

# Community Supervision Proves Detention is Unnecessary to Ensure Appearance at Immigration Hearings

September 2020  
Fact Sheet

The United States detained 486,190 immigrants in prison-like conditions in 2019, inflicting unnecessary physical and emotional harm on vulnerable people at a \$3.1 billion cost to American taxpayers.<sup>1</sup>

The government justifies this mass detention by assuming that immigrants will fail to show up to deportation proceedings unless they are confined.<sup>2</sup> The Vera Institute of Justice's (Vera's) Appearance Assistance Program (AAP) study disproved this theory 20 years ago, showing that more than 90 percent of immigrants released from detention and provided with support and case management attended their legal proceedings. Since Vera's pioneering AAP pilot program evaluation, many studies (by the [United Nations High Commissioner for Refugees](#), [International Detention Coalition](#), [Lutheran Immigration and Refugee Service](#), [American Immigration Council](#), and the [Department of Homeland Security Office of Inspector General](#)) have confirmed its findings: compliance with immigration hearings can be achieved with alternatives to detention that are much less costly and far more humane.

The federal government asked Vera to design a program testing alternatives to detention in response to mandates in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, which would subject vast numbers of immigrants to detention and lead to an unprecedented growth in immigration detention. The AAP provided community supervision as an alternative to detention for people subject to deportation proceedings in New York City from 1997 to 2000. Vera evaluated the program and found it to be effective. When people were provided with appropriate levels of support and information, they were significantly more likely to attend their court hearings and

comply with court rulings.<sup>3</sup> However, even with minimal or no supervision, court attendance rates were high for many immigrants.

Vera's evaluation showed that reducing reliance on detention would allow the U.S. government to treat each immigrant more fairly and humanely, save taxpayer money, and successfully maintain compliance with court proceedings. Although Vera demonstrated the effectiveness of case management and support as an alternative to detention, the government did not adopt this as a primary model.<sup>4</sup>

## The program

The AAP operated from February 1997 through March 2000. During that time, the program supervised more than 500 people. Program participants fell into three groups:

- > people seeking asylum;
- > undocumented workers apprehended at work sites; and
- > people facing deportation as a result of a criminal conviction (most of whom were lawful permanent residents).<sup>5</sup>

Instead of detention, participants in the program received information about immigration proceedings and the consequences of noncompliance, reminders of court hearings, and referrals to legal representation and other services.

The program provided supervision at two levels—intensive and regular.

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### For more information

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For more information about Vera, visit [www.vera.org](http://www.vera.org). For more information about this fact sheet or the AAP, contact Nina Siulc, director of research, at [nsiulc@vera.org](mailto:nsiulc@vera.org).

- › Participants on the *intensive* track had been initially detained by U.S. immigration services and then released to the AAP. They had to report to AAP officers in person and by phone. Program staff monitored participants and reevaluated their risk of flight.
- › *Regular* participants were apprehended and then released on their own recognizance (that is, without other release conditions, such as bond or parole). They entered the program voluntarily.

## The study

The study sought to answer two questions.

1. Were rates of appearance at required hearings and compliance with final court orders higher for AAP participants than for members of comparison groups?
2. Was the program a cost-effective alternative to detention?

To answer these questions, Vera analyzed administrative data from the AAP, the Executive Office for Immigration Review (the agency responsible for immigration court), and what was then known as the Immigration and Naturalization Service (INS).<sup>6</sup>

Vera compared the outcomes of people randomly assigned to the AAP with people who were released from detention without AAP services. When random assignment wasn't possible due to small numbers, Vera researchers selected an appropriate comparison group from administrative data.

## The findings

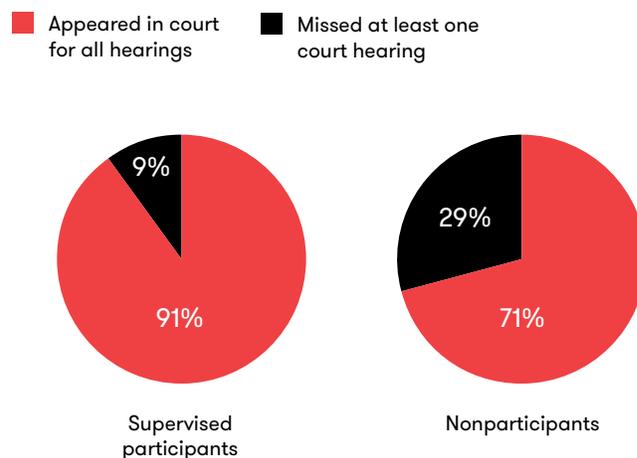
The AAP was found to be successful in its goals of achieving court attendance rates and compliance with court rulings, while saving taxpayer money.

**More than 90 percent of supervised noncitizens appeared in court, compared to 71 percent of nonparticipants.**

The AAP demonstrated that the government does not need to detain noncitizens in deportation proceedings to ensure high rates of appearance at court hearings. Among asylum seekers who were determined to have a credible fear of

Figure 1

### Appearance rates for all court hearings



persecution in their home countries, 93 percent of program participants attended all of their court hearings. Regular (low-level) supervision was especially effective for asylum seekers and for legal permanent residents with past criminal convictions. Intensive supervision had a greater positive impact on undocumented workers.

These appearance rates also indicate that *even without supervision*, many people, particularly asylum seekers and people with criminal records, attend immigration court hearings without having to be detained.

**AAP supervision almost doubled the rate of compliance with final orders.**

Sixty-nine percent of AAP intensive participants complied with the final order (the court's decision on whether the immigrant must leave the country) compared to 38 percent of nonparticipants in the study.

**Supervision was substantially more cost effective than detention for many of the program participants.**

Compared to detention, the cost of supervision was 55 percent less for asylum seekers and 15 percent less for people in deportation proceedings due to a criminal conviction.

## Conclusions

Based on the findings of this study, Vera recommended that community supervision be used as an alternative to detention and that as many people as possible be released from detention as quickly as possible while completing their immigration court hearings. Many people in Vera's study attended their hearings and complied with the court's decision without any intervention or monitoring. The most intensive

forms of supervision should therefore be reserved for people who present an immediate flight risk. Government policy surrounding harmful detention practices should not be based on incorrect assumptions about immigrant behavior. Evidence from the AAP and similar studies has shown that alternatives to detention achieve 90 percent or higher compliance rates when people are released to proper supervision and assistance.

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### Endnotes

- 1 U.S. Department of Homeland Security (DHS), *Budget-in-Brief: Fiscal Year 2021* (Washington, DC: DHS, 2020), <https://perma.cc/Z49T-EZ4N>; and Emily Kassie, "Detained," The Marshall Project, September 24, 2019, <https://www.themarshallproject.org/2019/09/24/detained>.
- 2 The White House, "Remarks by President Trump on the Illegal Immigration Crisis and Border Security," November 1, 2018, <https://perma.cc/YR4C-ELN6>; and The White House, "Remarks by President Trump at the American Farm Bureau Federation's 100th Annual Convention: New Orleans, Louisiana," January 15, 2019, <https://perma.cc/A3LS-GQQY>.
- 3 Findings were significant at  $p < 0.1$ , although many analyses for different populations in the study yielded results at higher levels of confidence than this. The full report can be found at <https://perma.cc/VD44-NA3D>.
- 4 In addition to those held in detention, the government's current Alternative to Detention Program (ADP) monitors immigrants with electronic ankle monitors, smartphone applications, and other technology. In 2019, there were 96,000 people under ADP supervision. Vera's analysis of the AAP and numerous other studies have shown that stigmatizing and uncomfortable electronic leashes are not necessary to achieve high compliance rates for immigration proceedings.
- 5 Only a small number of people from this group entered the program because, in 1998, a new law was passed that mandated continued detention for virtually all people in this class.
- 6 The INS was replaced in 2003 by three new agencies: U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection.