the consequences of failure to surrender for removal, but needs to develop a mechanism for getting copies of participants' surrender letters, or at least learning of their surrender dates. It is unclear whether any of these individuals will surrender voluntarily, with the AAP's encouragement, but the program will learn whether they will, and may gain other valuable information about what influenced their decisions.

Staffing

One of the purposes of the Appearance Assistance Program is to determine the level and type of staffing that is necessary for a supervision program that increases court appearance rates and compliance with the removal process in a cost-effective way. Six months into the pilot, shortly before additional supervision staff were slated to be hired, Vera reviewed the AAP's organizational structure and staffing needs. It was determined that while the project's overall staffing needs remained constant, the allocation of staff among the program's various functions should be changed slightly. Specifically:

- Now that the AAP computer system has been designed and implemented, there is no longer a need for a high-level technology director. However, there are needs for ongoing software maintenance and improvement that will have to be filled by a new employee or a contractor.
- There is a need for an additional staff member to focus on the program's data retrieval and analysis needs.
- There is a need for a full-time Supervision Director to manage the supervision staff and function.
- Field staff are spending less time responding to violations than expected, but more time verifying addresses and locating participants for whom mail has been returned or whom supervision staff cannot reach. Based upon present needs, one fewer staff member is required. The addition to AAP's caseload of a special population like the deaf Mexicans or a substantial increase in participants under intensive supervision, however, would likely require returning to the original number of field staff.
- Although it was initially thought that AAP staff would do little more than mail letters to participants the INS had decided not to detain, supervision staff are spending more time than originally expected monitoring regular supervision participants, providing information in an understandable way, assisting participants in complying with the legal process, and experimenting with different interventions, such as home visits, informational materials, and group presentations, all to the end of producing

appearance in court and compliance with the law. Accordingly, additional supervision staff will be added, as set forth in the contract, when the supervision caseload exceeds 170 participants. The resources necessary for the supervision function may decrease after the demonstration has been completed and it has been learned what is necessary to cost-effectively produce compliance.

- The number of intake staff required to make screening run smoothly depends on the number of screening sites and the hours of those sites. Early in the program, AAP had to have screeners at JFK and Newark airports seven days a week, more than 12 hours per day. Now, AAP screeners must be available to go to 26 Federal Plaza on short notice for work-site enforcement actions. Nonetheless, we have been able, at least for the moment, to hold off on hiring the two low-level intake assistants anticipated in the contract. Addition of different populations, such as those who have been found to have a credible fear, will require expansion of the intake staff. If the government decides to replicate the AAP supervision model on a longer-term basis, the sources and flow of intake will be more static, and staffing will likely be less, proportionately, than what is required for the pilot.

Vera has discussed and will continue to discuss these staffing developments with our COTR. The staffing needs of this pilot—like the design of the program itself—will continue to evolve as Vera and the INS learn from experience what resources and structures are necessary to increase court appearances and compliance with the law among nondetained aliens.

Technology

The AAP uses technology to maximize the efficiency of operations and to maintain databases that allow thorough assessment of program impact. The AAP's computer system tracks program participants from the time the AAP encounters them, shortly after the INS charges them with an immigration violation, to the time the immigration case is closed. It captures information from interviews with prospective participants and their relatives and records supervision recommendations made. It is able to record all participant contacts with the program, including report-ins, violations, and court appearances. The tracking software is fully operational and is integrated into the program's operations. Sample screens are attached to this report. Some examples of how technology makes operations more effective and efficient are:

- Intake screeners at remote sites use the computer system to guide, and record information from, their interviews of potential participants and their review of INS files. After interviewing a detainee, they can send an e-mail message to field staff at the AAP's office at 80 Broad Street requesting assistance verifying the address. Field staff have immediate access through their computer to all the information the intake screener has gathered and they use that information in the verification process. The Intake Director can monitor the status of all pending intakes from her computer at the AAP's reporting center.

- Supervision staff use the supervision check-in screen to record each time a participant calls or visits. The screen displays key information such as address and court date, and requires the staff member to confirm that information with the participant or change it in the system. The system allows the staff member to e-mail a summary of the contact to other staff members involved in supervision so that staff members are kept abreast of developments with each participant without having to find and review a paper file or have the situation explained by another staff member.
- Supervision staff can post an “alert” in a participant’s computer file if there is something that needs immediate attention. The alert comes up when the participant’s file is accessed; supervision staff can also call up a list of participants with alerts to help manage their work.
- Using information stored in the database, the computer system produces personalized documents, such as letters reminding participants of their court dates.

Summary

The AAP has given the INS the capacity to obtain voluntary compliance from nondetained aliens in removal proceedings. During the last quarter—the first in which any sizable number of AAP participants were required to appear in court—a high percentage did appear, demonstrating the validity of the design and implementation of the AAP’s supervision methods. In addition, the program helped a number of participants leave the country in a documented, legal manner. The AAP demonstrated the effectiveness of re-detaining aliens in the courthouse following the issuance of a removal order. The AAP is working on developing a similarly effective mechanism for re-detaining aliens shortly after the Board of Immigration Appeals dismisses a participant’s appeal. As the thus-far successful demonstration proceeds, Vera looks forward to continuing its dialogue with the INS concerning the way the government can most effectively use its newly-developed capacity.

Recommendations

The following recommendations relate to the Appearance Assistance Program and its relationship to the INS:

- *Authorize the AAP to screen for program participation those aliens held at the contract detention facilities at JFK Airport and Elizabeth who have met the credible fear standard. The U.S. Commission on Immigration Reform also made this recommendation in its final report. The Commission commended the INS for its initiative with the AAP, but strongly recommended that the program be allowed to supervise “credible fear” detainees (CIR final report, pages 131, 139-41; executive summary, page 39).*

- *To expedite the screening process at Varick Street, provide AAP staff with prompt access to computerized rap sheets and three DACS screens for detainees being considered for program participation (in lieu of reviewing the A-files for those detainees) (see page 11).*
- *To increase operational efficiency at Varick Street, approve an extension of AAP's currently-installed telephone data line from the fourth floor interview rooms to the fourth floor administrative offices.*
- *To increase the knowledge gained from supervising nondetained aliens with low-level criminal convictions, provide suggestions about how the screening process at Varick Street can be improved (see pages 10-11).*
- *To ease the transition, appoint a replacement COTR, as far in advance as possible of the retirement of the present COTR in early January.*
- *To ensure that the AAP's work remains relevant and responsive to the INS's needs, establish procedures for (a) responding in writing within a stated period to the program-related recommendations the AAP makes in its quarterly and annual reports and (b) documenting within a stated period any issues or concerns the INS has with the statistical information presented by the AAP in its quarterly and annual reports.*

The following recommendations, which are based upon the knowledge and experience the AAP is gaining from supervising aliens in proceedings, are of general applicability and are presented with the hope that they may be useful to the INS in performing its responsibilities in the nationwide immigration enforcement process:

- *In conjunction with the EOIR, establish procedures for aliens in proceedings to obtain a prompt hearing in immigration court if they wish to depart the U.S. prior to their scheduled court date, and disseminate appropriate notice of such procedures to aliens in proceedings (see pages 2-3).*
- *In conjunction with the EOIR, develop a form, to be filled out by EOIR personnel in the instances when an alien appears in immigration court on a date stated in a notice to appear or a notice of appointment, but the case does not appear on the calendar. In light of the severe consequences for non-appearance on scheduled court dates, an alien should have some avenue of documenting his appearance on a date set forth in an official government form if the case is not to be heard in court on that day.*
- *To help document when an alien has departed and to avoid the waste of resources that could result from trying to apprehend an already-departed alien, develop procedures to record and compile information concerning the identities of aliens who depart the United States while in removal proceedings, but who fail to resolve those proceedings in immigration court prior to their departure (see pages 2-3).*

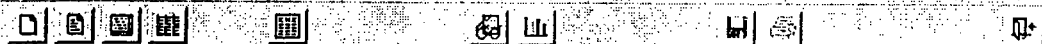
**The Appearance Assistance Program
Second Quarterly Report to the
Immigration and Naturalization Service
for the First Operational Year**

July 1 - September 30, 1997

ATTACHMENT A

Sample Screens from AAP Database Program

Master Intake Screen	1.
Initial Intake Screen	2.
INS Information Screen	3.
Relevant Criminal History Screen	4.
Personal Information Screen	5.
Address Screen	6.
Community Contact Screen	7.
Event List Screen.....	8.
Eligibility Screen.....	9.
Supervision Recommendation Screen	10.
Court Hearing Screen	11.
Supervision Conditions Screen	12.
Supervision Report-In Screen	13.



: Master Intake

Date Range From : 01/01/1990 To : 10/31/1997

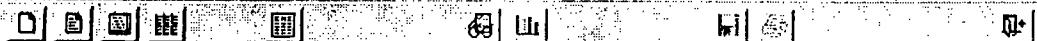


A #	Name	Intake Site	Language Interpreter Y/N	Date	Vera Status	Case Status	Staff
97-674-321	BROSCO, DANIEL	VARICK		05/20/1997	INTAKE SUP	AWAITING FILE	ENGN
				10/31/1997	INTAKE SUP	RECOMMENDED	ALEX
57-823-659	DUDIKOFF, MICHAEL	VARICK	GERMAN	05/12/1997	INTAKE SUP	RECOMMENDED	ALEX
				05/09/1997	INTAKE SUP	AWAITING FILE	ALEX
12-345-678	GIBS, ROBERTO	VARICK	SPANISH	10/31/1997	INTAKE SUP	AWAITING INTER	ALEX
				07/21/1997	INTAKE SUP	AWAITING FILE	GIBSONB
				07/21/1997	INTAKE SUP	AWAITING FILE	GIBSONB
45-667-324	HASSETT, JIM	VARICK	AFRIKAANS	10/31/1997	INTAKE NOT	INTERVIEW	ALEX
				06/11/1997	INTAKE NOT	AWAITING FILE	MARSHA
				05/16/1997	INTAKE NOT	AWAITING FILE	GIBSONB
89-024-573	KROKO, GENA	VARICK	ENGLISH	05/14/1997	INTAKE SUP	VERIFICATION	GIBSONB
				05/09/1997	INTAKE SUP	FILE REVIEW	ALEX
				05/09/1997	INTAKE SUP	AWAITING FILE	ALEX
24-362-577	PAVAROTTY, GREG	VARICK	ITALIAN	05/14/1997	INTAKE SUP	RECOMMENDED	GIBSONB
				05/08/1997	INTAKE SUP	AWAITING FILE	ALEX
76-888-344	CABRAL, ANTONIO	JFK AIRPORT	SPANISH	05/21/1997	INTAKE SUP	RECOMMENDED	FLINTOFC
				05/20/1997	INTAKE SUP	INTERVIEW	FLINTOFC

User Preferences - INTERVIEW: INTAKE #1

:AAP

Folder: Tools Admin Window Help



Folder of: ALEXANDER WEBER A12-331-380 X OTHER/NOT ELIGIBLE FOR SCREEN

Initial Intake | INS | Crim/Comp Screen | Personal | Address | References | Event list | Eligibility | Vera Status | Recommendation | Court Heari

First Name: ALEXANDER Middle:
Surname 1: WEBER Surname 2:
Surname 3: 1 of 1



A#	12-331-380	Main A#	-
Arrived From	ULSTER SP	Intake Site	VARICK
Date Of Birth	00/00/0000	Nationality	DOMINICAN REP
Arrived Date	09/05/1997	Age	
INS Custody Date	09/05/1997	Juvenile	

Total notes: 1 Last changed: 09/26/97 12:31 by User: BERNSTEIN, DANIEL



Ready

Initial Intake INS | Crim/Comp Screen | Personal | Address | References | Event list | Eligibility | Vera Status | Recommendation | Court Hearings

Immigration status: LPR Since Date: 00/00/0000
Charging doc date: 00/00/0000 IHP: ☐
USA entry date: 00/00/0000 Release:
Manner of entry: Bond possible: ☐
Place of entry: Bond amount: 0.00

Charge	Crime Date
0 of 0	

+
-

Total notes: 1 Last changed: 09/26/97 12:31 by User: BERNSTEIN, DANIEL

	Description	Number Of Event(s)	Time Period	Threshold	Result	Last Date
1	PUBLIC SAFETY RISK					00/00/0000
2	MURDER, TORTURE, RAPE OR ATTEMPTS		0	0		00/00/0000
3	FELONY SEX OFFENSE		0	0		00/00/0000
4	ASSAULT1, ROBBERY 1 & 2, ARSON, KIDNAPPING		0	0		00/00/0000
5	SIGNIFICANT HISTORY OF VIOLENT CRIMES		0	0		00/00/0000
6	ORDER OF PROTECTION		0	0		00/00/0000
7	COMPLIANCE RISK					00/00/0000
8	BAIL JUMPING		0	0		00/00/0000
9	TOTAL NUMBER OF BENCH WARRANTS		5			00/00/0000
10	TOTAL NUMBER OF CRIMINAL CASES		5			00/00/0000
11	RATIO OF WARRANTS TO CASES		5	011920929	QUALIFIED	00/00/0000
12	NUMBER OF REVOCATIONS OF PAROLE/PROBATION		5			00/00/0000
13	TOTAL NUMBER OF PAROLE/PROBATION TERMS		5			00/00/0000

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Folder Tools Admin Window Help

Folder of: ALEXANDER WEBER A12-331-380 X OTHER/NOT ELIGIBLE FOR SCREEN

Initial Intake | INS | Crim/Comp Screen | Personal | Address | References | Event list | Eligibility | Vera Status | Recommendation | Court Hearings

Language

Primary

Interpreter

Gender: MALE

Interpreter Needed: ☐

Race:

Country Of Birth: DOMINICAN REPU

Ethnicity:

1st Citizenship:

Years Education:

2nd Citizenship:

Occupation:

Passport#:

Plan To Retain Counsel: ☐ Yes ☐ No ☐ ?

From Country:

Funds Available: ☐ Yes ☐ No ☐ ?

OtherID#:

Other ID Type:

Do you have spouse, parent or child (under 21) who is USC or LPR? ☐ Yes ☐ No

Do you have family in NYC area? ☐ Yes ☐ No

Do you have family elsewhere in the U.S.? ☐ Yes ☐ No

Do you have spouse or child in the U.S.? ☐ Yes ☐ No

Do you have spouse or child outside the U.S.? ☐ Yes ☐ No

Total notes: 1

Last changed: 09/26/97 12:31

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Folder Tools Admin Window Help

Folder of: ALEXANDER WEBER A12-331-380 X OTHER/NOT ELIGIBLE FOR SCREEN

Initial Intake | INS | Crim/Comp Screen | Personal | Address | References | Event list | Eligibility | Vera Status | Recommendation | Court Hearings

Address

Residence ☒ Mailing ☐

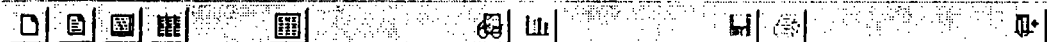
						Resides with							
Street #	:	:	Name:	:	:	Type:	:	:	Type	:	Phone #	:	Ver
Apt.	:	:	City:	:	:	State:	:	:	Zip:	:	:	:	:
Since date:	:	:	:	:	:	:	:	:	Address verified:	:	:	:	:

Total notes: 1

Last changed: 09/26/97 12:31

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Folder of: ALBERTO DINEKA A11-118-536 NOTIFICATION PARTICIPANT/ACTIVE (Main A11-118-536)

Image Address Reference Criminal History Eligibility INS Folder Status Event Conditions Hearing List Recommendations Attorney

Category	Type	Last Name	First Name	Guarantor
AGENCY GUARANTOR		JEFFERSON	MARK	YES
FAMILY & OTHER	PARENT	PARENT	ANTONY	YES
LEGAL REPRESENTATIVE	ATTORNEY	ATT	ATTER	



AAP

File Edit View Admin Window Help

Folder of: JOSE VENTURA A42-268-523 NOTIFICATION PARTICIPANT/ACTIVE

Event List Spvsn Report-In Address References Initial Intake INS Vera Status Violation Conditions Resource

Event Category	Event Stamp	Event Status	Summary Note
COURT HEARING	01/21/98 8:30 AM	SCHEDULED	2ND MASTER/J. DECISION ON MOTION TO TERM
SPVR CONTACTS	11/07/97 5:30 PM	SCHEDULED	SEND LETTER
COURT HEARING	10/28/97 9:00 AM	APP/ADJOURNED	JUDGE ELSTEIN/14TH FLOOR/RM 6
SPVR CONTACTS	10/24/97 9:00 AM	COMPLETED	PHONE CALL BEFORE COURT DATE
SPVR CONTACTS	10/08/97 9:00 AM	COMPLETED	2ND MONTHLY NOTIF LTR
LEGAL COUNSEL CONTAC	10/07/97 10:00 AM	COMPLETED	APPT. AT BROOKLYN LAW SCHOOL
SPVR CONTACTS	10/02/97 10:30 AM	COMPLETED	JOSE LEFT 2 MSGS ON MY VM
SPVR CONTACTS	09/08/97 9:00 AM	COMPLETED	1ST MONTHLY NOTIF LTR
SPVR CONTACTS	09/04/97 11:00 AM	COMPLETED	APPT. AT N. MANHATTAN
SPVR CONTACTS	09/03/97 5:30 PM	COMPLETED	CALL TO REMIND OF 9/4 APPT.
LEGAL COUNSEL CONTAC	08/28/97 5:00 PM	COMPLETED	ATTENDED LEGAL INFO SESSION AT AAP
SPVR CONTACTS	08/19/97 1:00 PM	COMPLETED	GET DISPOSITION IN QUEENS

Ready

Start Inbox Microsoft Exchange AAP RE: TOKENS - Microsoft E... 11:49 AM

Area	Score	Threshold	Result	Status Code
1 REMEDY		0.0		
2 NO PUBLIC SAFETY RISK		0.0		
3 NO COMPLIANCE RISK		0.0		
4 VERIFIED RESIDENCE	0.0	0.0	DISQUALIFI	
5 VERIFIED GUARANTOR	0.0	0.0	DISQUALIFI	
6 FAMILY IN NYC	0.0	0.0		
7 FAMILY ELSEWHERE IN USA BUT NOT IN NYC	0.0	0.0		
Total Scores :		0.0		

Remedy: Eligible:

VERA RECOMMENDATION

Event Stamp: 10/08/1997

MULLEN ANN MARIE

Note summary:

RECOMMENDATION TO INS

RECOMMENDATION SUBMITTED 00/00/0000

INS STAFF

RESPONSE

RESPONSE DATE 00/00/0000

AGREED TO PARTICIPATE ☐

RELEASE DATE 00/00/0000

REASON DENIED

Total notes: 1

Last changed: 09/26/97 12:31

by User: BERNSTEIN, DANIEL



COURT HEARING

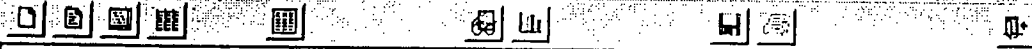
Event Stamp:	10/08/1997	:	MULLEN ANN MARIE
Event Status:			
Note summary:			

DISPOSITION	
HEARING NO.	
KIND OF HEARING	
DISPOSITION DATE	00/00/0000
HEARING LOCATION	
COURT ROOM	
JUDGE/OFFICER	

Total notes:	1	Last changed:	09/26/97 12:31	by User:	BERNSTEIN, DANIEL
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AAP

Folder Tools Admin Window Help



Folder of: ALEXANDER WEBER A12-331-380 X OTHER/NOT ELIGIBLE FOR SCREEN

Crim/Comp Screen Personal Address References Event list Eligibility Vera Status Recommendation Court Hearing Conditions Alt

Document Translator Needed ?

Language :

Team :

Coded Conditions of Supervision

Status

Violated

OBTAIN A PASSPORT

TELEPHONE EACH WEEKDAY

TELEPHONE 4 TIMES EACH WEEK

TELEPHONE 3 TIMES EACH WEEK

Status

Violated

Total notes:

1

Last changed: 09/26/97 12:31

by User:

BERNSTEIN, DANIEL

Ready

Attorney Guarantor List Personal Resource List crim hy 1 CH Detail CHScr Supervision Violation Family&Other



Lives w/ IVANKA FOSTER, SPOUSE
 Address: 123 MAIN ST
 BROOKLYN, NY 11111-2353
 Phone #: []
 Confirm ☐ Change ☐

Guarantor: ORG : IMMIGRANT HELP PROGRAM
 Address: 123 RECTOR ST
 NEW YORK, NY 10124-621
 Phone #: []
 Confirm ☐ Change ☐

Attorney: KAUFFMAN, PETE

Court Date: 07/03/97 09:30 Location: NEW YORK CITY, NE Judge: UNK

Case Status: ACTIVE

Confirm ☐ Change ☐

Team: TEAM #3 Interpreter:

Staff: YEREMIN, A.

Event Stamp: 10/30/1997 09:29

Contact Type:

Contact With:

Event Status:

New Summary:

Coded Conditions of Supervision	Status	Violated
GET A PASSPORT	COMPLETED	☐
REPORT REGULARLY	ON SCHEDULE	☐

Confirm ☐ Change ☐

Total notes: 12 Last changed: 05/28/97 14:18 by User: RAYKHMAN, DAN

