



ATD Active Programs

Fiscal Years 2017-2021

August 25, 2022

Fiscal Year 2021 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Acting Director

August 25, 2022

I am pleased to present the following report, “ATD Active Programs,” which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to the Joint Explanatory Statement accompanying the Fiscal Year (FY) 2021 Department of Homeland Security Appropriations Act (P.L. 116-260).

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



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

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

The Honorable Chris Murphy
Chair, Senate Appropriations Subcommittee on Homeland Security

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

Inquiries related to this report may be directed to the ICE Office of Congressional Relations at (202) 732-4200.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tae D. Johnson', with a long horizontal flourish extending to the right.

Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Executive Summary

This report provides an overview of the ICE Enforcement and Removal Operations (ERO) Intensive Supervision Appearance Program (ISAP).

Information in this report includes the number of participants in ISAP and compliance with hearing attendance for FYs 2017-2021, as well as additional discussion surrounding program costs and timelines for participants to receive services.

ICE has approximately 3.68 million cases assigned to the nondetained docket¹ as of the end of FY 2021. However, with a current staff of 5,300 ERO officers spread across 25 field offices, ICE's ability to monitor the majority of cases on its nondetained docket, including the agency's ability to provide robust case management for this segment of the population, is limited.

ISAP uses case management and technology to monitor a proportionally small segment of individuals and family heads of household assigned to the nondetained docket (less than 3 percent of the nondetained docket is enrolled in Alternatives to Detention as of the end of FY 2021). This program allows contracted case managers to notify ICE of any significant developments in an individual's case, including when individuals fail to appear for their scheduled court hearings or other appointments as required by their conditions of release.

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 classified as detention; it is release with enhanced supervision, which provides a higher level of monitoring than simple release with conditions (i.e., periodic reporting requirements). Given that ICE detains only a small segment of all individuals who are in removal proceedings, ISAP can be useful in tracking specific cases, and in providing more contact and support than less comprehensive forms of monitoring or reporting requirements. ISAP is designed to help mitigate flight risk by providing ICE officers with up-to-date case status and collection of information to assist with locating individuals or families should they abscond.

On average, ISAP participants spent between 14 and 18 months enrolled in the program before they were removed from the program or discontinued from the program. Some participants are discontinued because of individual facts that make it unnecessary or inappropriate to continue prolonged case management and monitoring; ICE also remains cognizant of its limited staff resources to oversee this docket. However, the average immigration court case processing time for those assigned to the nondetained docket can extend to more than 5 years, which means that

¹ ICE's nondetained docket encompasses all noncitizens released from ICE custody with final orders of removal, as well as noncitizens released and awaiting removal proceedings before an immigration court hearing.

the vast majority of participants are not in the program throughout their immigration proceedings.

Although the immediate data show that a majority of participants comply with requirements during the 14 to 18 months in which they are enrolled (e.g., attending scheduled hearings, office visits, submission of travel documents), this small snapshot of the removal process is not fully representative of ISAP's potential effectiveness. ICE will continue to have challenges with reporting on the program's effectiveness since the agency is unable to keep individuals enrolled in ISAP through resolution of their immigration cases, as appropriate, or until the average immigration case processing time decreases.



ATD Active Programs Fiscal Years 2017-2021

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I. Legislative Requirement

This report was compiled in response to direction in the Joint Explanatory Statement accompanying the Fiscal Year (FY) 2021 Department of Homeland Security Appropriations Act (P.L. 116-260).

The Joint Explanatory Statement states:

ATD and Case Management Services.—Finally, Congress appropriated \$4,000,000 for ICE in fiscal year 2020 to fund an independent review of the ATD program. ICE is reminded of the requirement that the review and analysis be informed by discussions with government officials, current program operators, nongovernmental immigration policy stakeholders, and current participants in the program, and by reviewing similar programs in other countries. Not later than 60 days after the date of enactment of this Act, the Secretary shall submit a report to the Committees providing an analysis of each active program within the last five years funded through the ATD PPA. This report shall include data regarding compliance with court appearances, immigration appointments, and removal orders; cost per individual served; and response times by ICE or an ATD contractor for participant requests for help in seeking legal counsel, family contact, and medical treatment, including mental health services.

II. Background

Intensive Supervision Appearance Program

U.S. Immigration and Customs Enforcement’s (ICE) Alternatives to Detention (ATD) program began in 2004 through the agency’s Intensive Supervision Appearance Program (ISAP) I contract.² ATD-ISAP IV, which began in 2020, utilizes modern technology and case management with the goal of more closely monitoring a small segment of cases assigned to the nondetained docket.

At the end of FY 2021, approximately 3.68 million individuals were on the ICE Enforcement and Removal Operations (ERO) nondetained docket with 67.73 percent of cases pending before the immigration courts. Of these, approximately 97,000,³ or 2.6 percent, were enrolled in ATD; the remaining 97.4 percent of the nondetained population were not subject to enhanced supervision. ATD is an important tool for providing a higher level of accountability for cases that require increased supervision but are not appropriate for limited detention resources.

There are varying degrees of supervision and monitoring options available in the ATD-ISAP IV program. On a case-by-case basis, local ICE ERO Deportation Officers determine the type and manner of monitoring appropriate for each participant, including the specific type of technology—global positioning system tracking devices (ankle monitors), telephonic reporting, or SmartLINK (a smartphone application)—and case management, which includes varying frequency of office or home visits. ICE may adjust the level of supervision required as the level of compliance either increases or decreases. Several factors are considered when reviewing an individual’s case to determine if the individual will be enrolled or will remain enrolled in the ATD program, such as an individual’s criminal and immigration history, supervision history, family and/or community ties, status as a caregiver or provider, and other humanitarian or medical considerations.

Total Participation

Forms of Supervision	# of Participants Enrolled				
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Telephonic Reporting	65,421	66,780	62,261	43,438	34,022
Single Family	31,576	32,059	27,678	19,498	16,187
Adult Family Unit (FAMU)	33,845	34,721	34,583	23,940	17,835
Global Positioning System	40,301	67,424	96,207	48,550	51,264
Single Adult	16,652	24,137	24,623	17,377	20,241
Adult FAMU	23,649	43,287	71,584	31,173	31,023

² Adults (those 18 years of age and older) may be eligible for ATD participation if they are not subject to mandatory detention and are in removal proceedings.

³ As of 9/30/2021, 97,901 active participants were enrolled in ATD.

Forms of Supervision	# of Participants Enrolled				
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
SmartLINK	0	4,878	21,084	28,824	86,941
Single Adult	0	2,261	8,757	12,670	31,593
Adult FAMU	0	2,617	12,327	16,154	55,348
Overall Total	105,722	139,082	179,552	120,812	172,227

- This data report reflects the total number of participants enrolled during the given period. If an individual was enrolled multiple times during the given time period, he or she was counted for each enrollment.

During FY 2020, participation in SmartLINK became a much larger factor in ATD, making up 23.9 percent of participants served during that year. This is up from the 11.7 percent of participants served on SmartLINK in FY 2019. Since its first implementation in FY 2018, SmartLINK has lowered the overall costs of the ATD program by making up a larger share of the participant population each year.

Compliance with Court Appearances

ICE’s ATD–ISAP court tracking service helps to facilitate compliance with appearing for scheduled hearings with the Executive Office for Immigration Review (EOIR) and those hearings that result in a final decision. Only ATD participants enrolled in court tracking services are reported. ICE is developing a means for future reporting of court appearance rates of all ATD participants. Please note that because individuals often are removed from ATD enrollment in advance of their final hearings, the number of “final hearings attended” listed in the table below is a subset of the total hearings attended.⁴

ATD Program Type	FY 2017			FY 2018			FY 2019		
	Total Hearings Attended	Final Hearings Attended	Failed to Attend	Total Hearings Attended	Final Hearings Attended	Failed to Attend	Total Hearings Attended	Final Hearings Attended	Failed to Attend
Single Adult	27,732	1,819	153	24,525	2,637	113	34,166	3,476	191
Adult FAMU	34,961	1,970	205	25,678	2,298	225	49,905	3,886	644
Total	62,693	3,789	358	50,203	4,935	338	84,071	7,362	835

ATD Program Type	FY 2020			FY 2021		
	Total Hearings Attended	Final Hearings Attended	Failed to Attend	Total Hearings Attended	Final Hearings Attended	Failed to Attend
Single Adult	19,648	2,374	91	14,816	1,641	26
Adult FAMU	32,497	4,088	570	14,621	991	39
Total	52,145	6,462	661	29,437	2,632	65

⁴ ATD-ISAP only assists with compliance for those assigned to the program. ATD-ISAP does not actively monitor continued participant compliance with immigration obligations following termination from the program.

Compliance with ICE Requirements

The majority of ATD participants from FY 2017 through FY 2021 were compliant with the requirements of the program. The success rate⁵ for single adults at the time of discontinuation from the ATD program ranged from 59.7 percent to 79.7 percent. The success rate for family heads of household ranged from 53.4 percent to 77.9 percent.

In FY 2017, 36,184 individuals were discontinued from the ATD program; of that population, 27,915 (77.1 percent) discontinuations were considered successes while 8,269 (22.9 percent) discontinuations were considered failures. FAMU heads of household totaling 20,131 were discontinued from the ATD program; of that population, 5,373 (26.7 percent) were considered failures.⁶ Single adults totaling 16,053 were discontinued from the ATD program; of that population, 2,896 (18 percent) were considered failures.

In FY 2018, 50,225 individuals were discontinued from the ATD program; of that population, 37,353 (74.4 percent) discontinuations were considered successes, while 12,872 (25.6 percent) discontinuations were considered failures. FAMU heads of household totaling 30,322 were discontinued from the ATD program; of that population, 9,084 (30.0 percent) were considered failures. A total of 19,903 single adults were discontinued from the program; of that population a total of 3,788 (19.0 percent) were considered failures.

In FY 2019, 83,186 individuals were discontinued from the ATD program; of that population, 60,577 (72.8 percent) discontinuations were considered successes, while 22,609 (27.2 percent) discontinuations were considered failures. 58,652 individuals were discontinued from the ATD program; of that population, 18,009 (30.7 percent) were considered failures. Single adults totaling 24,534 were discontinued from the ATD program; of that population, 4,600 (18.7 percent) were considered failures.

In FY 2020, 35,442 individuals were discontinued from the ATD program; of that population, 21,163 (59.7 percent) discontinuations were considered successes, while 14,279 (40.3 percent) discontinuations were considered failures. FAMU heads of household totaling 23,851 were discontinued from the ATD program; of that population, 11,116 (46.6 percent) were considered failures. Single adults totaling 11,591 were discontinued from the ATD program; of that population, 3,163 (27.3 percent) were considered failures.

In FY 2021, 40,621 individuals were discontinued from the ATD program; of that population, 32,353 (79.65 percent) discontinuations were considered successes, while 8,268 (20.35 percent) discontinuations were considered failures. FAMU heads of household totaling 25,336 were discontinued from the ATD program; of that population, 5,597 (22.09 percent) were considered failures. Single adults totaling 15,285 were discontinued from the ATD program; of that population, 2,671 (17.47 percent) were considered failures.

⁵ **Success Rate:** Of those discontinued from the program, the percent of individuals who were compliant with ATD terms and conditions at the time of discontinuation.

⁶ **Failure Rate:** Of those discontinued from the program, the percent of individuals who were not compliant with ATD terms and conditions at the time of discontinuation.

	FY 2017		FY 2018		FY 2019	
ATD Program Type	Success Rate	Failure Rate	Success Rate	Failure Rate	Success Rate	Failure Rate
Single Adult	82.00%	18.00%	81.00%	19.00%	81.30%	18.70%
Adult FAMU	73.30%	26.70%	70.00%	30.00%	69.30%	31.70%
Overall ATD-ISAP III and ISAP IV	77.10%	22.90%	74.40%	25.60%	72.80%	27.20%

	FY 2020		FY 2021	
ATD Program Type	Success Rate	Failure Rate	Success Rate	Failure Rate
Single Adult	72.70%	27.30%	82.53%	17.47%
Adult FAMU	53.40%	46.60%	77.91%	22.09%
Overall ATD-ISAP III and ISAP IV	59.70%	40.30%	79.65%	20.35%

Removals Through ATD-ISAP IV

An ATD removal is counted for any individual who was enrolled at least 1 day on ATD in the same fiscal year in which the removal occurred. Over the past 5 fiscal years, ATD removals cumulatively totaled 11,504 individuals. This removals figure does not include the removals of other members of an FAMU apart from the head of household on ATD. ICE notes the agency only removes noncitizens with final orders of removal. However, the majority of those enrolled in the ATD program are pre-final orders.

ATD Program Type	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Single Adult	1,752	2,118	1,710	1,110	490
Adult FAMU	678	796	1,415	1,221	214
Overall ATD-ISAP III and ISAP IV	2,430	2,914	3,125	2,331	704

ATD Cost

ISAP III and IV invoiced costs for each fiscal year are provided below. Average daily participant cost is based on invoiced data and includes both variable and fixed costs, such as contract management. These average daily participant costs only include costs invoiced from BI, Incorporated (BI).

Average Daily Participant Cost				
FY 2017*	FY 2018*	FY 2019	FY 2020	FY 2021
\$4.04	\$4.18	\$4.42	\$4.55	\$4.60

*These FYs do not include fixed costs such as contract management fees.

Response Times for Services

The Joint Explanatory Statement accompanying P.L. 116-260 requests that ICE report on response times by ICE or ATD contractors for participant requests for additional support services. Such requests vary widely, and may include assistance with seeking legal counsel, family contact, and medical treatment, including mental health services.

Because participant needs are so highly individualized and the range of services offered is extensive, ICE is not able to report statistically on response times for these types of offerings. However, ICE is working continually to ensure that participant needs are met and to expand its network of partners to do so. The ATD program is carried out with the support of a government contractor (currently BI), whose case specialists provide case management for program participants and who assess and determine appropriate referrals for program participants to facilitated community stabilization. However, while ATD-ISAP IV provides a substantial amount of case management services, a significant number of services and participant needs cannot be fulfilled through the traditional contract.⁶ To ensure that participants have access to these services, BI subcontracts with nongovernmental organizations to assist in fulfilling these needs and to help with participant stabilization. These functions are known as wraparound stabilization services (WSS). As of July 2022, ICE is currently in the process of producing a report on the WSS program for FY 2022 that discusses the program, its offerings, and its challenges in depth.

⁶ Under ATD-ISAP, the contractor refers participants to local resources based upon the participant's individual needs. Service referrals under ATD-ISAP include, but are not limited to, assistance with school enrollments, medical care as needed (vaccinations, referrals to emergent care centers, etc.), food assistance, clothing assistance, immigration attorney referrals using the approved Department of Justice list of low- to no-cost attorneys, etc. Any costs incurred through the use of the referred services are not paid for by the U.S. Government. Services provided directly through WSS include trauma-informed individual therapy, human trafficking screening, trafficking group education, family therapy, and individual rehabilitation.

III. Conclusion

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. If detention is not legally required or otherwise necessary to ensure public safety or to mitigate flight risk, ATD provides additional resources to improve noncitizens' compliance with immigration court obligations and the execution of removal orders.

ISAP is a monitoring tool that can help to mitigate some risk of absconding for segments of the nondetained population. A large number of participants comply with requirements while enrolled in ISAP; however, because so few hearings are scheduled during the time that an individual is assigned to ISAP, there is little possibility of reaching a final disposition during the term of enrollment.

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 also is working with EOIR to expedite the hearings of ISAP participants at select locations. Until this occurs, ICE will continue to have challenges reporting on ISAP's effectiveness.

Appendix: Abbreviations

Abbreviation	Definition
ATD	Alternatives to Detention
BI	BI, Incorporated (government contractor)
EOIR	Executive Office for Immigration Review
ERO	Enforcement and Removal Operations
FAMU	Family Unit
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
ISAP	Intensive Supervision Appearance Program
PPA	Program, Project, Activity
WSS	Wraparound Stabilization Services