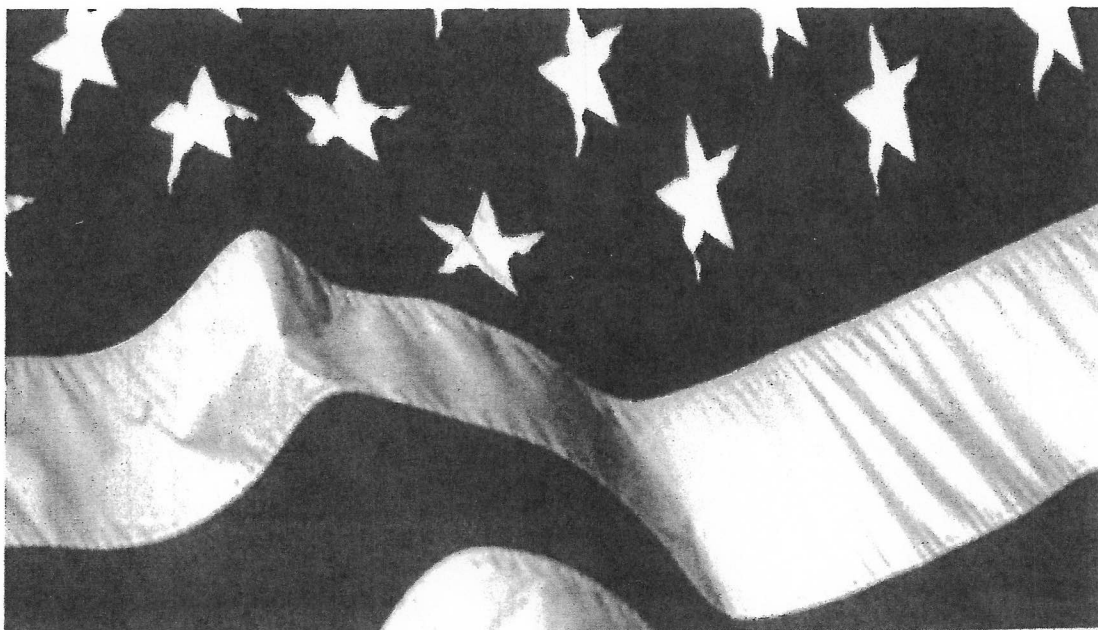


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Intensive Supervision Appearance Program (ISAP)

First Semiannual Fiscal Year (FY) 2018-2020(Q1) Report to
Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

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Message from the Deputy Director and Senior Official Performing the Duties of the Director



I am pleased to present the following report, "Intensive Supervision Appearance Program (ISAP)," which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to House Report 115-239, which accompanies the Fiscal Year (FY) 2018 U.S. Department of Homeland Security (DHS) Appropriations Act (P.L. 115-141).

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 732-3000.

Sincerely,

Matthew Albence
Deputy Director and Senior Official
Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

Executive Summary

This is the initial semiannual report of U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Intensive Supervision Appearance Program (ISAP), as compiled pursuant to House Report 115-239, which accompanies the FY 2018 DHS Appropriations Act (P.L. 115-141).

In this report, the number of participants in ISAP and compliance with hearing attendance is provided for FY 2016-FY2019 and FY2020 Q2. This report assesses the categories of monitoring (telephonic, global positioning system, and SmartLink) according to type of enrollee (adult/family unit). Finally, this report summarizes the former Family Case Management Program (FCMP).

ICE currently has approximately 1.6 million cases assigned to the non-detained docket. ICE does not have the resources, to include compliance and enforcement staff, to closely monitor the majority of cases and the agency's ability to provide effective case management for this segment of the population is extremely limited. In Fiscal Year (FY) 2018, ICE released over 150,000 individuals from custody who were added to the non-detained docket, contributing to the current backlog in U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) case processing times.

ISAP uses case management and technology to monitor a small segment of individuals assigned to the non-detained docket. This program allows contracted case managers to notify ICE of any significant developments in an individual's case, including when an individual fails to appear for their scheduled court hearings or other appointment as required by their conditions of release. This creates a significant and added burden for ICE's officers, who are already operating with limited resources, to attempt to locate the absconders.

Prior to enrollment in the program, ICE officers review and consider an individual's criminal, immigration, and supervision history; family and/or community ties; status as a caregiver or provider; and humanitarian or medical considerations, among other factors. ICE officers continually review each individual case, assigning different levels of technology when appropriate, throughout a participant's involvement with ISAP.

ISAP is not a substitute for detention; it is an alternative to release without ~~supervision~~supervision. The only effective means of ensuring compliance with a court order, to include an individual's departure from the United States at the end of their immigration proceedings (if ordered removed by an immigration judge), is through the use of detention. This is demonstrated by the fact that in FY18 and the first half of FY19, approximately 38 percent of the removals under ISAP still required participants to be taken into custody to effectuate their removal. ICE does not have the resources to monitor all non-detained cases and cannot always confirm removals for those not in custody.

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However, given that ICE is only able to detain a small segment of those individuals who are in removal proceedings due to an insufficient number of detention beds and staff, ISAP can be useful in tracking specific cases as compared to the others assigned to the non-detained docket who may have very limited interaction with ICE.

Any individual not detained during their removal proceedings represents some level of flight risk. While, ISAP is designed to help mitigate some of this risk by providing ICE officers with up-to-date case status and collection of information to assist with locating an individual should they abscond, there were still 11,481 program participants who did in fact abscond in FY18 which requires significant agency resources to locate and arrest at-large in the community and there is no assurances that ICE will have success locating the individual.

On average, ISAP participants currently spend between 14 to 18 months enrolled in the program before they are removed from the program to make room for new participants who have recently entered the United States and/or those who are being released from ICE custody. However, the average immigration court case processing time for those assigned to the non-detained docket is 48-60 months, which means the vast majority of participants are not in the program though the completion of their immigration proceedings. While short-term data show that a majority of participants comply with requirements during the 14 to 18 months that they are enrolled (e.g., attending their first scheduled hearings, office visits, submission of travel documents), this small snapshot is not representative of ISAP's effectiveness.

Over the past year, in order to develop a more accurate picture of the effectiveness of ISAP, ICE has maintained a portion of the ISAP population on the monitoring program through the conclusion of their immigration cases. In FY19, nearly 90 percent of this full immigration lifecycle group absconded and are now fugitive/fugitive aliens believed to be living within the interior of the United States.

Moreover, our data show that since FY15 nearly 80 percent over 40,000 aliens enrolled in ISAP of all individuals placed on ISAP have absconded from the program.

Since the creation of ISAP in 2004, the U.S. taxpayer has spent more than \$1.46 billion (not adjusted for inflation) to monitor a small segment of the illegal alien population, a significant portion of which become absconders upon release from detention. ICE finds little value in this significant expense and concludes that increased detention is the only way to ensure compliance with the immigration court system for the majority of illegal aliens in the United States.

ICE has received significant funding for the ISAP program, but insufficient enforcement and compliance staff. In order to attempt to improve the utility of this program, ICE would need additional resources, to include compliance and enforcement staff, so that individuals enrolled in the program can be more closely monitored throughout their removal proceedings and quickly detained and, in instances where an alien destroys a GPS monitoring device, criminally punished for destruction of government property. This would require a significant increase in Fugitive Operations teams, an increase in detention bed space, as well as dedicated legal staff at ICE and the Department of Justice who can prosecute for destruction of property in order to create deterrence and improve compliance. Without this, ISAP will continue to be an expensive

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~~program that provides nominal benefits. As the program is currently implemented, ICE assesses compliance before moving the resources to new individuals, largely recent border entrant family units. At the current funding levels, ICE has insufficient ISAP resources to monitor all individuals throughout the pendency of their proceedings, and ICE will continue to have challenges reporting on the program's effectiveness until the agency receives sufficient resources to keep individuals enrolled in ISAP through resolution of their immigration cases.~~

~~In September 2018, DHS in coordination with the Department of Justice, Executive Office for Immigration Review (EOIR) committed to prioritizing family unit cases in immigration courts in ten cities across the country (Atlanta, Baltimore, Chicago, Denver, Houston, Los Angeles, Miami, New Orleans, New York, and San Francisco). The goal was completing such cases within a year of initiation. Within the population of cases on these expedited dockets, there are likely to be a number of individuals who participated in ISAP for the duration of their proceedings. While ICE is not yet prepared to report on this data, future reports should be able to use a sample population to make more a more objective assessment of the program in a statistically valid way.~~



Intensive Supervision Appearance Program (ISAP)

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I. Legislative Language

This report was compiled in response to legislative language in House Report 115-239, which accompanies the Fiscal Year (FY) 2018 Department of Homeland Security (DHS) Appropriations Act (P.L. 115-141).

House Report 115-239 states:

ICE is directed to continue to provide performance reports to the Committee on the ATD program, as described in House Report 114-668.

(House Report 114-668 states: The Committee supports the use of effective alternatives to detention for appropriate detainee populations. However, the lack of timely data on participant compliance with release conditions impedes the Committee's ability to assess the effectiveness of the program and make recommendations on continuing or expanding the program. Therefore, ICE is directed to provide the Committee a statistical analysis for each type of alien supervision (electronic, GPS, and family case management) and category of enrollee (single adult/head of a family unit) to determine the effectiveness of the program with regards to compliance and removal and to better understand what characteristics uniquely support removal outcomes. The results must be reported to the Committee not later than July 1st and December 1st of each year. ICE shall also provide projected removal numbers for the post-removal order population for each type of supervision and actual numbers for the six-month period just completed. The first report will serve as the benchmark for future reports.)

FOUO Classification

Pursuant to DHS Management Directive 11042.1, *Safeguarding Sensitive but Unclassified (For Official Use Only) Information*, this report is classified FOUO because it aligns with exemption (J) of the Directive: "Information that could constitute an indication of U.S. government intentions, capabilities, operations, or activities or otherwise threaten operations security."

II. Background

Intensive Supervision Appearance Program

ICE's Intensive Supervision Appearance Program (ISAP) began in 2004 through the agency's ISAP I contract.¹ Currently, ISAP III utilizes modern technology and case management with the goal of more closely monitoring a small segment of cases assigned to the non-detained docket. There are currently approximately 1.6 million individuals assigned to the non-detained docket with cases pending before the immigration courts. Of these, approximately 80,000² are enrolled in ISAP, or about 5 percent of the total non-detained population. The remaining 95 percent of the non-detained population are not subject to the enhanced supervision.

There are varying degrees of supervision and monitoring options available in ISAP. On a case by case basis, local ICE Enforcement and Removal Operations (ERO) deportation officers determine the type and manner of monitoring that is appropriate for each participant which includes the specific type of technology—global positioning system (GPS) tracking devices, telephonic reporting, or SmartLink (a smartphone application), and the case management levels which include frequency of office or home visits. ICE may adjust the level of supervision required as the level of compliance either increases or decreases. There are several factors considered when reviewing a case such as an individual's criminal and immigration history, supervision history, and other humanitarian or medical considerations.

ISAP Lifetime Budget

Since 2004, the cost of the program has grown significantly. Since 2005, ICE has spent over \$1.46 billion on ISAP, with nearly each fiscal year seeing an increase in funding from Congress.

FY	Total Spent (rounded)
2005	\$20,712,000
2006	\$38,212,000
2007	\$43,600,000
2008	\$53,889,000
2009	\$63,000,000
2010	\$69,900,000
2011	\$72,100,000
2012	\$72,400,000
2013	\$91,510,000
2014	\$91,237,000

¹ Adults (those 18 years of age and older) may be eligible for ISAP participation if they are not subject to mandatory detention and are currently in removal proceedings.

² As of the end of FY18 Q2, about 80,000 active participants were enrolled in ISAP.

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2015	\$107,169,000
2016	\$118,776,000
2017	\$171,785,000
2018	\$187,337,000
2019	\$258,764,000
TOTAL	\$1,460,391,000

Total Participation

Since 2004, the number of ISAP enrollments has increased steadily as a direct result of increased apprehensions of removable aliens both at the border and in the interior of the United States, and because of Congress' decision to fund ICE Enforcement and Removal Operations (ERO) detention space at lower than requested levels and fund ISAP at higher levels.

The table below shows the number of ISAP enrollments from FY15 through FY20 Q1, broken down by form of supervision and category of alien. Though this report is a response to Congressional reporting requirements for specific years, ICE is providing a greater date range to provide additional context.³ Participation is limited to persons 18 years of age and older.

Forms of Supervision	FY 2015	FY 2016	FY 2017
Telephonic Reporting	30,402	42,749	65,421
Single Adult	22,542	24,786	31,576
Adult FAMU	7,860	17,963	33,845
GPS	18,443	40,446	40,301
Single Adult	9,798	19,653	16,652
Adult FAMU	8,645	20,793	23,649
SmartLINK	0	0	0
Single Adult	0	0	0
Adult FAMU	0	0	0
Overall Total	48,845	83,195	105,722

³ Participation reflected throughout this data report reflects the total number of participants who were served during the given time period. If an individual was enrolled multiple times during the given time period, he or she was counted for each enrollment.

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Forms of Supervision	FY 2018	FY 2019	FY 2020 -Q1
Telephonic Reporting	66,780	62,261	41,509
Single Adult	32,059	27,678	18,826
Adult FAMU	34,721	34,583	22,683
GPS	67,424	96,207	45,248
Single Adult	24,137	24,623	13,448
Adult FAMU	43,287	71,584	31,800
SmartLINK	4,878	21,084	19,622
Single Adult	2,261	8,757	8,526
Adult FAMU	2,617	12,327	11,096
Overall Total	139,082	179,552	TBD

Full Immigration Lifecycle Results

The ISAP program has historically only captured and reported court appearance data for the time period that the participant is in the program, which due to ICE practices resulting from border influxes of illegal immigration, is approximately 14 to 18 months out of an immigration court process that averages close to five years. Put differently, few aliens have been kept in ISAP for the full lifecycle of their immigration case. As a consequence of this practice, previously reported data on compliance rates has been focused largely on an alien's first court appearances during the short period they are enrolled in ISAP, rather than all court appearances and the final court appearance which determines whether an alien remains in the United States or is deported.

To provide a more complete analysis of the effectiveness of ISAP, ERO has reviewed data of ISAP participants through the entirety of their respective immigration lifecycles. The data are focused on aliens who ICE was able to determine were enrolled in ISAP for their entire immigration lifecycle, which ended with the alien being granted relief, ordered removed, or absconding (including both pre and post-order).

At the table below shows, between FY2015 and FY2020 (through June 30), the absconding rate has been extremely high in each year. During this time period, aliens participating in ISAP have ~~absconded~~absconded at an average of over 84 percent. In total numbers, the population of aliens that has absconded and now considered to be fugitives is over 40,000 for just this time period. The total number of absconders appears to be increasing rapidly. In FY2019 alone, a total of 14,385 aliens absconded from the program. This data illustrate that alternatives to detention are not a replacement for detention and that continuing to release aliens prior to the conclusion of their immigration case will not be successful in creating compliance with the law. Without corresponding increases in fugitive operations programs to apply consequences to program violators, these releases strain existing ICE resources.

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Termination Type	FY15	FY16	FY17	FY18	FY19	FY20 thru 6/30/2020	Total
Departure Verified (Final Order of Removal)	212	246	356	335	332	235	1,716
Departure Verified (Voluntary Departure)	163	216	264	370	372	271	1,656
Post-Order Absconder	255	795	1,508	1,710	2,524	2,185	8,977
Pre-Order Absconder	716	2,286	4,034	7,586	11,861	4,840	31,323
Relief/Benefit Granted	247	486	764	816	924	996	4,233
Total Population	1,593	4,029	6,926	10,817	16,013	8,527	47,905
Total Absconders	916	3,081	5,542	9,296	14,385	7,025	40,300
Percentage Absconders	57.50%	76.47%	80.01%	85.93%	89.83%	82.39%	84.12%

Crimes Committed by Aliens on ISAP

Data show that aliens not detained and released into American communities on ISAP do commit crimes, despite ICE's determination that an alien enrolled in ISAP will not be a flight risk or risk to the community. The data represents new ISAP enrollments, by fiscal year, and not the total population of ISAP participants in that year. Additionally, any aliens who abscond from ISAP and commit crimes while outside the program are not counted here. Finally, the data does not include immigration crimes.

Since the inception of ISAP, over 21,000 aliens enrolled in ISAP have been ~~been~~ subsequently convicted or charged for a criminal act. This data is not a measurement of total crimes of each alien, meaning that each alien represented may have committed additional crimes. The data represents total aliens with convictions or charges. These crimes have created victims, and all victimization indicated here would not have occurred had the alien remained in detention.

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ISAP Enrollment Fiscal Year	Aliens with Conviction(s) During Enrollment	Aliens with Pending Charge(s) During Enrollment	Aliens with No Criminal Activity During Enrollment	Total
FY2005	-	-	1	1
FY2006	-	-	1	1
FY2007	1	-	6	7
FY2008	5	-	25	30
FY2009	9	4	24	37
FY2010	1,443	804	10,506	12,753
FY2011	1,620	899	10,988	13,507
FY2012	1,648	896	10,866	13,410
FY2013	2,330	1,283	13,920	17,533
FY2014	1,606	1,049	17,554	20,209
FY2015	643	562	18,789	19,994
FY2016	795	1,103	47,708	49,606
FY2017	508	989	40,904	42,401
FY2018	482	1,229	65,967	67,678
FY2019	227	912	87,141	88,280
FY2020 (as of July 6)	8	97	19,060	19,165
Total	11,325	9,827	343,460	364,612

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Reasons for Termination from ISAP

An alien may be terminated from ISAP either for negative reasons or favorable/neutral reasons. Terminations considered negative are those resulting from an individual absconding from the program, an arrest by ICE for Removal, arrest by another Law Enforcement Agency, or violating the terms of the program. An example of an absconder is a participant who cuts off a GPS unit, disengages their cell phone application, fails to return calls, ignores contact attempts, or who the U.S. Government is otherwise unable to locate. An example of a violator is a non-detained individual who violates the terms of release conditions (e.g. misses office visits) but has not officially absconded and is responsive to contact attempts, and for whom the U.S. Government has determined that detention is not appropriate.

Favorable outcomes include Relief/Benefit Granted, Pending Departure Verification, Departure Verified, and Departed the United States While in Proceedings. Neutral outcomes include No Longer Required to Participate or the Government has determined that continued participation is no longer required or appropriate.

While the data in tables earlier in this report were focused on a specific population of aliens who remained on ISAP during the entirety of their immigration case, the data below is of total numbers of terminations—negative and positive/neutral—that have occurred in each year.

Terminations	FY 2015			FY 2016			FY 2017		
	GPS	TR	Total	GPS	TR	Total	GPS	TR	Total
<i>Negative</i>									
Pre-Order Absconder	447	771	1,218	1,859	886	2,745	2,960	1,678	4,638
Post-Order Absconder	331	442	773	731	717	1,448	1,200	1,214	2,414
Pre-Order Violator	126	243	369	231	157	388	381	433	814
Post-Order Violator	20	71	91	62	88	150	134	269	403
Total Negative	924	1,527	2,451	2,883	1,848	4,731	4,675	3,594	8,269
<i>Positive/Neutral</i>									
All Other Terminations	5,274	8,566	13,840	10,613	6,036	16,649	14,880	13,035	27,915
Total Terminations	6,198	10,093	16,291	13,496	7,884	21,380	19,555	16,629	36,184

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Terminations	FY2018				FY2019				FY2020 (Q1)			
	GPS	IR	SMART LINK	Total	GPS	IR	SMART LINK	Total	GPS	IR	SMART LINK	Total
<i>Negative</i>												
Pre-Order Absconder	6,747	1,704	66	8,517	11,181	1,585	598	13,364	1,467	462	258	2,187
Post-Order Absconder	1,614	1,320	30	2,964	3,975	1,252	226	5,453	1,155	501	130	1,786
Pre-Order Violator	401	531	13	945	600	359	115	1,074	159	91	59	309
Post-Order Violator	88	357	1	446	212	258	19	489	56	31	9	96
Total Negative	8,850	3,912	110	12,872	15,968	3,454	958	20,380	2,837	1,085	456	4,378
<i>Positive/Neutral</i>												
All Other Terminations	19,555	17,169	629	37,353	39,950	18,108	4,748	62,806	4,534	3,170	1,398	9,102
Total Terminations	28,405	21,081	739	50,225	55,918	21,562	5,706	83,186	7,371	4,255	1,854	13,480

Court Appearances of ISAP Participants

It is important to emphasize that without data on the entirety of the immigration proceedings from apprehension through removal, ICE is unable to make objective claims regarding the effectiveness of the program with encouraging court appearances. Previously, ICE has tracked and reported court appearances for approximately 75 percent of aliens in ISAP, and cannot say that it is a representative sample of the total ISAP population. The decisions as to which cases are tracked is made by ICE personnel in the field on a case-by-case basis. More significantly, none of the cases are tracked beyond the time period an individual is enrolled in the program, which has generally been only 14 to 18 months. Since immigration cases generally last longer than this limited time period, any previous reporting on court appearances should be understood to be a snapshot of the first handful of cases an alien might have had scheduled during this narrow timeframe.

	Court Tracking Participants	Total Participants In ISAP	Percentage Tracked
FY2016	62,757	83,195	75.4%
FY2017	83,053	105,722	78.6%
FY2018	104,862	139,082	75.4%
FY2019 (Q1&2)	105,497	142,805	73.9%

The following table shows the number of hearings attended, the number of final hearings attended, and the number of hearings that aliens enrolled in ISAP failed to attend, during the indicated year. It is important to note that court appearances should not be ~~interpreted~~ interpreted as a court appearance rate for at least two reasons.

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First, the numbers do not represent all hearings that were scheduled during this time period. This data is based on court hearings ICE was able to confirm were attended, and court hearings that ICE was able to confirm were not attended. Additionally, as noted above, the court appearances of only about 75 percent of aliens in ISAP are being reported here.

Secondly, and most significantly, if an alien absconds from ISAP, they are removed from the program and their hearings are no longer tracked. It is highly unlikely that the thousands of ISAP absconders and others who were negatively terminated from the program went on to attend their scheduled court appearances. According to EOIR data from FY2016-FY2019 (Q1 and Q2), the percentage of *in absentia* removal orders averaged over 41 percent.⁴ This suggests that initial hearings and the most compliant portion of the ISAP population is represented in this data.

It is also important to remember that an alien's first court hearing generally does not result in any decision about an alien's authority to continue to remain in the United States. Consequently, an alien generally is not going to fail to attend out of fear of removal. As a case progresses, however, an alien will be more likely to anticipate the outcome of his or her case and will make the decision on whether or not to attend. By the time that final hearing occurs, it is more than likely the alien will no longer be enrolled in ISAP due to ICE practices, and therefore that decision on whether or not to attend will not be captured in this data.

For example, when comparing data in the table above with the table below and looking at FY2018, for example, there were nearly 140,000 ISAP participants but only 50,203 hearings attended. It is apparent that the majority of ISAP participants are removed from the program before any hearings due to ICE's practice of keeping aliens on ISAP for only 14 to 18 months, violations such as absconding, and the backlog of the immigration courts.

Below is annual data on attended hearings for FY16, FY17, FY18, and half of FY19. Please note that final hearings attended are a subset of the total hearings attended.

	Total Hearings Attended	Final Hearings Attended	Failed to Attend
FY2016 Total	53,035	2,658	263
Single Adult	23,551	1,311	99
Adult FAMU	29,484	1,347	164
FY2017 Total	62,682	3,789	358
Single Adult	27,721	1,819	153
Adult FAMU	34,961	1,970	205
FY2018 Total	50,203	4,935	338
Single Adult	24,525	2,637	113
Adult FAMU	25,678	2,298	225

⁴ EOIR Comparison of In Absentia Rates, <https://www.justice.gov/eoir/page/file/1153866/download>

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FY2019 (Q1&2)			
Total	39,646	2,373	294
Single Adult	16,530	1,226	73
Adult FAMU	23,116	1,147	221

Reasons for Termination from ISAP

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A person may be terminated from ISAP either for negative reasons or favorable/neutral reasons. Terminations considered negative are those resulting from an arrest by ICE for Removal, arrest by another Law Enforcement Agency, an individual absconding from the program, or violating the terms of the program. An example of an absconder is a participant who cuts off a GPS unit, fails to return calls, ignores contact attempts, or who the U.S. Government is unable to locate. An example of a violator is a participant who violates the terms of release conditions (e.g. misses office visits), has not absconded and is responsive to contact attempts, but who the U.S. Government has determined that detention is not appropriate.

The last category of terminations is all other types, which include both favorable outcomes or neutral outcomes. Favorable outcomes include Relief/Benefit Granted, Pending Departure Verification, Departure Verified, and Departed the United States While in Proceedings. Neutral outcomes include No Longer Required to Participate or the Government has determined that continued participation is no longer required or appropriate.

In FY 2016, a total of 21,380 individuals were terminated from the program; of that population, a total of 15,432 (72.2 percent) terminations were considered "favorable" or "neutral", while a total of 5,948 (27.8 percent) terminations were considered "negative". Family unit subjects had a higher failure rate than single adults in FY 2016. A total of 8,459 family unit subjects were terminated from ISAP; of that population, a total of 3,097 (36.6 percent) were considered "negative". A total of 12,921 single adults were terminated from ISAP; of that population, a total of 2,851 (22.1 percent) were considered "negative".

In FY 2017, a total of 36,184 individuals were terminated from the program; of that population, a total of 26,255 (72.6 percent) terminations were considered "favorable" or "neutral", while a total of 9,929 (27.4 percent) terminations were considered "negative". Family unit subjects had a higher failure rate than single adults in FY 2017. A total of 20,131 family unit subjects were terminated from ISAP; of that population, a total of 5,796 (28.8 percent) were considered "negative". A total of 16,053 single adults were terminated from ISAP; of that population, a total of 4,133 (25.7 percent) were considered "negative".

In FY 2018, a total of 50,225 individuals were terminated from ISAP; of that population, a total of 35,561 (70.8 percent) terminations were considered "favorable" or "neutral", while a total of 14,664 (29.2 percent) terminations were considered "negative". Family unit subjects also had a higher failure rate than single adults in FY 2018. A total of 30,322 family unit subjects were terminated from ISAP; of that population, a total of 9,582 (31.6 percent) were considered

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“negative”. A total of 19,903 single adults were terminated from ISAP; of that population, a total of 5,082 (25.5 percent) were considered “negative”.

In the first half of FY 2019, a total of 43,133 individuals were terminated from ISAP; of that population, a total of 32,151 (74.5 percent) terminations were considered “favorable” or “neutral”, while a total of 10,982 (25.5 percent) terminations were considered “negative”. Family unit subjects also had a higher failure rate than single adults in the first half of FY 2019. A total of 30,269 family unit subjects were terminated from ISAP; of that population, a total of 8,623 (28.5 percent) were considered “negative”. A total of 12,864 single adults were terminated from ISAP; of that population, a total of 2,359 (18.3 percent) were considered “negative”.

FY2016 Overall	72.2%	27.8%
Single Adult	77.9%	22.1%
Adult FAMU	63.4%	36.6%
FY2017 Overall	72.6%	27.4%
Single Adult	74.3%	25.7%
Adult FAMU	71.2%	28.8%
FY2018 Overall	70.8%	29.2%
Single Adult	74.5%	25.5%
Adult FAMU	68.4%	31.6%
FY2019 (Q1 & Q2) Overall	74.5%	25.5%
Single Adult	81.7%	18.3%
Adult FAMU	71.5%	28.5%

The table below represents the technology assigned at the time of the termination from the program and the reason for the termination.

FY2016	-	-	-	-
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⁵ **Favorable/Neutral Rate:** The percent of terminated participants who were compliant during their time in the program.

Compliance is determined at the time the participant is no longer required to participate in ATD — ISAP III and a termination code is assigned. Of termination codes A — M, those participants terminated with codes C (pre-order absconder), D (post-order absconder), E (pre-order program violator), F (post-order program violator), H (arrested by ICE for removal), and J (arrested by other law enforcement agency) are considered non-compliant.

⁶ **Negative Rate:** The percent of terminated participants who were terminated because they failed to comply with program policies/expectations, they absconded from the program, they were arrested by ICE for removal, or they were arrested by another law enforcement agency.

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<i>Negative</i>	3,736	2,212	-	5,948
Pre-order absconder	1,859	886	-	2,745
Post-order absconder	731	717	-	1,448
Pre-order violator	231	157	-	388
Post-order violator	62	88	-	150
Arrested by ICE for Removal	468	152	-	620
Arrested by Other Law Enforcement Agency	385	212	-	597
<i>Favorable/Neutral</i>	9,760	5,672	-	15,432
Total Terminations	13,496	7,884	-	21,380
FY2017	-	-	-	-
<i>Negative</i>	5,821	4,108	-	9,929
Pre-order absconder	2,960	1,678	-	4,638
Post-order absconder	1,200	1,214	-	2,414
Pre-order violator	381	433	-	814
Post-order violator	134	269	-	403
Arrested by ICE for Removal	716	320	-	1,036
Arrested by Other Law Enforcement Agency	430	194	-	624
<i>Favorable/Neutral</i>	13,734	12,521	-	26,255
Total Terminations	19,555	16,629	-	36,184
FY2018	-	-	-	-
<i>Negative</i>	10,182	4,345	137	14,664
Pre-order absconder	6,747	1,704	66	8,517
Post-order absconder	1,614	1,320	30	2,964
Pre-order violator	401	531	13	945
Post-order violator	88	357	1	446
Arrested by ICE for Removal	812	238	8	1,058
Arrested by Other Law Enforcement Agency	520	195	19	734
<i>Favorable/Neutral</i>	18,223	16,736	602	35,561
Total Terminations	28,405	21,081	739	50,225
FY2019 (Q1 & 2)	-	-	-	-
<i>Negative</i>	8,788	1,834	360	10,982
Pre-order absconder	6,293	815	218	7,326
Post-order absconder	1,489	487	70	2,046

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Pre-order violator	280	214	28	522
Post-order violator	68	163	9	240
Arrested by ICE for Removal	407	82	18	507
Arrested by Other Law Enforcement Agency	251	73	17	341
Favorable/Neutral	20,590	9,575	1,986	32,151
Total Terminations	29,378	11,409	2,346	43,133

Negative Terminations and Absconders

There has been a significant increase in the number of negative terminations from ISAP since FY2016. From FY2016 to FY2017, there was a 67 percent increase in absconders followed by 47.7 percent increase from FY2017 to FY2018. This has resulted in a 247 percent increase in negative terminations FY2016 to FY2018. These large increases have been driven by program absconders.

As demonstrated in the above data, a significant number of individuals placed on ISAP abscond each year, overwhelmingly "pre-order," and the number of absconders is growing. From FY2016 to FY2017, there was a 68.2 percent increase in absconders followed by a 62.8 percent increase from FY2017 to FY2018. This has resulted in the number of absconders almost tripling from FY2016 to FY2018, and while program participation increased during that time frame the negative termination and absconder rates have outpaced those increases. Without corresponding increases in fugitive operations programs to apply consequences to program violators, these increases strain existing ICE resources.

Removals through ISAP

An ISAP removal is counted for any individual who was enrolled at least one day in the same year in which the removal occurred. Included in the table below is data that differentiates between the removals whereby the ISAP participant was taken into custody between participation in the program and removal. As the use of ISAP continues to increase, without a commensurate increase in detention beds, this will become a more important metric as it demonstrates that ISAP is an alternative to release rather than detention and that participants in the program frequently must be taken into custody to effectuate a removal order.

FY2018	
Total Removals	1,574
Percentage Requiring Detention to Effectuate Removal	34.1%

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Single Adult	1,247
ATD to Detention to Removal	439
ATD to Removal	808
Adult FAMU	327
ATD to Detention to Removal	98
ATD to Removal	229
FY 2017	
Total Removals	2,430
Percentage Requiring Detention to Effectuate Removal	38.8%
Single Adult	1,752
ATD to Detention to Removal	663
ATD to Removal	1089
Adult FAMU	678
ATD to Detention to Removal	280
ATD to Removal	398
FY 2018	
Total Removals	2,914
Percentage Requiring Detention to Effectuate Removal	37.7%
Single Adult	2,118
ATD to Detention to Removal	727
ATD to Removal	1391
Adult FAMU	796
ATD to Detention to Removal	371
ATD to Removal	425
FY 2019 (Q1&2)	
Total Removals	1,014
Percentage Requiring Detention to Effectuate Removal	38.4%
Single Adult	682
ATD to Detention to Removal	205
ATD to Removal	477
Adult FAMU	332
ATD to Detention to Removal	184
ATD to Removal	148

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On January 21, 2016, ICE ERO launched the Family Case Management Program (FCMP), a pilot ISAP initiative that used case managers to encourage compliance with immigration obligations. The program operated in five regions—Baltimore/Washington, Los Angeles, New York City/Newark, Miami, and Chicago.

Upon reviewing the pilot, ICE terminated the FCMP on June 20, 2017 in order to invest those resources into pre-existing and more cost-effective programs, allowing more individuals to participate in ISAP. The FCMP was extremely expensive, with an overall program cost of \$6.1 million in Fiscal Year (FY) 2015, \$4 million in FY 2016, and \$7.4 million in FY 2017 prior to its discontinuation, for a total cost of \$17.5 million. ~~However,~~ it resulted in the removal of only 15 individuals from the country during its entire lifespan, as opposed to more than 2,200 from during the same period under other types of monitoring. Because ISAP more effectively supported ICE's mission of effectuating removals of those who have received a final order, ICE determined that the FCMP was not the best possible use of taxpayer resources.

While the FCMP is no longer in operation, as instructed by Congress, ICE has recently incorporated many of the FCMP case management principles into the standard ISAP through the ~~Limited Eligibility Enrollment Program (LEEP)~~ Enhanced Case Management Services (ECMS). The ~~LEEP-ECMS~~ contract modification mirrors all services that were available under FCMP, in more cities, at a fraction of the cost, and is part of the existing ISAP contract.

Commented [A5]: Language changed in FY20 ECMS.

III. Conclusion

ISAP is not and will never be a substitute for detention. The most effective means of ensuring an individual's departure from the United States at the conclusion of immigration proceedings (if ordered removed by an immigration judge) is through the use of detention. Any individual not detained is a potential flight risk, and ISAP can be a useful compliance tool that can help mitigate some risk of absconding. However, ISAP cannot provide any assurances that the alien will be located and be ultimately removed. Detention is the only method that will ensure compliance with an order of removal.

~~Given the cost associated with detention, congressionally-mandated funding limitations, and other limitations imposed by courts, ICE is only able to detain a fraction of those with cases pending before the immigration courts. To improve compliance with immigration law, ICE needs sufficient detention and ISAP resources to better manage aliens throughout their removal proceedings. Under current practice, due to insufficient detention and ISAP funding, ICE frequently removes participants from the program before their first immigration hearing. Although this policy provides ICE with the ability to track more individuals, having participants cycle through the program prior to any significant developments in an individual's immigration case makes it extremely difficult to assess the effectiveness of the program. The population of ISAP participants that have remained enrolled for the entirety of their immigration case are the best representative sample of the effectiveness of the program.~~

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While a large number of participants comply with requirements while enrolled in ISAP, because there are so few hearings scheduled during this time, there is very little possibility of reaching a final disposition during the term of enrollment. Thus, the compliance rates during this very early stage of the process may not be informative about the value of ISAP.

To determine ISAP's effectiveness for full lifecycle cases, ICE is exploring the use of a significant portion of the program resources to place a smaller number of individuals on ISAP throughout their immigration process. ICE is also working with EOIR to expedite the hearings of ISAP participants at select locations. Until this occurs, ICE will continue to have challenges reporting on the effectiveness of ISAP.

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Appendix: Abbreviations

Abbreviation	Definition
ADP	Average Daily Population
DHS	Department of Homeland Security
ERO	Enforcement and Removal Operations
FAMU	Family Unit
FCMP	Family Case Management Program
FY	Fiscal Year
GPS	Global Positioning System
ICE	U.S. Immigration and Customs Enforcement
ISAP	Intensive Supervision Appearance Program