

# Testing Community Supervision for the INS: An Evaluation of the Appearance Assistance Program

## Volume II

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## APPENDIX I: Measuring Appearance and Compliance

This appendix includes explanations of research methods related to measuring appearance and compliance rates for AAP participants as compared to various nonparticipant groups. It includes the following sections:

- A. A statement of the research question.
- B. A description of participant, control, and comparison groups.
- C. Measures used to answer the research question.
- D. Data sources.
- E. A detailed description of processing the data
- F. An explanation of testing for statistical significance.

**A. Leading Research Question for the Impact Analysis:** Was the AAP successful in getting its participants to appear in immigration court and to comply with court decisions?

### **B. Participant, Control and Comparison Groups**

The evaluation of the AAP's impact on the INS removal process requires a baseline of comparison. A technical term for such a standard is a "counterfactual," or what would have happened in the absence of the AAP. For some important groups of participants, the AAP demonstration follows the classical method of assigning randomly chosen individuals to "control" groups whose experiences are measured in parallel with the AAP participants. The control groups, which are subject to all the same institutional and environmental influences as the participant groups *except* for the AAP, form a nearly ideal counterfactual for assessing the AAP's net impact.

For some groups of participants it was not possible to form random controls because the numbers involved were small, or there was a potential for bias in the controls that had been randomly assigned. In these cases, we formed alternatives, either in place of, or in addition to, the control groups. The alternatives are called "comparison" groups, and they were formed in a variety of ways. For example, we found closely related groups that were self-selected (such as those who declined to participate in the AAP), or that were selected by some other rule or authority (such as cases where the INS rejected a recommendation for release to the AAP).

The original sampling plan was set up by intake site:

Varick Street SPC: Participant and comparison criminal alien groups from Varick were high-priority only. Because there were few participants from Varick, randomization was not used at this site. For comparison purposes, two groups were identified. One group consisted of persons detained at Varick, who appeared to be possibly eligible but were not screened by the AAP (generally because of transfers to other facilities), and then were later released. The other group consisted of individuals who were found eligible by the AAP (including agreeing to participate in the program) but were not approved by the INS for release to the AAP. While not randomly chosen, this group had a relatively

strong claim to be considered as similar to the AAP participants. (A third comparison group was included only in the analysis of factors associated with successful completion of persons detained at Varick. Members of this group were screened by the AAP and found ineligible for participation in the program. The INS later released them on bond.)

Airports: High-priority groups include intensive participants from JFK and Newark airports and the Wackenhut detention facility. Because there was no comparison group available for these AAP intensive participants, we used for comparison asylum seekers detained after the commencement of expedited removal on April 1, 1997 and later released on parole from the detention facility in Elizabeth, New Jersey.

We compared AAP regular program participants from JFK—who were both low-priority asylum seekers and low-priority criminal aliens—with three different groups. The first was a randomized control group selected after a review of noncitizens' files indicated eligibility for the program. (The AAP made no attempt to communicate with them; they were not asked whether they would like to participate in the AAP.) A second group was comprised of individuals who, though screened and found to be eligible, declined to participate in the program. The third group was also screened and found to be eligible, but the AAP was unable to contact them regarding participation; letters were sent and telephone calls were placed but neither was answered. This third group, with no direct contact, probably includes some persons who would have participated in the AAP had they been contacted.

Federal Plaza. Undocumented workers were processed at 26 Federal Plaza. At the beginning of the AAP demonstration, undocumented workers were not typically detained, and consequently were screened for participation in AAP regular supervision. After the INS started detaining some undocumented workers, the AAP began (fall 1997) to screen undocumented workers for the intensive program.

There were three different groups used for comparison purposes at the 26 Federal Plaza site for AAP intensive participants. Federal Plaza is the only intensive program intake site where random group selection was possible. Before the random assignment to experimental and control groups, all the individuals were screened and found to be eligible for the program and agreed to participate in it. However, after the random assignment, the INS rejected the admission to the program of some of those recommended for AAP participation and subsequently released them on bond. Therefore, in those analyses that consider the "experimental" group, that group includes both participants and those rejected by the INS and later released.

In addition to the randomly assigned groups, alternatives—called comparison groups—were formed in response to the possibility that some of the information and services that form the AAP "treatment," or effect, could be shared between participants and their friends who had been assigned to be controls. Undocumented workers were apprehended in "clusters" at one time from a particular workplace, and were assigned to either the experimental or the control group. They were likely to have some group identity and communication networks. To measure, and hence allow for, this unwanted

influence, we formed an “unscreened” comparison group consisting of all persons apprehended during selected enforcement actions for which the AAP did no screening at all. This group, which has had no contact with the program, is expected to be free of “second-hand” influence of the AAP’s treatment.

For the regular program, nondetained workers were screened, agreed to participate, and were randomly assigned to the AAP or to the control group. A second comparison group was made up of individuals who, though screened and found to be eligible, declined to be interviewed or to participate in the program. We also formed an “unscreened” comparison group of persons apprehended in clusters in which no one was screened by the AAP, as described above.

### **C. Measures**

In the impact analysis, we compare continuous appearance rates, immigration court outcomes and rates of compliance with final court orders for both participants and comparison groups.

Continuous appearance: To measure compliance with court hearing requirements, we analyzed the percentages of individuals who had, as of March 31, 2000, appeared at *all* their required hearings. The appearance rate is person-based and reflects individuals who are still in proceedings as well as those whose cases have been completed; the pertinent point is that they have met all hearing requirements to date. For this measure, it was expected that rates would fall over time as more opportunities for failure occurred until, finally, all cases had been completed.

Case outcomes: We compared final immigration court outcomes for AAP participants and control and comparison group members and looked for patterns. We grouped case outcomes by those decisions that allow noncitizens to stay in the United States, including: grants of relief, terminations, administrative closures, failure to prosecute decisions, other decisions and other completions; and those decisions that require the noncitizen to leave the United States, including: orders of removal in absentia, orders of removal, and voluntary departure orders.

We then tested the likelihood that AAP participants would receive orders that allow them to stay in the United States. We also tested whether participants were less likely to be ordered removed in absentia. Where applicable, for the people who were required to leave the United States, we tested the likelihood that participants would receive grants of voluntary departure.

Final compliance: Noncitizens are in compliance if they follow the judge’s decision. If the decision is that they are allowed to remain in the United States, they are in compliance. If the decision is that they are required to leave, they are in compliance only after their departure has been confirmed. All those who are ordered removed in absentia are classified as absconders (failing to comply). Obtaining information to verify final compliance was often difficult because of the lag in INS data reporting. Although the DACS database records departure dates, bond information, and case categories, which

indicate whether the person has absconded, we found that data for these specific fields were often missing. As a second step, we had to request and review A-files to verify that a person had complied or failed to comply. In the A-file review, we looked for evidence that the noncitizen departed as required, such as a consular letter or a note from an escorting INS officer who verified that person's departure from the country. We also looked for evidence that the noncitizen failed to comply, such as warrants of deportation for people who were granted voluntary departure, and failure to surrender notices for people who were ordered removed while present in court. Because of the complex nature of this process, compliance with final outcomes is analyzed for high-priority noncitizens only.

#### **D. Data Sources**

Data sources for our analysis include (1) the Automated Nationwide System for Immigration Review (ANSIR) database maintained by the Executive Office for Immigration Review (EOIR), (2) the Deportable Alien Control System (DACS) database maintained by INS, and (3) the database created by the AAP for both research and management purposes.

The AAP database has clear advantages in terms of accessibility and completeness for many characteristics of both AAP participants and comparison group individuals, but does not include information on appearance, completion, or final compliance for the control and comparison groups.

The EOIR database follows immigration court proceedings, providing a complete chronology of court hearings and decisions and, if relevant, appeal proceedings. The database indicates whether a respondent appeared at each hearing, and any removal decisions made with the respondent "in absentia." It also provides timely information on the outcome of scheduled hearings and appeals. The court record ends when a decision or other disposition is rendered, but does not indicate whether the respondent departed, if so ordered. The EOIR database is used as the authoritative source on court appearances and case completions for all AAP participants and comparison group individuals.

The DACS database tracks the location and status of persons placed in removal proceedings. It provides an indication of the date, place, and person's INS status when the person entered the country. The database also provides information on individuals' detention records and includes at least partial information on compliance with orders of removal and voluntary departure. We used DACS as the authoritative source for this purpose. Then, for AAP participants who were missing compliance data in DACS, we used AAP data to fill in the missing data and, in a separate analysis, to correct for INS underreporting.

#### **E. Processing the Data—March 2000**

For the final analysis of hearings and court completions for AAP participants and comparison group members, Vera's Research Department requested and received EOIR/ANSIR and INS/DACS data through March 31, 2000.

#### Derivation of Numbers for Continuous Appearance

High-Priority AAP Participants: Of the 165 AAP participants, 153 were included in the analysis. The 12 participants—all undocumented workers—who were excluded from the analysis:

- (a) did not have records in EOIR/ANSIR as of March 31, 2000 (2);
- (b) were cases the INS closed at the request of the AAP (10).

High-Priority Comparison Groups: Of the 931 individuals from the comparison groups, 401 were included in the continuous appearance analysis. The 530 individuals excluded from the analysis:

- (a) did not have records in EOIR/ANSIR as of March 31, 2000 (70);
- (b) had cases too old to be comparable to AAP cases (Notice to Appear dates more than 1 year prior to the beginning of the AAP project) (53);<sup>1</sup>
- (c) were detained and never released, or detained prior to last hearing (381);<sup>2</sup>
- (d) had only hearings that resulted in transfer or change of venue (1);
- (e) were released but did not have bond or bond information and were not Elizabeth parolees (15);
- (f) were released on bond after their hearings had been completed (8);
- (g) did not have a first hearing as of March 31, 2000 (2).

Low-Priority AAP Participants: Of the 369 AAP participants, 354 were included in the continuous appearance analysis. The 15 participants excluded from the analysis:

- (a) did not have records in EOIR/ANSIR as of March 31, 2000 (12);
- (b) were detained at some point before the completion of their cases (2);
- (c) did not have a first hearing as of March 31, 2000 (1).

Low-Priority Comparison Groups: Of the 938 individuals from the comparison groups, 895 were included in the continuous appearance analysis. The 43 individuals excluded from the analysis:

- (a) did not have records in EOIR/ANSIR as of March 31, 2000 (21);
- (b) had cases too old to be comparable to AAP cases (Notice to Appear dates more than one year prior to the beginning of the AAP project) (7);
- (c) were detained at some point before the completion of their cases (11);
- (d) had only hearings that resulted in transfer or change of venue (1);
- (e) did not have any hearings scheduled (1);
- (f) did not have a first hearing as of March 31, 2000 (2).

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<sup>1</sup> To ensure similarity of comparison group cases, we excluded all comparison group members with old cases.

<sup>2</sup> We removed from the analysis comparison group members who were in detention while in proceedings because we wanted to compare AAP participants to other noncitizens who were released on bond, parole or on recognizance and living in the community while attending their hearings.

Four high-priority AAP participants, 14 high-priority comparison group members, 28 low-priority AAP participants, and 69 low-priority comparison group members also were removed from the continuous appearance analysis since the EOIR data do not show whether they appeared for their final court hearing.

#### Final Court Orders

Of the intensive AAP participants, 109 had records of completion in the EOIR database by the end of the program. The four AAP participants, who were excluded from the analysis of continuous compliance because the EOIR data do not show whether they attended their final court hearings, were included here because their cases were completed.

For the high-priority comparison groups, 355 individuals had completed cases recorded in the EOIR database. Fourteen individuals, excluded from the analysis of continuous compliance because the EOIR data do not show whether they attended their final court hearings, were included here because their cases were completed.

For the regular AAP participants, 290 had records of completion in the EOIR database by the end of the program. The 28 AAP participants, who were excluded from the analysis of continuous compliance because the EOIR data do not show whether they attended their final court hearings, were included here because their cases were completed.

For the low-priority comparison groups, 741 individuals had completed cases recorded in the EOIR database. Sixty-nine individuals, excluded from the analysis of continuous compliance because the EOIR data do not show whether they attended their final court hearings, were included here because their cases were completed.

#### Compliance with Final Court Orders

We used March 31, 2000 EOIR, INS and AAP data to analyze compliance with final court orders for 84 AAP intensive program participants and 280 individuals in the control and comparison groups. We included in the analysis individuals who were allowed to stay in the U.S. or were ordered to leave the country if their cases were completed at the immigration judge or Board of Immigration Appeals levels by March 31, 2000 and if their required departure date was on or before March 31, 2000. Required departure dates are the 'VD expiration date' for voluntary departure, and the 'surrender date' for orders of removal.

We considered individuals to be in compliance if they were allowed to stay in the U.S. or actually departed when required to do so. The evidence that they were allowed to stay in the U.S. was the record of their final court order in the EOIR database. The evidence of departure consisted of an INS record of departure either in its databases or in the individual's A-file.



We considered individuals to be absconders if they were ordered removed in absentia or failed to comply with orders of voluntary departure or removal. The evidence that individuals were removed in absentia came from the EOIR database. We used a conversion of a voluntary departure order to an order of removal in DACS as evidence that an individual failed to comply with a voluntary departure order. The evidence of a failure to comply with an order of removal consisted of a case category code of “absconder” recorded in DACS, or a note in A-file that the person failed to surrender.

#### Supplementing and Redistributing Unknown Status

In the report, we analyzed compliance using INS and EOIR data for participants and for the control and comparison groups where possible. We used AAP data to supplement INS data because the INS data are particularly incomplete for AAP participants. The compliance status of 19, or 23%, of AAP participants could not be determined from INS data; by contrast, the status of 16, or 6%, of the control and comparison group members could not be determined from INS data.

The status of AAP participants is more likely to be unknown to the INS, first, because participants have completed their cases more recently than the comparison group members, giving the INS less time to update its records. Second, the AAP had recommended that the INS redetain more than half the individuals with currently unknown status because they were in violation of program requirements. Since the INS then turned these cases over to its Investigations branch, the agency has not followed its normal procedures for tracking and recording compliance.

In the case of 5 AAP participants (3 undocumented workers, 1 criminal alien, and 1 asylum seeker) the INS databases recorded them as absconders although their departure from the country was confirmed by the AAP. We analyzed participants’ compliance both with and without the AAP correction for INS underreporting.

Despite the unknown results, we have no choice but to use INS data for the control and comparison groups. Of the 280 individuals who met our criteria for the analysis, the compliance status of 16 could not be determined from INS data. We assumed that the compliance rate of these 16 ‘unknown’ cases was proportional to that of the remainder of the comparison group for which data were available.

#### Weighting to maintain comparable proportions

For the purpose of overall comparison, control and comparison group individuals were assigned a weight by type of case to make group proportions equal to the proportion of AAP participants of the same case type. The breakdown of AAP participants who met the criteria for the continuous appearance analysis by type of case was as follows: 54.25% asylum seekers, 10.46% criminal aliens and 35.29% undocumented workers. For the control and comparison groups there was a slightly lower proportion of asylum seekers (53.37%), a higher proportion of criminal aliens (23.19%), and a lower proportion of undocumented workers (35.29%). The weights assigned to the control and comparison groups were as follows:

Asylum Seekers	1.02	(54.25/53.37)
Criminal Aliens	.45	(10.46/23.19)

Undocumented Workers 1.51 (35.29/23.44)

The assigned weights for the compliance analysis were as follows:

Asylum Seekers	.77	(40.48/52.50)
Criminal Aliens	.62	(8.33/16.79)
Undocumented Workers	1.67	(51.19/30.71)

## F. Testing for Statistical Significance

The idea behind tests of statistical significance is to permit a reasonable inference that conclusions drawn from a sample would hold true in the general population from which that sample was drawn. In other words, did differences in appearance and compliance rates between AAP participants and comparison groups occur in just this one sample or would they be likely to occur with other samples of participants and comparison groups? Or if a variable had an effect on successful completion, is that variable likely to have the same effect in another sample?

Furthermore, if the same difference or effect were to occur again, what are the chances that it would occur again? Are they 90 out of 100, or 99 out of 100? We first have to establish a reasonable level of significance. For the purposes of this study, we decided that a reasonable level of statistical significance meant that the chances had to be at least 90 out of 100 that the difference or effect would happen again (at the .10 level or lower). A statistical significance of .10, then, means that we would expect similar outcomes 90% of the time, .05 means we would expect them 95% of the time, and .01 means 99% of the time.

If the statistical significance does not reach at least .10 (if we cannot be 90% sure it would occur again), we conclude that the differences occurred by chance. However, statistical significance is based in large part on the size of the sample. Therefore, if the sample is small and differences or effects begin to approach a reasonable level of statistical significance, we could say that if the sample were larger, the difference or the effect might then be statistically significant.

The test that we used to determine whether the differences in hearing attendance or final compliance of participant and comparison groups were statistically significant at each hearing point was the Fisher's Exact right tail test. This test is used to determine statistically whether there is any relationship between two categorical variables. In this case the variables are AAP participation (yes or no) and hearing attendance (yes or no). Using the right tail test means we hypothesize that the AAP participant group will do better at attending hearings than the comparison group.

## APPENDIX II: Analyses of Factors Correlated with Successful Completion

This appendix describes how we set up and conducted the analyses of factors to explain differences between noncitizens who completed successfully and others who did not, and where possible, differences between noncitizens who complied and others who did not. It contains the following sections:

- A. Measures, or dependent variables, used in the analyses.
- B. Details of methods to separate people by type of case.
- C. Descriptions of variables and data sources.
- D. An explanation of research methods.

### A. Measures/Dependent Variables

- Successful Completion: means that the noncitizens appeared in immigration court for all required hearings and completed their court case with a decision by, or other completion from, an immigration judge, whether they were able to stay in the United States or were required to leave the country. Successful completion is the positive way of saying that people were not removed in absentia.
- Successful Compliance: means that the noncitizens were either allowed to stay in the United States or actually departed when required to do so.

### B. Separating the Sample by Type of Case

Although the original research design grouped noncitizens by intake site, it became evident during the demonstration project that the more meaningful grouping was by type of case. Asylum seekers, criminal aliens, and undocumented workers are different in many ways, including: how they arrive in the United States, when they arrive, their chances of being granted relief from removal, how they are affected by legal requirements, and their experiences in the United States. Because of these differences, we wanted to see if they appear and comply at different rates and if the variables that affected their behavior are the same. We distinguish type of case in the following ways:

#### Asylum Seekers:

- We categorized as high-priority asylum seekers all those who were found to have a credible fear of persecution. All of those in our sample who had been detained either at the Wackenhut facility in Queens or the CCA facility in Elizabeth met the credible fear criterion. We similarly categorized asylum seekers (those who said they feared persecution in their home countries) whom the INS had decided to detain in February and March 1997—before the provisions of IIRAIRA went into effect.
- For those who were never detained—low-priority noncitizens released on recognizance from JFK—we used one of two data sources to classify them as asylum seekers if:
  1. ANSIR recorded them as having filed an asylum application, *or*
  2. The INS had classified them as asylum seekers in their A-files upon their entry to the United States.

For the analysis of factors associated with successful completion, however, we excluded all asylum-seeking children (under the age of 18) who were travelling with another family member, based on the assumption that an adult was making the decisions about appearing and successfully completing court cases. Therefore, we analyzed only the characteristics of the adults.

#### Criminal Aliens:

- We categorized as high-priority criminal aliens all noncitizens who had been detained at the Varick Street Service Processing Center. These are all people who had been identified by the INS at jails or prisons, or had some other involvement with the criminal justice system, and then had been transferred to Varick Street. Not all, however, faced criminal-related immigration charges; some were simply charged for being in the United States unlawfully.
- For the analysis of factors correlated with successful completion we assessed only those with criminal charges of the types that would currently make them subject to mandatory detention. For this purpose we selected noncitizens with charges under Immigration and Nationality Act sections 212(a)(2); 237(a)(2)(A)(ii), (A)(iii), (B), (C), (D); 237(a)(2)(A)(i); 212(a)(3)(B); or 237(a)(4)(B).

A comparison group included for the analysis of factors correlated with successful completion was made up of persons detained at Varick who were screened by the AAP, found ineligible for participation in the program, and later released on bond by the INS.

#### Undocumented Workers:

- The only people in our sample coming from the Federal Plaza intake site were undocumented workers apprehended at work-site enforcement actions, so that in this case there was a perfect correspondence between site and type of case. For both the impact analysis and the analysis of factors associated with successful completion, we considered all noncitizens from the Federal Plaza intake site to be undocumented workers.

### **C. Variables and Data Sources**

- Where possible, we use data from the EOIR and/or INS databases.
- In cases where data were not available from one of these sources, we relied on AAP data.
- In some cases, because data from EOIR and/or INS were not available at the beginning of the demonstration project, we used the AAP variable; later when data from EOIR and/or INS became available, we cross-checked and filled-in with data from multiple sources (age and gender, for example).
- The following list of variables provides more details on sources.

#### Demographics:

- Age: AAP with missing data supplemented by DACS.
- Gender: AAP with missing data supplemented by DACS.
- Nationality: ANSIR.

### Social ties:

- Length of time in the U.S.

We used data collected by AAP intake staff about the noncitizens' first entry to the United States to calculate the length of time noncitizens were living in the United States; where missing we supplemented with the DACS date of entry field. However, we noticed that for many criminal aliens who were released from JFK airport the date of entry field in DACS seemed to be the date of their most recent entry rather than their initial entry to the United States. For this group, for which we were using DACS data, we had access to other variables that offered a better indication of how long the person had been in the United States, including the date they adjusted their status, and criminal conviction dates. We used the earliest of these as the beginning of the person's time in the United States.

The following four family variables were collected during the AAP intake interview and recorded in the AAP database.

- Marital status/nuclear family. (We determined this status from two questions: Do you have a wife and/or child in the United States? Do you have a wife and/or child outside the United States? If answers to both were no, we concluded the person was single. If one or the other was yes, we concluded the person was a married/family person.
- Family in New York (yes or no).
- Spouse or child in the U.S. (yes or no).
- Has citizen or LPR family member (yes or no).

For noncitizens who were not interviewed by AAP intake staff, these data are missing, and we had no other variables from EOIR or DACS that could supplement the missing data.

- Immigrant status (LPR or not).

Our primary source for the immigration status of the noncitizens in the sample is AAP data. We filled in missing data using the entry class field in DACS. We used entry class code of "immigrant" as the best indicator. (Of the 57 people classified by DACS as "immigrant" who also had an AAP classification, 86% were LPRs.)

### U.S. criminal history (criminal aliens only):

- Aggravated felony (yes or no).  
We use those INS charges described in the DACS Users Manual as "convicted of an aggravated felony."
- Drug conviction (yes or no).  
We use those INS charges described in the DACS Users Manual as drug-related convictions, including "drug abusers and addicts," "convicted of controlled substance violation," and "controlled substance traffickers."

The next two criminal history variables were collected from the noncitizens' rap sheet during the AAP intake A-file review and recorded in the AAP database.

- Number of criminal convictions.
- Previous criminal bench warrants (yes or no).

### Immigration proceedings:

The following variables were all taken from the EOIR database:

- Legal representation (obtained legal representation or completed without legal representation).

We deem a respondent to have a “legal representative” or “counsel” when there is a legal representative of record in the EOIR system. That is, a legal practitioner has submitted, on behalf of the respondent, a Notice of Entry of Appearance as Attorney or Representative (form E-28) in person or by mail. If a respondent does not have an E-28 on record in EOIR, we do not know whether or not that person consulted a legal representative while in proceedings. Furthermore, for the people with an E-28 on file, we do not know whether the legal representative was present during all of the hearings, and most importantly, at the final hearing.

- Relief application (applied or did not apply for relief).
- Family case (in proceedings as an individual or as part of a family group [same lead A-number]—this applies only to some asylum seekers in our sample).
- Time waiting for first hearing.
- Time between first and last hearing.
- Number of hearings.

## **D. Research Methods**

The analyses of factors associated with successful completion were conducted by type of case (asylum seeker, criminal alien, and undocumented worker). We began each one with an examination of group comparability, followed by bivariate and multivariate analysis. The associated tables are included in Methods Appendix III. Differences between or among groups are explained in notes following each table.

### Bivariate

Cross-tabular bivariate analysis and correlation analysis were used to identify variables associated with successful completion, and, where possible, successful compliance. This stage of the research sought differences in characteristics between successful completers and absconders. It addressed the questions: Are those who attend all their hearings and successfully complete their court cases different from those who abscond? If so, what are the distinguishing characteristics or situations?

For some variables, such as gender, we thought there could be an effect either way. That is, we had no reason to believe that men would do better than women, or vice versa. For other variables we had expectations regarding direction. For example, we expected that AAP supervision and having legal representation would contribute to successful completion. But even for these we were open to any possibility. For all variables we were looking for an association, or effect, in either direction. Therefore, for establishing the significance of bivariate associations, we used a two-tailed Fisher’s Exact test for two-by-two tables and Chi Square for all others.

### Multivariate: Logistic Regression

Having established the bivariate associations, we continued with multivariate logistic regression. This technique makes it possible to isolate the effect of each variable on successful completion while holding constant all other variables. For example, an analysis of time in the United States controlling for gender looks at time in the United States separately for men and women. In these separate analyses the logistic regression determines whether or not more time in the United States increases, decreases, or has no effect on one's likelihood of completing successfully.

We report the logistic regression results from various models. The first model includes variables that were significant in the bivariate analyses. A second model retains the Model 1 variables that were statistically significant or, though not significant, that increased the odds of successful completion by at least one and a half (odds ratio > 1.5) or decreased by half (odds ratio < .5). In the third model (undocumented workers only), we look at subsets of the sample which have data that are missing for others members of the sample (family variables). The fourth model is a refinement of the third, making improvements to establish parsimony as well as to increase explanatory power.

### Multivariate Contingency Tables

For asylum seekers we conducted many multivariate tests and attempted to develop a useful logistic regression model, but found no model appropriate for this group. For that reason, we used multivariate contingency tables as a way of looking at the variables that were significant in the bivariate analysis while controlling for others. In other cases we used multivariate contingency tables to further explore possibilities suggested but not clearly established by the logistic regression models.





## **APPENDIX III: Tables and Charts**

Appendix III includes the following tables along with their explanatory notes:

- Table A-1: Asylum Seeker Comparison Table
- Table A-2: Bivariate Associations for Asylum Seekers
- Table C-1: Criminal Alien Comparison Table
- Table C-2: Bivariate Associations for Criminal Aliens
- Table C-3: Logistic Regression Model for Criminal Aliens
- Table W-1: Undocumented Worker Comparison Table
- Table W-2A: Bivariate Associations for High-Priority Undocumented Workers
- Table W-2B: Bivariate Associations for Low-Priority Undocumented Workers
- Table W-3A: Logistic Regression Model for High-Priority Undocumented Workers
- Table W-3B: Logistic Regression Model for Low-Priority Undocumented Workers

TABLE A-1: ASYLUM SEEKERS COMPARISON TABLE

Asylum Seeking Groups	N for each group	DEMOGRAPHICS				SOCIAL TIES		PROCEEDINGS						
		% Completed Successfully	Age (median years)	% Female	% Sri Lankan†	% from Balkan nations†	% w/ family in NYC	% w/ spouse and or child in the U.S.	% travelling with family	% w/ legal representation	% w/ relief application--asylum application in ANSIR	Time waiting for 1 <sup>st</sup> hearing (median months)	No. of hearings (median)††	No. of mos between 1 <sup>st</sup> and last hearing (median)††
Low Priority	N=52	67%	26	71%	23%	19%	---	---	58%	44%	37%	3	3	7
AAP	N=19	84%	25	68%	0%	37%	27%	46%	63%	63%	58%	4	4	9
No Contact	N=18	44%	26	83%	28%	17%	---	---	33%	22%	17%	4	2	1
Declined Participation	N=8	63%	18	50%	25%	0	---	---	88%	75%	38%	1	7	12
Control	N=7	86%	32	71%	71%	0	---	---	71%	14%	29%	2	1	0
High Priority	N=239	81%	30	36%	18%	28%	---	---	7%	92%	72%	3	3	6
AAP	N=50	88%	28	36%	0%	30%	94%	8%	4%	92%	82%	3	3	5
Elizabeth Comparison Group	N=189	79%	30	37%	23%	28%	---	---	8%	93%	69%	4	3	6

Since the AAP did not screen all groups for all variables, some data are incomplete.   Indicates 10-50% of data are missing.

Dashes indicate that 90% or more of the data are missing or no data are available.

† These are the two largest nationality groups in the sample.

†† Excludes people who absconded at first hearing.

## EXPLANATORY NOTES TO TABLE A-1

- The number of asylum seekers released from JFK was considerably small. What appear to be substantial differences among groups on the comparison table may be a result of the small numbers.
- Randomization combined with family groups affected the composition of the groups. Each family group was treated by the INS as one case. If one member of the family was assigned to the AAP control group, all family members became control group members. Therefore, if a large family was assigned to one subgroup, it affected all variables on the comparison chart, especially nationality and age.
- A substantial proportion of low-priority asylum seekers in the control and no contact groups completed their cases at the first hearing due to failure to prosecute and other closure decisions. This affected the legal representation rate, percentage with asylum application, and time in proceedings.
- The low-priority control group was affected by all of the above-mentioned factors. By chance, a Sri Lankan national who was travelling with four other family members was assigned to the control group. As a result, 5 of the 7 control group members were part of one Sri Lankan family. Therefore, by chance, the control group includes 71 percent Sri Lankan nationals and no cases from Balkan nations. The Sri Lankan family's case was closed at the first hearing and no E-28 or asylum application was ever filed. This could account for the control group's low percent of cases with legal representation, percent with asylum applications on file, and median number of hearings.
- There were differences among low-priority experimental groups (AAP, declined participation and no contact) which might be attributed to self-selection. That is, people who were inclined to join the AAP might have different demographic characteristics, social ties in the United States and different removal proceedings situations than those who declined to participate in the program or those who could not be contacted by AAP intake staff.

**TABLE A-2: BIVARIATE ASSOCIATIONS FOR ASYLUM SEEKERS**

	N	Appeared and Completed Successfully
<b>Overall Success/Failure</b>	<b>274</b>	<b>216 (79%)</b>
High Priority <sup>c</sup>	237	191 (81%)
Low Priority	37	25 (68%)
<b><u>Demographics</u></b>		
Age (in years)	274	M=32.0 ( <i>Versus 33.0</i> )
<b>Gender</b>		
Male	158	122 (77%)
Female	116	94 (81%)
<b><u>Proceedings</u></b>		
<b>Family Case</b>		
Yes	30	25 (83%)
No	244	191 (78%)
<b>Release/Supervision</b>		
AAP Participant	63	54 (86%)
Not AAP Participant	211	162 (77%)
<b>Legal Representation<sup>a</sup></b>		
Yes	235	199 (85%)
No	39	17 (44%)
<b>Asylum Application<sup>a</sup></b>		
Yes	184	168 (91%)
No	90	48 (53%)
<b>Time Waiting for 1st Hearing (in months)</b>	274	M= 4.0 ( <i>Versus 3.0</i> )

Significance (two-tailed Fisher's Exact Test for categorical variables; t-test for difference of means of continuous variables):

<sup>a</sup>= at least .01   <sup>b</sup> =.05   <sup>c</sup> =.10

**Notes**

- Data for social ties variables were obtained by the AAP intake interview. For persons who were not screened or partially screened by the AAP, these variables are missing. Because 90% or more of the social ties data were missing for all non-AAP groups, that category is not included here.
- Two children under 18 travelling with adult family members were removed from the analysis.
- Since there was no difference in the median number of hearings and time between 1<sup>st</sup> and last hearing for those who appeared and those who did not appear, data for those variables are not included here.
- We conducted many multivariate tests and attempted to develop a useful predictive model for asylum seekers but there was no model appropriate for this group. Therefore, there is no logistic regression table for asylum seekers.

TABLE C-1: CRIMINAL ALIEN COMPARISON TABLE

Criminal Alien Groups	N for each group	DEMOGRAPHICS			SOCIAL TIES			CRIMINAL HISTORY			PROCEEDINGS				
		Age (median years)	% Female	% Dominican	Time in U.S. (median years)	% LPR	% w/ family in NYC	% w/ aggravated felony INS charge	% w/ drug-related INS charge	% w/ previous criminal bench warrants	% w/ legal representation	% w/ relief application	Time waiting for 1 <sup>st</sup> hearing (median months)	No. of hearings (median) †	Time between 1 <sup>st</sup> and last hearing (median months) †
Low Priority	N=168	38	24%	42%	13	96%	87%	NA	51%	----	74%	4	3	6	
AAP	N=59	39	27%	44%	15	97%	88%	NA	37%	----	73%	4	2	4	
Declined Participation	N= 32	38	31%	38%	14	94%	73%	NA	53%	80%	75%	4	3	6	
No Contact	N=40	40	13%	40%	13	100%	95%	NA	58%	----	75%	4	3	7	
Control	N= 37	36	24%	46%	10	95%	100%	NA	62%	50%	73%	2	3	6	
High Priority	N=120	35	4%	35%	16	84%	96%	68%	60%	38%	78%	6	3	3	
AAP	N= 5	36	0%	40%	18	80%	100%	40%	60%	0%	100%	4	4	5	
INS Rejected	N= 5	38	0%	60%	13	100%	100%	60%	60%	40%	80%	5	3	4	
Not Screened/ Possibly Eligible	N= 51	36	2%	25%	15	78%	100%	69%	49%	----	78%	6	3	3	
Screened Ineligible	N= 59	35	5%	41%	16	88%	92%	71%	69%	40%	76%	6	3	4	

Since AAP did not screen groups for all variables, some data are incomplete. Dashes indicate that 90% or more of the data are missing or no data are available.

Indicates 10-50% data are missing.

Indicates 51-90% data are missing.

NA= Not applicable (see explanatory notes)

† Excludes people who failed to appear at first hearing.

## EXPLANATORY NOTES TO TABLE C-1

- On the comparison table we report the percent of Dominican nationals, the largest nationality in our sample.
- Low-priority AAP participants had more time in the United States and fewer INS drug-related charges than other low-priority groups. Differences between AAP and control groups are due to chance since control group members were randomly assigned using random selection procedures. Differences between AAP and other experimental groups might be due to self-selection.
- Low-priority criminal aliens, who are apprehended at the airport, are considered excludable (as opposed to deportable), and there is no charge of aggravated felon for those who are excludable.
- High-priority criminal aliens, who have recently been in jail or prison, are considered deportable (as opposed to excludable). More than two-thirds (68%) of them are charged as aggravated felons. Since they are charged with aggravated felonies, they are generally not eligible for relief.
- Because of the small size of the high-priority AAP group (N=5), there appears to be a disparity between the percent charged with aggravated felonies (40%) and the percent who applied for relief (80%). The difference is the result of one person who was charged with an aggravated felony and applied for restriction on removal (generally referred to as withholding of removal).
- Median number of criminal convictions is not included in the criminal history section of the comparison table because 84% to 98% of the data was missing for all groups except high-priority AAP and INS rejected, which include very few people, and high-priority screened-ineligible, for which 19% of the data were missing.
- High-priority AAP participants had more hearings and more time between their first and last hearing than comparison groups. This could be a result of the small number of cases (N=5) in the high-priority AAP group.

**TABLE C-2: BIVARIATE ASSOCIATIONS FOR CRIMINAL ALIENS**

	N	Appeared and Completed Successfully
<b>Overall Success/Failure</b>	<b>288</b>	<b>228 (79%)</b>
High Priority	120	96 (80%)
Low Priority	168	132 (79%)
<b><u>Demographics</u></b>		
<b>Age (in years)<sup>c</sup></b>	287	M=38.0 ( <i>Versus 35.0</i> )
<b>Gender</b>		
Male	237	187 (79%)
Female	44	35 (80%)
<b><u>Social Ties</u></b>		
<b>Mean Time in US (in years)</b>	258	M=15.0 ( <i>Versus 14.0</i> )
<b>LPR Immigration Status</b>		
Yes	262	210 (80%)
No	25	18 (72%)
<b>Family in New York City</b>		
Yes	125	97 (78%)
No	14	11 (79%)
<b><u>Criminal History</u></b>		
<b>Seriousness of Charge</b>		
Aggravated Felony	82	69 (84%)
Not Aggravated Felony	206	159 (77%)
<b>INS Charge<sup>b</sup></b>		
Drug-Related	157	117 (75%)
Other	131	111 (85%)
<b>Number of Criminal Convictions</b>	75	M=2.0 ( <i>Versus 4.0</i> )
<b>Previous Bench Warrants</b>		
Yes	32	26 (81%)
No	42	36 (86%)
<b><u>Proceedings</u></b>		
<b>Release/Supervision<sup>a</sup></b>		
AAP Participant	64	58 (91%)
Not AAP Participant	224	170 (76%)
<b>Legal Representation<sup>a</sup></b>		
Yes	218	199 (91%)
No	70	29 (41%)
<b>Relief Application<sup>a</sup></b>		
Yes	61	58 (95%)
No	227	170 (75%)
<b>Time Waiting for 1st Hearing (in months)</b>	288	M=4.0 ( <i>Versus 5.0</i> )
<b>Time between 1<sup>st</sup> and Last Hearing (in months)</b>	269	M=6.0 ( <i>Versus 7.0</i> )

Significance (two-tailed Fisher's Exact Test for categorical variables; t-test for difference of means of continuous variables):

<sup>a</sup>= at least .01    <sup>b</sup> = .05    <sup>c</sup> = .10

**Notes**

- Data for the social ties variables were obtained by the AAP intake interview. For persons who were not screened or partially screened by the AAP, these variables are missing
- Since there was no difference in the median number of hearings for those who appeared and those who did not appear, data for that variable are not included here.

**TABLE C-3: LOGISTIC REGRESSION MODEL FOR CRIMINAL ALIENS**

Variable	Odds Ratio	
	Model 1	Model 2
	N= 286	N=286
Age	1.045 <sup>b</sup>	1.047 <sup>b</sup>
LPR Immigration Status	1.836	1.786
Drug-Related INS Charge	.528 <sup>c</sup>	.526 <sup>c</sup>
High Priority	2.516 <sup>b</sup>	2.125 <sup>c</sup>
AAP Participant	5.500 <sup>a</sup>	5.045 <sup>a</sup>
Legal Representation	17.339 <sup>a</sup>	17.584 <sup>a</sup>
Relief Application	3.498 <sup>c</sup>	3.484 <sup>c</sup>
Time Waiting for 1 <sup>st</sup> Hearing	.942	—
Chi square	96.747 (p=.0001)	96.035 (p=.0001)
Degrees of freedom	8	7
r <sup>2</sup>	.4518	.4490
Correct	86.0	86.0

**Significance**

<sup>a</sup>= at least .01   <sup>b</sup> =.05   <sup>c</sup> =.10

**Notes**

- Variables included showed bivariate association with high-priority, or low-priority, or combined groups.
- The variable of being in either the high- or low-priority group, which is not significant in the bivariate analysis, is included in the multivariate model as a way of including the consideration of priority groups in the combined model.
- None of the low-priority group members were charged by the INS as aggravated felons. Being charged as such has an effect for the high-priority group and is strongly correlated with being in the high-priority group. Therefore, it is omitted from the models.



TABLE W-1: UNDOCUMENTED WORKERS COMPARISON TABLE

Undocumented Worker Groups	N for each group	DEMOGRAPHICS			SOCIAL TIES				PROCEEDINGS				
		Age (median years)	% Female	% Mexican %Ecuadorian †	Years in U.S. (median)	% Married ††	% w/ spouse and/or child in the U.S.	% w/ citizen/ LPR family member	% w/ legal representation	% w/ relief application	Time waiting for 1 <sup>st</sup> hearing (median months)	No. of hearings (median) †††	No. of mos between 1 <sup>st</sup> and last hearing (median) †††
Low Priority	N=422	29	63%	54% 34%	5	63%	40%	27%	44%	4	2	3	
AAP	N=127	31	69%	56% 35%	6	62%	40%	26%	46%	4	3	4	
Declined Participation	N=82	29	43%	51% 27%	5	66%	38%	30%	45%	1	2	4	
Control	N=148	28	59%	55% 32%	5	---	---	---	41%	3	2	3	
Comparison	N=65	31	83%	48% 45%	5	---	---	---	48%	5	2	3	
High Priority	N=134	29	21%	44% 35%	5	54%	26%	19%	52%	3	3	3	
AAP	N=46	31	20%	43% 28%	6	60%	36%	29%	80%	6	3	5	
INS Rejected	N=29	25	24%	41% 38%	4	44%	15%	7%	28%	3	2	2	
Control	N=16	27	25%	19% 38%	4	57%	20%	13%	56%	4	2	2	
Comparison	N=43	28	19%	56% 40%	6	---	---	---	37%	3	2	3	

Since AAP did not screen all groups for all variables, some data are incomplete.

■ Indicates 10-50% of data are missing.

■ Indicates 51-90% of data are missing.

Dashes indicate that 90% or more of the data are missing or no data are available.

† These are the two largest nationality groups in the sample (with Mexican percentages first, then Ecuadorian).

†† Percent of people with spouse and/or child. We use this variable to distinguish single people from people with a nuclear family.

††† Excludes people who failed to appear at first hearing.

## EXPLANATORY NOTES TO TABLE W-1

- The high-priority control group was created by random sampling. What seems to be an under-representation of Mexicans compared to the other high-priority groups may be due to the small size of the sample.
- Declined participation cases waited less than other groups for their first hearing. This reflects short processing times for groups of people apprehended at the same work site.
- AAP high-priority groups waited longer than other groups for their first hearing. This reflects INS delays in transmitting AAP participants' files from the CCA detention facility in Elizabeth to the immigration court at 26 Federal Plaza.
- Low-priority and high-priority comparison groups consist of individuals apprehended during selected enforcement actions who were not screened by the AAP.
- There were also differences among experimental groups (AAP, declined participation and no contact) which might be attributed to self-selection. That is, people who were inclined to join the AAP might have different demographic characteristics, social ties in the United States and different removal proceedings situations than those who declined to participate in the program or those who could not be contacted by AAP intake staff.

**TABLE W-2A: BIVARIATE ASSOCIATIONS FOR HIGH-PRIORITY UNDOCUMENTED WORKERS**

	N	Appeared and Completed Successfully
<b>Overall Success/Failure</b>	<b>134</b>	<b>90 (67%)</b>
<b><u>Demographics</u></b>		
<b>Age (in years)<sup>a</sup></b>	134	M=31.9 ( <i>Versus 27.8</i> )
<b>Gender</b>		
Male	106	71 (67%)
Female	28	19 (68%)
<b><u>Social Ties</u></b>		
<b>Time in US (in years)</b>	109	M=6.5 ( <i>Versus 5.6</i> )
<b>With Spouse and/or Child in the US</b>		
Yes	23	18 (78%)
No	64	45 (70%)
<b>Citizen/LPR Family Member</b>		
Yes	17	15 (88%)
No	70	48 (69%)
<b><u>Proceedings</u></b>		
<b>Release/Supervision<sup>a</sup></b>		
AAP Participant	46	40 (87%)
Not AAP Participant	88	50 (57%)
<b>Legal Representation<sup>a</sup></b>		
Yes	70	62 (89%)
No	64	28 (44%)
<b>Time Waiting for 1<sup>st</sup> Hearing (in months)<sup>a</sup></b>	134	M=4.4 ( <i>Versus 3.3</i> )

Significance (two-tailed Fisher's Exact Test for categorical variables; t-test for difference of means of continuous variables):

<sup>a</sup>= at least .01    <sup>b</sup> =.05    <sup>c</sup> =.10

**Notes**

- Data for the social ties variables were obtained by the AAP intake interview. For persons who were not screened or partially screened by the AAP, these variables are missing.
- Since there was no difference in the median number of hearings and time between 1<sup>st</sup> and last hearing for those who appeared and those who did not appear, data for these variables are not included here.

**TABLE W-2B: BIVARIATE ASSOCIATIONS FOR LOW-PRIORITY UNDOCUMENTED WORKERS**

	N	Appeared and Completed Successfully
<b>Overall Success/Failure</b>	<b>422</b>	<b>217 (51%)</b>
<b><u>Demographics</u></b>		
Age (in years)	422	M=31.3 ( <i>Versus 30.3</i> )
Gender <sup>b</sup>		
Male	158	72 (46%)
Female	264	145 (55%)
<b><u>Social Ties</u></b>		
Time in US (in years) <sup>a</sup>	386	M=6.3 ( <i>Versus 5.4</i> )
With Spouse and/or Child in the US <sup>a</sup>		
Yes	67	44 (66%)
No	102	45 (44%)
Citizen/LPR Family Member <sup>a</sup>		
Yes	46	33 (72%)
No	123	56 (46%)
<b><u>Proceedings</u></b>		
Release/Supervision		
AAP Participant	127	71 (56%)
Not AAP Participant	295	146 (49%)
Legal Representation <sup>a</sup>		
Yes	187	166 (89%)
No	235	51 (22%)
Relief Application <sup>a</sup>		
Yes	15	13 (87%)
No	407	204 (50%)
Time Waiting for 1 <sup>st</sup> Hearing (in months) <sup>c</sup>	422	M=3.8 ( <i>Versus 3.2</i> )

Significance (two-tailed Fisher's Exact Test for categorical variables; t-test for difference of means of continuous variables):

<sup>a</sup>= at least .01    <sup>b</sup> =.05    <sup>c</sup> =.10

**Notes**

- Data for the social ties variables were obtained by the AAP intake interview. For persons who were not screened or partially screened by the AAP, these variables are missing.
- Since there was no difference in the median number of hearings and time between 1<sup>st</sup> and last hearing for those appeared and those who did not appear, data for these variables are not included here.

**TABLE W-3A: LOGISTIC REGRESSION MODEL FOR HIGH-PRIORITY UNDOCUMENTED WORKERS**

Variable	Odds Ratio			
	(Without Family Variables)		(With Family Variables)	
	Model 1	Model 2	Model 3	Model 4
	N= 134	N=134	N=88	N=88
Age	1.050	—	1.023	—
Citizen/LPR Family Member	—	—	1.979	2.019
AAP Participant	1.573	2.484 <sup>c</sup>	2.383	2.612
Legal Representation	6.439 <sup>a</sup>	7.584 <sup>a</sup>	4.685	5.093
Time Waiting for 1 <sup>st</sup> Hearing	1.143	—	—	—
Chi square	37.435	35.131	20.697	20.532
Degrees of freedom	(p=.0001) 4	(p=.0001) 2	(p=.0004) 4	(p=.0001) 3
r <sup>2</sup>	.3394	.3212	.3007	.2963
Correct	73.1	73.9	72.7	72.7

**Significance**

<sup>a</sup>= at least .01   <sup>b</sup> =.05   <sup>c</sup> =.10

**Notes**

- Available data for family variables are not evenly distributed across participant and comparison groups. Therefore we present the odds ratios without significance notations and do not use them in drawing our conclusions. However, we think they suggest an effect and recommend that future studies collect family information to include in analyses of court compliance.
- The family variable indicating that the undocumented worker has a citizen or LPR family member was not significantly related to successful completion in the bivariate table but it had the strongest relationship with successful completion of the family variables.

**TABLE W-3B: LOGISTIC REGRESSION MODEL FOR LOW-PRIORITY UNDOCUMENTED WORKERS**

Variable	Odds Ratio			
	(Without Family Variables)		(With Family Variables)	
	Model 1	Model 2	Model 3	Model 4
	N= 386	N=422	N=167	N=171
Age	—	—	1.017	—
Female	1.724 <sup>c</sup>	1.742 <sup>b</sup>	1.080	—
Time in US	1.001	—	1.068	—
Spouse and/or Child in the US	—	—	1.379	1.943
Citizen/LPR Family Member	—	—	1.379	—
AAP Participant	—	—	3.041	3.335
Legal Representation	31.643 <sup>a</sup>	29.814 <sup>a</sup>	24.925	27.408
Relief Application	1.818	6.222 <sup>b</sup>	—	—
Time Waiting for 1 <sup>st</sup> Hearing	1.028	—	—	—
Chi square	203.424	217.000	87.715	90.374
Degrees of freedom	(p=.0001) 5	(p=.0001) 3	(p=.0001) 7	(p=.0001) 3
r <sup>2</sup>	.5462	.5362	.5451	.5479
Correct	83.9	83.9	81.4	82.5

**Significance**

<sup>a</sup>= at least .01    <sup>b</sup> =.05    <sup>c</sup> =.10

**Notes**

- Available data for family variables are not evenly distributed across participant and comparison groups. Therefore we present the odds ratios without significance notations and do not use them in drawing our conclusions. However, we think they suggest an effect and recommend that future studies collect family information to include in analyses of court compliance.

## **APPENDIX IV: Intensive Participant Survey**

### **Introduction**

In order to understand what it was about the AAP that helped intensive participants complete proceedings at higher rates than nonparticipants, we conducted a survey asking participants about their experiences with immigration court and the AAP, and about their thought processes along the way. We began the survey on April 29, 1999, interviewing participants after they received final court decisions on their cases. We also attempted to contact all participants who completed their cases and the program before the survey began, to arrange interviews with them as well. Interviews were conducted either in person, when possible, or by telephone. Of the 109 intensive participants who completed their cases during the demonstration project, we conducted interviews with 40. This sample was not intended to offer proof that supervision works; instead the purpose was to gain understanding of what encourages people to comply and to focus attention on issues that would be important if the program were replicated in the future.

### Pilot study

After the initial development of the survey, we tested the questionnaire in a pilot study in which we interviewed regular AAP participants. Although regular participants were different than our target interviewees in that they did not spend any time in detention, they too were facing removal proceedings, had contact with the Appearance Assistance Program, and also made decisions about attending their final hearings and complying with outcomes. We decided not to use members of the target group—AAP intensive participants—for the pilot study because we wanted to include as many as possible in the actual survey.

### Revisions and Modifications

After the initial pilot interviews, we reviewed and revised the questionnaire. Introduction and consent forms were prepared. We prepared all materials in English and translated them into Spanish, the language next most commonly spoken by AAP participants.

### **Who was interviewed and how?**

Researchers began contacting both active and former participants of the Appearance Assistance Program on April 29, 1999. Only intensive participants who had received final decisions on their cases at the immigration judge level were interviewed.

### Interviewing Active Participants

- Active participants interviewed were:
  - People who were granted voluntary departure and were awaiting their departure deadline.
  - People whose cases were on appeal and were awaiting a decision from the Board of Immigration Appeals.

-People who were granted permission to remain in the United States by the immigration judge but where the INS had reserved the right to appeal. These people were required to report to the AAP during such an appeal, if filed, or until the INS had decided not to appeal.

-Participants who were ordered removed and redetained at their final hearing.

For participants who were ordered removed and redetained at their final hearings, we conducted the interview after the AAP determined their eligibility for re-release on appeal but before the participant was notified of the decision. This was done so that the AAP's positive or negative decision to re-release the participants would not affect their view of the program, or therefore, their survey responses. Interviewers especially emphasized their role as researchers separate from AAP staff so as not to confuse participants or raise their hopes about re-release.

### Interviewing Former Participants

When interviewing began, researchers attempted to contact all former intensive participants of the AAP. These were participants who were no longer required to report to the AAP and who had been granted one of the following decisions:

-Relief;

-Failure to prosecute cases, immigration judge closed/terminated proceedings ;

-Ordered removed cases (including people who were not detained and people who were deported to their home countries);

-Ordered removed in absentia;

-Voluntary departure and left the United States;

-Voluntary departure but failed to leave the United States.

Some participants were redetained before they received a final decision from an immigration judge. Researchers kept track of their hearings and attempted to interview the participants either in detention or at their homes once they received the final decision.

Phone numbers for former participants were taken from the participants' files in the AAP database. Former participants were contacted five times within a three-week period, varying the time of the phone calls from morning, to evening and weekends. For those numbers that were unsuccessful (disconnected, wrong number, no answer), interviewers called every contact number in their AAP file in an effort to find a forwarding number or contact person.

### Conducting the Interview

Interviews were conducted in person when possible. For participants no longer living in the New York metropolitan area, interviews were conducted by telephone. In-person interviews took place at the main Vera office (which is at a different location than the AAP) and in detention facilities. For participants who had received final decisions but were still required to report to the AAP (e.g., waiting for their voluntary departure date or an appeal decision), interviews were conducted at the AAP offices after supervision meetings or at the participants' homes during field visits.



Active participants were not given any compensation for the interview because interviews coincided with their normal obligations to the AAP. Former participants were given twenty dollars reimbursement for travel and food.

In preparation for each interview, the interviewer reviewed the participant's case in the AAP database.

At the start of the interview, the interviewer read the consent form to the participant. Researchers asked open-ended questions and probed for specific answers. For example, if the participant responded "the AAP helped me," interviewers would ask in what ways the AAP helped or what the AAP did to help.

All interviewers on the research team conducted interviews in English and Spanish. For interviews with non-English or non-Spanish speaking participants, interpreters were employed either in person or via telephone. Because interpreters were employed for a majority of the interviews, some of the quotes used in this report do not necessarily reflect the exact words of the participants, but words used by the interpreter to convey the participants' words. In these cases, we believe the quotes accurately reflect the thrust of the participants' responses.

#### Background Information on Intensive Participants Interviewed

The 40 intensive participants interviewed fall into three types of cases:

- Asylum seekers were apprehended by the INS at JFK airport and were detained at the Wackenhut detention facility in Queens. We interviewed 23 participants from this category—16 men and 7 women. On average, they were 26 years old and had completed 12 years of education. They came from the following countries: former Yugoslavia (5), Albania (3), Afghanistan (3), Pakistan (2), Nigeria (2), Ghana (1), Sierra Leone (1), Egypt (1), Algeria (1), Sudan (1), Iran (1), China (1) and Jamaica (1). The asylum seekers we interviewed are representative of the asylum seeking population of AAP participants.
- Undocumented workers, apprehended by the INS at their places of employment, were detained in Elizabeth, New Jersey prior to release to the AAP. We interviewed 15 work site participants—13 men and 2 women. On average, they were 36 years old, had completed 9 years of education. They had been living in the United States for an average of 8 years. The undocumented workers came from the following countries: Mexico (8), Ecuador (3), Honduras (2), El Salvador (1), and India (1). Undocumented workers we interviewed are representative of the population of AAP participants who were apprehended in work site actions.
- Criminal aliens were detained at the Varick Street Service Processing Center. We interviewed 2 criminal alien participants. Both were lawful permanent residents and had criminal convictions that would currently subject them to mandatory detention while in proceedings. Both were men from the Dominican Republic. They were in their early thirties, had completed 9 years of education, and had been living in the United States for more than 20 years. Although the criminal aliens surveyed did not

include the same variety of nationalities as did the AAP criminal alien group as a whole, they were from the Dominican Republic, which was the largest single nationality group represented in the criminal alien group.

Participants we interviewed had spent an average of 21 nights in detention. Undocumented workers generally spent one or two nights in detention; asylum seeker and criminal alien participants spent as much as two months in detention before being released to the AAP. Forty-seven percent were in proceedings, and participating in the AAP, for less than a year; 53 percent were in the process for more than a year. Overall, they were required to appear at an average of 4 hearings.

## Appearance Assistance Program Participant Survey

### INTRODUCTION TO SURVEY:

Hello. My name is \_\_\_\_\_  
and I work in the Research Department of the Vera Institute of Justice.

I am here to conduct a survey of AAP participants in order to evaluate the services of the AAP program. I will be asking you questions about your experiences before and during the program, and about your perceptions and opinions of the program. We want to know how the AAP program services have assisted you in attending your immigration court hearings.

Before we begin, you should read and sign the survey agreement form. This is to ensure that you understand the purpose of the survey. We will review the survey agreement points together now.

*After #3 on the consent form ask, "Are you ready to sign and begin?"*

## Appearance Assistance Program Survey Agreement & Consent Form for Participants

Please Read and Sign

1. I know that information I provide to the AAP is analyzed on a regular basis by Vera Institute researchers studying the U.S. immigration system. I know that a Vera researcher is going to ask me questions about my experiences with and my opinion of the Appearance Assistance Program.
2. I understand that the interview is for research purposes only, and that it will not affect the outcome of my case nor my participation in the program.
3. My answers are confidential. My answers will be used without identification along with information and opinions from other participants. My name will not be used.

I agree to participate in this survey.

\_\_\_\_\_  
Participant signature

\_\_\_\_\_  
Date

## Appearance Assistance Program Participant Survey

Participant ID# \_\_\_\_\_

Date \_\_\_\_\_

Interviewer Name \_\_\_\_\_

Location \_\_\_\_\_

### *Prior to AAP*

1. When were you apprehended by the INS?

---

---

2. How long did you spend in INS detention? \_\_\_\_\_

3. At the time you were detained, did you understand that you would have to go to Immigration Court and appear before an immigration judge?

YES

NO

3a. If you did not understand that you would have to go to court and appear before a judge, what did you think would happen to you?

---

---

---

### *About AAP*

4. How did you first learn of the AAP?

---

---

---

5. When you were interviewed by an AAP staff member/intake screener, what did you think the program could do for you?

Anything else? \_\_\_\_\_

Anything else? \_\_\_\_\_

5a. Which of these did you think was the main thing?

*Circle one and code as 5AMAIN; code the other two as 5B and 5C*

6. How long have you been an AAP participant? \_\_\_\_\_

7. Now you have been an AAP participant for \_\_\_\_\_ (fill in time) \_\_\_\_\_ and you understand the program. If a friend asked you about the program, how would you explain the main purpose of the AAP?

Anything else? \_\_\_\_\_

Anything else? \_\_\_\_\_

7a. Which of these do you think is the main purpose?

*Circle one and code as 7AMAIN; code the other two as 7B and 7C*

8. Has the AAP been helpful to you? Would that be "Yes," "In Some Ways," or "Not At All."

YES

IN SOME WAYS

NOT AT ALL

9. In what ways has the AAP been helpful to you?

9. In what ways has the AAP not been at all helpful to you?

Anything else? \_\_\_\_\_

Anything else? \_\_\_\_\_

*Circle one; code as 9AMAIN; code the other two as 9B, 9C.*

9a. Which of these do you think has been the most helpful? [or most unhelpful]?

10. What is the one best (what is one good) thing about the program? (Probes: Information? Assistance? Referrals?)

11. What is the one thing AAP could do to improve the program for participants?

12. Think back to the time you were detained by the INS: What would you have done if the AAP had not helped you?

Anything else? \_\_\_\_\_

Anything else? \_\_\_\_\_

*Circle one; code as 12AMAIN; code the other two as 12B, 12C.*

12a. Which of these do you think is the first thing you would have done?

13. Do did you have an immigration lawyer or legal representative?

YES  
NO

13a1. Did the AAP help you find your lawyer or legal representative?

13b. Why not?

YES NO

13a2. Why not? \_\_\_\_\_

13a2. In what way? \_\_\_\_\_

Go to next page



\_\_\_\_\_

\_\_\_\_\_

14. How many hearings have you attended? \_\_\_\_\_

15. Do you have  YES  NO another hearing in the future?

**STOP! Go to question 21, this person has not completed his/her case.**

NO

15A. Is there a decision in your case?

YES  NO

16. Did you ever consider abandoning your case before completing all your hearings and receiving a decision?

YES  NO

16. Did you ever consider abandoning your case before completing all your hearings and receiving a decision?

YES  NO

your case before completing all your hearings and receiving a decision?

YES  NO

17. What did you see as the benefit of completing your hearings, even with the threat of re-detention?

17. What did you see as the benefit of completing your hearings, even with the threat of re-detention?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**STOP! Go to question 23**

*If the decision was NOT Voluntary Departure*

*If the decision was Voluntary Departure*

18. What was the immigration judge's decision in your case?

---

---

18a1. How did you learn of the possibility of applying for Voluntary Departure?

---

---

18a2. What advantages did you see in applying for

Voluntary Departure?

---

---

*If they don't have to leave the United States then STOP and go to Question 25, Demographics.*

*If they have to leave the United States...*

19. What are your concerns about leaving the United States and returning to your country?

---

---

---

20. What do you see as the benefits of leaving the United States and returning to your country?

---

---

---

*Skip the next page and go to Question 25, Demographics.*

*This page is for participants who have not completed:*

**21. What do you see as the benefit of completing your hearings?**

---

---

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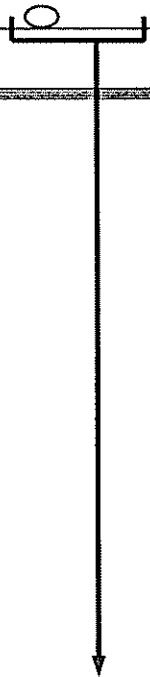
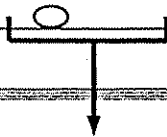
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**22. Do you plan to apply for Voluntary Departure?**

**YES**  
**NO**

**22a1. What or who gave you the idea of applying for Voluntary Departure?**

**22a2. What advantages do you see in applying for Voluntary Departure?**

**23. If the judge decides that you must leave the United States, what are your concerns about leaving the United States and returning to your country?**

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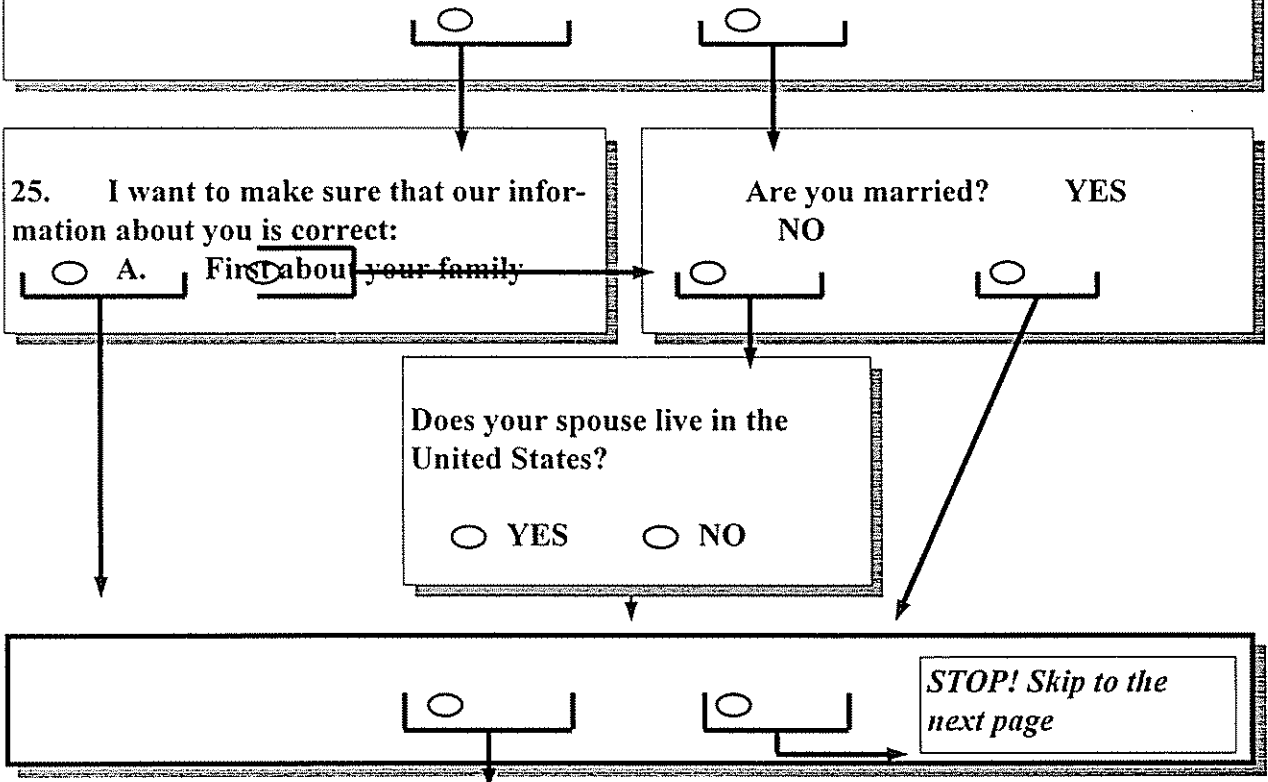
24. If the judge decides that you must leave the United States, what do you see as the benefits of leaving the United States and returning to your country?

---



---

Demographic data



Do you have a domestic partner?

Is the oldest/next one a boy or girl?	What is his/her age?	Where does he/she live?

YES	NO	
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Does your domestic partner live in the United States?		
YES	NO	
Do you have children? <input type="radio"/> YES <input type="radio"/> NO		

How many? \_\_\_\_\_

Where does your mother live?

USA                      Home Country                      Deceased

Where does your father live?

USA                      Home Country                      Deceased

B. And about your occupation:

What was your occupation in your home country? (*Probe for specifics*)

---

What has been your occupation in the US? (*Probe for specifics*)

---

C. And about the AAP

What is the name of the person with whom you have had the most contact?

---

26. Is there anything else I should know about the AAP?

---



## APPENDIX V: Methodology for Cost Analysis

The following describes the methodology that was used to evaluate the cost-effectiveness of supervised release. This analysis yielded cost estimates for nine separate groups of noncitizens in removal proceedings. They are:

### Asylum Seekers

- Detained throughout proceedings
- Detained and later paroled
- Detained and later supervised

### Criminal Aliens

- Detained throughout proceedings
- Detained and later released on bond
- Detained and later supervised

### Undocumented Workers

- Detained throughout proceedings
- Detained and later released on bond
- Detained and later supervised

This approach allowed for a comparison of the cost implications of the INS's various custody strategies. For each subgroup of noncitizens in removal proceedings— asylum seekers, criminal aliens, and undocumented workers—we estimated the cost of detention throughout proceedings, release on bond or parole, and supervised release. These estimates were expressed as a total cost per compliant individual.

We used two different measures of effectiveness: continuous appearance for all required hearings and compliance with final orders. This was because the INS may decide to replicate the AAP's policy of requiring that noncitizens be redetained in court if ordered removed. The risk of flight increases dramatically at this stage because the noncitizens are being told that they will not be allowed to remain in the United States unless they successfully appeal. If the INS provides for redetention in court, the appropriate measure of cost-effectiveness would be the cost per individual who appears for all required hearings. If the INS continues to release noncitizens for their entire proceedings, the appropriate measure is compliance with final orders.

In its basic form, each of the cost estimates is derived from these five computations:

1. Detention costs are calculated by multiplying the average number of days spent in detention by \$61, which is the average daily cost of detention reported by the INS.
2. Supervision costs are calculated by multiplying the average number of supervision days by \$12, which is what we estimate the INS would need to spend per individual/per day if it were to institutionalize supervised release.
3. The average dollar amount recovered from breached bonds is calculated using the average bond and breach rate for each subgroup. We assume, as reported

in an Inspector General's report on the management of INS bonds,<sup>1</sup> that the INS would successfully collect on 81 percent of the bonds it breached.

4. The above costs and breached bond credits are summed to arrive at a total cost per individual.
5. The total cost per individual is then divided by each subgroup's effectiveness measures, yielding an estimated cost per individual who appears for all required hearings and an estimated cost per individual who complies with a final order.

Table 1 describes the data sources for each of the components used in this model.

**Table 1**

<b>DATA SOURCES USED</b>	
Cost Component	Data Source
Daily cost of detention	Reported by John O'Malley, Immigration and Naturalization Service.
Daily cost of supervision	Based on the AAP's experience we estimated what it would cost the INS to implement supervised release. The \$12 per person/per day figure was the result of a hypothetical budget for a supervision center serving 250 clients over the course of a year. A summary of this budget is included as Table 2.
Length of detention	The average number of detention days was calculated using DACS detention records obtained from the INS. For each detention record, the booking date and release date were compared to determine the length of stay. For individuals who had multiple detention records, we summed the length of each of the detention segments.
Length of supervision	The average number of supervision days was calculated using data collected by the AAP.
Effectiveness measures	Both the continuous appearance and the compliance rates for the supervision and released on bond strategies were taken from the impact evaluation in Chapter 2 of this report.
Bond	For criminal aliens and undocumented workers released on bond, the average bond amount was calculated using bond records in DACS. The average bond amount for criminal aliens released from the Varick Street SPC was \$9,962. The average bond amount for undocumented workers released from the Elizabeth, NJ detention center was \$3,643. In addition, we used DACS bond records to calculate the breach rate for noncitizens who absconded. The breach rate was 67% for criminal aliens and 76% for undocumented workers.

In order to estimate the cost of supervised release, we developed a hypothetical budget for a supervision center serving 250 noncitizens over the course of one year. We based our estimate on this scale because 250 cases per year is a conservative estimate of the population a typical supervision center would serve. A supervision center operating on a larger scale would result in a lower cost per individual. The hypothetical budget is summarized in Table 2. We assumed that a supervision officer could be expected to supervise an active caseload of 36 participants, or 55 participants on an annual basis<sup>2</sup> (see

<sup>1</sup> U.S. Department of Justice Office of the Inspector General, *Follow-up Inspection of the Management of Delivery Bonds in the Immigration and Naturalization Service*, Report #I-98-18, August 1998.

<sup>2</sup> Assuming, based on the AAP's experience, that the average length of supervision is 240 days and the active caseload is 36 participants, the annualized caseload would be 55 participants.



Table 3 for a summary of how we arrived at this expected caseload). Accordingly, we determined that a supervision center of this size would be staffed by five supervision officers. The other direct costs included in the budget were based on the costs incurred by the AAP for each of these categories.

**Table 2**

<b>Estimated Cost of Supervision – 250 Participants</b>			
	<b>UNIT COST</b>	<b>FTE</b>	<b>TOTAL COST</b>
<b>Labor Costs</b>			
Supervision/Field Officer	\$ 35,000	5	\$ 175,000
Supervision/Field Supervisor	\$ 50,000	1	\$ 50,000
Supervisor Support/Customer Service	\$ 27,000	1	\$ 27,000
Intake Screener	\$ 35,000	1	\$ 35,000
Local Manager	\$ 65,000	1	\$ 65,000
Local Network Manager	\$ 45,000	0.5	\$ 22,500
Office Manager	\$ 45,000	0.5	\$ 22,500
Administrative/Finance Assist.	\$ 30,000	1	\$ 30,000
Total Labor Categories		11.00	\$ 427,000
Fringe		28.0%	\$ 119,560
<i>Total Labor and Fringe</i>			<b>\$ 546,560</b>
<b>Other Direct Costs</b>			
Occupancy			\$ 75,750
Supplies			\$ 8,600
Computer Services			\$ 35,333
Phone Services			\$ 17,680
Resource Center			\$ 1,500
Postage and Delivery			\$ 4,651
Vehicles			\$ 37,872
Rental Equipment			\$ 2,664
Insurance			\$ 15,500
Travel & Accommodation			\$ 18,200
Interpreter Services			\$ 338,400
<i>Total Other Direct Cost</i>			<b>\$ 556,150</b>
<b>GRAND TOTAL EXPENSES</b>			<b>\$ 1,102,710</b>
<b>COST PER PERSON/PER DAY</b>			<b>\$ 12.08</b>

**Table 3**

<b>Supervision Caseload Computations</b>			
<b>ACTIVITY</b>	<b>LENGTH OF TIME</b>	<b>FREQUENCY</b>	<b>TOTAL MINUTES PER PARTICIPANT/PER MONTH</b>
Orientation	2 hours	One time only	15
Supervision meetings	1 hour	Once per month	60
Call-ins	2 minutes per call	Twice per week	20
Hearings	1 hour	One time only	8
Field visits	75 minutes <sup>3</sup>	Bimonthly	38
Follow up <sup>4</sup>	20 minutes	Twice per month	40
Miscellaneous	25 minutes	Once per month	25
<i>Total</i>			206 minutes (3.4 hours spent on each participant per month)
<b>Caseload total</b>			3.4 hours x 36 participants = 122 hours per caseload

The following table shows the actual values for each of the components that was used in the formulas that calculated the cost effectiveness of the three custody strategies. As previously stated, the two formulas used to estimate cost effectiveness were:

$$a) C_{hear} = \frac{D_{init} + S_{sup} + D_{add} - B_{breach}}{E_{hear}}$$

$$b) C_{comp} = \frac{D_{init} + S_{sup} + D_{add} - B_{breach}}{E_{comp}}$$

<sup>3</sup> Includes 60 minutes for travel time.

<sup>4</sup> Follow up work includes legal and social service referrals, assistance getting to referral locations, communication with the guarantor and responding to program violations.

Table 4

VALUES USED TO ESTIMATE COST EFFECTIVENESS							
		$D_{init}$	$S_{sup}$	$D_{add}^5$	$B_{breach}$	$E_{hear}$	$E_{comp}$
<b>Asylum Seekers</b>							
1.	Detained throughout proceedings	119 x \$61 = \$7259	\$0	\$0	\$0	100%	100%
2.	Detained and later paroled	54 x \$61 = \$3294	\$0	\$0	\$0	78%	73%
3.	Detained and later supervised	15 x \$61 = \$915	160 x \$12 = \$1920	.10 (\$61 x 40) = \$244	\$0	93%	82%
<b>Criminal Aliens</b>							
4.	Detained throughout proceedings	75 x \$61 = \$4575	\$0	\$0	\$0	100%	100%
5.	Detained and later released on bond	3 x \$61 = \$183	\$0	\$0	\$3730	77%	34%
6.	Detained and later supervised	6 x \$61 = \$366	260 x \$12 = \$3120	.10 (\$61 x 25) = \$153	\$0	94%	100%
<b>Undocumented Workers</b>							
7.	Detained throughout proceedings	18 x \$61 = \$1098	\$0	\$0	\$0	100%	100%
8.	Detained and later released on bond	9 x \$61 = \$549	\$0	\$0	\$1614	59%	26%
9.	Detained and later supervised	2 x \$61 = \$122	260 x \$12 = \$3120	.10 (\$61 x 18) = \$110	\$0	88%	53%

<sup>5</sup> Assuming that 30% of supervision participants will be recommended for redetention and that 33 percent of those recommendations will result in an actual redetention, an additional detention cost of between \$110 and \$244 will be incurred per individual. If the INS were able to accomplish redetentions at this rate, it would also have a positive effect on the appearance and compliance rates achieved by supervision (though we did not figure that adjustment into our analysis). Because the INS redetained only a small fraction of the AAP program violators recommended for redetention, we are not able to use the AAP's experience to calculate the additional detention time that was required for these participants. Consequently, we made assumptions as to the amount of additional detention time that would be required for redetained participants. Based on the AAP's experience, recommendations for redetention usually occur toward the end of proceedings—often just before participants' final hearing or before they are required to depart the United States. Therefore, we assumed that the amount of additional detention time that would be required for criminal aliens and asylum seekers would be one-third of the total detention time spent by individuals who are never released from detention. Accordingly, we assumed that redetained asylum seekers would require an additional 40 days of detention, and redetained criminal aliens, an additional 25 days. Because removal proceedings for undocumented workers are completed in such a short time, we assumed that redetained workers would require the same amount of detention as those who are detained throughout their proceedings (18 days).



**Selected Sections from:**

# **Policies and Procedures**

**Appearance Assistance Program - AAP**  
Vera Institute of Justice



**Policies and Procedures**  
**Appearance Assistance Program - Vera Institute of Justice**

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**SECTIONS OMITTED FROM THE APPENDIX:**

**GENERAL STAFF PROTOCOLS**

Protocol For Transportation Of Participants  
Ethics Policies - Gifts  
Safety and Security Guidelines for the AAP Reporting Center  
Relationships With People With Whom Vera Does Business  
Policy on Travel and Other Work-Related Expenses  
Driver and Vehicle Policies  
Protocol For Reporting Detainees' Complaints  
Front Desk and Telephone Procedures  
Instructions for Hiring Interpreters

**ADMINISTRATIVE POLICIES**

Procedures for the Administration of Petty Cash, and Tokens  
Purchase Order Procedures  
Sales and Use of Tax Exemption Policy  
Budget Authority Policies  
Procedures for the Administration of Food Vouchers  
Procurement Policy

Please contact the Vera Institute of Justice if interested in receiving any of  
the above sections:

Vera Institute of Justice  
Research Department  
233 Broadway, 12<sup>th</sup> Floor  
New York, New York 10279  
(212) 334-1300



## VERBAL CONSENT PROTOCOL

---

A# \_\_\_\_\_

Name \_\_\_\_\_

**Vera Institute of Justice**  
80 Broad Street, Suite 1700  
New York, N.Y. 10004  
(212) 634-4330

### **Consent to Screening Interview Appearance Assistance Program VERBAL CONSENT PROTOCOL**

My name is \_\_\_\_\_ and I work for a private organization called the Vera Institute of Justice. The Vera Institute is not part of the INS or the U.S. government. The Vera Institute works to set up programs to improve government services. The INS has asked the Vera Institute to set up a program to recommend which people should be released from detention while they wait for their hearings.

The purpose of the Vera program is to help people get out of detention and to help them attend all of their hearings after they are released from detention by supervising them. I would like to ask you some questions to see if you would qualify to be released from detention and participate in this program. These questions will be about your background, your family ties in New York, and your immigration situation. I will put the information you give me in the computer and use it to decide if you can participate in the program and whether I think you will show up for your hearings if you are released from detention. Because this is a new program and it is being tested, not everyone who qualifies can participate. Some people who qualify will be released from detention under this program; others will not be.

It is completely your decision whether or not you agree to answer my questions. If you decide not to answer the questions, it will make no difference in how the INS handles your case. I will not even tell the INS that you didn't answer the questions. If you are not released under this program after talking to me, I will keep your answers private and confidential and not tell anyone what you have told me, although I will put together statistics from the answers I get from everyone I talk to and from your INS and Immigration Court files. Your answers and the file information will become part of the statistics, but they will not have your name on them nor will there be any way to tell your answers from anyone else's. You should also understand that I am not going to be deciding if you are, or are not, eligible for any immigration benefits. You should talk with an attorney knowledgeable in immigration law who represents persons in your situation in order to have your case thoroughly evaluated and to consider all of your options.

If you do not agree to answer the questions, you will not be considered for release under this program, but the INS may release you anyway.

If you agree to participate in this program, you should understand the following:

1. You will be on supervised release for the time it takes to complete all your court hearings until the immigration judge has made a decision in your case and you have done whatever is required by that decision, which may mean leaving the U.S. This may take many months.
2. You must follow all the rules of the program, report to our office, and appear in court when you are required to, and if you do not, we will try to find you and you may be redetained.
3. If the judge orders you deported at a court hearing you will probably be redetained in court and you may be deported from detention.
4. Members of our staff will periodically visit your home.
5. If you do not agree to participate in this program, you may have the possibility to pay bond and be released without conditions.
  - Do you have any questions or is there anything you don't understand that I can explain?
  - Do you wish to begin the interview?

*If no --* Would you be willing to tell me why you do not wish answer the questions, so that I can use that information to help improve the program and questioning process? Whatever you tell me will be kept private.

*If yes --* I am now going to ask you some questions to decide if you can be released under this program. If you change your mind about answering at any time, you should tell me and I will stop the questions. If there is anything you do not understand, you should ask me and I will explain it. It is important to me that you understand everything I will be asking you and why I am asking you. If you are selected to be released and be a part of the supervision program, you will also be asked to sign a form agreeing to participate in the program before your release.

## INTAKE POINT SCALE

### Compliance Risk

This screen seeks to assess potential participants' history of compliance with the criminal justice system and pretrial or supervised release programs. It considers the ratios of bench warrants in criminal cases to total number of cases and probation/parole revocations to the total number of terms. The compliance risk section does not need to be completed for potential asylum seekers for whom a compliance history is not available.

#### A. Failure to Appear History

# of bench warrants in last 10 years \_\_\_\_\_

Total # of criminal cases \_\_\_\_\_

Warrants to cases ratio: \_\_\_\_\_ = \_\_\_\_\_%

**If 50% or less, potential participant qualifies.**

**If 51-75% or 1 bench warrant:1 criminal case, screen for supercriteria, non-PWEs only.**

**If 76% or more, potential participant is disqualified.**

Meets criteria: Y/N

# of bail jumping convictions \_\_\_\_\_

**If convicted, potential participant is disqualified.**

Meets criteria: Y/N

#### B. Compliance with Supervision History

# of probation, parole revocations \_\_\_\_\_

Total # of supervision terms \_\_\_\_\_

Revocations to terms ratio: \_\_\_\_\_ = \_\_\_\_\_%

**If 50% or less, potential participant qualifies.**

**If 51-75% or a 1parole/probation term:1 parole/probation revocation, screen for supercriteria, non-PWEs only.**

**If 76% or more, potential participant is disqualified.**

Meets criteria: Y/N

### Supercriteria

1. Potential Participant must provide at least two verifiable contacts within the designated Supervision area in addition to the guarantor.
2. Potential Participant will be informed that because of prior FTA history, s/he will be required to report at an intensive level and will have to agree to the

additional terms that will be set by the supervision team at the Orientation Session.

**If Supercriteria are met, the potential participant may meet Compliance criteria.**

### Public Safety Risk

Convicted of:

Murder, torture, rape, or attempts:	Y/N
Felony sex offense:	Y/N
Assault 1, robbery 1, robbery 2, arson, kidnapping:	Y/N
Significant history of violent crimes	Y/N

**(Consider frequency, severity, time span. This is the only criterion in which to consider charges in addition to convictions. Before using as a bar to eligibility, obtain approval from the Intake Director.)**

Convicted of crimes in home country? **(If so, apply public safety screen)** Y/N

**If "Yes" to any, potential participant is disqualified.**

Meets criteria: Y/N

### Community Ties

This screen evaluates potential participants' ties to the New York City area. Program eligibility requires a verified address where the person will be able to live during the supervision, and a guarantor (i.e. someone who will take moral but not legal or financial responsibility for keeping track of the participant's whereabouts and obligations to report for supervision and to appear at hearings). The guarantor may be an organization or an individual who is a Legal Permanent Resident or a U.S. Citizen, over the age of 18, residing in the NYC metropolitan area at a verified address. This screen considers those elements as well as whether the person has family in the New York City area or elsewhere in the U.S. Those with immediate or extended family residing locally are assumed to be better risks for supervision than those with family elsewhere in the U.S., under the assumption that people will go to where their families live. Those with no family in the U.S. are not likely to be better or worse risks and will not gain or lose points.

verified available residence (+3)	_____
verified guarantor (+3)	_____
location of family:	
family in NYC (+1)	_____
no family anywhere in U.S. (0)	_____
family elsewhere in U.S. (-1)	_____

number of years in residence in NYC<sup>1</sup> \_\_\_\_\_  
score: \_\_\_\_\_

**If score is 5 or less, the potential participant is disqualified.**

**Meets criteria: Y/N**

**Remedy**

Is there a remedy the potential participant could apply for?

**If No, screen for PWE eligibility.**

**Meets criteria: Y/Screen for PWE**

**PWE SCREEN POINT SCALE**

**I. PWE CRITERIA**

- 1. Family in NYC Area (+1) \_\_\_\_\_
- 2. Lived in Home Country as an ADULT (at least 2 years over age 18) (+1) \_\_\_\_\_
- 3. Recent Travel to (or recent presence in) Home Country (within last 5 years) (+1) \_\_\_\_\_

- 4. Legal employment in NYC Area (+1) \_\_\_\_\_
- 5. Employment/Full-time Student in Home Country (+1) \_\_\_\_\_
- 6. Family in Home Country (+2) \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

- 7. Speaks Language(s) of Home Country (+3) \_\_\_\_\_

- 8. Is PP willing to comply with deportation order if released? **Y N**  
(if no, PP is ineligible)

**TOTAL POINTS: \_\_\_\_\_**

**If score is 6 or less the p.p. is disqualified. Meets criteria: Y N**

**Passes compliance risk and public safety risk screens? Y N**

**Eligible for Supervision**

**All criteria must be met.**

**Eligible**

**Not Eligible**

<sup>1</sup> We will keep track of this response without scoring it, until or unless our data shows that it is relevant.

## INTAKE PROCEDURES FOR VARICK STREET SPC

At the Varick Street Service Processing Center, Intake Screeners identify potential participants for the AAP intensive supervision program. These candidates either 1) are eligible to apply for a remedy, or 2) have sufficient equities or other indicators that would make them amenable to supervised release (pass the "people with equities," or PWE, screen). All participants must also pass the compliance and public safety screens, and have a verified residence and guarantor.

**Task: *Identify potential participants.*** Intake Screener (IS) obtains the INS "midnight report" and inventory report. Using the midnight report, identify arrivals from Rikers Island and other local jails. IHP (also known as IRP) cases are not eligible for the screen. Using inventory report, look up category of every potential participant (PP), eliminating final orders (3) and exclusions (8). IS requests file of those who arrive from Rikers and local jails to determine eligibility for screening. In AAPPRO, enter name, A#, age, country of birth, date of arrival at Varick, and whether or not IHP for all new arrivals. Designate each either as "Intake Intensive > Awaiting Awaiting File (for Rikers and non-Rikers); and "X Other Intensive > Not Eligible for Screen (for IHP, final orders, post-TPCR mandatory detention, or exclusion). If based on file review, the PP is still eligible for screening, designate as "Intake Intensive > Awaiting Interview."

**Task: *Organize interview.*** IS submits list of those to be interviewed to INS to arrange for them to be brought to the AAP interview rooms. If interpreter is needed, consult interpreter list and use telephone conference to conduct interview. (Follow billing procedures outlined in procedures for hiring interpreters.) **Resource needs:** Coordination with Deportation Officer and Clerk; one or more Security Officers to transport detainees.

**Task: *Conduct interview.*** IS conducts interviews with detainees. Interviews last approximately 30 minutes each. Includes explanation of the program, questions from detainees, gaining verbal consent for interview (see Verbal Consent Protocol) and the screen itself. **Resource needs:** one or two interview rooms equipped for laptop computers, with telephone (and phone line), table, chairs; one Security Officer to guard outside.

**Task: *Verification.*** IS conducts phone verification of community ties, guarantor, person PP will reside with, addresses, telephone #'s after completion of all interviews. All AAP screeners can assist in Varick verifications by searching the Events Master screen for "intake contacts>varick verif" scheduled by Varick IS in AAPPRO. Request assistance of AAP Field Staff, if necessary. When verification is complete, a community ties form is completed, two copies are given to INS staff (one copy is given to the Deportation Officer handling the case and one copy is for the Supervisory Deportation Officer) one copy with cover letter is given to the PP, and one copy is put in the AAP program files.



**Task: *File review:*** IS calls INS staff and requests A files of tentatively eligible detainees. Reviews Notice To Appear, rap sheet, I-213 and Fact Sheet For Release Bond for program eligibility. Enters data in AAPPRO and determines eligibility.

**Task: *Release recommendation.*** After reviewing with the Intake Director and/or fellow screeners, IS submits written recommendation to SDO (faxing a copy to the COTR) for those found to be eligible for release to AAP, summarizing reasons in support of the recommendation. Receives approval/denial and faxes copy to AAP Intake Director.

**Task: *Prepare for release.*** IS arranges exit interview with detainee and obtains signed Agreement to Participate. IS notifies AAP supervision staff of approval of release, advises them whether supercriteria were applied and, when appropriate, makes arrangements for AAP Field staff to take participants straight to AAP office for orientation. IS makes available the signed Agreement to Participate and the INS Order of Release for the supervision team assigned to the case.**Resource needs:** coordination with Supervisory Deportation Officer; one or more Detention Officers to transport detainees. AAP Field staff and vehicle.

**Task: *Informing Detainees of ineligibility.*** If recommendation is not approved or if no recommendation is made, send form letter informing detainee through internal mail delivery at Varick.

## WORK-SITE ENFORCEMENT INTAKE PROCEDURES

### Worksite Screening Objectives:

AAP staff will screen potential participants for both intensive and regular supervision. Priority will be given to those with Notices to Appear/Warrants of Arrest (NTA/WA) who are slated for detention in Elizabeth, NJ. Those being detained as Bag & Baggage (B&B) or for voluntary return (VR), and those being transferred to York, PA are not eligible for screening.

From the people apprehended in work-site enforcement who are being released on their own recognizance (ROR) pending their hearing, we will randomly select potential regular supervision participants (PRP) and a control group. The PRPs will be interviewed for the program; the control group will not. Control group information, based on the I-213, will be used for research purposes only.

### AAP Staff Requirements:

At 26 Federal, two to three *Intake Screeners* with bilingual Spanish ability (unless other language needs arise) to conduct the interviews and verifications; to work with the INS case agents to organize the interviews; collect the I-213s; and for PRPs, arrange the release/exit interview logistics.

When necessary, AAP *field staff* will be asked to assist with verifications, and to assist with the transport of regular supervision participants to 80 Broad.

At 80 Broad, *supervision staff* will hold an orientation for regular participants the evening of their screening and release.

Intake screeners will also be responsible for ensuring that everything is recorded accurately and completely in AAPPPO, for completing necessary paperwork, and for following up the next day with release recommendations for potential intensive participants and scheduling supervision orientations for those who are released.

### Procedures:

1. *At 80 Broad -- The Intake Director gathers general information about the enforcement action from the Supervisory Investigations Officer:* the number arrested, number being detained, number of VRs/B&Bs/RORs, language needs, name of the Case Agent, and the estimated time AAP staff should arrive at 26 Federal. The Intake Director contacts available screeners and organizes intake effort, and sends out email informing AAP staff of the raid.
2. *At 26 Federal -- The Screeners set up the interview room, and coordinate interview procedures and screening with the INS Case Agent.*

- a) *intensive supervision screening process:* from the Case Agent, request interviews with all those who are eligible for intensive supervision, as well as I-213s for everyone apprehended that day. As the INS completes each processing interview, the Case Agent will escort potential participants to the AAP workstation bringing a copy of the I-213 Record of Deportable/Inadmissible Alien if it has been prepared. Screeners should request a full list of all those apprehended to help keep track of everyone who is interviewed and all the I-213s received. **Resource needs:** interview room, screening materials, cell phone, clip boards.
- b) *regular supervision program randomization process:* from the full list of all those apprehended, determine the total number of RORs and conduct the randomization.<sup>2</sup> Request interviews with those who are designated potential program participants (“experimental”). Screeners will have no contact with those designated as control. Once the interviews have been completed and the I-213s collected, screeners should coordinate with the case agent the release of the participants to us once the agents have finished processing. **Resource needs:** Quick, portable randomization process.
3. *Screeners conduct interviews.* Each interview should last approximately 20 minutes, including explaining the program, gaining verbal consent to be interviewed and answering questions. The same work-site screen is used for both regular and intensive potential participants. However, for PRPs the questions pertaining to the guarantor are omitted. For regular supervision candidates be sure to emphasize the fact that if they chose to participate they will be attending an orientation session immediately following release, or when necessary, will need to schedule an orientation date/time with the IS. At the end of the interview, have all potential participants sign two copies of the Agreement to Participate, one for them and one for AAP. If time does not permit signing of the Agreement, screeners should indicate this on the intake screen by checking off “agreement needs to be signed.” Once the interview is complete, the screeners will ensure that the person is returned to the Case Agent. Complete document (I-213) review when possible, recording all pertinent information and being sure to differentiate between INS record and interview data if the information differs.
4. *Verification and Orientation Scheduling.* The screeners will attempt to conduct the verification process from 26 Federal. They will attempt to verify an address for everyone and, for intensive supervision candidates, verify guarantor as well. When necessary, screeners will ask field staff at 80 Broad to help in making phone calls and checking address listings. Aim to complete verification by midday the following day. Screeners should arrange transportation to bring PRPs to the Orientation Session. If the Orientation has to be postponed, screeners are responsible for deciding with the supervision team the best time to reschedule and making sure the participants are informed accordingly. **Resource Needs:** Verification forms and verification scripts.

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<sup>2</sup> Take the total number of RORs and assign 75% in the experimental group and 25% in control. To create an additional comparison group, intake will not participate in every fifth work site action to which it is invited.

5. ***Inform the INS of those under consideration for the intensive supervision program.*** Submit a list of those under consideration to a supervisory investigations officer, along with completed "Do not serve the court until" forms for each candidate, including the date and time the screening process was completed.
6. ***Release of PRPs.*** Once the interviewing is complete and all the I-213s have been collected (or the screeners have arranged to get the I-213s from the Case Agent at a later time), the screeners will arrange to meet the regular supervision participants at the time of their release and ensure that the participants will be attending the Orientation Session or, if not possible, to ensure that we firmly establish the next point of contact. The screeners must make sure that throughout the interviewing, the Case Agent knows that we want to meet again with the participants in a group and then escort them to 80 Broad. Once released, AAP staff will pick up the participants and take them to 80 Broad.
7. ***Orientation Session for regular supervision participants and documentation of intake.*** If the orientation session follows immediately after the screening, at least one screener will return with the participants and organize all the screening and verification materials. If outstanding verifications remain, AAP staff will attempt to finish them with the participants. The screeners are responsible for making sure all of the screens, verification information, and the control group are entered correctly into the system, and that a supervision contact with the note summary: *group orientation session* is entered as "completed." The screeners must also complete a Master List for the paper file indicating who has and has not attended Orientation as well as a Worksite Intake - Regular Supervision Participant List and fax it to the COTR. Once the Orientation is complete and the details of the intake are taken care of, the participants become active in the program.
8. ***Delayed Orientation:*** If time constraints or other scheduling obstacles make an Orientation immediately following the intake impossible, the screeners should schedule the Orientation with the supervision team and make sure that date is made clear to all of the participants at the time that they are released. The screeners will continue to work with supervision to make sure the participants from that intake attend an Orientation. The screeners should organize the screens as described above, scheduling the orientation session. ***Eligibility and Release Recommendations for intensive supervision candidates.*** Determine eligibility for supervision using the Point Scale and the Remedy/PWE Worksheet. Submit a Release Recommendation by fax to District Director or designee for those found eligible. Follow-up on approvals and denials by informing appropriate family members and guarantors. Assist with arranging transport for the approved new participants from the detention facility to their homes, coordinating with their friends and relatives, or, if necessary with AAP field staff. Advise relatives and guarantors of the first requirement of the program, which is for the participant, and if possible the guarantor, to attend an orientation at 80 Broad the day following the participant's release. **Resource needs:** DD or designee to consider, sign and return recommendations to the AAP.

## **INTAKE PROCEDURES FOR SCREENING REGULAR SUPERVISION CANDIDATES AT AIRPORTS**

All individuals placed in proceedings and paroled by the INS from the airports are to be referred to the AAP's Regular Supervision Program. The INS has the discretion not to detain individuals who merit release on humanitarian grounds, e.g. pregnant women, women with children, someone with a serious medical condition. The INS may also choose to release others found inadmissible (e.g., LPRs suspected of abandoning their U.S. residency, visa overstays, LPRs w/criminal convictions). The AAP will screen juveniles (under 18) if they are traveling with or are released from the airport to an immediate family member.

Of those paroled by the INS, the AAP will consider for participation all but those cases of LPRs w/criminal convictions. The AAP will conduct a file review for such cases, however, they will be entered into AAP-PRO as "X Other Regular>Not Eligible for Screening." The remaining cases will be randomized into two groups, i.e., control and experimental. Control group cases will be entered into the system as "Y Control Regular>Screened." Experimental group cases will be considered potential regular participants (PRPs) for whom follow up intake activity (as stated below) will be conducted.

### **File Review**

The IS (Intake Screener) will be based in the airport one or two days a week, depending on need. The IS will obtain and review port copies of A-files of all individuals who are placed in proceedings and released, and screen them for eligibility in the regular supervision program.

The purpose of maintaining a process in which the AAP can track cases that have already been released is to ensure that all individuals who are placed into proceedings and paroled have the opportunity to participate in the AAP.

The IS should complete the File Review component of the Intake Screen and review the A-File - the original or port copy - for as much information as possible, particularly any addresses and/or phone numbers of any contacts s/he may have provided the INS, as well as a brief case summary. Before returning the original A-File (this does not apply to port copies) to the INS, the IS on duty will insert in the A-file the AAP form, "File Reviewed by Vera," the date of file review, and the name of the screener. The IS should then attach the form to the first page of the inside of the file. This informs the INS which files have been reviewed by the AAP thus far.

### **Follow up**

Follow up is necessary to initiate the relationship and accept the participant into the regular supervision program. The IS should prepare the necessary follow up materials in the appropriate language for the individual. The IS will use the information available in the A-File to follow up with the PRP. In the file, the INS should have recorded community ties information in the U.S. as well as an address upon release. Based on this

information, the IS will send an Introductory Regular Supervision Participant letter and a Participant Information notice to explain the expectations of the program and ways to get in touch with the AAP intake staff. The IS will enter all information into the AAPPRO system and indicate that the PRP's case status is "Intake Regular>Pending."

From the time the letter is sent, the PRP will have a 30 day response period. After the PRP has had time to receive the letter (five mailing days), the IS will attempt to call to verify receipt of the information and to schedule a supervision phone orientation (out of state) or an office orientation (in state) to be conducted by supervision staff. The IS will complete the intake screen on AAPPRO either in a phone interview or in a face-to-face interview preceding the supervision orientation.

Upon speaking with an IS during follow up, an individual may be interested in scheduling an Orientation Session with Supervision to acquire a better understanding of the Regular Supervision Program before officially agreeing to become a participant. For example, the PRP may want to discuss first whether the Regular Supervision Program is appropriate for his or her immigration situation. Since the PRP is not an active participant at that juncture, the IS will enter the status of the PRP as "Intake Regular →Orientation scheduled." Depending on what the PRP does next, Supervision will adjust his or her status in the system to read either "Regular Participant > Active," "Intake Regular > Orientation missed," "X Other Regular> → Declined Participation."

The IS must make at least three phone call attempts to each PRP over the course of the response period. Because the PRP will have the AAP phone number, Supervision staff may accept phone calls from PRPs. It will be Intake staff's responsibility, however, to keep track of the number of days that have lapsed after the Introductory letter has been sent. If Supervision staff has successful contact with a PRP who is willing to participate in the program, s/he should change the status in the system and inform IS of the update. For out of state participants, the IS must mail a copy of the Agreement to Participate, a self addressed stamped envelope, and a cover letter instructing the PRP to return the signed Agreement to supervision staff upon completion of a phone orientation. For those who come to the AAP office, supervision staff will obtain the signed Agreement. At the orientation, the participant then begins his or her relationship with the Supervision staff who send court reminders, offering info sessions, working with RP through the court process and anything further required by the Immigration Judge.

If all attempts are unsuccessful at the end of the follow up period or PRP declines participation through verbal or written notice, the IS concludes the follow up period and the PRP is discontinued from the Regular Supervision Intake Process. The PRP's Vera/Case Status should be changed to "X Other Regular > Declined participation," or, in the case that the PRP did not respond or the IS was unable to make contact as a result of incomplete or wrong address/phone information, "X Other Regular > No Contact."

#### **Returned mail**

When mail is returned, the IS will go to the original AAPPRO event that recorded its sending, and change the event status to "Ltr Returned." The IS will also check address in

AAPPRO to confirm that the address was properly written on the envelope. If the address on the envelope matches the one in AAPPRO, try telephoning the PRP to obtain the correct address. If this does not work, field officers may be asked to attempt to track down a correct address. If all else fails, at the end of the 30-day period, the PRP's Vera and case status should be changed to "X OtherRegular > No Contact.

### Entering screens in AAPPRO

A few general rules:

- When entering a case, make certain to change the date of the **Folder status change** so that it accurately reflects the actual date of the activity. For example, if the file was reviewed at the airport on February 3, but was entered on February 5, the folder status change should reflect the former date.
- Reports that are currently generated through AAPPRO at times repeat the name of any individual who has multiple folder status changes that were created on the same date and time. A way to remedy this is to do a quick review of the date/times of folder statuses in the **Events** tab of every folder that is created.

Step	AAP Staff	Tab Folder/Specific Field	Procedure
1	Intake	Vera Status/New case	Change <b>New Case</b> to appropriate status, i.e., <b>intake regular; file review or intake regular; interview.</b>
2	Intake	Initial Intake/A #/Main A #	Intake staff have often reviewed the files of individuals who arrived at the airport with family and were all placed in proceedings at the same time (e.g., abandoned residency cases). With the exception of biographical data such as date of birth, gender, etc., often the same events are recorded for each individual. In an effort to avoid entering all of this information repeatedly, the Main A # function has been created to indicate the file # that should be referred to for all event information in a given file (this is analogous to the lead file used in the EOIR database). In cases of individuals who arrive alone, you only need to fill out the A #. Note: while the main A # function can be used for most events, make sure to enter the <b>court date</b> for <b>ALL</b> files reviewed so that appearance rates can be accurately evaluated.
3	Intake	Initial Intake/Note box	A summary of the case should be recorded in the note box of the initial intake tab. For cases involving criminal convictions, details about the date of the crime, specific convictions, docket numbers, and a preliminary remedy determination for returning LPRs with criminal histories should be recorded in the <b>criminal history tab.</b>
4	Intake	Events/ Intake Contact	The screener should then mail an introductory packet and record this as an <b>intake contact; intro ltr</b>

5	Intake	Vera Status	Once the letter has been mailed, the <b>vera status</b> should be changed to <b>intake regular; pending.</b>
6	Intake	Events/ Intake Contact	Then, schedule an <b>intake contact; 30 days expire.</b> This should be scheduled for a month after the date that the introductory letter was mailed. When the <b>Events Master</b> shows that the month has expired, look in the PRP's <b>events</b> tab to see if sufficient contacts were made. If for some reason a particular case was not given the same treatment (e.g., the minimum 3 calls were not made), then <ul style="list-style-type: none"> <li>• the existing <b>"30 days expire"</b> contact should be <b>rescheduled</b></li> <li>• a new date should be set (depending on how many calls were missing; generally it is rescheduled for another two weeks)</li> <li>• and a note explaining the reason for the extension should be made.</li> </ul>
7	Intake	Events/ Intake Contact	Schedule the first follow up phone call under <b>intake contact</b> for a week after the introductory letter was mailed. There are a number of drop downs from which to choose; the screener should assess the language need and schedule the contact accordingly.
8	Intake	Events/ Intake Contact	If the IS does not gain the PRP's consent to participate after the first call, then s/he should continue to schedule weekly follow up calls (a minimum of 3) until the 30 day period expires or the PRP takes the initiative to respond, whichever comes first.
9	Intake	Events/Supervision Contact	If and when the PRP agrees to participate, the screener should schedule an orientation under <b>supervision contact; orient reg.</b> Before scheduling the orientation, check the <b>Events Master</b> as well as the supervision team's board for the best time to schedule the orientation. Also, the screener should use this opportunity to fill out as much of the screen as possible and record this in the system as an <b>intake contact; complete scrn.</b> Pay close attention to the following: <ul style="list-style-type: none"> <li>• initial date of entry into the US</li> <li>• " manner of entry (e.g., green card, visa, etc.)</li> <li>• if applicable, date that s/he became a LPR</li> </ul>
10	Intake	Vera Status	Upon scheduling an orientation, change the status to <b>intake regular; orientation scheduled and assign the team #.</b>
11	Intake		After scheduling the orientation, the paper screen should be transferred from the Intake PRP file to an individual file bearing the last name, first name and A # on the tab and should then be filed along with the active regular airport cases.



12	Intake	Events/Supervision Contact	For PRPs who live outside the NYC area and cannot attend an orientation meeting, make sure to schedule a <b>supervision contact; phone orientation</b> and mail the following documents with a self-addressed, stamped envelope and a note explaining that these documents will have to be returned to the AAP after receiving an orientation. <ul style="list-style-type: none"> <li>• Agreement to Participate</li> <li>• Agreement between EOIR and AAP Participant</li> <li>• Notice of Supervision</li> <li>• Consent to Release Information</li> </ul>
13	Supervision	Events/Intake Contact	If the PRP's screen has not been completed by the time of the orientation, then schedule an <b>intake contact; complete scrn.</b> for the day after the orientation so that the intake staff can know to complete the screen over the phone.
14	Supervision	Vera Status	If the person does not appear for their orientation or is not available for a scheduled phone orientation, then his/her status should be changed to <b>intake regular; missed orientation</b> and an <b>intake contact; reschedule orient.</b> should be scheduled.

**GUARANTOR VERIFICATION**  
**INSTRUCTIONS TO INTAKE AND SUPERVISION STAFF**  
**REGARDING GUARANTOR VERIFICATION**

**The Role of the Guarantor**

Every participant in the Appearance Assistance Program (AAP) must have a "guarantor." The guarantor, who may be a person or a voluntary agency, is responsible for assisting to ensure the participant's compliance with the Program, including attending hearings and court dates, reporting to the AAP and fulfilling any other requirements of his or her release. The guarantor bears no legal or financial obligation to the participant or to the AAP, but has made a personal pledge to the Program to assist the participant and is morally obligated to do so.

Each person screened for participation in the AAP will be asked to provide the name, address, telephone number(s), immigration status and other information for one or more persons who may be able to act as guarantor. The guarantor must be at least 18 years of age and must have legal immigration status. The guarantor may be a family member, friend or acquaintance; the nature of the relationship does not matter. If the participant is unable to provide the name of an individual, then a voluntary agency will be asked to act as guarantor on the participant's behalf.

The intake screeners will determine whether the person interviewed is eligible for the AAP or not, based on criteria outlined in the instructions for conducting the intake screens. If the person interviewed is eligible for the Program, the screeners then verify the guarantor's information and the participant's place of residence.

**Collecting, Constructing and Verifying the Guarantor's Information**

**1. The Intake Screen**

Information for each guarantor should be listed on each participant's intake screen.

That information includes:

- Name of Guarantor
- Address
- Phone (day and evening)
- Immigration status
- English ability / if none, then language
- Relation to participant
- Length of time participant has known guarantor

## **2. Time Frame**

A verbal agreement with a guarantor should be made within 24 hours of the intake screening, so the verification process should begin as soon as possible after obtaining the information.

## **3. Foreign Languages and Interpreters**

All intake screeners are fluent in English and a second language. If the participant indicates that the guarantor does not speak English but one of the languages spoken by the intake staff, then an intake staff member who speaks that language should be responsible for contacting the guarantor. If none of the intake screeners are able to communicate with the guarantor by phone because of a language difficulty, then it will be necessary to arrange for an interpreter.

Note that if a guarantor does not speak English or one of the languages spoken by the intake staff, then he or she is still eligible to act as a guarantor.

## **4. Contacting the Guarantor and the Verification Form**

The intake screeners should contact the prospective guarantors by phone immediately following the screening interview. Before asking the guarantor to provide or confirm any information, the screener should inform him or her about the AAP, its purpose and the role of the guarantor. The person should understand that he or she has been named by the participant as a potential guarantor, that his/her participation will enable the participant to be released from detention, that participation will last throughout the court process until the Judge makes a decision in the case and the participant has done anything required by that decision (including leaving the U.S.), and that if the participant fails to comply with the rules of the program, the guarantor's name and address may be given to the INS and used in their efforts to redetain the participant.

Questions for the guarantor should include the following:

- What is your full name?
- What is your address?
- What is your telephone number (day and evening)?
- Are you at least 18 years of age?
- What is your relationship to the participant?
- How long have you known the participant?
- Have you ever been convicted of a crime in the United States?
- If so, are you now on ROR, parole, probation or under a restraining order?
- Are you willing to agree to the requirements of the guarantor role?
- Only a person who is a U.S. citizen, who has a green card or other legal immigration status can act as a guarantor for the participant. Information about your immigration status is confidential and we will not tell the INS, but we may ask you to provide U.S. proof of your status. Will you be able to do that? If yes, what is your immigration status?

If the screener is unable to contact the guarantor named by the participant, then he or she should begin trying to contact the next person listed by the participant or, if there is not another guarantor, the appropriate voluntary agency. The screener should make every effort to contact an individual guarantor before contacting a voluntary agency.

### **5. Special Circumstances**

The participant may have special needs that make the guarantor's role more difficult. For example, the participant may be deaf, which would make telephone communication difficult or impossible, or the participant may have a serious illness that would require him or her to spend time in a hospital. The guarantor should be informed of special circumstances that may affect the supervision process. However, other information is confidential and should not be communicated to the guarantor. For example, if the screener is familiar with the participant's criminal record or history of persecution and mistreatment, that information may not be shared with the guarantor. The screener should be fully familiar with General Staff Protocol #2, Guidelines for Gathering, Handling and Disclosing Confidential Information.

Also, if the participant is accompanied by a dependent spouse and/or children, then the guarantor's role will be to assist the entire family.

### **6. Selecting a Guarantor (when more than one is listed)**

If more than one prospective guarantor is listed by the participant, then the selection of the guarantor will be at the screener's discretion, based on the closeness of the relationship (immediate family, extended family, friend, etc.), length of time the participant has known the guarantor, how close the participant will live to the guarantor after he or she is released and the guarantor's willingness to comply with the requirements of the Program.

### **Voluntary Agencies as Guarantors**

The AAP has identified a number of voluntary agencies that are willing to act as guarantors on the participants' behalf. You have been provided a list of those organizations and the persons whom you should contact and request guarantorship as needed.

Organizations are chosen to act as guarantors based on their willingness and capacity to fulfill the Program's requirements. Those requirements are (in order of importance):

1. To encourage the participant's compliance by maintaining contact with the participant.
2. To remind the participant of his/her obligations through phone calls and/or visits.
3. To communicate with the participant in a language he or she speaks.

4. To attend an introductory meeting with the participant and AAP staff.
5. To communicate regularly with the AAP.
6. To keep track of the participant's obligations.
7. To record all contact with the participant.
8. To have a thorough understanding of the immigration and removal processes.

Some organizations are able to provide additional social services, such as housing, meals or English classes. Although it is not required, the provision of social services by a guarantor organization may enhance the participant's compliance with the Program.

A voluntary agency guarantor should be selected based on the participant's language abilities, the proximity of the agency to the participant's residence, and ability of the agency to provide services particular to an individual's needs. If a participant does not understand English, for example, a voluntary agency that is able to communicate with him or her is important.

The AAP provides a capacity-building and orientation program for organizations that agree to act as guarantors. The program informs representatives from the organizations about the AAP and the guarantor's responsibilities. They are also informed about the immigration process, including up-to-date changes in immigration law.

The guarantor organizations have also been informed of the limitations to the guarantor role. For example, the organization may not make extraneous requirements of the participant, such as attendance at religious services or political gatherings.

## GUARANTOR VERIFICATION SAFEGUARDS

### Policy to Insure that Participants are Not Exploited

Every participant in the AAP must have a guarantor in order to be released from INS detention. In some cases, this may create a dependent relationship between the participant and the guarantor, including the possibility that a participant might be exploited by a guarantor. The guarantor might, for example, demand that the participant work for him for no wages as a condition of serving as the guarantor. In addition, a concern has been raised by the voluntary agencies that a person volunteering to serve as a guarantor could be a smuggler who is interested in having his debt repaid by the participant. In order to minimize potential harm to participants that could result from the guarantor/participant relationship, several measures can be implemented to lessen the likelihood that the AAP will unwittingly facilitate exploitation of a participant.

Before a guarantor is approved, the screening and guarantor verification protocol should require that certain inquiries be made of both the person being screened and the proposed guarantor to determine the nature of their relationship and the length of time they have known each other. If there is a family tie, or other long-term close relationship between the participant and the guarantor, it can be presumed that the relationship is an appropriate one and no further inquiry will be needed. If the participant and the proposed guarantor do not have a family or otherwise close relationship, both the participant and the guarantor can be asked the nature of their relationship and the proposed guarantor can be asked if he or she has been convicted of a felony or is subject to any pending felony charges. If the guarantor answers yes, then the screener can inquire as to the nature of the conviction or pending charges. If the crime relates to the abuse or exploitation of other persons--labor violations, immigrant smuggling or profiting from prostitution, violent crimes, for example--the screener should be required to obtain clearance from the Intake Director, in consultation with the Field Director, before such person may be approved as an appropriate guarantor.

The screener should also seek approval from the Intake Director, who should consult with the Supervision/Field Director, for potential guarantors who have recently (within the past five years) been convicted of or have charges pending that could otherwise reflect on their suitability to serve in a position of trust as a guarantor or their potential to reflect negatively on the operation of the AAP. Such crimes would include, but are not limited to, terrorism activities, immigration or other fraud, narcotics trafficking, and violent offenses. In both instances, whether to provide such clearance will depend on consideration of the totality of the circumstances. A memo to the file setting forth the factors and reason for decision should be prepared by the Intake Director.

The screeners should also be trained to recognize the potential for abuse resulting from an inappropriate response regarding the nature of the relationship between the guarantor and the participant. All questionable situations should be brought to the Intake Director for clearance, as described above, before a guarantor is approved and a release

recommendation made. Although the AAP will not have the facility to conduct a criminal record check for potential guarantors to verify the information provided, to provide a minimum level of protection for participants it is incumbent on us to inquire as indicated.

In addition, the AAP will reserve the right to terminate a guarantor at any point during supervision at the request of the participant or as a result of being made aware of any information that reflects an abusive or exploitative relationship between the guarantor and participant. Supervision staff should be trained to inquire as to the nature of the relationship on a regular basis during reporting meetings with the participants.

## GUIDE TO RE-SCREENING PROCESS FOR CASES ON APPEAL

### A. Intent to Appeal:

The Supervision Officer (S.O.) will ask the participant if s/he intends to appeal if case is lost.

- If *yes*, proceed with the next step, i.e., the Pre-screen.
- If *no*, inform the participant that s/he will be re-detained if the IJ orders removal and will remain in detention until s/he can be removed to his/her country.
- If *undecided*, ask participant to discuss case with attorney and contact AAP immediately with the decision.

### B. Pre-Screen:

If the participant expresses the intent to appeal, the S.O. will prepare the Pre-Screen (i.e. compliance history and review of the guarantor's performance)

- If the participant scores more than 95% on compliance for supervision meetings and call-ins, then the S.O. can proceed with an introduction to the re-screening process.
- If the participant scores less than 95% on compliance for supervision meetings and/or call-ins, then the S.O. must consult with the Supervision/Field Director on whether it is appropriate to proceed with the re-screening.
- If the participant is deemed ineligible for re-screening, the S.O. will notify the Supervision/Field Director, who will make re-detention arrangements.

### C. General Introduction to Appeal Re-screening Process:

The S.O. and participant will have a discussion during the participant's next regularly scheduled supervision meeting about the following:

#### **Script for Varick Participants:**

*"As you are aware, your individual hearing is on \_\_\_\_\_. At that time, the Immigration Judge will decide whether you will be allowed to remain in the United States. In the past, if you were ordered removed you would automatically be re-detained and the AAP could reevaluate your case to determine whether you qualify for re-release into our program while your case is on appeal. However, due to a recent change in the law, we will not be able to re-screen your case if you are ordered removed and detained by the INS after your upcoming merits hearing. Instead, we will need to re-screen you before your hearing to decide whether to recommend to the INS that you be allowed to continue to participate in the AAP while your case is on appeal.*

*This process will involve interviewing you, your guarantor and at least one additional family member. In this interview we will talk about your family here, family in your home country, and the possibility of you being ordered removed. If, after reevaluating your case, the AAP decides that you should remain in the program, you will not be re-detained at your merits hearing if you are ordered removed. If the AAP decides to discontinue your participation, you will be re-detained at your merits hearing. We will inform you of*



our decision at the time of your hearing. Since we will be re-screening your case before your hearing, we will not be able to evaluate the basis of your appeal, however, we will ask that you submit a copy of your Notice of Appeal to us immediately after you have mailed it to the Board of Immigration Appeals.”

**Script for Non-Varick Participants:**

“As you are aware, your individual hearing is on \_\_\_\_\_. At that time, the Immigration Judge will decide whether you will be allowed to remain in the United States. If the judge grants you relief and the INS does not reserve the right to appeal the judge’s decision, you will no longer have any requirements to the AAP and will receive a certificate of completion from our program. If, however, you are ordered removed, you will be re-detained at your hearing and will be given 30 days in which to file a Notice of Appeal. If you would like to continue your participation in the program, you will have to submit a copy of the notice to the AAP. The AAP will review the basis of your appeal to decide whether you should be re-screened for the program. “Re-screen” means that we will have to interview you, your guarantor and at least one additional family member. During our interview with you, we will talk about your family here, family in your home country, and the possibility of you being ordered removed. Within 5 business days of our interview with you, we will meet with your guarantor and at least one additional family member. If they fail to appear for a meeting with our staff within these 5 days, you will not be eligible for re-release into our program. If they do come in for an interview, AAP staff will continue to reevaluate your case. If the AAP decides that you should be re-released into the program, we will submit a recommendation to the INS. The INS will make the ultimate decision about whether you merit re-release. If the AAP decides that you do not qualify for supervision while you await a decision on your appeal, we will not submit a recommendation and you will remain in detention.”

**D. Appeal Re-screening with participant/guarantor/family:**

**For Varick Participants:**

- S.O. will schedule the re-screening with the participant, guarantor and, presumptively, all relevant adult family members.<sup>3</sup>
- S.O. will inform intake staff about the date and time of the re-screening.
- The Intake Screener (I.S.) and S.O. will schedule the meeting in AAP-PRO as an intake and supervision contact, respectively, with the event sub-category, *Appeal Rescreen*.
- At the re-screening, the S.O. will re-explain the re-screening process and introduce the I.S. to all attendees.
- I.S. will complete the re-screening. Some important points to keep in mind:
  - Gather information on any additional family members for whom information is not already available.
  - Gather information on the address/phone numbers of people in the home country.

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<sup>3</sup> AAP staff can suggest which family member ought to attend the meeting with the participant. AAP staff should deter participants from bringing friends in lieu of family. If the participant insists on bringing a friend, the Intake or Supervision/Field Director should be notified immediately.

- I.S. should engage the participant in a discussion about the possibility of returning to the home country.
- If the participant says that he/she has not given any thought to the possibility of removal, the I.S. should give the participant 10-15 minutes to think about the question further.
- If the participant is still unable or unwilling to discuss plans for returning home, the I.S. will make note of this in Section V, *Post-Screen Discussion Points & Decision*, of the screen.
- I.S. should also review the participant's answers to the questions and check them against information provided in the initial intake screen.
- At the conclusion of the meeting, the participant should review the *Agreement to Participate While on Appeal* with the participant and have him or her sign it.
- Finally, the I.S. should explain that in order for the AAP to complete the re-screening process, the participant will be asked to provide a copy of the Notice of Appeal.

**For Non-Varick Participants:**

- Intake Director will review basis for appeal and notify the I.S. if the participant should be re-screened.
- I.S. will re-screen the participant at the detention facility. Some important points to keep in mind:
  - Gather information on the address/phone numbers of people in the home country.
  - I.S. should engage the participant in a discussion about the possibility of returning to the home country.
  - If the participant says that he/she has not given any thought to the possibility of removal, the I.S. should give the participant 10-15 minutes to think about the question further.
  - If the participant is still unable or unwilling to discuss plans for returning home, the I.S. will make note of this in Section V, *Post-Screen Discussion Points & Decision*, of the screen.
  - I.S. should also review the participant's answers to the questions and check them against information provided in the initial intake screen.
  - At the conclusion of the meeting, the I.S. should review the *Agreement to Participate While on Appeal* with the participant and have him or her sign it.
  - At the conclusion of the re-screening, the I.S. should inform participant that he/she will meet with the guarantor and all relevant adult family members within 5 business days of the re-screening.
  - I.S. will schedule to meet with guarantor and all relevant adult family members.
  - At this meeting, the I.S. will review the *Agreement to Participate While on Appeal* with the participant's family.

**E. AAP's Decision on Re-screening:**

After completing the re-screening, the I.S. should submit one copy of the screen to the Intake Director and another copy to the Supervision/Field Director.

- The Intake and Supervision/Field Directors will review the screen to decide whether the participant should continue his/her participation with the program.
- If further information is necessary to complete the screen, the Intake or Supervision/Field Director will speak to the I.S. and/or the S.O.
- The Intake and Supervision/Field Directors will inform AAP staff about their decision and discuss plans for notifying the participant.

**F. Procedure if Participant is to Continue Participation in the AAP:**

If the Intake and Supervision/Field Directors decide that the participant should continue his/her participation with the program, the following will happen:

- For all those who were detained at their merits hearing, the Intake Director will submit a *Recommendation for Supervised Release while on Appeal* to appropriate INS staff at the facility where the detainee is being held in custody.<sup>2</sup>
- If the recommendation is approved, the person who receives the decision from the INS (customarily, Intake staff) will schedule a date and time to conduct the exit interview at the detention facility, and consult with Supervision staff on scheduling the orientation at the office.
- Intake will also organize a joint meeting to take place before the participant comes in for his/her orientation. This joint meeting will be attended by the following staff:
  - Supervision Team assigned to the participant
  - Intake Screener who conducted the re-screening
  - Supervision/Field Director
  - Intake Director
- During the joint meeting, the following should be discussed:
  - I.S. should relay any apprehensions or concerns that the participant may have expressed during the re-screening.
  - All attendees should discuss how these concerns should be addressed while the participant is under supervision.
  - Additional information that was gathered during the re-screening (e.g., if a new contact came in for the meeting with the guarantor and additional family members) will be shared with Supervision staff.
  - Attendees will discuss what additional information should be gathered during the orientation.

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<sup>2</sup> For work-site participants, the recommendation may have to be addressed to an INS official at DD&P.

## INTENSIVE SUPERVISION ORIENTATION

### TRANSPORTATION:

If necessary, a field officer or other AAP staff person will bring the participant from the detention facility to the office for the orientation. If the participant is female, one female or two male staff members will accompany her.

### PREPARATION:

The supervision assistant will prepare the participant's paper file before the session.

For people screened during worksite enforcement operations, it should include:

- written intake screen
- verification sheet
- I-213
- Release Recommendation
- signed Agreement to Participate,

as well as, prepared (name and other info completed) copies of:

- Reporting Requirements
- Change of Address form
- the Consent to Release Information
- Notice of Supervision
- EOIR Agreement
- Individual Guarantor Agreement or Guarantor Agency Participant Profile

For people screened at Varick, it should include:

- Release Recommendation
- signed Agreement to Participate
- Order of Release,

as well as, prepared (name and other info completed) copies of:

- Reporting Requirements
- the Consent to Release Information
- Notice of Supervision
- EOIR Agreement
- Individual Guarantor Agreement

For people screened at Wackenhut, it should include:

- signed Agreement to Participate
- approved Release Recommendation
- Parole Letter

as well as, prepared (name and other info completed) copies of:

- the Consent to Release Information
- Notice of Supervision
- EOIR Agreement
- Individual Guarantor Agreement or Guarantor Agency Participant Profile

The officer or assistant should also retrieve the digital camera to take the participant's photo at the orientation, and copies of the **Choosing and Working with Lawyers and Legal Representatives** and **How to Go to Immigration Court** brochures.

### **CONDUCTING THE PARTICIPANT ORIENTATION:**

**Introductions:** The supervision officer should greet the participant and his/her guarantor or other family/friend (if present) and escort them to the area in which the session will be conducted. (The guarantor should attend the session if the participant and guarantor have their orientations scheduled for the same day.) Before beginning, the supervision officer should ask for the participant's documents from the INS (i.e. the NTA and release documentation) and make sure the participant has a copy of his/her Agreement to Participate. The supervision officer also will take the participant's photo and introduce him/her to a field officer(s), if available, at the beginning or the end of the session. (This will make home visits less intimidating and give the field officers an opportunity to see the person.) The supervision assistant should make a point of introducing him/herself before or after the session.

**Discussion of supervision requirements:**

- Review the Agreement to Participate
- Remind the participant of the importance of appearing for all court hearings and for all appointments at the AAP. Reiterate the potential consequences – the program sanctions described in the agreement and the legal sanctions related to failure to comply with the immigration court process.
- Remind the participant of the importance of keeping us informed of their intention to change their address, as soon as it is known. Review the address we have, complete the **Change of Address** form, and reiterate the purpose of and process for home visits.
- Ask the participant if there is a place other than their home where they can be reached during the day. If it is a friend or relative's home or place of business, ask and record the name and address of the person. If it is a place of employment, ask and record the name and location of the employer. State that participants without work permission are not legally allowed to work, but if they do we need to know how to contact him/her there. Remind the participant that s/he must report any changes in employment to the supervision staff. Supervision staff should inquire about any contact information referenced by Intake in either AAP-PRO notes, or in the participant's paper file. All of this information should be recorded in the References section of AAP-PRO, and followed-up on with the participant until complete. Supervision should be sure to obtain any home address information for family living in the participant's home country.
- Set reporting requirements/complete **Reporting Requirements** document: the initial reporting schedule should be one meeting every two weeks and two call-ins per week. Explain that if the participant maintains this schedule it may be reduced in the future. If the participant has an Agency

Guarantor, the time and date of that appointment should be included. Explain that you will assign the time and date of the next supervision meeting at the end of the session.

- Explain and complete the **Notice of Supervision**.
- Explain and complete the **EOIR Agreement**.

Discussion of resources/services available: The Supervision officer should explain that the AAP could help the participant access certain services with referrals. Explain and complete the **Consent to Release Information**. Ask the participant the following:

- Do you need help obtaining legal counsel for your immigration hearing? Do you have funds?
- Do you need help finding a job (if eligible to work)/resolving anything with your former employer?
- Does you or your family need any medical services?
- Do you need any assistance with getting your children in school?
- Do you need help with your housing situation?
- Would you like to know more about any counseling services for mental health, relationship, or family problems?
- Do you need any other material assistance, clothing, food, etc.?
- Are there any other concerns or problems you are having now that you need to resolve?

The Supervision officer should take detailed notes about the issues in question and share this information with the Resource Coordinator.

Explanation of immigration court process: the supervision officer will briefly go over the process. The officer should explain that the next supervision meeting would focus specifically on it. Answer any immediate questions the person may have. Hand out **Choosing and Working with Lawyers and Legal Representatives** and **How to Go to Immigration Court**. The Supervision Officer should insure that either the participant, or the participant's guarantor, has the ability to read the brochure before handing it out. If the participant is unable to read the brochure, it should be read to the participant.

Documents: At this point, the supervision officer should make copies for our files of the participant's INS documents. (If the participant does not have them, ask him/her to bring it next time.) The officer should return the originals to the participant and also provide copies of the Agreement to Participate (if the participant does not already have one) and the Reporting Requirements. The officer should also make sure that all documents in the participant's file are completed.

#### **CONDUCTING THE GUARANTOR ORIENTATION:**

If the person has an Agency Guarantor, explain to the person that they will be required to meet with the agency and maintain contact with them throughout the program. Schedule the time and date and include it on the **Reporting Requirements**. Go to next step.

If the person has an individual guarantor, the supervision officer should conduct the guarantor orientation session with the guarantor in the presence of the participant.

- Review and sign the guarantor agreement
- Make clear that we may call them if we need to get in contact with the participant and are not able to do so directly
- Emphasize importance of
  - reminding the participant to attend court hearings
  - acquiring legal representation for the participant
  - ensuring the participant's compliance with supervision conditions (sanctions)
  - being in contact with the participant in case we need to get in touch with them
  - telling the AAP of the participant's intention to move to a new address
- Reiterate that having a guarantor is a condition of the participant's continued release. If the guarantor can no longer serve in that capacity, it is essential that s/he let us know immediately so we can help the participant find a new guarantor
- Remind the guarantor that s/he can call supervision staff at any time with questions or concerns
- Make copies of documents affirming legal status for our files

**SCHEDULING THE NEXT SUPERVISION MEETING:** The supervision officer should schedule the next meeting for approximately two weeks from that date and give a business card with the time and date to both the participant and the guarantor.

**AAP VIDEO:** Before leaving, the guarantor and the participant should watch the AAP video, which explains the court process and what the participant should be doing to prepare. After the video, the supervision officer should answer questions, note anything to be addressed at the next meeting and say good bye.

This completes the Orientation. The officer should record the conditions, the reporting schedule up to the next supervision meeting, any incomplete documentation (missing NTA, etc.), and general notes about the other information covered in AAPPRO. Both the participant and guarantor should have supervision cards with reporting dates and phone numbers on them. All documents that need to be given to the supervision/field director or sent out should be forwarded immediately after the session.

**CHECKLIST OF DOCUMENTS FOR INTENSIVE  
SUPERVISION**

**From Intake:**

- Written Intake Screen (worksite only)**
- Verification Sheet (worksite only)**
- I-213 (worksite only)**
- Release Recommendation**
- Order of Release (Varick only)**
- Agreement to Participate -- signed**

**To Complete at the Orientation:**

- Change of Address Form (Xeroxed w/signature)**
- Reporting Requirements**
- Notice of Supervision**
- EOIR Agreement**
- Consent to Release Information**
- Individual Guarantor Agreement**
- OR**
- Guarantor Agency Agreement**
- and**
- Guarantor Agency Participant Profile**



# INTENSIVE SUPERVISION REPORTING PROTOCOL AND REVIEW OF COMPLIANCE AND GUARANTOR EFFECTIVENESS

## SUPERVISION MEETINGS

The supervision officer will schedule supervision meetings in AAP-PRO, noting particular issues to be addressed. The Officer will also complete a "Supervision Meeting" form prior to meeting to ensure that all issues and concerns are addressed at the meeting. The receptionist will announce participants when they arrive and ask them to wait in the resource center or waiting area until the officer is ready. Confirm:

**participant's address and phone number**  
**contact with guarantor**  
**guarantor address and phone number**  
**participant's employment/daytime activity update**  
**participant's employment address, phone, and hours**  
**places the participant regularly frequents**  
**people with whom the participant frequently associates**  
**contact with/progress on retaining attorney**  
**time, date and place of next court hearing**  
**next supervision meeting & phone-in**

Address any additional issues that pertain to that individual participant, e.g., obtaining a passport, obtaining a legal representative, contact with police or the courts, other referrals needed, and any other activities in which the participant may be regularly engaged. Schedule the next supervision meeting for the person and reconfirm the next few weeks of phone-ins. The officer should schedule the next few weeks of phone-ins and the next supervision meeting, and write a note which discusses the issues addressed in the meeting, in AAP-PRO immediately afterward.

## PHONE-INS

The supervision officers should inform participants that they must speak to the supervision officer or assistant or leave a message every time they phone-in. The receptionist should be aware of who is expected to call in each day by checking AAP-PRO. When the person calls, the receptionist will ask who is calling (first and last name) and what they are calling in regard to. If the supervision officer or assistant is available to take the call, or if there is a summary note or "Alert" in AAP-PRO which indicates that supervision staff must speak to the participant directly, the receptionist will pass the call to supervision. A note of the caller-id information should be entered in AAP-PRO as indicated below. If the supervision officer or assistant is not available, the receptionist should forward the call to anyone who is authorized to take the phone-ins. (If trained, the receptionist may also take phone-ins.) The person taking the phone-in should record the date, time and number appearing on caller id, and then appropriately record the phone-in as "Completed" in AAP-PRO.) If there is no authorized person available to take the phone-in, a written message should be taken and logged into the computer by supervision, including the caller id number and particulars of the message.

Supervision and persons authorized to take the phone-ins should note issues to be addressed in the summary note of phone-ins, and any "Alert" message attached to a participant's file. When conducting a phone report-in, pull up the participant's file, and go to the Report-In screen. Ask participant where s/he is calling from, check the number appearing on caller id, and record the information in the notes. Then, confirm the same information as above (as seems appropriate), ensuring that the participant knows his/her next supervision contact and court date.

## **TWO MONTH REVIEW**

Supervision will schedule a SUPV CONTACT, TWO MONTH REVIEW of the participant's compliance and the guarantor's effectiveness two months after the orientation and every two months thereafter. The review of the effectiveness of agency guarantors will operate on a slightly different two month schedule. See below.

**Participant Compliance:** The supervision officer will evaluate how many supervision requirements/contacts the participant has missed (if any), how many violations were committed (if any), and where the participant is in meeting any additional requirements, such as getting travel documents. If the participant has a perfect reporting record (allowing for one missed phone-in) and does not have a court date in the next month, the reporting schedule can be reduced to one report-in per month and two call-ins per week. When the court date is one month away, report-ins should be at least once every two weeks with an additional meeting immediately before the court date. If the participant's compliance is less than perfect, the reporting requirements should remain the same and another two month review should be scheduled. A summary of the review should be documented in the notes.

**Guarantor Effectiveness:** For an individual guarantor, we want to make sure that we can still contact him/her and that s/he is still in contact with the participant and aware of the participant's obligations to the program and the immigration court process. The supervision officer will review the file and record a) whether or not the guarantor has been in contact with the AAP since orientation, if so, how frequently; and b) if there was contact, who initiated the contact and was it effective, i.e. did the guarantor provide the needed information or pass a message on to the participant successfully. After the review supervision should contact a guarantor if a) there has been no contact up to this point or b) the past contact does not clearly show that the AAP can easily reach the guarantor and that the guarantor is still in contact with the participant. (Supervision should err on the side of contacting the guarantor.) If after the review and any subsequent contact, supervision has any concerns that a guarantor's actions (or lack thereof) may be undermining the participant's compliance, or if the guarantor is not fulfilling the obligations of the guarantor role, they should bring it to the attention of the supervision/field director immediately. If necessary, supervision can request that the guarantor and participant come into the AAP office for a meeting to address these concerns. Also, the AAP can terminate the guarantor agreement, in which case supervision would help the participant find a new guarantor or assign an agency.

For agency guarantors, the reviews will be scheduled once every two months for each agency. The supervision officers of each team will review the files of all participants assigned to the agency being reviewed to see when the last contact between the agency and AAP staff was for each particular participant, and to determine whether the written update (see Agency Update Form) should be supplemented with a verbal update for particular cases. The supervision officers will fax an Agency Update Form (one for each team) to confirm the participant's reporting schedule, court date, specific referral needs, and other relevant information. The supervision officer should also contact the guarantor agency with the participant's court date and disposition information as that information is received, even if the information is realized at a time other than the scheduled two month update. If a particular case stands out as needing additional attention, the supervision officer is encouraged to make a point of calling the agency to discuss.

## HOME VISIT PROCEDURES

The field team will conduct regular home visits for all intensive supervision participants. The purpose of these visits is to ensure that participants are living at the address they have given us.

**Frequency:** The goal of the field team is to conduct home visits once in the first two weeks of participation, and once per month thereafter.

**Scheduling:** The field team is responsible for scheduling all home visits in AAP-PRO, completing them, and ensuring that they are recorded in AAP-PRO. The field team will arrange their weekly schedule of home visits based on where participants live, other field team duties, and the participants' supervision meeting and court schedules. The field team will coordinate announced home visits with supervision staff, who will contact the participant to arrange the announced home visit at a time convenient for the field staff and the participant. All home visits will be scheduled in AAP-PRO as FIELD CONTACTS/ SCHEDULED/ INITIAL HOME VISIT or HOME VISIT. The field officers will complete the visits and record the date and time they were actually conducted in AAP-PRO.

Supervision staff are responsible for reviewing the home visit schedule to see if there are any particular issues to be addressed or to recommend that a home visit does not need to be conducted (e.g. the person has a supervision meeting scheduled for the same day of which the field team was unaware). Supervision staff are also responsible for coordinating announced home visit requests made by the field team, with the participant. Concerns about upcoming home visits should be brought to the attention of the field team first, and, if necessary, to the supervision/field director.

**Conducting the visits:** Letters from the AAP will be taken on all home visits. The field team will go to a participant's home, introduce themselves to the person who answers the door, and ask for the participant. If the participant is there, the officer(s) will introduce themselves and tell the person that they are from the AAP and visiting to confirm that the address is correct. The field team should ascertain if the participant does, in fact, reside at this address by requesting to see where the participant's belongings are kept in the household, and ascertaining where the participant sleeps. The field team should use common sense when assessing whether or not the participant lives at the location (i.e., whether the participant has a key to the dwelling, knows where particular rooms are located in the dwelling, has knowledge of the names of others in the home, etc.).

If the officer does not speak the participant's language, s/he will give the person a letter indicating that the participant must call into his/her supervision officer within a 24 hour period. Field officers should have field letters available in several languages for this purpose.

If the participant is not there (and someone else answers), the officer will ask whether or not the person lives there, and leave a letter for the participant. Regardless of whether or not the person who answers the door says the participant lives at the address, the officer will leave the letter. If no one answers, the officer will leave a letter on

(taped), or under the door, or in the mailbox. The letter will request that the participant call the field officer within twenty-four hours of the time the letter is left for the participant. If the address cannot be found, the field team should immediately inform the supervision staff of the issue. The supervision staff should reach out for the participant and clarify the information. If the supervision staff senses that the issue relating to the address information could have a negative effect on the supervision process, supervision staff should schedule a supervision meeting for the participant for the next business day.

If the field visit has been scheduled as an announced visit, and the participant is not at the location when the field teams arrives at designated time, a field officer should call supervision to report that the participant is not home. Supervision staff should confirm the address in AAPPRO with field staff, and if the field team is at the correct address, a letter should be left for the participant. Supervision staff should then reach out for the participant and find out why they were not at the residence at the scheduled time. A supervision meeting should be scheduled for the next day. The issue of the residency should be the topic of discussion. Then, an unannounced visit should be made within two days of the supervision meeting.

**Recording the visits:** The field team will record the results of their home visits, changing the date and time to the actual time conducted. If the participant was home for the visit, field will change the event status from SCHEDULED to COMPLETED/CONFIRMED, and record relevant notes in the note box. If the participant was not home and a letter was either left with another person or left at the address, the field officer will change the event status from SCHEDULED to COMPLETED/LETTER LEFT, change the time to the actual time the letter was left at the participant's residence, and write a summary note with the time in which the participant must respond. All of these events should be e-mailed to the supervision team. If field could not find the address, they will record COMPLETED/WRONG ADDRESS, and open an ALERT – WRONG ADDRESS - SUPERVISION F/U IMMEDIATELY. The supervision team will have already been informed by the field team of the discrepancy (see above procedures). If supervision staff senses that the issue relating to the address information could have a negative effect on the supervision process, supervision staff should set up a supervision meeting for the following day. All visits will be recorded when the officers return to the AAP office.

**Follow-Ups:** If field conducts an unannounced visit and leaves a letter for the participant, twenty-four hours will be allowed for the participant to respond. If s/he responds within that time and states that s/he received the field letter, supervision will change the CONFIRM HOME VISIT/LEFT LETTER event status to COMPLETED/CONFIRMED, and the date/time the person responded should be recorded in the notes. (Note: The participant needs to offer the information that s/he received the letter to the staff, not vice versa).

If the participant does not call within the twenty-four hour period, the Field visit event should be entered as NOT COMPLETED. The supervision officer is responsible for the follow-up with the participant but should consult with the field team as to strategy. It is recommended that another unannounced field visit be conducted within two days, and if the participant does not respond to the second unannounced visit, supervision staff

should require the participant to come into the office for a supervision meeting to discuss the participant's living situation. An announced field visit should be scheduled within a few days of this supervision meeting. When supervision discusses the living situation with the participant, supervision should describe the conversation and whether or not the person confirmed the address and acknowledged receiving the letter in an AAPPRO note. Supervision should also record what date the announced visit has been arranged for, and schedule the FIELD VISIT announced visit event in AAPPRO. Then, after the announced visit is completed, the Field team should conduct another unannounced visit within two weeks to verify.

If supervision cannot contact the person within one working day of the second unannounced visit, they should treat it as a violation, contacting the guarantor and requiring immediate contact with the participant either in the office or in the field.

If home visit resulted in a WRONG ADDRESS, supervision will attempt to contact the participant immediately to reconfirm. If the person can be contacted, supervision should set up a supervision meeting with the participant so that the address situation can be rectified. If supervision cannot contact the person within one working day, they should treat it as a violation, contacting the guarantor and requiring immediate contact with the participant either in the office or in the field. The supervision/field director should be kept apprised of these situations.

Dear *Participant Name*,

This letter is to inform you that a member of the Appearance Assistance Program (AAP) staff came today to visit you at your home:

*Address*

Because you were not in, we left this letter. Please call your supervision officer \_\_\_\_\_, at (212) 634-4330 or 1(800)475-8695, immediately to let us know you received this:

Thank you.

Estimado Sr/Sra \_\_\_\_\_,

Esta carta es para confirmar que un personal del AAP ha venido hoy para visitarle a su casa:

*Address*

\_\_\_\_\_ No es necesario llamar al AAP, pero si tiene cual quier pregunta, por favor llame a (212) 634-4330 o 1(800) 475-8695.

\_\_\_\_\_ Ya que no se encuentra, le dejamos esta carta. Por favor llame a su oficial de supervision \_\_\_\_\_, al numero (212)634-4330 o 1(800) 475-8695, inmediateamente para saber si recibió esta carta.

Muchas Gracias,

## GUIDELINES FOR RESPONDING TO VIOLATIONS OF INTENSIVE SUPERVISION

These guidelines are intended to provide a framework for responding to violations of supervision. They do not attempt to provide a response for every possible situation, but rather, they explain the principles to think about when making decisions. Some of the specific examples of violations that should be recorded in AAP-PRO and addressed by staff are listed at the end.

### Conditions of release

The conditions of intensive supervision are designed to help participants attend their immigration court hearings and comply with court orders.

All participants must:

- Attend an Orientation Session at the AAP with his/her guarantor. If his/her guarantor is an agency, also attend an orientation at the agency's office.
- Meet regularly with supervision staff at the AAP, according to a specific Reporting Schedule set by the Supervision Officer.
- Provide AAP staff with his/her current address and phone number, as well as information about where s/he can be reached regularly, such as work, etc.
- Remain in the New York City area until s/he has completed the AAP supervision program.
- Inform supervision in advance if s/he will not be reachable at his/her usual address and phone number. In such cases, s/he will provide the address(es) and phone number(s) where s/he can be reached. If the participant needs to change his/her address during his/her participation in the program, the participant must understand that they must seek the AAP's approval of the new address before they move. The participant must agree to seek this approval as soon as they become aware of their need to move.
- Be in contact with his/her guarantor on a regular basis.
- Notify the AAP if s/he wishes to change his/her guarantor.
- Report any contact s/he has with the police or probation to his/her Supervision Officer immediately.
- Comply with other conditions of release, as determined by the Supervision Officer.
- Go to all immigration hearings and comply with the decision of the Immigration Judge.
- Provide information to staff about his/her contacts and relatives in the New York City metropolitan area, throughout the United States, and in the country of origin.

The AAP reserves the right to set forth additional conditions for participants if there is a particular need for it or if it helps the participant progress toward supervision goals (e.g.,



requiring a participant who has tested positive for TB to comply with the instructions of public health officials to remain in the AAP).

### **The Functions and Principles of Supervision**

Supervision staff are responsible for:

- Ensuring that participants appear at their court hearings.
- Keeping the participants informed of the conditions of the program and any INS or immigration court requirements.
- Providing participants with the information and materials necessary to understand and comply with the immigration process.
- Referring participants to service providers and assistance when needed.
- Maintaining participants' compliance with conditions of the program by responding quickly when violations are committed.

The principles of supervision are the basic ideas and goals the supervision staff should apply in their work:

- Establish trust between yourself and participants, so they are confident in giving candid information and taking your suggestions seriously.
- Develop a sound knowledge of the priorities in participants' lives and the factors that influence them. In this way you can help participants to maintain priorities in line with the goals of the program.
- Use the guarantor's moral suasion to build hope, warn of potential consequences and encourage compliance.
- Communicate to participants that failure to comply with supervision could lead to failure to appear in court which could result in an order of deportation in absentia and substantial bars to returning to the U.S. in the future.
- Identify and address non-compliant behavior and tendencies early so failure to appear in court can be prevented.
- Respond to violations positively (in addition to pointing out the negative consequences of behavior) and build incentive by emphasizing the relevance of compliance with supervision to the possibility of winning the right to stay in the U.S. legally or returning to the U.S. legally at some time in the future.
- Keep in mind that a supervision program serves in part as an early warning system for participants who are most likely to abscond and not make their court appearances. In these cases staff will have to respond with significant sanctions and may have to return the participant to detention to prevent absconding.
- Remember that a system of sanctions based solely on increasing the demands of supervision (the ultimate demand being return to detention) may not be effective in all cases. Certain participants who are having troubles meeting the basic requirements may be even less successful meeting more requirements. Therefore, staff must use their discretion and, in some cases, may want to require a condition they know the participant can meet.

- Work as a team in determining the appropriate responses to violations, keeping in mind the impact of sanctions on the entire participant community and maintaining consistency in the treatment of participants.

### **Applying Principles of Supervision in Responding to Violations**

Responses to violations should aim to return the participant to compliance with the program and to discourage non-compliant behavior before it results in the participant's failure to appear in court. Staff should demonstrate why the violation interferes with the participant's progress in the program, what the alternative to the program is, and that the consequence of failing to appear in court may be a final order of deportation and being subject to immediate removal from the U.S.

#### **Factors to be Considered in Determining a Response:**

Because each participant's situation will be different and because violations may be single infractions or combined violations, each case must be evaluated individually to determine the appropriate sanction. The team should consider:

- The participant's history of compliance (in the AAP and in other supervision programs - past or current).
- Past responses to sanctions.
- Any new public safety threat indicated by the violation.
- Extraordinary family, medical, or financial concerns.
- Recommendations from the guarantor.
- Positive change in the demeanor or the attitude of the participant while under the supervision of the AAP.
- Alternative sanctions which may fit the particular needs of a participant (e.g. Team feels a participant would not necessarily show up for additional supervision meetings but may commit to looking into his/her potential repatriation by contacting family or friends in his/her native country and making arrangements).
- The perception of/reaction to the response by the rest of the participants in the program and how that perception/reaction may affect the participants' future compliance. It is important that the program maintain credibility by acting consistently and being sensitive to potentially negative or counterproductive reactions.
- The participant's willingness to comply with staff requests for information regarding the participant's whereabouts, contacts, family members' addresses, etc.

#### **Outline for Responding to Violations:**

When first confronting a participant with the fact that she or he has violated the conditions of supervision, follow the steps below:

- Tell the participant what it is you are going to discuss (the particular violation) and what your understanding of the events is.

- Ask the participant what his/her understanding of the events is and what caused him or her not to comply. He or she may have a reasonable explanation or a significant problem that the AAP could help address.
- Explain the reason the AAP set forth the condition violated, relating it to appearance in court and avoidance of detention or deportation.
- Warn the participant that failure to appear at court will result in a recommended return to detention. If it would seem to further the goal of returning the participant to compliance, inform the participant of the sanction supervision has decided upon in response to the violation.

**Examples:** The following outlines some basic examples of non-compliant behavior and supervision responses and indicates which of the events should be documented as violations in AAPPPO. (If what is first perceived – and recorded – as a violation later turns out to be a misunderstanding or emergency, supervision should leave it as a violation and be sure to explain the outcome when it occurs.) Anytime there is a violation, supervision should e-mail the event to field staff as well as supervision staff. This list is not exhaustive, but it should provide some general guidelines. Any questions about whether or not something is a “violation” or what type of response it merits should be brought to the supervision/field director. .

#### **Tardiness**

*Violation:* Participant shows up late (an hour or more late without a reasonable explanation that the supervision officer thinks plausible) for a supervision meeting.

*Response:* Issue a verbal warning stressing that if s/he shows up late for an immigration court hearing it may be conducted without him/her and s/he would likely be ordered deported. Warn also that supervision requirements may be increased if tardiness continues.

*Record:* In summary note or general notes that the person was late, why s/he was late, and what was told to him/her.

*Violation:* Participant repeatedly shows up late for supervision meetings (an hour late three or more times).

*Response:* Inform the person of how many times s/he has been late and that s/he has been warned each time. Require the person to be on time for the next three appointments or else s/he will be required to report in for extra meetings. Discuss situation with supervision/field director.

*Record:* Write summary note in AAPPPO that addresses the conversation with the participant and the supervision/field director.

#### **Missed supervision meetings**

*Event:* Participant misses a supervision meeting for the first time.

*Response:* Once the appointment time has passed (1 hour), make a telephone call to the participant (and the guarantor and other contacts if the participant and guarantor cannot be reached) to give him/her the opportunity to report. If

there is no response by the participant by the end of the day, a field visit will be scheduled and a message delivered in person that the person must report or call-in immediately. Once the participant is contacted, supervision should arrange for the participant to come into the AAP office immediately for a supervision meeting. Supervision should inform the participant that s/he has violated and that his/her reporting schedule may be increased if s/he cannot report in when required. Supervision should also warn him/her that missing a court hearing will likely result in deportation.

*Record:* A VIOLATION event as soon as the first attempt to contact the person is made. Describe the event in the summary note, FIRST MISSED SUPV MTG. As follow-up develops, explain in the AAPPRO notes the participant's response and warning(s) given as they occur.

*Event:* Participant misses a supervision meeting for the second or subsequent time.

*Response:* Once the appointment time has passed (1 hour), make a telephone call to the participant (and the guarantor as well as any other contacts the supervision officer is aware of), to give him/her the opportunity to report. If there is no response by the participant by the end of the day a field visit will be scheduled and a message delivered in person that the person must report immediately. Once the participant is contacted, supervision should arrange for an immediate supervision meeting. The participant's reporting requirements should be increased. The supervision officer should discuss the situation with the supervision/field director to determine what additional steps need to be taken to insure compliance.

*Record:* A VIOLATION event as soon as the first attempt to contact the person is made. Describe the event in the summary note, SECOND MISSED SUPV MTG. As follow up develops, explain in the regular notes. Be sure to change the conditions on the conditions screen.

If the person has not absconded but continues to miss reporting requirements, supervision staff should determine what can be done to keep the person in compliance (possibly changing structure of reporting in, etc.). The person may have to be returned to detention if s/he cannot comply with the terms of supervision, or if the supervision officer and supervision/field director decide that risk of non-compliance is great enough to justify a recommendation for re-detention.

### **Missed Phone Ins**

*Violation:* Participant misses a scheduled phone-in.

*Response:* If the participant calls by noon the next day and states that s/he is calling because s/he missed his/her scheduled call-in, the event should be considered "completed." However, if the participant does not call by noon the following day, , supervision should try to contact the person to reconfirm their phone-in schedule and to see what, if any, problem there is. If the participant is unable to be reached by the end of the following day, field officers should conduct an unannounced visit to the participant's

residence the next day (two days after the missed call-in), and attempt to speak with the participant. The participant should be advised to call the AAP immediately.

*Record:* Change the status of the SUPV CONTACT/PHONE-IN to NOT COMPLETED, and record the follow-up work as it is completed. If there is a reason the phone-in was not completed, record the reason in the summary note after PHONE-IN.

*Violation:* Participant misses three phone-ins over the course of his/her participation in the program.

*Response:* Contact the person as soon as possible. Find out why s/he is not calling in. Issue a verbal warning that s/he has missed three call-ins and that s/he may be required to report in person more frequently if s/he cannot call in when required. A supervision meeting can be required if the supervision officer believes it is warranted. If the participant cannot be contacted, a field visit or supervision meeting in the field should be scheduled. If the participant cannot be located, supervision and field should coordinate a response with the supervision/field director.

*Record:* A VIOLATION event with the summary note THREE MISSED PHONE-INS as soon as the first attempt to contact the person is made. Record follow-up notes as they occur.

### **Failure to Inform**

*Violation:* Participant fails to notify the AAP that he/she is leaving the New York City metropolitan area temporarily.

*Response:* Arrange a special meeting with the person as soon as possible to review this condition of the program.

*Record:* A VIOLATION event with the summary note P LEFT NEW YORK CITY METROPOLITAN AREA W/O INFORMING AAP as soon as we learn of it. Record summary notes explaining what has happened and what the follow-up has been. Supervision officer should discuss whether the participant should be recommended for re-detention with the supervision/field director.

*Violation:* Participant fails to inform the AAP staff of change in residence or telephone number.

*Response:* A) If the participant makes the supervision officer aware of the change: Arrange a special meeting with the person as soon as the new information is learned to review this condition of the program and to determine what the circumstances are surrounding the change.

Issue a verbal warning if the change is a telephone number change only and the supervision officer is satisfied that the change was not made specifically to deceive the AAP. The supervision officer should set up an announced field visit so that field can confirm that the new number actually rings at the participant's home.

If there has been an address change, inform the participant that the AAP has to approve this new living arrangement. Arrange for supervision meeting with the participant and his/her new housemates/roommates where an explanation of the program and the home visit procedure can be explained. This meeting should be scheduled as soon as possible. At the meeting, arrangements should be made for an announced field visit to the new address where both the participant and at least one other person who lives in the home should be present. If the new home appears to be adequate, the supervision officer may grant permission to the participant to remain at the new location. The participant should be made aware of the requirement to inform the AAP of any other address change prior to the actual change in address.

B) If the participant does not inform the AAP of the change but AAP learns of the change on its own: Do everything listed above but if the supervision officer determines that it was not the intent of the participant to ever inform the AAP of the move had the AAP not learned of it on their own, then a recommendation for re-detention should be considered.

In both cases (A and B), the supervision/field director should be consulted throughout the process.

*Record:* A VIOLATION event with the summary note P DID NOT REPORT A CHANGE IN ADDRESS/TELEPHONE NUMBER, as soon as we learn of it. Record notes explaining what has happened. All related events should be entered into AAPPRO.

*Violation:* Participant refuses to provide information to the program such as phone, address, whereabouts, contact information, etc.

*Response:* Explain to the person the certain pieces of information are essential to the program such as phone, address, and contact information. If s/he is not willing to provide s/he may not be able to participate in the program anymore and may have to be returned to detention.

*Record:* If s/he provides this information at that time, record it in the appropriate places and make a note of the difficulty encountered in obtaining it. If s/he still does not provide the information, discuss the next course of action with the supervision/field director.  
In any event, after three attempts to retrieve the information from the participant, a VIOLATION event with the summary note P WILL NOT PROVIDE INFO should be recorded and specific notes should be included in the AAPPRO notes section.

### **Criminal Infractions**

Note: Participants are required to report any contact they have with the criminal justice system to the AAP. In the case of any arrest, the supervision team will meet to review the charging document and the participant's criminal and compliance histories to determine an appropriate response, including the possibility of INS notification or

recommendation of return to detention. It is not the AAP's job to conduct criminal investigations, so AAP staff should not investigate the charge further than needed to determine a response.

*Violation:* Participant is arrested and charged with a crime and either held in custody and later released on bail, or released immediately.

*Response:* If the charge does not indicate that the participant poses danger of harm to him/herself or another person and the participant is not detained in the criminal proceeding, arrange a conference with the participant and guarantor to make clear that a criminal conviction could harm his immigration case and that it is important that s/he go through the criminal process and stay out of trouble. Check to make sure s/he is complying with the criminal proceeding. Field may increase unscheduled visits to the participant's home.

*Record:* A VIOLATION event with the note summary PARTICIPANT ARRESTED FOR "x crime" as soon as we learn of it. Record follow up as it happens in the note box.

*Violation:* Participant is indicted for a felony.

*Response:* Notify the INS and recommend re-detention.

### **Absconding**

*Violation:* Participant fails to keep in contact with the AAP, purposely avoids contact with supervision and the field officers, and the AAP staff are able to locate him/her.

*Response:* Arrange an intensive conference with participant, the guarantor (if possible) and the supervision/field director. Consider seriously recommending return to detention and allow the participant to continue in the program only if s/he was not ordered deported in absentia and if there is some strong reason to believe that s/he can be trusted for a second chance. If you give the participant a second chance, involve the guarantor in reestablishing the conditions of supervision and monitor the participant very closely so s/he does not abscond again.

*Record:* A VIOLATION event when we first cannot contact the person. Record the follow up as it occurs.

*Violation:* Participant fails to keep in contact with the AAP and purposely avoids contact with the field officers and supervision officers, and the AAP staff are not able to locate him/her.

*Response:* Recommend to the INS that the participant be returned to custody. Supervision staff will complete the recommendation and field staff will work with the supervision staff and do the investigative work to assist the INS in locating the person. Consult the supervision/field director.

*Record:* A VIOLATION event when we first cannot contact the person. Record the follow up as it occurs.

### **Missed Announced Field Visits:**

*Violation:* Participant fails to be present when field arrives for an announced home visit.

*Response:* Field should contact supervision and request that they attempt to locate the participant. Supervision should reach out to the guarantor or to other people with whom the participant associates in order to ascertain where the participant is. If the participant is contacted, the supervision officer should require the participant to come into the office immediately for a meeting. The supervision officer should warn the participant that failing to be at home for an announced visit is a serious program violation, should confirm that the participant still resides at the location, and arrange for another announced field visit within the next week. Field staff should be kept apprised of the situation.

*Record:* A VIOLATION event when field arrives for the announced visit and the participant is not at home. Record the follow-up as it occurs.

### **Unannounced Field Visits:**

*Violation:* Participant fails to call into the AAP to report that they received a field letter at their home within 24 hours of field leaving the letter.

*Response:* Supervision should call the participant and arrange for an announced field visit within the next week and confirm the address with the participant. After the announced visit is complete, field should conduct an unannounced visit within one week after the announced visit. If the participant cannot be located, the "absconding" section above should be followed.

*Record:* A VIOLATION event after the 24 hour period. Follow-up events should be recorded as they occur.



## REGULAR SUPERVISION PROGRAM OUTLINE

The goal of the Regular Supervision Program is to learn whether a minimal intervention can effectively and economically increase appearance and compliance rates for non-detained populations. AAP supervision staff monitor participants' addresses and phone numbers, track participants' progress through removal proceedings (including appearances at court, decisions of the Immigration Judge, and compliance with those decisions) and provide information, materials, and referrals to ensure that participants have an understanding of the legal process and their legal options at each stage, from preparing for court to complying with the decision of the Immigration Judge.

Participation continues as long as participants meet the conditions of the program, until the conclusion of court proceedings and any legal obligations arising from them.

**INTAKE/ELIGIBILITY:** Those aliens the INS does not detain are considered for the regular supervision program. From a review of the A-file and an interview (either on the phone or in person), intake gathers information about the alien's address, community ties and immigration status. Intake explains what the program has to offer, what the parameters of participation are, and what the participant's obligations would be, and ascertains whether or not the person is interested in participating.

- ◆ The AAP offers information about the immigration court process, reminders about your hearings, and referrals to lawyers who can help you. The AAP will also make sure you have information about any other obligations that you have to the INS or to the immigration court.
- ◆ The program will last from now until the Judge makes a decision in your case and you have done anything required by that decision. This means that if the Judge decides you have to leave the U.S., we will provide information about what you need to do at that time.
- ◆ What we require of you is that you keep us informed of your current address and phone number, go to your hearings, and do what the court requires. If we cannot reach you by phone or mail at the address and phone number you provide, staff may visit your home to see if they can get a message to you in person.
- ◆ You can end your participation in the program whenever you want. All you have to do is inform a staff member. We will send you a letter confirming that you are no longer in the program.

If the person is interested in participating, intake verifies the person's address and schedules the person for an orientation at which time they will sign the Agreement to Participate.

**ORIENTATION:** The orientation is conducted by a supervision officer. It is at this time that the participant formally consents to participate and the supervision officer details the participant's obligations, the parameters of participation, and the services the program offers. For people who live outside the NYC Metropolitan area, the Agreement and other documents requiring signature should be sent to the participant before the orientation by intake and returned to the AAP. The participant becomes active once the

orientation is complete and the Agreement is signed and returned. (See Supervision #7, Regular Supervision Orientation Outline.)

**REMINDER LETTERS:** While the participant is in proceedings (awaiting scheduled court hearings), the basic monitoring function of the regular level of supervision is to provide people with written and verbal reminders of their hearings and other immigration obligations. This helps us ensure that people are living at a verified address and can be contacted. The regular schedule for sending court date reminders is one Regular Reminder Letter per month and an additional One Week Letter, including the "How to Go to Immigration Court at 26 Federal" brochure as applicable, seven days before the court hearing. Supervision is responsible for scheduling these letters after the orientation. The scheduling should start from the court date, not the date supervision began, i.e. schedule One Week Letter ten days before the court date and the Regular Reminder Letters one, two, three months before the date.

**Returned Letters:** Supervision considers regular monthly letters COMPLETED once they are sent to the participant. If a letter is returned, the following should occur:

1. The receptionist receives the returned mail and identifies the sender. If it is supervision mail the envelope should be given to the appropriate supervision staff member. If it is intake mail it should be given to the person who sent it.
2. The supervision staff ensures that the envelope was correctly addressed and checks to see whether mail for this participant has been returned before. If the envelope was incorrectly addressed, supervision resends the letter to the correct address.
3. For correctly addressed returned mail, the supervision staff should record that the letter was returned and the date it was returned in the Summary Note of the SUPV CONTACT event which was entered when the letter was sent. The supervision assistant or officer should call the participant and any other contact numbers to retrieve the correct address. Be sure to inquire whether or not a C/O name is needed. If the supervision staff member is able to get another address over the phone, s/he should update the address in AAPPRO and record how they got the address in the notes.
4. If the supervision assistant is not able to contact the person or retrieve an updated address, s/he should record the events below.

<u>Event</u>	<u>Status</u>	<u>Summary Note</u>
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5. Once two attempts to contact the person by letter have been made – and attempts to reach the participant by telephone have been made (see "not completed reminder phone call" section below), and the participant's address still has not been confirmed or the participant does not respond, supervision should consider it a program violation. The participant should be terminated from the program. The supervision officer should change the participant's status, and the supervision/field director

should be notified by e-mail of the change. All upcoming scheduled supervision contacts for that case should be CANCELLED.

6. However, in a case where we have a confirmed phone number of the participant and we are regularly able to reach them but we are unable to contact them via letter, we may modify the schedule to communicate with the participant by phone only.

Event                                      Status                                      Summary Note

**REMINDER PHONE CALLS:** The regular schedule for reminder phone calls is one Phone Reminder three weeks before the court date and one Phone Reminder two days before the court date. (The three-week phone reminder can replace the one-month letter). Supervision should ask the person if they have obtained legal counsel, if they are planning to attend the hearing, and if there is any other assistance they need. Supervision should also tell the person whether or not a staff person would be at the courthouse on the day of the hearing.

**Not Completed Phone Reminders:** Supervision staff considers the reminder calls "complete" if they speak with the person directly or leave a message for the person (only after having tried to speak to him/her directly more than once.) If supervision is not able to reach the participant by phone at either of the scheduled times (at least three attempts within three days or the phone is disconnected), they should record the contact as NOT COMPLETED and the reason why in the summary note. If the phone is disconnected we should make a note of it and ask for a new number in the next reminder letter. If the reminder letters are returned, and we are unable to speak with the person directly after making the required three attempts within three days, or the phone is disconnected with no other information available, supervision staff should make two more telephone attempts to reach the participant. However, if these attempts fail, it is a program violation and the participant should be terminated from the program. The supervision staff is responsible for changing the status, and informing the supervision/field director of the change. All upcoming supervision contacts should be CANCELLED.

**INFORMATION, MATERIALS, REFERRALS:** The other basic function of regular supervision while participants are still awaiting court hearings is to provide participants with the information and tools necessary to appear in court.

*Legal Information Sessions:* The AAP arranges sessions with legal representatives to explain the court process and discuss the basic legal options available to people in proceedings.

*Written Materials:* The AAP has developed materials explaining how to choose and work with legal representatives and what to expect at immigration court. The supervision team should distribute these materials either at the orientation or at a later date and be sure to discuss them with participants to see if they understand and to evaluate how effective the materials are. Other materials will be developed and should be distributed to participants as well.

*Referrals:* Supervision provides referrals to legal representation and other needed services. Participants are encouraged to ask for assistance when needed, and the supervision team should inquire regularly as to what is needed.

*"AAP Newsletter"*: The AAP Resource Coordinator has developed a bimonthly newsletter for regular participants who request the newsletter be sent to them. The supervision team should record the participant response to the newsletter, and work with the Resource Coordinator to develop future issues.

**COURT APPEARANCES:** As stated in the One Week Reminder Letter, the AAP assists participants at their court hearings, helping them find the courtrooms, answering questions about the process, and discussing problems or needs. (See Supervision #9, Procedures for Assisting AAP Participants with the Court Process at 26 Federal Plaza.) Supervision staff should use this contact to update any unclear address or phone number information we have and to see what participants need and how they are doing through the process. Staff will also try to verify appearances in person as much as possible, but will confirm them through the EOIR database after the fact. If a participant fails to appear, s/he will be terminated from the program. If the case is resolved and the participant has no further requirements to the court or the INS, s/he will be terminated as well.

In addition to court appearances, regular worksite participants who enter the AAP program after April 9, 1999 are required to attend a meeting with supervision after their first Master Calendar hearing.

**COMPLIANCE:** For participants who are still active after the conclusion of their court proceedings, those who appear and receive voluntary departure or a removal order, the AAP ensures that they have all the information necessary to comply. The supervision team sends information to participants and helps them obtain passports, tickets, etc. Supervision also must attempt to verify whether or not a person leaves. (See Supervision #10, AAP Guidelines for Confirming Compliance with Voluntary Departure, Withdrawal of Application for Admission, Self-Deportation and Orders of Removal.) The processes for participants who receive Voluntary Departure or an Order of Removal are as follows:

### Voluntary Departure

- Confirm disposition, get departure date from EOIR, and schedule date in AAP-PRO.
- Send information about VD w/bond and w/o bond as soon as possible after the court hearing and schedule a follow-up phone call for one week later.
- If we hear back from the participant, ask the participant if he/she would like to schedule a time to come in to discuss the process, or ask if they would like to have the discussion on the phone.
- If/When you do make contact, make sure the participant understands the process for complying and confirming departure with the INS and the consequences of not doing so.
- If/When you do make contact, gather the following:
  - ◊ VD w/bond or w/o, if with - have they already paid,
  - ◊ When (specific date if possible) are they planning to leave,
  - ◊ What means of transportation will they use,
  - ◊ If flying, what airline are they flying (flight # and date) – get copy of ticket,

- ◊ If going by bus or train, what bus line/train route – get copy of ticket,
- ◊ Do they have travel documents – get copy of documents,
- ◊ Have they gone to get a consular letter, G-146, from the INS,
- ◊ Is there a contact address and/or phone number where we could reach them in their country if we need to confirm,
- ◊ Are they willing to allow us to accompany them to the point of departure?

**It is very important that we ask them all of these questions and gather as much information as possible to be able to verify their departure. If it is not possible to do this on the first contact, schedule a time to meet or speak to them again when they think they will have all of the necessary information.**

- If we do not hear back from the participant (and the letter is not returned), attempt to contact them by phone or through other contact people. If the person does not respond after three attempts to contact them (messages left, additional letters, etc.) send them a final VD letter with a form requesting the information we need to verify departure (as stated above) and include a self-addressed stamped envelope. Schedule and complete one more follow up after this and wait 30 days for a response.

#### Order of Removal.

- Confirm disposition, confirm surrender date.
- Send participant information regarding what will happen next and what they need to do.
- Have them come in to discuss if they wish to.
- When we have the surrender date, schedule reminder letters and 2 phone calls up to that time. (Determine frequency according to the timeframe for surrender.)

#### **PROGRAM TERMINATION SUMMARY:**

Appeared/Complied: The participant maintains a verifiable address, appears at court when required, and complies with the decision of the Immigration Judge (whether or not that requires the person to depart the country). At time of termination, supervision sends a Certificate of Completion. Examples: The participant appears in court, and the IJ grants admittance or closes the case due to Failure to Prosecute. Or, the participant appears, the IJ grants Voluntary Departure, and the participant departs as required.

Program Violation Termination: The participant violates the conditions of the program by not providing a current and verifiable address and cannot be brought back into compliance by supervision efforts. This is determined by whether or not we have verifiable contact information. Supervision will not send a termination document. Example: We receive returned mail, verify that the person is no longer living at the address, and cannot get updated information.

FTA Termination: The participant violates the conditions of the program by not appearing at a court hearing. Once AAP learns of FTA, supervision sends a Notice of Termination indicating why participation was terminated, what the outstanding obligations to the INS are, and what the consequences are. Examples: The participant fails to appear, and the IJ orders removal in absentia. We send a Notice of Termination

- Once you have assisted everyone to their courtrooms, check your participant list to see who you have not yet met. Go to those court rooms and check with the clerks to see if the people have arrived. Check with the clerks one more time before leaving 26 Federal for the day to see if anyone else attended. Be sure to note how you checked and what you discovered.

*If it is a Master Calendar hearing:*

- Explain that he/she should enter the court room even if it seems that a trial is going on—there are many people scheduled for one room during the Master Calendar hearings.
- Tell the participant to go straight to the clerk (sitting next to the judge at a computer) and that he/she needs to show the clerk his/her NTA in order to check-in.
- Explain that people with lawyers will be called first, and then everyone else will be called on a “first come, first serve” basis. Have a seat and be prepared to wait for a while.
- If the participant does not have a lawyer, explain to him/her that the judge will assign another date. Give instructions for finding the IRP after the Master Hearing, or make arrangements to meet the participant in the court room and accompany him/her to the IRP. See *Part IV*.

*If it is an Individual hearing:*

- Help the participant find his/her lawyer before the hearing begins.
- If the lawyer is late, tell the participant to check in with the clerk and explain that the lawyer is supposed to be meeting him/her.
- Make sure the participant knows to inform the judge if s/he has never met the lawyer who comes to represent him/her, if that person has been sent in place of the lawyer.

III. *If you are unable to find the participant's name on any of the lists, instruct him/her to go to (or accompany him/her to) the Court Clerk immediately.*

- Walk past the lists into a room with a lot of chairs – the Clerk’s office. You will see a teller window.
- Bring the NTA to the person at the window and explain that you cannot find the name on any of the lists. That person will check the computer. If s/he is able to find the name, s/he will tell you which courtroom and floor to go to. The participant should go immediately.
- If s/he cannot find the name in the computer, this means there has been some error or delay in the filing process and the case will not be heard that day. In this case, it is EXTREMELY IMPORTANT to take specific actions to ensure that the participant can prove that s/he came to court as required and did everything required by the court and by the INS.
- Ask the clerk to write a statement that the participant was present at the immigration court on the date and time specified on the NTA, but that the hearing was not held because of some error or delay. The more they specify in writing about what happened with the hearing, the better.
- Tell the clerk that you would like to verify the address and phone number to ensure they have the correct one. If it is not up to date, ask for a change of address form and have the participant update it. It is the PARTICIPANT’S RESPONSIBILITY to make sure the court has a correct address and phone number. S/he must update it again if s/he moves.
- If the clerk does not write a statement that the participant was present, go to the IRP if it is open and ask someone there to do the same thing.
- If the participant is doing this alone, ask them to come back to meet you if they have any problems. If they do not find you, ask them to call the AAP office.

- Last, tell the participant to talk to a lawyer about what happened and what to do next. Everyone's situation will be different, so it is important that a lawyer advise the person so s/he can protect his/her interests. The AAP can help him/her find a lawyer to consult with.

*IV. If the participant does not have legal representation, he/she should visit the IRP desk immediately after the court hearing.*

- The Immigration Representation Project is located on the 13<sup>th</sup> floor and it is open every other week on Tuesday through Friday 9 a.m. to 11 a.m. When talking to a participant about his/her court date, you should always know whether or not the IRP is open. If it is open, give them instructions for getting there or accompany them there.
- If it is not open, the participant can ask the judge for an appointment pass (Notice of Appointment) to get in the building on a day the IRP is open. If that's not possible, s/he can always return to 26 Federal with his/her NTA on another day after the court hearing. More important, s/he can use the resources of the AAP to get legal counsel.

## **AAP GUIDELINES FOR CONFIRMING COMPLIANCE WITH VOLUNTARY DEPARTURE, WITHDRAWAL OF APPLICATION FOR ADMISSION, SELF-DEPORTATION AND ORDERS OF REMOVAL**

This document sets out various AAP procedures and criteria for confirming that someone has departed the United States. It describes our ideal method of confirmation and what, other measures will be taken and are adequate if the ideal is not possible.

### **VOLUNTARY DEPARTURE, WITHDRAWAL OF APPLICATION FOR ADMISSION AND SELF-DEPORTATION**

For every participant (regular and intensive) who receives voluntary departure or is allowed to withdraw his/her application for admission, we will aim to confirm departure through procedure 1. If procedure 1 is not successful, we will pursue 2 through 6 and evaluate the results to see if we have sufficiently confirmed departure. In the case of self-deportation (a participant's voluntary departure without going through the proper legal and administrative procedures), it is likely that the participant has also violated the conditions of the program and we will have to verify departure through procedures 2 through 6.

#### **Preparation:**

Supervision will gather as much of the following information as possible to be used later in the verification process

- ◇ When (specific date if possible) are they planning to leave,
- ◇ What means of transportation will they use,
- ◇ If flying, what airline are they flying (flight # and date) – get copy,
- ◇ If going by bus or train, what bus line/train route – get copy,
- ◇ Do they have travel documents – get copy,
- ◇ Have they gone to get a consular letter, G-146, from the INS,
- ◇ Is there a contact address and/or phone number where we could reach them in their country if we need to confirm,
- ◇ Are they willing to allow us to accompany them to the point of departure?
- ◇ If Supervision ascertains that the participant is having difficulty with any of the departure arrangements, Supervision should help the participant with making those arrangements well in advance of the departure deadline date.

#### **Procedures:**

- 1) ***In Person Confirmation*** -- Participant (Affidavit of Departure)
  - a.) If the participant is traveling by air on a direct flight to his/her destination, supervision or field staff accompanies the participant to the airport, observes the participant (give his/her boarding pass to the airline attendant at the gate designated for his/her flight), observes the participant go through the gate designated for his/her flight, waits until the plane leaves the gate and observes that



the participant does not exit through the gate designated for the flight before the plane departs. (If possible, supervision or field staff should actually accompany the participant through the gate entrance and down the gangway ramp to the airplane and wait there until the plane door is closed. However, if this is not possible, the procedures listed above will be adequate to confirm departure. The AAP staff person signs an Affidavit of Departure before a Notary Public and submits the document to the participant's file. If this is accomplished, departure is considered confirmed and no further action is necessary.

- b.) If the participant is traveling by air on a flight that stops first in the U.S. before continuing to his/her destination, supervision staff first makes copies of the participant's ticket and provides him/her with the AAP Departure Verification form and a stamped return envelope (international postage voucher enclosed) to fill out and return to us once s/he arrives in his/her home country. Supervision or field staff accompanies the participant to the airport, and follows the procedures listed in a) above. If the participant returns the AAP Departure Verification form to us from their destination (verify foreign postal service markings), departure is considered confirmed and no further action is necessary.
- c.) If the participant is traveling by car, bus, or train, supervision staff first makes copies of the participant's ticket (if there is one) and provides him/her with the AAP Departure Verification form and a stamped return envelope (international postage voucher enclosed) to fill out and return to us once s/he arrives in his/her home country. Supervision or field staff accompanies the participant to the point of departure, observes the participant boarding/leaving, waits until the transportation has left and observes that the participant does not exit. The AAP staff person signs an Affidavit of Departure before a Notary Public and submits the document to the participant's file. If the participant returns the AAP Departure Verification form to us from their destination (verify foreign postal service markings), departure is considered confirmed and no further action is necessary.

If it is not possible to accompany the participant or the Departure Verification form is not received (if required), proceed with the following procedures after the departure date.

## **2) Participant Confirmation-Remote**

Supervision contacts the person in the country to which s/he departed to confirm that he/she is there. If confirmation is by phone, supervision should verify where the person is, when they arrived and how they arrived. If possible, phone confirmation should be done by someone who can identify the voice of the participant and attest that it was him/her. If confirmation is by mail, supervision should send out the AAP Departure Verification form.

## **3.) In Person Confirmation – Community Ties**

If the person lives locally, field visits the participant's home, place of work and the guarantor or other contact's home to verify departure. Field asks the same information as above.

#### 4.) *Telephone Confirmation – Community Ties*

Supervision calls the participant's home, place of work and the guarantor or other contact ("other contact" in the case of regular participants or intensive participants who have agency guarantors) to verify departure.

Supervision should verify:

- That the participant returned to \_\_\_\_\_ country.
- The date and time of departure
- Means of transportation, confirm airline, airport, flight number, bus line, route, etc., if possible

If we do not already have it, supervision should ask for an address and phone number in the person's country where the AAP could reach him/her.

#### 5.) *Airline Confirmation*

Supervision or Field contacts the airline to get confirmation that the participant boarded the airplane. This contact may be by telephone but any information received should be confirmed in writing. The documentary evidence should be placed in participant's file. If it is not possible to retrieve this information directly from the airline, the Supervision/field Director will request that the INS check with the airline and communicate the confirmation to AAP..

#### 6) *INS Confirmation*

The Supervision/Field Director should regularly request from AAP Research staff, DACS and NIIS records information which Research receives from INS, to see if the INS has received confirmation through receipt of the consular letter (G-146) or any other means. If confirmation is received, no other confirmation is necessary. Note: the Supervision/field Director will request these records for all departures to compare INS records to known facts.

All results and information gathered should be carefully documented and detailed in the notes of the participant's file.

#### Evaluation of Confirmation Attempts:

Positive =	The procedure was completed and the information received confirmed departure.
Negative =	The procedure was completed and the information received indicated <b>strong likelihood that the person did not depart</b> (e.g. the roommate tells us that he saw the participant earlier that day and he should be back by 7:00 p.m.)
Inconclusive =	Some portion of the procedure was not complete (e.g. the Departure Verification form was not returned) and, therefore, the evidence is not conclusive. Or, the AAP was not able to complete the procedure for some reason

(e.g. the person's home is vacant and no contacts can be reached, or the people contacted do not seem to know whether or not the person left.)

Not Attempted =

The procedure was not even attempted.

**CONFIRMATION (check one ✓)**

	Positive	Negative	Inconclusive	Not Attempted
1) <i>In Person Confirmation – Participant</i>				
2) <i>Participant Confirmation-Review</i>				
3) <i>In Person Confirmation-Community Ties</i>				
4) <i>Phone Confirmation – Community Ties</i>				
5) <i>Airline Confirmation</i>				
6) <i>INS Confirmation</i>				

**EVALUATION (circle one)**

<b>DEPARTURE CONFIRMED</b>	<b>DEPARTURE BELIEVED/NOT CONFIRMED</b>	<b>UNKNOWN</b>	<b>FAILURE TO DEPART</b>
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If procedure 1 is Successful, no further evaluation is needed and DEPARTURE is CONFIRMED. If procedure 1 is Inconclusive or Not Attempted, Successful confirmation attempts of the following are minimums for DEPARTURE CONFIRMED: 2 alone; 5 alone; or 6 alone. If we believe the person complied, but only 3 and 4 are Successful, we will consider DEPARTURE BELIEVED/NOT CONFIRMED.

If any of the procedures were Negative, and there is significant possibility that the person did not leave, we will try other methods to confirm and clarify what happened. If direct or indirect evidence is found that indicates that the participant remained in the United States, it will be considered a FAILURE TO DEPART. If there is no direct/indirect evidence that a participant has either remained in the United States or has departed, we will consider this UNKNOWN.

**ORDERS OF REMOVAL**

For participants who appear at their hearings and receive an order of removal, we will aim to confirm departure through INS procedures and records. If these records are not conclusive and we believe the person complied with the order, we should pursue procedures 2 - 6 above.

**Preparation:**

Supervision will continue to monitor regular participants after the court hearing at which they are ordered removed. (Intensive participants would have been redetained at that time.) Supervision will send letters and make phone calls reminding them of their upcoming departure date and informing the person of what has happened up to this point and what they can expect in the coming weeks. When the INS sets a surrender date and sends the surrender letter to the participant, they will send us a copy or will provide the supervision/field director with the surrender dates as they are assigned.

**Procedure:**

Once the departure date has passed and the participant (to the best of our knowledge) has departed, the supervision/field director will request confirmation from the COTR. If this is received, no other confirmation is necessary. If this is not received, we will pursue procedures 2 - 6 above.

## DEPARTURE VERIFICATION

PP who departed \_\_\_\_\_ A# \_\_\_\_\_ Date of  
 departure: \_\_\_\_\_  
 Details of  
 departure \_\_\_\_\_

SOURCE	DATE & TIME	NAME OF PERSON OR SOURCE	OUTCOME ( please ✓ one) Successful <input type="checkbox"/> Not Successful <input type="checkbox"/> Inconclusive <input type="checkbox"/> Not attempted
1) In person confirmation by participant	____/____/____ Time: _____		
2) Phone Confirmation Community Ties	____/____/____ Time: _____		
3) In Person Confirmation Community Ties	____/____/____ Time: _____		
4) Airline Confirmation	____/____/____ Time: _____		

5) INS Confirmation	/ / Time: _____		
6) Mail/Phone Confirmation Participant	/ / Time: _____		

**EVALUATION SUMMARY**

**EVALUATION** (please ✓ one)

DEPARTURE CONFIRMED   
  DEPARTURE BELIEVED NOT CONFIRMED   
  NO CONFIRMATION OF DEPARTURE

If procedure 1 is Successful, no further evaluation is needed and DEPARTURE is CONFIRMED. If procedure 1 is Inconclusive or Not Attempted, Successful confirmation attempts of the following are minimums for DEPARTURE CONFIRMED: 2 or 3 and 4; 5 alone; or 6 alone. If we believe the person complied, but only 2 and 3 are Successful or only 4 is Successful, we will consider DEPARTURE BELIEVED/NOT CONFIRMED.

If any of the procedures were Not Successful and there is significant possibility that the person did not leave, we will try other methods to confirm and clarify what happened.

## **GUIDELINES FOR GATHERING, HANDLING AND DISCLOSING CONFIDENTIAL INFORMATION**

All members of the AAP staff will learn a great deal of information about the program participants (and a significant amount of information about the immigrants we screen and reject). Almost all of this information is confidential, because it is personal information entrusted to us by persons who have been assured that we will keep it private except in certain well-defined cases. Because of our relationship with participants and our responsibilities under the Privacy Act, all such information must be handled sensitively and in accordance with professional standards.

These guidelines explain what information about participants we may and should gather, how it is to be handled, and the procedures for responding to information requests. They also define the specific conditions under which the AAP has agreed to disclose participant information and the extent of that information in each case. These guidelines do not attempt to provide detailed answers for every situation that may arise. They intend to explain the principles that you should think about in managing confidential information and deciding how to respond to requests for it. Our hope is that they will help you to recognize and respond appropriately to sensitive situations; however, if you are in doubt, you should always seek the advice of your supervisor before acting.

### **What We Know About Participants in Our Program**

As employees in a supervision program, we have access to a great deal of sensitive personal information about our participants. We may know, for example:

- How many times they have been arrested, and for what;
- What sort of drugs they have been abusing, and for how long;
- Where and with whom they live/have been living;
- Whether they have been fired from any jobs, and why;
- What their sexual orientation is;
- Whether they have ever been in a psychiatric hospital;
- Whether they have been subject to torture or sexual abuse;
- What their political opinions are;
- What their doctors, psychiatrists and lawyers have to say about them.
- How many times they missed work, school, or counseling last week;
- Whether they have recently threatened to commit suicide;
- Whether they are HIV positive.

### **How We Know What We Know**

We collect and come by this information as we:

- Screen potential participants at intake to learn about the status of their case, their living situations, and their criminal histories;
- Call participants' families, guarantors, schools, and employers to verify the information they have given us or to find out other information needed for supervision purposes;
- Meet with participants as they report for supervision at the AAP;
- Associate with participants as they use the Resource Center;

Visit participants and their families in the field.

In short, we know what we know about participants because they volunteer information, we have access to their case-files, and/or we gather it through observation. Because it has been given to us in confidence, we have an obligation to collect, use and disseminate it with the utmost care.

### **The Duty of Confidentiality**

We have both a legal and an ethical duty to keep information about our participants' secret and respect their privacy. The basis for our legal duty is the Privacy Act, which establishes safeguards for the protection of records the Government collects and maintains on U.S. citizens and lawfully admitted permanent residents. Although much of the information we will have will be about non-citizens and non-LPRs, we will not discriminate against persons based on their citizenship status and will treat their records as covered by the Privacy Act. The Act limits the conditions for disclosure without consent and requires that employees who handle government records prevent unwarranted disclosure or access by unauthorized persons. A fine of up to \$5000 can be imposed for making an unauthorized disclosure. The only instances in which the AAP can legally disclose information without the participant's consent are set out below in Who May Ask For Information About Participants and How to Respond. Unless you find somewhere in these Guidelines that a disclosure is permitted, do not make it.

The basis for our ethical duty is our need for trust and candid information from participants to make the program successful, as well as the position of power and authority we hold in relationship to them. The AAP needs participants to confide in staff and be open with us if we are going to supervise them effectively and help them attend their hearings. We also need to manage responsibly our relationship with participants, because we influenced their release from detention and can affect whether they remain out of detention. Finally, in the asylum context confidentiality may be required in order to protect the safety of participant's family and associates still living in the participant's home country.

Another issue in handling confidential information is the obligations of confidentiality that we owe to others. We often gather information from the friends and family of participants. When such information is really about the family or other third party and not the participant or could harm distant family or acquaintances (asylum claims), it should be treated with the same sensitivity and discretion as participant information. Friends and family members may also give us information which is private or reflects badly upon them. We have an ethical duty to preserve their trust as well."

### **How to Handle Confidential Information**

Outside of the AAP, nothing you learn about a detainee or participant, even information as trivial as a name, is an appropriate subject for conversation. Your friends, your relatives, your spouse, and your acquaintances have no need to know anything about individual participants. **It is not okay to tell stories about participants just because you do not use their names.** They may be easily recognized from other details in the stories or other information your listener already has.



It is particularly important to exercise common sense about what sort of information you commit to writing. **Any information not relevant to a participant's supervision and inappropriately confided to you by a participant despite your best efforts does not belong in his or her official record.** (This does not, however, protect the information completely. You could still be subpoenaed to testify to what you have heard and remember.)

Disclosure is desirable only when it is a professional necessity or it helps the participant to meet the program goals. Except in a limited number of circumstances you must get the participant's permission to disclose the information or advise the participant to speak directly with the party requesting information. Situations can be imagined in which disclosure is essential. For example, to assess a participant's employment options (so long as the participant is authorized to work), a service provider may need to know the amount of participant time and effort required by both program participation and court appointments. In such cases you must explain the need for disclosure to the participant and get his/her consent. The best course may be to advise the outside service agency to speak directly with the participant and persuade him or her to answer the agency's questions frankly. Other service agencies with whom we might deal are bound by similar obligations of confidentiality and would respect the participant's privacy.

#### **Who May Ask for Information about Participants and How to Respond**

As a general rule, AAP staff shall not disclose information about an individual obtained in the process of performing the AAP's functions (including screening and supervision) without the participant's consent. However, there are a few instances in which disclosure may be authorized.

The following list of potential inquirers describes the circumstances under which they will likely be asking for information, what disclosures are permitted and when, and the procedures for responding to each. Also defined are the circumstances in which we will release information to them for our purposes, not in response to their request. Keep in mind that if you are ever unclear about whether disclosure is permitted under any circumstances, you should always ask your supervisor.

#### ***When the INS asks:***

There are a limited number of circumstances under which the AAP will release information to the INS. Most of such disclosures are by AAP initiative, not by INS request, and are consistent with the objectives of the Program. If the INS requests information or clarification from you in a situation not described below, you should respond that you are not authorized to release the information requested. If they inquire further, refer them to the NYC Director. Even if the person asking is someone you know and trust and the piece of information sought does not seem to be a particularly important, you cannot disclose it to them.

***What we can disclose:***

Information to Support a Recommendation for Release from Detention - Intake staff will disclose to the INS information justifying the AAP release recommendation. Such information will be limited to the potential participant's name, address, nationality, date of birth, the guarantor's name and address, and the AAP's assessment that the potential participant is not a public safety risk, that he or she has a potential remedy available in removal proceedings, and that he or she is amenable to supervision. This information should be entered on the Release Recommendation form and submitted to the appropriate INS contact. AAP staff can supplement the written recommendation with additional information necessary to justify the recommendation or to address INS concerns about releasing the person.

Information about a Risk of Harm/Public Safety Risk - If a participant poses a danger of physical harm to him/herself or another person or has been indicted for a felony, the AAP will disclose this information to the INS and other appropriate authorities. Any knowledge or suspicion of risk should be reported to a supervisor immediately. The supervision team will determine if disclosure is appropriate and the NYC Director or a person designated by the NYC Director will disclose the information to the INS and other appropriate authorities. The participant must be notified of this disclosure immediately. Note: in the case of a participant having committed a misdemeanor, the AAP will not report it to the INS or other authorities.

Information to Support a Recommendation of Return to Detention - If a program participant must be returned to INS custody, the AAP will disclose to INS officers responsible for effectuating the return to detention the reasons for revocation of the conditional release and information necessary to locate the participant. That information shall be limited to the participant's address(es)/location, telephone number(s), and employment location(s); the guarantor's name, address, and telephone number; information regarding other locations the participant has been known to frequent; steps the AAP has taken to locate the participant; and other information necessary to locate the participant. This information will go to the designated INS official on a special form signed by the Supervision/Field Director. Additional information can be provided only with the Supervision/Field Director's approval.

***When the Executive Office for Immigration Review asks:***

AAP personnel may disclose to the EOIR a participant's history of compliance with release conditions and the program's responses to violations. This information, in the appropriate standardized format, may also be released to the participant or and INS Trial Attorney in preparation for an EOIR hearing.

***When a law enforcement agency asks:***

If you are approached by a law enforcement agent who is asking about a participant, inform him or her that you are not authorized to release such

information and that all requests must be made to the NYC Director. If it is an emergency, refer the request directly to the NYC Director. Otherwise, report the request to your direct supervisor who will determine whether or not to notify the NYC Director. No other information except what is specifically set out in this policy statement shall be disclosed to any law enforcement or other government, including foreign government, authorities.

***What can be disclosed:***

Information Necessary for a Criminal Investigation - Upon written request to the NYC Director, the AAP will disclose relevant information to law enforcement agencies for purposes of investigation of a crime committed in the course of obtaining or maintaining pre-hearing release.

Information about a Risk of Harm/Public Safety Risk - The AAP will disclose information necessary to protect the participant, law enforcement personnel, prison officials, care providers, or the public from potential harm. The AAP will also disclose information needed to provide appropriate care to any of the above. This type of disclosure must be approved by the New York City Director. Some relevant examples are instances in which information, such as information relating to the participant's health status, is necessary to protect someone and instances in which an arrest is contemplated or the participant is to be confined.

***When a probation or parole agency asks:***

You may provide information concerning a participant's conditions of supervision and compliance with those conditions as well as immigration court dates to criminal justice system agencies that are supervising the participant in conjunction with a criminal matter. AAP staff may not disclose other information about participants to these agencies.

***When the press asks:***

Any time a staff member comes into contact with a media representative and is asked about the program, you should respond, "I am sorry but I am not authorized to give out information. Let me refer you to someone who can help you." Further inquiries should be directed to Vera's Communications Director, with notification to the NYC Director. The only people who have the authority to release information to the press are the President and the Communications Director of Vera and the New York City Director and the National Director.

***When a service provider asks:***

Make referrals to social service providers only with the consent of the participant. After the initial contact, the participant should be primarily responsible for providing information about him/herself. In the case that the participant cannot communicate with the provider because of language barriers a staff member or translator should assist. If the participant needs medical or court records released for some reason, he or she must sign the proper consent forms with the respective agency.

***When the participant's lawyer asks:***

Do not disclose information to a participant's lawyer without the written consent of the participant. If a participant's lawyer asks you for information before obtaining written consent, inform him/her that you are not authorized to give any participant information without the consent.

***When guarantors or family members ask:***

AAP staff may disclose information about a participant's conditions of supervision, the participant's compliance record, and past and future immigration court appearances to the participant's guarantor. The NYC Director may authorize disclosure of other information to the guarantor or to a family member only if, in the opinion of the NYC Director, such information would be beneficial to the ongoing supervision of the participant and the participant authorizes such disclosure in writing. The NYC Director shall not authorize any disclosure to family members if, in the NYC Director's opinion, (1) the disclosure of such information would violate a promise of confidentiality to the source of the information, (2) the disclosure would result in harm to any person, or (3) the disclosure would compromise the objective of confidentiality as set out above.

***When the participant asks:***

If a participant requests access to his or her records, the AAP must allow it, although confidential information obtained from other sources can be redacted. Participants are also permitted to review records, to be accompanied by representatives, to obtain a copy of all or any portion of the record in a comprehensible form, and to request correction or amendment of the records.

***When any other party asks:***

In the case of any request other than those described above, you should not disclose participant information. Even if it is a priest, the participant's best friend, or a police officer, you should respond, "I am sorry but I am not authorized to give out information." If the party persists with the request, tell them "please wait and I will get someone who can help you." Refer them to the NYC Director or speak to your supervisor to determine how to handle the inquiry.

**Staff should remember that if there is any doubt or question about whether a particular piece or type of information should be disclosed, you should consult with your supervisor BEFORE making the disclosure.**

## **II. Policy Regarding the Use of Information Obtained Through Work on the AAP**

As the introduction to the personnel manual states, Vera's ability to do its work depends heavily on government's trust that we will not misuse information that government gives us. It is essential to Vera that our government partners feel free to share information and ideas, and to engage in frank discussion with us. To build that trust, we are thoughtful about what we publish. We require that senior management review publications based on information project employees acquire in the course of their employment. Information includes not only data but also conversations and observations.

Vera's use of information is governed by law as well as policy. For the AAP, the Federal Privacy Act restricts Vera and its employees regarding re-disclosure of certain information. The Privacy Act also establishes civil and criminal penalties for violating the statute's limits.

All Vera employees working on the AAP have been employed, and have been given access to information, with the expectation that they will obey the law and will respect Vera's interests and policies regarding project information.

### **III. Policy Regarding the Treatment of "Classified Materials" Discovered in the Course of Work in the AAP**

"Classified materials" are documents officially labeled top secret, secret, or confidential, because their dissemination may pose a threat to national security. "Classified" documents should have a colored cover page clearly marking them as "classified." The INS and EOIR do not plan to make "classified" information available to AAP staff. However, you should be attentive to the materials you are reviewing and if "classified" files or documents **accidentally** end up in your hands, do not read them. Immediately stop reviewing the information and contact your supervisor. The source of the information, the INS or EOIR, will be contacted and the information returned to them.

## PROCEDURES FOR USING PROFESSIONAL AND NON-PROFESSIONAL INTERPRETERS

### **Non-Professional Interpreters**

AAP staff should review situations carefully when making decisions about when it is ok to use a non-professional interpreter to communicate with participants. Family members and friends may interpret for routine supervision meetings and neutral discussions, but should not be used in more critical interviews, such as the intake interview and discussions of program violations or possible return to detention. In using family members or friends as interpreters there is always the risk that, due to their closeness to the participant, their inherent lack of objectivity could affect the outcome of the interview.

If a family member or friend interprets for a staff member, allow extra time to explain the interpreting process and to get a sense of that family member or friend's level of understanding. Try to find out if the family member or friend has herself or himself been in a similar situation or has interpreted for someone else in a similar situation. It may be helpful if this person had been in a similar situation because s/he would know the ropes.

While their English level may not be as high as that of professional interpreters, family and friends may be immigrants themselves, which may give them increased credibility with some participants.

There is a likelihood that we will be giving on-the-spot training to the non-professional interpreter. When there is a question of how much explanation is enough, it is always better to over-explain or repeat oneself, rather than to give instructions or information that is too brief or vague.

Interpreters must not only be skilled in the languages they are translating, but should be objective and ethical. Interpreters must not attempt to become counselors or lawyers.

It is important to recognize early on if the interpreter will be effective. Similarly, it is important to feel confident that the interpreter understands that your directions are merely directions, and not criticism. It is equally important to give up when it is apparent that you are not effectively communicating with the interpreter.

Allow the interpreter the possibility of ending a session if the arrangement is not working out, or if the participant is exhibiting signs of distress.

### **Using Professional Interpreters**

Professional interpreters will be used by intake for screening interviews, telephone verification and exit interviews. Supervision will use professional interpreters for the orientation session, if needed, and for any meetings in which the content is particularly

critical. To the extent possible, these tasks should be coordinated to make maximum use of each interpreter during each job to avoid paying unnecessary additional travel charges.

Professional interpreters will be used in order to communicate effectively with the participant/potential participant. They should be used if the person would feel significantly more comfortable -- less afraid, better able to answer questions calmly and clearly -- speaking in his/her native language, even if s/he seems to speak English well enough to conduct the interview.

If the person speaks very limited English and is difficult to understand, you should hire an interpreter, despite assurances that s/he can speak English. (During intake, it should be made clear that his/her English ability will have no bearing on the outcome of the interview or his/her immigration case.)

To identify interpreter need at the time of intake, assuming the potential participant does not speak English or any other language spoken by intake staff:

- Determine country of origin from A-file, and language(s) spoken from reference. There may be some indication from Inspections Q & A. If available, look at summary of asylum claim or other documents in the file for clues. True country of origin and language spoken may be different from those indicated by passport or by the INS.
- Trial and error: try to identify language by focusing on region of origin and calling appropriate interpreters/agencies (including AT&T Language Line) and asking them to speak on the phone with potential participant.
- Try to find out if s/he has a contact in NY area; the contact may be able to help identify language.

### **Choosing an Interpreter, Considerations**

- Be sure to follow the procedures written out in this manual called "How to Hire an Interpreter" and ask the Program Assistant to help you.
- Does the interpreter have sensitivity to immigration and refugee issues?
- Does the participant's gender or ethnic background make it preferable to choose an interpreter with a similar gender or background?
- Does the interpreter generally exhibit good oral skills?
- Knowing the vocabulary of immigration and being able to translate that into the target language is essential. If there are no words in the target language that correspond to English terms, the interpreter must be able to use concepts that will clearly be



communicated to the potential participant. This may be particularly difficult in the case of filling out forms and reviewing documents that contain semi-technical jargon.

### **Do's and Don'ts when using interpreters**

- **Do not** use uniformed staff -- employees of the INS, U.S. Customs, the Corrections Corporation of America or Armrest. They may be allowed to help the program identify language need, but not to pursue questions relating to the potential participant's case.
- **Do** discuss confidentiality and neutrality, and make sure that the interpreter understands the importance of complying with the requirements ensuring the person's privacy. You can use the AAP Interpreter Rules and Regulation form to review your expectations with a new or old interpreter to remind them of their duties.
- **Do** encourage and positively motivate the non-professional interpreter.
- **Do** set up the interview in a quiet place, with as few distractions as possible making sure that all parties can easily be heard. The seating arrangement should be thought out in advance of the session. The key to successful interpreting is hearing what has been said.
- **Do** limit the length of the interpretation to about 60 seconds of speech at a time. Have the interpreter discuss these limitations with the potential participant in advance and settle upon some signal as a discreet reminder in case the speaker forgets and begins to run on too long before stopping.
- If the interpreter is not a friend or family member, **do** give the interpreter as much information as necessary to ensure sensitivity when approaching certain kinds of questions. Is there a likelihood that the potential participant has been tortured? Was s/he persecuted by a particular group?
- **Do** communicate to the interpreter your expectations in an overview of what you would like to be accomplished in the interview.
- **Do not** ask questions in the third person. ("How is she feeling today?" or "Ask her how she is feeling today." Instead use: "How are you feeling today?")
- **Do not** use chained questions. ("Are you religious or do you belong to a particular minority?" Instead use: "Are you religious?")
- **Do not** use slang or idioms.
- **Do not** speak to the interpreter in front of the person without explaining what you are doing. Even if you need clarification on a technical point, it is still important to have the interpreter explain this.

- **Do not** allow the person to make additional comments while the interpreter is in the process of translating what has just been said. Try to get the person to hold those comments until interpreter has finished speaking. Do not ignore any comments made by the person and insist that the interpreter translate everything said

## CONFIDENTIALITY OF HIV - RELATED INFORMATION

New York State has a very detailed and restrictive law concerning the disclosure of HIV-related information (Article 27-F, New York Public Health Law, Sections 2780-2787). We will arrange a training session in the near future to discuss the law and what it means for our work. Meanwhile, because Vera expects you to know and obey this law, I have prepared this brief Question and Answer sheet.

### Q. What does the law forbid, and what does it allow?

A. It forbids disclosure of HIV-related information about protected individuals, with a few exceptions. Many of the exceptions are irrelevant for us. For the purposes of our programs, you should know that the law allows disclosure of HIV-related information.

- **When the defendant has signed a release like the one attached to this document.** (A general release or a general medical release is not enough; you are not allowed to disclose HIV information when you have only a general release.)
- Without a signed release, **when a court issues an order**, after certain required procedures, (A subpoena is not enough; you are not allowed to disclose HIV information when you receive a subpoena.)
- Without a signed release, **to an employee or agent of a health facility or health care provider** only if certain conditions are met. (Since these conditions are complicated, you should not release information to a health facility or provider without first consulting a Vera lawyer.)
- Without a signed release, **to a parole or probation officer** *only* to the extent that the person is authorized to access our participant's records in order to carry out parole or probation functions with respect to our participant. (Since this limitation-"only to the extent..." - is difficult to interpret, you should not disclose information to a probation or parole officer without first consulting with a Vera lawyer.)

### Q: What information is protected by the law?

A: Any information

- Which you have received about a Vera participant.
- which concerns whether the participant has had an HIV-related test, has HIV infection, has HIV-related illness, or has AIDS, and
- Which identifies of reasonably could identify a participant as having one or more of these conditions.

**Q: What do I do if one of the people mentioned above – a health care provider, a parole or probation officer - asks me for records or information that would reveal protected information (for example, asks to see a participant’s records that shows HIV infections, or asks if a participant has been tested)?**

**A:** Say that (1) you understand that the law protecting HIV-related information is complicated and strict, (2) you know that the penalties for breaking the law are stiff (a fine up to \$5,000; a jail sentence of up to a year), (3) Vera has written procedures (this memo) governing the release of information, and you have to follow those procedures, (4) the procedures require you to call one of Vera’s lawyers; you will do so and get back to them promptly.

**Q: Does it make any difference if I learn from an outside source about HIV-related information pertaining to a participant? Suppose, for example, a friend of the participant’s, or another participant, or a person at another program gives me some HIV-related information? Can I repeat it without the participant’s consent?**

**A:** No.

Technically, the law does not apply if you obtain the HIV-related information in a way unrelated to your work- for example, if you hear it because you have a mutual friend, and not because you work at AAP. However, it would be terribly difficult to prove that you didn’t get the information “in the course of providing health or social services to the individual” - the legal test. Therefore, it is VERA policy that you are to treat all HIV -related information about a participant - no matter how it came to you - in the ways described in this memo.

**Q: What are the rules about sharing information among ourselves?**

**A:** 1. Any staff member who becomes aware of HIV-related information about a particular participant may share that information only two categories of employees: (a) his or her immediate supervisor (the director of the Vera Institute) and Vera’s general counsel and special counsel. These individuals need not have this information in order to help the project director make treatment decisions and assess risks and legal obligations, and (b) counselors who are working with the participant. The counselors need to have this information in order to provide appropriate counseling to the participants.

**Q: When I do disclose HIV-related information, what procedures do I have to follow?**

**A:** You must note the disclosure in the participant’s medical records. For our purposes, medical records are participant notes or files containing HIV or other medical information. In order for Vera to comply with the rules about sharing information among ourselves, medical records which are kept in our

computerized data base will be protected by security which allows only authorized staff members to see HIV and disclosure information.

You must inform the participant of all disclosures, if he or she asks:

You must write the prohibition against re-disclosure on any written disclosure. You must send that prohibition, within ten days, to anyone to whom you make an oral disclosure.

**Q: Are there any other prohibitions I should know about?**

**A: Yes.**

You are not allowed to order an HIV-related test without the participant's informed consent.

You are not allowed to deny admission to a participant, terminate him or her, or change his or her status in our program solely on the basis of the participant's actual or presumed HIV-related condition or status. However, you are allowed to adjust the participant's treatment as his or her medical conditions requires.

## LEGAL ADVICE, DO'S AND DON'TS

New York State law says that only licensed attorneys (and in immigration court, certified representatives) can practice law. Further, the design of the Appearance Assistance Program does not include giving legal advice; the project could be compromised if, for example, a participant claims someone on our staff advised them to do something to win their case and they relied on it and then lost.

Some general guidelines are:

**DON'T** help a participant fill out legal forms. "Legal forms" include any forms directly related to the participant's application for relief from deportation, such as an asylum application or an application for cancellation of removal. It also includes forms related to any other court case. Other forms and applications requiring simple biographical information and unrelated to a legal matter are probably not to be considered "legal forms," however, if you have a question, you should ask the NYC Director before assisting the participant.

**DON'T** tell a participant what you think he or she needs to do to win his or her particular case or to address his or her particular situation. You may make general statements about the law (e.g. if you do not show up for immigration court you may be ordered removed in absentia) but if you give advice specific to a person's particular legal concerns, that is legal advice.

**YOU MAY** hand out legal materials and make legal referrals. We will review legal materials before we distribute them to make sure they meet certain standards, so **don't** hand out anything that has not been approved by the Resource Coordinator.

**If you ever have a question about whether something you want to say or do constitutes legal advice, ask the NYC Director before you do it.**